



Philadelphia Beverage Tax & Programs

Background

In June 2016, thanks to the support of a broad coalition of passionate supporters, Philadelphia passed a sweetened beverage tax to fund three critical programs: expanding quality pre-K, creating community schools, and rebuilding community infrastructure in parks, rec centers, and libraries across the city.

The Lawsuit

The beverage industry spent over \$10 million lobbying City Council, and both leading up to and immediately after the passage of the tax, they promised swift legal action to challenge it in court. Three months later, in mid-September 2016, a suit was filed in the Court of Common Pleas, along with a “King’s Bench” petition to the Pennsylvania Supreme Court requesting that the Court immediately assume jurisdiction. The beverage industry’s petition was denied, and in December 2016, the Court of Common Pleas struck down the beverage industry’s suit on all counts. This decision was immediately appealed to the Commonwealth Court. The City then filed a “King’s Bench” petition with the Pennsylvania Supreme Court, which was later denied. The Commonwealth Court will hear arguments in April. We anticipate the Commonwealth Court’s ruling to be appealed to the Pennsylvania Supreme Court.

The Revenue

Immediately upon passage of the tax, the City’s Department of Revenue began plans for implementation of the tax in January 2017, as dictated by law. This included robust outreach to distributors, a public hearing, and a campaign in the fall to ensure the highest level of cooperation. In January, after the first collection of the tax, the city received a preliminary total of \$5.7 million; more than double the forecast in the City’s Quarterly City Manager’s Report of \$2.3 million. The projection for a full fiscal year of the tax is more than \$91 million. Sales of beverages tend to fluctuate (people stocking up for holiday parties, summer BBQs, etc.), so we expect the revenues will fluctuate monthly as well. The City will continue to collect the tax throughout the ongoing litigation.

The Programs

The City of Philadelphia kicked off its implementation of the beverage tax-funded programs in earnest immediately after its passage in June 2016. However, as a result of the ongoing legal battle, the City has unfortunately had to delay some of the spending. We’ve created “Reserve” lines for each of the program so that monies not spent on Pre-K, Community Schools, or

Rebuild will be available to those programs once the case is settled. In the meantime, here are some updates on where the programs stand today:

Community Schools

In July 2017, the City of Philadelphia announced the creation of 9 community schools. These schools are places where there is a strategic, coordinated plan to align services from the City and other community service providers to address a broader set of needs that children have, such as health and social/emotional needs, and expanded learning opportunities, like after-school programs. After initially announcing these 9 community schools, the City plans to open two additional community schools in June after an application process that will begin in March, and will not create any additional community schools until the lawsuit is resolved.

PHLpreK

In last year's budget address, the City announced that it would invest local funds into quality Pre-K opportunities citywide over the next five years. To accomplish this, the City will invest, coordinate, and build greater capacity among pre-K workers and quality programs. This year, the city began by opening up seats for 2,000 children in free, quality Pre-K, and provided professional development and educational supports to 100 lead and assistant teachers to build the number and quality of the early childhood education workforce. Through the next year, we will continue to fund 2,000 seats for PreK kids, and in June 2017, we will recruit new children as the current students transition into kindergarten. The city cannot expand additional seats until the Beverage Tax lawsuit is resolved.

Rebuilding Community Infrastructure

Rebuild is a seven year, \$500 million program to revitalize neighborhood parks, rec centers, and libraries. The goal of the Rebuild program is to improve between 150 and 200 sites, mainly located in underserved communities, based on each site's individual needs. The first sites chosen for these projects will be announced in mid-2017, with additional sites announced over the course of the program. Rebuild will work to provide training and work opportunities for low-income and underemployed Philadelphians, and also work with small minority, women, and disabled owned businesses. Initial projects will be funded by startup funds from the William Penn Foundation and city capital funds, but Rebuild will not issue bonds or fund additional projects until after the Beverage Tax Lawsuit is fully resolved.

Philadelphia Beverage Tax Timeline

March 2016

Philadelphia Beverage Tax introduced in Mayor Kenney's first budget

June 2016

Philadelphia Beverage Tax Passed by City Council

July 2016

First Cohort of 9 Community Schools Announced

September 2016

Philadelphia Beverage Association Files Lawsuit in Court of Common Pleas

December 2016

Court of Common Pleas rules against Philadelphia Beverage Association

January 2017

Philadelphia Beverage Association files appeal

Philadelphia Revenue Department begins collection of sweetened beverage tax

First day of PHLpreK opens

February 2017

Initial revenues from PBT total \$5.7M, doubling city's projections for first month

March 2017

Budget Address (Ax the Tax planning rally outside)

City's brief (March 10) and Plaintiff's reply (March 24) due in Commonwealth Court

Community schools strategic plans released

Community Schools open second application round for 2 new schools to open in June

Rebuild bond ordinance and master lease introduced

April 2017

Department budget testimony begins

Oral arguments begin in Commonwealth Court

PHLpreK Week of the Young Child

May 2017

National League of Cities Conference on Community Schools in Philly (May 2 & 3)

June 2017

Anniversary of PBT passage

Two new Community Schools Announced

Potential date for Commonwealth Court decision

Second Round of PreK Applications

September 2017

2nd Round of PHLpreK students start

Opposition, Message, and Strategy

Soda Industry Message	City of Philadelphia Messaging
<p>This tax is being entirely passed on to consumers.</p>	<p>In fact, the tax is not always passed on to consumers, and various pricing schemes across the city showcase that businesses are responding to the distributor tax with various different reactions. In some places, prices have not changed, in others businesses have chosen misleading advertising, and in others it appears businesses have simply raised prices arbitrarily in no relation to the amount taxed on distributors. To the extent the cost of the tax is passed on by distributors or retailers, that is the result of a decision made by private businesses, not because of the tax itself.</p>
<p>Consumption has dropped drastically and businesses laying off hundreds of workers.</p>	<p>Job loss claims are unverifiable at this point and are mostly coming from long-time opponents of the tax like Shoprite, the ABA, and Teamsters. Many soda sellers have reported little impact, including the PA Restaurant and Lodging Association. Unlike the confusing, conflicting, and in many cases false claims about industry job losses, we can point to real economic impacts of the beverage tax programs creating jobs. PHLpreK in particular has allowed 88 providers, 75 percent of which are small minority and women owned businesses, have expanded - hiring new staff and increasing wages.</p>
<p>Revenues are low. This won't even cover the cost of the programs.</p>	<p>January revenues brought in \$5.7M, more than double the City's estimates for that month. Initial months are expected to be lower because of both previously held inventory(things on-hand before January 1st, 2017) and an initial non-compliance rate, both of which we expect to drop off significantly in future months.The city is confident that we will continue to meet our revenue projections</p>
<p>This was a bait and switch. Now that the tax is coming in, the money's not even going to the programs.</p>	<p>Money is funding 2,000 slots for PHLpreK, 9 community schools serving 4,500 students. Rebuild is moving forward with the planning phases. Due to the beverage industry's lawsuit, some of the spending has been put off for later years, but it's all being put in reserves for these programs.</p>