

Veto No.1982-1

SB 838

February 20, 1982

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I am returning without my signature, Senate Bill 838, Printer's Number 1589.

The key provision of Senate Bill 838 calls for an automatic repeal, conditional upon changes in Federal law, of the State law which requires that a "certificate of need" be obtained before proceeding with any significant new health facility or service. Under current Federal law, states must have certificate of need programs or they are not eligible for Federal funds for public health, community mental health, and drug and alcohol treatment services — funds approximating \$250 million annually for Pennsylvania. Senate Bill 838 would automatically repeal the State law if this Federal requirement is changed. Debate at the Federal level has just begun on whether this requirement should be eliminated and whether Federal funding to support health planning and certificate of need programs should continue.

Certificate of need programs are an attempt to deal with spiraling health costs, a goal to which, as Governor, I am committed. Total annual expenses for Pennsylvania hospitals increased almost 140% from 1974 to 1980 alone, an aspect of inflation impacting upon all health care consumers. I recently empanelled a Health Care Cost Containment Task Force, including participation by labor, business and health care professionals to examine and recommend ways in which we can address this problem. I have also proposed an eight percent cap on the growth of Medical Assistance reimbursement expenditures for in-patient hospital services as part of the 1982-83 State budget.

Although I recognize the need to deal with spiraling health care costs, I also recognize there are legitimate questions and real reservations about the certificate of need process as a method of doing so. While this process is designed to avoid costly duplication of health facilities and services it does nothing about the complex incentives to create duplicative services including factors such as the third party payment system, cost-based reimbursement, and tax exempt financing. Moreover, it does not directly address the whole area of non-capital health costs.

Studies done by other states, the United States General Accounting Office and the Congressional Budget Office are inconclusive as to whether the certificate of need approach is working. While some unjustified costs appear to have been prevented, the process itself is costly, bureaucratic and burdensome. It represents government regulation of decision making which can too frequently produce a counter-productive

result, increasing costs by delaying projects which should have proceeded immediately.

However, I believe that Senate Bill 838, while responsive to legitimate concerns, is premature. It only surfaced on January 20, 1982, and passed the General Assembly very quickly without time for consideration of alternatives to replace the present certificate of need program should it be repealed and of the implications of unpredictable Federal behavior.

I believe it is judicious to have the benefit of the emerging Federal debate, the recommendations of the State Health Care Cost Containment Task Force, and the many efforts I am told are underway around the State before definitive action is taken. Members of the Task Force, as well as persons involved in efforts in areas such as Erie, Pittsburgh, the Lehigh Valley, and Philadelphia, have asked for a delay in this legislation until their work is complete.

Moreover, just as I am often critical of the Federal Government insisting a state automatically do something Congress thinks is a good idea, I do not believe it is wise for state law to condition automatic state action upon what Congress may or may not do and, in any case, what it has not done yet. We, as a State, ought to maintain our flexibility to do what we think is right as a result of changing circumstances and a new information and, where we can avoid it, not have a course of action dictated to us by what Congress does.

In this instance, it is particularly risky to have an automatic repealer since our eligibility for hundreds of millions of dollars in Federal funds is at stake. For example, Congress may modify the Federal requirement for a certificate of need program, imposing some new but less burdensome mandated process in its stead. If our current State law were still in effect, it is likely we could still meet, and perhaps exceed, the new Federal requirements. However, were Senate Bill 838 to be law, then automatic repeal of current State law would take place, eliminating the statutory basis for meeting the new Federal requirements and jeopardizing our continued eligibility for Federal funds. We can always reduce or eliminate requirements of State law no longer mandated by Federal law, without risking the loss of health care funds. However, if we must rebuild our system from the ground up, there is a risk of a legislative impasse and a Federal funding crisis. It seems only prudent to maintain our flexibility to adjust State law as we see fit once it is clear what our best course is, a course which may, indeed, ultimately include eliminating the certificate of need process.

In returning this bill without my signature, I wish to express my commitment to work with the General Assembly in addressing the basic issues which led to its passage.

DICK THORNBURGH

Veto No. 1982-2

HB 1394

June 25, 1982

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return without signature, House Bill 1394, herewith.

This legislation authorizes the Turnpike Commission to expand the Turnpike through several highway projects, specifically named in the bill.

I am vetoing this legislation because it would have the effect of halting several major road building projects currently underway, thereby depriving hundreds of thousands of citizens of the economic and transportation benefits of these necessary highway improvement projects — in addition to the thousands of immediate construction and related jobs now being provided by them.

I veto this legislation regretfully since I endorse the primary intent of the sponsor, namely the desirability of exploring the feasibility of toll-road financing to meet some of our vital transportation needs so critical to economic development and jobs. Further, I believe several of the named projects are needed and should be seriously considered under an expansion of the Turnpike. These include: Beaver Valley Expressway, Mon Valley Expressway, and U.S. 219.

However, this legislation is flawed in achieving that purpose and would wreak havoc on the existing highway and bridge program. Among the projects named in the bill are several which are already under construction using traditional financing, including 70-90 percent Federal shares funds. These include North Hills Expressway, the East Street Valley Expressway, the Cross Town Expressway, the Allegheny Valley Expressway, U.S. 220, and the Blue Route.

The Federal Highway Administration has made clear to me, that under current Federal law, it cannot and will not authorize any further expenditure of funds towards any of these projects without "assurances from the State that tolls will not be imposed on such projects."

It is not clear that if this bill became law, the State could provide such assurances, at least before feasibility studies for these projects were completed. Such studies would take at least one year, according to the current Turnpike Chairman, during which no Federal funds could be authorized for the projects currently under construction. This means that these projects would be halted. In addition, if any of the routes already under construction were found to be feasible as a result of the studies, such a project would continue to be denied Federal funds. Therefore, for at least many months and possibly for years, hundreds of thousands of people would be denied the immediate and long-term benefits of the completion of important highways which are now under construction.

Current Federal law provides that any routes constructed using Federal funds must be free from tolls. Some argue that this restriction should be amended reasonably so that tolls could be collected on interstates to provide funds for maintaining them. While there is merit to this argument, we have no choice but to act within the requirements of existing Federal law on this matter.

I agree with the basic objective of the bill, and am directing my administration to proceed immediately to implement that objective without legislation. This approach will not jeopardize the progress on any current construction and at the same time ensure that we proceed without delay to explore the opportunity of toll-road financing to provide key transportation needs.

DICK THORNBURGH

Veto No. 1982-3

HB 178

December 29, 1982

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I hereby publicly proclaim, and file with the Secretary of the Commonwealth, my disapproval of House Bill 178, Printer's No. 3751. Although this bill makes numerous changes to the Liquor Code, I am vetoing it primarily because of a provision which would prohibit the initiation of enforcement proceedings based on anonymous complaints, unless those complaints involve underage drinking.

As a former Federal prosecutor, I have first-hand knowledge of the value of anonymous tips to law enforcement officials. I believe any abuses by some who anonymously, falsely report alleged violations are far outweighed by the legitimate reports received on serious violations such as serving those who are obviously intoxicated, smuggling, employment of minors, solicitation of patrons for immoral purposes, gambling, after-hour sales, and operation without a license.

The Liquor Control Board has a policing function with regard to the Commonwealth's liquor laws. According to the Board, over 95% of the complaints received are from individuals who wish to remain anonymous. To remove authority to act on anonymous complaints will serve as a disincentive to citizens who perform their public duty by reporting a violation.

For these reasons, and at the request of the Office of the Attorney General and the Liquor Control Board, I am withholding my approval of H.B. 178.

DICK THORNBURGH

