Department of Planning and Budget
2013 Fiscal Impact Statement

1. **Bill Number: HB 2293**

House of Origin	☒ Introduced	☐ Substitute	☐ Engrossed
Second House	☐ In Committee	☐ Substitute	☐ Enrolled

2. **Patron:** Wilt

3. **Committee: House Courts of Justice**

4. **Title:** Conditions of bail

5. **Summary:**

   Under current law, if a person accused of committing a criminal offense is eligible for bail, the judge or magistrate has discretion to set the terms of the bond. This can range from a promise by the defendant to appear at his scheduled trial to a requirement that he deposit a specified amount of money or its monetary equivalent with the court, to be forfeited if he does not appear for his trial. If a monetary bond is required and the accused cannot provide it, he has the option of using a private bail bondsman, who can, for a fee, provide the surety to the court.

   In setting bond, the judge or magistrate is required to take a number of specific factors into account. Generally, these factors are related to the likelihood that the accused, if released rather than held in jail pending his trial, (i) would voluntarily appear in court on the date his trial was scheduled or (ii) would present a danger to public safety.

   In those localities that have pretrial programs, the judge or magistrate also has the option of requiring the accused to participate in them. Accused persons referred to these programs are closely supervised and often are required to participate in substance abuse treatment.

   The proposed legislation would limit the discretion of the judge or magistrate in setting bond. It would require that the judge or magistrate presume, subject to rebuttal, that specific minimum amounts of bond, based on the level of offense, would be necessary "to assure the appearance of the accused and to assure his good behavior pending trial." The minimum bond schedule would be as follows:

   - Class 1 or Class 2 misdemeanor—$1,000, secured or unsecured.
   - Class 6 felony--$5,000, secured.
   - Class 5 felony--$10,000, secured.
   - Class 4 felony--$25,000, secured.
   - Class 3 felony--$50,000, secured.
   - Class 2 or 1 felony--$100,000, secured.
   - Unclassified felony--$10,000, secured.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Indeterminate. See Item 8.

8. **Fiscal Implications:**

    For each person held in jail awaiting trial, the Commonwealth reimburses localities $4.00 per day. The proposed legislation is likely to result in more persons being held in jail for longer periods of time awaiting trial. Therefore, the legislation is likely to have a fiscal impact on the state. However, it is not feasible to project the size of the additional amount it would cost the state.

    Annual statewide data on the number of accused persons released on bond and the corresponding amounts of bond required is not available. However, the Department of Criminal Justice Services has compiled statewide data on persons committed to pretrial programs in the months of October 2011 and October 2012.

    The data indicate that a significant percentage (10-15 percent) of accused persons for whom bond was set nevertheless remained in jail awaiting trial. Of all those with bond set, but remained in jail, the bond for about 90 percent of them was $5,000 or less. Finally, in comparing the bonds of those who released with those who remained in jail, the data indicate that those who remained in jail had bonds higher than which they could post. In conclusion, by increasing the standard, to presumption subject to rebuttal, for determining whether bond should be set and setting minimum levels of bond by class of offense, the proposed legislation is highly likely to result in more persons being held in jail awaiting trial, thereby increasing the cost to the state and localities.

9. **Specific Agency or Political Subdivisions Affected:**

    Compensation Board
    Local and regional jails
    Magistrates
    Judges

10. **Technical Amendment Necessary:** None.

11. **Other Comments:** None.