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Budget Ultimatums, Lack of Consensus Could Push Budget into July

For months now, state leaders have known that the 2014-2015 budget would be a difficult challenge. Yet through the first quarter of the year, most observers still considered an "on time" budget a realistic prospect. Now, with the state facing a confirmed $1.4 billion budget gap, Gov. Tom Corbett and legislative leaders have begun to acknowledge that the state's June 30 deadline is an almost hopeless target. "Get it done right rather than quickly" is the new mantra. But this year, right may have many definitions.

Senate Majority Leader Dominic Pileggi (R-Delaware) said Monday that it is unlikely that the $29.4 billion budget plan will be in place by June 30. Later that day House Majority Leader Mike Turzai (R-Allegheny) said he thought it was possible to get a budget done, but only if the Senate passed a liquor reform bill which would generate significant revenue.

At the same time, Governor Corbett threw down a gauntlet to the General Assembly on pension reform and liquor privatization, and then said he didn't intend to even discuss new revenues, unless these big issues were dealt with first. The Governor has veto power over all or part of the budget, and can force lawmakers to remain in session beyond the June 30 budget deadline. Corbett, who supported Turzai's liquor system reform last year, appeared to back off on the issue a bit, suggesting reform was more important than revenue on the liquor issue.

Legislative and Administration leaders have told ERG that meetings to date have been more like "quiet time," with no one wanting to be the first to offer suggestions for revenue sources to close the gap, or which programs to cut. For two weeks, the House has been unable to get a majority to support a pension reform bill supported by leadership and the Governor, and again this week, the Senate failed to get the votes to even move a more moderate liquor bill that would not generate significant state revenues.

Meanwhile, Democrats seized the opportunity to launch attacks at all three by insisting on Medicaid expansion with federal dollars, passage of a severance tax, and increasing education funding.

During a press conference on Tuesday, Corbett said he still doesn't like the idea of taxing gas production, but left room for consideration of it as an option. Budget Secretary Charles Zogby later said the administration won't rule out any revenue source other than hikes of broad-based taxes, like personal income and sales taxes.

"I'm not ruling out a severance tax, you didn't hear me rule out a severance tax," Zogby told reporters Tuesday.

Democratic Legislator Wants More Control over EPA Clean Power Implementation

In response to the Environmental Protection Agency's June 2 draft rules to reduce carbon emissions from point sources, Green County Representative Pam Snyder (D) intends to author a bill aimed at reducing the burden placed on coal-burning power plants.

Under the EPA Clean Power Plan, states would need to submit a plan for meeting reduced carbon emissions goals. Snyder's bill, the Pennsylvania Greenhouse Gas Regulation Implementation Act, would give the state legislature approval power over a plan before it is submitted to the EPA.

"I have been and continue to be very concerned about what is happening in our nation's capital regarding the heavy-handed regulation of coal-fired electric generation sources," said Snyder in a prepared statement.

Under the direction of President Obama, the EPA has drafted rules to reduce carbon emissions by 30 percent by 2030. Snyder and other coal country legislators are concerned that the rule will have a negative impact on coal related jobs and energy prices.

Snyder also recently introduced House Resolution 815 which urges the EPA to "respect the primacy of each state in developing final carbon dioxide rules and to allow Pennsylvania regulators to account for the unique policies, energy needs, resource mix and economic priorities of the state."

HR 815 was reported as committed from the House Environmental Resources & Energy Committee this week, with many of Snyder's Democratic colleagues voting in the negative.

Related News:

- PA Senate Environmental Resources and Energy Committee will hold a public hearing on EPA's Clean Power Plan on Friday, June 27 in Harrisburg.
- EPA: Climate rule won't kill coal

House Passes Generator Regulation Bill, with Changes

Last week the House amended and passed House Bill 1699, which would require owners of stationary reciprocating internal combustion engines (RICE) generators used in a statewide Demand Response program to comply with the same air quality regulations placed on the companies they sell electricity to.

Bill sponsor Rep. Chris Ross (R-Chester) had previously noted that over 18 percent of the DR market is being supplied by backup generators, of which 93 percent are diesel powered and likely have no pollution controls, resulting in reduced economic opportunities for both clean DR and traditional power generation resources that have invested in modern pollution controls.

Rep. John Lawrence (R-Chester) proposed the adopted amendment which is designed to protect small business and agriculture by adding an agricultural stakeholder to the proposed study commission on DR included in the bill, among other things.

Legislators Unveil Sustainable Business Development Bills

Sen. Matt Smith (D-Allegheny) and Rep. Brian Sims (D-Philadelphia) have unveiled a series of companion bills designed to incentivize the state's high-performance and energy efficient manufacturing sectors.

The four bills, each being introduced in the House and Senate, would provide tax credits for the construction or retrofitting of green buildings, the manufacture of EnergyStar products, and the building and maintenance of green roofs. The package consists of HB 2256/SB 221, HB 2257/SB 238, HB 2259/SB 240, and HB 2261/SB 239.

"We all agree that the number one issue we are facing as a commonwealth...is economic development and job creation," Sen. Smith said during a Wednesday press conference on the package. "We need new ideas to jumpstart a 21st century economy." Smith said the green growth bills specifically focus on incentivizing sustainable development and manufacturing with tax credits of up to $10 million for investments and long term operational costs.

Smith said that buildings account for 39 percent of carbon dioxide emissions in the U.S.

This package will give small businesses and manufacturers the tools necessary to prosper as they strive to complete in a modern economy, he said.

ERG does not expect the package to get serious consideration by the House or Senate in the near future.

Post-Production Royalties Bill Stalled in House

Legislation authored by Rep. Garth Everett (R-Lycoming) that would keep natural gas companies from deducting post-production expenses from royalty payments is on the backburner until the fall.

The legislation would require that leaseholders receive the mandated 12.5 percent minimum royalty payment based on the value of gas at the market, instead of the well head, and prevent companies from deducting post-production costs from royalty payments.

Many landowners have filed complaints about the practice, but the legislature is slow to respond as the budget deadline looms and the bill continues to receive criticism from the oil and gas industry, which called it a "vast legislative overreach."

New Oil and Gas Permit Fees in Effect

The Environmental Quality Board (EQB) adopted a final rulemaking increasing unconventional well permit fees beginning June 14.

"There has been a strategic, proactive approach to the oversight of this industry," DEP Secretary and EQB Chairperson E. Christopher Abruzzo said. "The efforts to date [by the Corbett Administration] have been unprecedented, and this fee increase will give us the ability to continue to grow and strengthen our program along with the growing industry."

The department projects the increase will result in additional annual revenue of about $4.7 million, which will support new information technology projects related to oil and gas, including streamlining electronic review, mobile digital inspections, upgrades to reporting systems and modernization of forms and databases.

The new revenue will also be used to hire additional Office of Oil and Gas Management staff for inspections, policy and program writing, and permitting.

The final rule fixed the fees for unconventional wells at $5,000 for non-vertical natural gas wells and $4,200 for vertical natural gas wells. Prior to the rulemaking, the fee varied and was charged based on well bore length.

As a result of this change, the permit fee for an average unconventional well will increase by about $1,800 per non-vertical natural gas well and $1,300 per vertical natural gas well. The permit fees for conventional oil and gas well operators will remain the same.

DEP's Office of Oil and Gas Management is self-sufficient, and entirely funded by fees, fines and penalties and also receives $6 million annually in impact fees paid by operators. The system saves taxpayers more than $21 million annually from the general fund.

By law, the oil and gas well permit fee must bear a reasonable relationship to the cost of administering DEP's oil and gas programs. Department regulations require DEP to evaluate the appropriateness of the fee every three years.

The last fee increase took effect on Oct. 24, 2009, increasing the fee from $100 to a sliding scale based on wellbore length.

Federal News

GOP Spending Plan Crosses First Hurdle, Energy Funding in Jeopardy

Earlier this month the House GOP proposed a $34 billion energy and water spending bill that restores almost $1 billion in cuts from the Army Corps of Engineers and takes money from the Department of Energy (DOE), notable from renewable energy programs.

This week the House Appropriations Committee approved the bill, which in addition to funding programs under the direction of DOE and the corps for fiscal year 2015, contains a number of controversial environmental riders.

The legislation passed on a voice vote with few changes from the original version. It is a $50 million reduction from last year's funding levels and would boost the coal industry by limiting EPA authority. Other controversial riders include dealing with mining waste and jurisdictional authority over certain bodies of water.

One of the most devastating blows for clean energy advocates and environmentalists is an increase in funding for fossil fuel energy programs at the cost of renewables.

But last night, Senate Democrats pulled a $34.3 billion fiscal 2015 energy and water spending bill from a full committee markup planned for this morning. Senate GOP Leader Mitch McConnell claimed Democrats were avoiding a vote on the Kentucky Republican's amendment that blocks EPA from implementing greenhouse gas controls for existing plants unless the administration confirms it won't increase electricity costs or kill jobs.

"Democrats have praised the President's job-killing EPA regulations, so you'd think they would want to stand up and defend them. But apparently not," McConnell spokesman Don Stewart emailed.

In Wake of EPA Rule, Congressional and Court Actions

Janet McCabe, the Acting EPA Assistant Administrator for the Office of Air and Radiation testifies before the House Energy and Power Subcommittee this morning to defend the agency's new emissions rules for existing power plants.

In her prepared remarks, McCabe sticks to EPA's boilerplate on the rule and the administration's broader climate plan. The rule "does not change" the large role coal and natural gas play, and "EPA's stakeholder outreach and public engagement in preparation for this rulemaking was unprecedented," McCabe said. ERG expects differences of opinion and tough questions.

Meanwhile, Murray Energy Corp., the largest privately owned coal company in America, filed a lawsuit this week in the U.S. Court of Appeals for the District of Columbia challenging EPA's draft greenhouse gas rule for existing power plants.

The petition argues that EPA cannot set standards for power plants under Section 111(d) of the Clean Air Act since power plants are already regulated by section 112 of the statute. The company asks the court to issue a writ that would prevent the agency from issuing final rule, which is due next June.

State and Federal courts have a history of denying challenges when rules are not finalized, often citing the need to show actual damages before they are subject to judicial review.

EPA in a statement said the agency is confident that its proposed greenhouse gas rule for existing power plants will hold up in court. "History has shown us that EPA writes solid rules and they stand up in court - courts have reaffirmed our science and reasoning time and time again," said EPA spokeswoman Liz Purchia. "And let's not forget - the Supreme Court made clear in 2007, that EPA has obligation to limit carbon pollution because it's harm to human health."

Bipartisan Plan Would Increase Gas and Diesel Taxes for Highway Trust Fund

Sens. Bob Corker (R, Tennessee) and Chris Murphy (D, Connecticut) unveiled a plan yesterday to hike the gas and diesel tax rates by six cents a year for the next two years, offering enough money to extend MAP-21 (highway infrastructure) spending levels for ten more years. The plan would also index the tax to the CPI, something that a number of advocates rue not implementing when the tax was last hiked in 1993.

The extra price for drivers would be offset by making permanent some parts of a tax extenders bill, but Murphy said at a Hill press conference that he's open to other offsets as well. "We think now is the time for some political courage," he said. Senate Majority Leader Harry Reid said he's "willing to look at anything." Citing the gas tax, oil barrel tax, repatriation tax and TIGER grants, Reid said "I appreciate two people trying to move forward it's important for our country."

IRS Clarifies Effect of Sequestration on Section 1603 (Renewable Energy Cash Grant) Recipients

The Internal Revenue Service (IRS) released a notice clarifying the effect of sequestration on Section 1603 renewable energy cash grant recipients. Notice 2014-39 states that the Section 1603 payment resulting from sequestration during the affected time period does not affect the amount of the Section 1603 award or the basis of the specified energy property used for determining the award. As a result, taxpayers may not partition the basis of a property to claim both a Section 1603 award and either the renewable energy investment tax credit (ITC) or the production tax credit (PTC). However, under section 48(d)(3)(B), a taxpayer must reduce the basis of the specified energy property by 50 percent of the amount of the actual Section 1603 payment.

Grants

$12.5 Million Available for Energy Development Authority Grants and Loans

The Pennsylvania Energy Development Authority (PEDA) will offer an estimated $12.5 million in grants and loans for alternative and renewable energy projects, along with projects deploying technologies such as solar energy, wind, hydropower and biomass.

Those eligible to apply include non-profit corporations; Pennsylvania schools, colleges and universities; any Pennsylvania municipality, and public or private corporations, partnerships, limited liability companies, associations and other legal business entities.

Grant or loan funds will be awarded on a competitive basis. PEDA anticipates awarding approximately $10 million specifically for alternative and renewable energy projects, deploying technologies such as solar energy, wind, hydropower and biomass. Funding is also available for clean alternative fuels, alternative energy manufacturing and alternative energy research.

Applications are due by August 15th. Grants will be awarded in the fall. Potential applicants are encouraged to participate in a related webinar, scheduled for June 24 from 2-3 p.m. To register for the webinar, complete the online grant application or learn more about PEDA, visit www.dep.state.pa.us, keyword: Pennsylvania Energy Development Authority.

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