



The Pennsylvania Business Recap

A selective report on legislative, regulatory and executive actions affecting business interests, formerly the Pennsylvania Letter

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At 1:06 p.m. on Wednesday, April 25, 2018 the Senate stands in recess until Monday, May 21, 2018 at 1:00 p.m., unless sooner recalled by the President Pro Tempore.

At 12:04 p.m. on Wednesday, May 2, 2018 the House stands adjourned until Tuesday, May 22, 2018 at 1:00 p.m., unless sooner recalled by the Speaker.

UPCOMING SESSION DAYS

House

May 22, 23
June 4, 5, 6, 11, 12, 13,
18-21, 25-30

Senate

May 21, 22, 23
June 4, 5, 6, 11, 12, 13,
18, 19, 20, 25-30

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AROUND THE ROTUNDA

PLS coverage of Capitol events including press conferences, bill signings, & media availabilities

NATURAL GAS & BUSINESS LEADERS DISCUSS THE NATURAL GAS INDUSTRY AND POLICY PROPOSALS

By Kimberly Howells, Pennsylvania Legislative Services | May 3, 2018

Business and natural gas industry leaders hosted a conference call Thursday morning to discuss the state of the natural gas industry and policy proposals being discussed as part of the upcoming state budget.

[Stephanie Catarino Wissman](#), executive director of the Associated Petroleum Institute of Pennsylvania (API-PA), called Gov. Tom Wolf's [latest natural gas tax proposal](#) "as misguided as the others" and claimed, "Raising costs for one of the state's major economic engines is bad economics. It's bad for Pennsylvania employment, and bad for hundreds of local businesses in the natural gas supply chain including many that dot the landscape of Pennsylvania's main street economy." She said the industry will only continue to grow with pro-growth energy policies, not punitive taxes and additional regulations.

Wissman argued Pennsylvania is at a critical moment and should pursue policies that continue to support and foster growth in the industry to the benefit of Pennsylvania, which will boost manufacturing, logistics, banking, construction, and many other sectors. She argued natural gas benefits families' bottom lines, stating natural gas prices have fallen and family incomes have risen as natural gas production increased in recent years.

Emphasizing the negative impact a new tax would have on the industry, Wissman pointed out the cost to drill a shale well in Pennsylvania is already among the highest among natural gas producing states, at \$368 per foot, and the value proposition hinges critically on cost competitiveness. "Piling on new costs is not the way to change that for the better," she opined. Further, she argued that the industry already pays its fair share in taxes, paying an estimated \$219 million in impact taxes this year. She suggested that instead of raising costs on the industry, "state officials should prioritize pro-energy policies such as building out more energy infrastructure to help Pennsylvania consumers, workers and the environment continue to benefit from our state's vast natural gas resources and bring more natural gas access to the people of Pennsylvania."

David Spigelmyer, president of the Marcellus Shale Coalition, echoed Wissman and pointed out rig counts are up but the industry remains a challenge for investment capital due to a lack of infrastructure, government interference, and regulatory uncertainty, among other reasons. He called the governor's proposal "another assault on an industry that is already taxed" via the impact tax, noting the impact tax generates three times that of the taxes in West Virginia. Spigelmyer pointed out the governor has said revenue numbers are up and the revenue is not needed, and concluded this is a punitive effort. He suggested the support of public unions is due to an effort to cover unfunded pension costs. He also pointed out that Pennsylvania has high motor fuel and corporate taxes and Pennsylvania ranks "middle of the pack in economic competitiveness." Spigelmyer disagreed with the governor's claim that this tax will not cost Pennsylvania jobs, naming several companies that have already left Pennsylvania because of the difficult climate. Further, he disagreed with the governor's claim that this is "our gas in Pennsylvania," stating it is in fact owned by the mineral owners and they have been compensated for that access.

"I think we all know this tax proposal is more of a political 'check the box' for the governor, but make no mistake" it will harm Pennsylvania, Spigelmyer concluded.

Gene Barr, president of the Pennsylvania Chamber of Business and Industry, advocated both for producers of natural gas and for consumers of natural gas, stating the natural gas reserves are one of Pennsylvania's "natural advantages." He argued the industry is bringing jobs to Pennsylvania, remarking that the industry has brought "two Amazons" to Pennsylvania without "expensive tax packages," yet the governor is trying to impose more taxes on them. He disagreed with claims that the industry does not pay taxes, with claims that what is under the ground belongs to all Pennsylvanians, and with claims that mostly out-of-staters will pay the tax.

"The reality is it runs down our competitiveness," he said, stating it is driven by government unions.

Barr also cited national security interests and the need to develop infrastructure to restore the Philadelphia refineries to full operations.

Bob Beatty, chairman of the Pennsylvania Independent Oil and Gas Association (PIOGA) Pipeline Gas Market Development Committee, reported the positive impact the industry has on the economy but lamented PIOGA memberships has decreased in recent years as companies leave the commonwealth. These businesses pay taxes and provide long-term jobs, he said, and any effect to make the business environment less friendly for natural gas or oil, and single them out over other industries, "is going to have a huge economic impact." Beatty pointed out Pennsylvania has lower energy costs than other states and taking away that advantage will attract fewer people. He called on government to foster and incentivize the industry instead of putting a punitive tax on it.

Beatty argued "the best thing we can do" is continue to maintain and develop the production of energy. Once it is abandoned and becomes a brownfield, he remarked, the state will not have the money to maintain the land and the problems will be compounded with environmental concerns.

The speakers then took questions from the media.

Gov. Wolf has proposed permitting changes along with the tax, and the Senate similarly approved changes and a tax last year. Would any of those make a severance tax worth it for you?

Wissman replied the Department of Environmental Protection (DEP) is constitutionally mandated to do the things spelled out, so from their perspective "you can throw in as many regulatory sweeteners as you'd like, but you're still looking to double tax an industry and in our view those are not tradeable items." Beatty agreed, stating Pennsylvania is probably the most regulated and least friendly environment for fostering alternative energy. He said PIOGA members have participated in those projects in other states, but it is more difficult to do so in Pennsylvania. He did not think the offer of permit reforms is an acceptable tradeoff.

The Public Utility Commission (PUC) just voted to approve the Mariner East I and II pipelines; how do those affect the industry:

Spigelmyer confirmed Mariner I and II will deliver propane and butane to Philadelphia and those pipelines are critical to keep the development of those liquids alive. Barr agreed infrastructure is a critical need. He pointed out Russian gas is still being imported because the infrastructure is not in place. He acknowledged the issues relating to the pipelines, but argued that pipeline safety issues should not be mixed with the severance tax. He suggested relating those two is the same as calling for more gasoline taxes because there are so many auto accidents. Beatty agreed current policies make it easier to do business in other states. Continuing, Barr pointed out pipelines "have been under our feet literally for decades" and this is nothing new.



DEPASQUALE DISCUSSES UPCOMING STATEWIDE RADIO SYSTEM AUDIT

By Andre Dienner, Pennsylvania Legislative Services | May 3, 2018

Auditor General Eugene DePasquale held a [press conference](#) Thursday in the Media Center to announce an upcoming audit of the contract to replace the statewide radio system used by the Pennsylvania State Police (PSP) and first responders.

DePasquale called the previous system “unreliable and ineffective” and said it has failed PSP and first responders for the past 20 years, adding it “ticks me off” that Harrisburg was unable to address the issue in that time. He emphasized the effect that lack of a solution created, including \$800 million for the 1996 contract that was supposed to cost \$179 million, \$44.5 million for the 2016 contract, and police officers paying the ultimate price as human beings when calls were dropped during an emergency.

He summarized the audit will cover the 2016 contracting process from start to finish, focusing on:

- What led up to and went into the 2016 request for proposal (RFP) to replace the network.
- Compliance with procurement procedures, including writing of specifications, vendor solicitation, and contract performance measurements; and any outside lobbying influence.
- Current status of the contract.

DePasquale voiced displeasure with it taking a “human disaster” in the Eric Frein manhunt, where Frein shot to death one police officer and injured another, “to wake the bureaucrats in Harrisburg up to replace the system.” He reiterated the goal of his audit is to make sure the safety of police officers comes before “bureaucratic paper pushers” and ensure the new system succeeds.

“The time is right to take a deep dive to ensure Pennsylvania gets it right this time,” DePasquale summarized, to protect officers and restore accountability to taxpayers. He stated if his office finds recommended changes, he will push to reopen the contract to make improvements.

Lastly DePasquale noted the Office of the Budget recently completed an audit of the statewide radio network from a maintenance contract from 2012 to 2015 which will be helpful going forward. He said the audit findings included 11 findings, such excessive billing, questionable markups on material, missed reporting requirements, and overall more than \$113,000 in discrepancies. He described his audit as “similar to other contract audits” such as audits of the State Employee Retirement System (SERS), Public School Employee Retirement System (PSERS), and the Turnpike Commission, which he highlighted are frequently missing any terms of performance or payment holdbacks.

Questions were taken from the media.

What about the previous investigation that gathered a whole bunch of material then sunk?

“I believe the time is now right to do this audit.”

Is this going to look at the 1996 contract?

DePasquale admitted it will be tough to go back that far but they will look at the last two years of the old contract, the RFP process, and the first two years of the new contract. He clarified the office reserves the right to go back further if need be.

How many contracts have there been for this system starting in 1996?

DePasquale caveated he does not know the exact specifics but believes AMP got the original contract, AMP went away because of financial trouble, Harris Corp. then took over, and now the contract is for Motorola. He repeated he is not clear on exact details and might have to correct that timeline.

Has there been any civil or criminal investigation into the 1996 contract?

“That would be up to the Attorney General’s Office to comment on that.”



Had you testified to a grand jury about that?

“That would be up to the Attorney General’s Office to comment on that.”

Were you subpoenaed by a grand jury?

“That would be up to the Attorney General’s Office to comment on that.”

Are you doing this now because there is an investigation underway?

“The time is right to do the audit.”

Have you ever audited this contract before, and were your predecessors remiss to not take action?

DePasquale replied he has not, and the idea was considered by his predecessor but was not performed. He added he cannot control the past and the time to do the audit is now.

You talked about Harrisburg bureaucrats, but wasn’t it also legislators who didn’t provide oversight?

DePasquale agreed that is a fair point especially considering complaints they tried to go “low ball” in the contract in the beginning when more up-front money could have helped.

Do you have any conclusions as to what failed in the contract, whether it was the system, the company, or state government?

He replied that is the goal of the audit which will look at the RFP process starting in 2016 but also going earlier than that if needed.

This all happened over a long course of time but the audit is only looking at the 2016 period. Will the audit watch through until the end?

DePasquale explained he is only in office for 2.5 more years, and he remains open minded to the best way to ensure compliance and whatever else is needed, especially in conversations with Sen. Randy Vulakovich (R-Allegheny).

You touched on lobbyist influence, but you were contacted by Harris Corp. before you ended a previous investigation?

DePasquale noted Motorola also contacted him but he was not part of the RFP process.

There is concern about former radio director Steve Kuller, now working for the Auditor General’s Office, being on the audit as his wife may have ties with Harris Corp.

DePasquale explained Kuller is currently simultaneously auditing pension plans in Oxford Borough and Lower Oxford Township and “he will have no say or role in this audit.”

Have you ever seen a contract this large fail?

Not since he was Auditor General, DePasquale replied, stating there are bigger contracts but to the best of his knowledge this is a large contract failure.

What were the issues with the radio network?

DePasquale highlighted failure during the Eric Frein manhunt and it taking 48 days to find him but said PSP has been complaining about the system for 20 years.

Weren’t the State Police also responsible for implementation at some point?

He indicated it was originally under the Office of Administration and did shift to PSP at some point during the Corbett administration, but opined the network may have already been in a bad position when that occurred.

Is this all tax dollars?

“That’s my understanding,” DePasquale stated, taking issue with the lack of performance bonds to hold failing contracts accountable. He opined the state is not good at holding vendors accountable as evidenced by previous audits of contracts without accountability which he said “happens over and over again.”

You are normally very open and transparent, and considering certain grand jury testifiers are allowed to say what they testified about, why can't you say if you were involved?

"It is up to the Attorney General's Office to comment on that."

Are performance bonds something you called on the legislature to require?

DePasquale noted that could be legislative or executive, adding he is not sure if that is the case here but will be reviewed.

When you say it is up to the Attorney General's Office to comment it can create an impression that did really happen, can you understand why someone would think that?

"That is up to the Attorney General's Office to comment on that."

Has any work by Motorola been done on the contract?

DePasquale clarified Motorola is closing in on two years of their contract and are working under the contract currently.

Would it have been better to audit before work began?

"I believe the time is right to do this."

Did anyone ask you to perform this audit?

He commented Sen. Vulakovich thought it made sense to audit the contract but beyond that there were no specific requests aside from the issue generally being out in the public and legislative hearings held.

Would you take any legal action to try to quash a subpoena from the Attorney General's Office?

"That would be up to them to comment," DePasquale replied, but offered "I don't do anything like that ever" and "I just never do that period," but it is up to the Attorney General's Office to comment.



GROUPS RELEASES REPORT ON POLLUTION RISKS FROM SCHOOL & TRANSIT BUSES

By Jeff Cox, Pennsylvania Legislative Services | May 3, 2018

PennEnvironment Research and Policy Center and the Frontier Group held a news conference this morning in the Capitol Rotunda to release a new [report](#), *Electric Buses: Clean Transportation for Healthier Neighborhoods and Cleaner Air*, which reviews pollution levels from diesel school and transit buses in the Harrisburg area and makes policies recommendations to state government, transit agencies, school districts and bus contractors. According to the report, Pennsylvania currently has more than 20,000 school buses and more than 3,000 transit buses throughout the Commonwealth. The report determined "that transitioning all of Pennsylvania's 21,600 diesel school buses to electric would help the Commonwealth avoid over 155,000 tons of global warming pollution per year" which would be the equivalent of taking over 30,000 cars off the road.

Adam Garber, deputy director, PennEnvironment, said the report "shows that if Harrisburg transitioned its entire fleet of 76 transit buses to all-electric vehicles, it could cut 18,658 pounds of nitrogen oxide and 80 pounds of particulate matter. He continued, "Additionally, the report shows that a full transition to electric buses in Capital Area Transit could avoid an average of 2,162 tons of climate-altering pollution each year – the pollution reduction equivalent of taking an additional 417 cars off the road."

Garber argued, "There's no reason we should be running dirty, polluting buses in our communities and around our schools when we have better, cleaner options." He stated, "Our research shows that whether commuters and students on the bus or boarding the bus, they are exposed to toxic air in high concentrations, while simultaneously, diesel contributes to global warming." Garber asked, "We have the technology to avoid this, so why wouldn't we?"

Jeffrey Ney, treasurer, Pennsylvania State Education Association (PSEA), commented, “Think of how often our kids are around buses. They ride them, they wait for them, they walk by them, they are in a school those buses are idling in front of.” He said, “Switching to clean burning engines that emit virtually no environmental pollutants is the right thing for our kids and for all of us.

Dr. Robert Little, president of the Harrisburg chapter of Physicians for Social Responsibility, explained, “Diesel engines produce small carbon particles that penetrate deep into the lungs.” He asserted, “This is a major cause of asthma in children and chronic lung disease in older adults.” Dr. Little cited a recent study published by the American Medical Association which he said “proved that areas with higher concentrations of exhaust are associated with more illness and in the long run, more deaths.” He concluded, “We must begin to convert school buses from burning fossil fuel to electric power. The health of our children depends on it.”

Joanne Kilgour, director of the Pennsylvania chapter of the Sierra Club, noted, “Just yesterday, on one of the first warm days of the season, the Pennsylvania Department of Environmental Protection issued a Code Orange Air Quality Action Day for the Philadelphia region, indicating unhealthy air pollution levels for sensitive populations.” She observed, “Vehicle emissions like those from diesel and other fossil fuel burning buses contribute to the harmful air quality in the region, and make days like yesterday more dangerous for vulnerable populations.” Kilgore argued, “We have an opportunity to invest in cost-effective zero-emission electric buses – an investment in a healthier future for all Pennsylvanians.”

The report’s recommendations for state government include:

- allocating settlement money from the Volkswagen “Dieselgate” settlement to subsidize the purchase of electric school and transit buses, as well as charging infrastructure
- creating incentive programs and grants for transit agencies, school districts and bus contractors to help finance the upfront cost of electric buses and charging infrastructure
- facilitating the installation of charging infrastructure through programs that help cover the cost
- encouraging utilities to design their rates in ways that support electric buses
- considering low-cost financing programs that help agencies, school districts and bus contractors leverage other sources of funding
- identifying other ways to ensure successful electrification of buses, including technical assistance and research, as well as the publication of data and lessons learned

The report’s recommendations for transit agencies, school districts and bus contractors include:

- replacing buses powered by fossil fuels with the cleanest possible technology
- considering adopting goals to repower the entire fleet with electric buses over one replacement cycle
- asking state government and beneficiary agencies to dedicate funds from the Volkswagen settlement to electric buses
- preparing for future adoption of electric buses by running electrical conduits necessary for charging infrastructure during any new construction or reconstruction of depots and parking lots





NEW LEGISLATION

HB 2253 Wheatley, Jake (D)

(PN 3501) Amends the Tax Reform Code providing for volumetric severance tax and for multi-well permitting; and making a related repeal. The bill establishes that the volumetric severance tax for each unconventional gas well shall be calculated by applying the applicable rate to natural gas severed from the unconventional gas well during the imposition period. The imposition period shall be fiscal year July 1, 2018 to April 30, 2019. For fiscal year 2019-2020 and each fiscal year thereafter, the imposition period shall be from May 1 of the preceding fiscal year to April 30 of the current fiscal year. If the average annual price of natural gas for the calendar year immediately preceding the start of the imposition period is: less than \$3.00, the surcharge rate shall be \$0.042 per unit severed; equal to or greater than \$3.00 and less than \$5.00, the tax rate shall be \$0.053 per unit severed; equal to or greater than \$5.00 and less than \$6.00, the tax rate shall be \$0.064 per unit severed; or equal to or greater than \$6.00, the tax rate shall be \$0.074 per unit severed. Effective immediately.

May 3, 2018 - H-Introduced and referred to committee on House Environmental Resources and Energy

HB 2320 Snyder, Pam (D)

(PN 3494) Amends Title 66 (Public Utilities), in alternative form of regulation of telecommunications services, further providing for definitions and for network modernization plans. The bill replaces 1.544 megabits per second with "minimum broadband bandwidth," which is defined as the minimum number of megabits per second (Mbps) in the downstream direction and upstream direction required to participate in the Federal Communication Commission program known as the Connect America Fund or any successor Federal program. Effective in 60 days.

May 3, 2018 - H-Introduced and referred to committee on House Consumer Affairs

SB 1157 Vulakovich, Randy (R)

(PN 1734) Amends the Fiscal Code, in Department of the Auditor General, requiring the auditor general to audit the Pennsylvania Statewide Radio Network and any related contracts administered by the Pennsylvania State Police. At least two-tenths of one per centum of the funds appropriated to support the Pennsylvania State Police for its administration of the Pennsylvania Statewide Radio Network and any related contracts shall be utilized for the reimbursement of the Auditor General. Effective in 60 days.

May 3, 2018 - S-Introduced and referred to committee on Senate Veterans Affairs & Emergency Prepared.

LEGISLATIVE ACTIONS

SB 790 Hughes, Vincent (D)

(PN 1163) Amends the Fiscal Code, in additional special funds, establishing the First Chance Fund. The bill establishes the fund as a restricted account in the General Fund, including revenues from contributions from selected contractors of designated contracts, grants, gifts, donations; other payments from a person; and money appropriated into the fund. Effective in 30 days. (Prior Printer Number: 1071)

May 3, 2018 - S-Press conference held

UPCOMING MEETINGS

TUESDAY - 5/22/18

House Urban Affairs

10:00 a.m., Room 418 Main Capitol

Public hearing on: [HB 2122](#) Costa, Dom Amends 2nd Class County Code re dissolution

Senate Education

10:30 a.m., Room 8E-A, East Wing

To consider: [SB 1032](#) Dinniman, Andrew Amends Public School Code re Keystone Exams [SR 322](#) Aument, Ryan Resolution re LBFC study on standardized tests



House Professional Licensure

11:30 a.m., Room 205, Ryan Office Building

Public hearing on: [SB 764](#) Gordner, John Amends Board of Vehicles re RV Law

WEDNESDAY - 5/23/18

House Urban Affairs

9:00 a.m., Room 205, Ryan Office Building

To consider: [SB 667](#) Stefano, Patrick Amends Urban Redevelopment Law re land bank [SB 851](#) Argall, David Amends Real Estate Tax Sale Law re ownership

House Consumer Affairs

10:00 a.m., Room B31, Main Capitol

Public hearing on: [HB 2075](#) Charlton, Alexan Amends Title 66 re water service lines

THURSDAY - 5/24/18

House Consumer Affairs

9:30 a.m., Room B31, Main Capitol

Public hearing on [Act 164 of 2016](#)

House Labor and Industry

10:00 a.m., Room G-50, Irvis Office Building

Public hearing on: [HB 861](#) Grove, Seth Amends Title 53 re Local Labor Mandates

MONDAY - 6/4/18

Local Government Commission

10:00 a.m., Room 461, Main Capitol

Assessment Task Force meeting

TUESDAY - 6/5/18

House Agriculture and Rural Affairs

9:00 a.m., Room 205, Ryan Office Building

Public hearing on: [SB 792](#) Alloway, Richard Amends Title 3 re Fertilizer Legislation

THURSDAY - 6/14/18

House Game and Fisheries

10:00 a.m., Room 60, East Wing

Public hearing on chronic wasting disease

THURSDAY - 6/28/18

*****Independent Regulatory Review Commission (Updated)**

10:00 a.m., 14 Floor Conference Room, 333 Market Street, Harrisburg

To consider Reg. No. 3170 Pennsylvania Liquor Control Board #54-91: Return of Liquor



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Thank you, Lynn, Kim, Jeff, Mike, Matt Hess, Nina, Matt Hykes, Deborah, Kara, Cheryl, Andre, Aaron, Sarah H., Becky, Amyra, Nick, Jessica, Nicole and Stephen.

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