ERG Partners

Pennsylvania's Most Reliable Source for All Things Energy and State Government

News Clips

[N.Y. top court says towns can ban fracking]

[Feds to auction Maryland offshore wind property]

[DOE to back Massachusetts offshore wind project]

[Governor's office denies involvement with health department drilling policies]

[Report: New gas wells leak more than traditional ones]

Have a Safe and Happy 4th of July Holiday Weekend!

Questions Remain on Budget, Fiscal Code, Other Issues

Three days into the new fiscal year, the governor has yet to decide if he will sign the budget that passed June 30. The General Assembly has still not finalized the Fiscal Code. The State Senate has to decide if it will accept the changes the House made in that bill which reportedly were not part of the agreement between GOP leaders. Liquor reform amazingly is still being discussed, and pension reform appears to have been punted into football season despite pleas by the Governor to "get 'er done."

Late Monday night, the House finished what may become the 2014-2015 state budget, passing a $29.1 billion "no new taxes, on time" budget on a party line vote, after the Senate had passed the same bill earlier by a 26-24 vote.

But then, surprising many observers, Governor Corbett announced that he won't sign the bill until the General Assembly takes up "meaningful" pension reform legislation. Corbett had said last week that he would insist on a legislative solution to the pension system liability, which has reached $50 billion and is projected to grow to $65 billion in the next few years. This year's general fund budget includes $1.67 billion just to pay the state's share of pension obligations for state and school employees. The bill passed by the Senate and the House's actions on Wednesday don't appear to meet his demands, and on Wednesday, Corbett upped the ante, saying that the public sector unions have controlled the votes of some Republican members of the two chambers.

The House on Tuesday failed to move the proposed pension reform legislation, and in the process, the legislation was re-referred to the House Human Services Committee on a motion by Rep. Eugene DiGirolamo (R-Bucks) despite the opposition of GOP leadership. In remarks, he suggested that the issue should be taken up after the summer recess. By Wednesday afternoon, DiGirolamo called a committee meeting and voted the measure back out of committee where leaders promised to take up the issue in the fall.

Meanwhile, the Senate passed a watered-down pension bill that would move the state's elected officials to a defined contribution plan, netting an estimated $690 million in savings over the next 38 years.

"This is the budget that 26 of 27 Republican Senators and 108 of 111 Republican House members believed was the best course of action," said Senate Majority Leader Dominic

Pileggi (R-Delaware) via email. "It is the governor's right to decide if he agrees with them or disagrees with them."

The Senate then passed a Fiscal Code bill (HB 278) that would provide for the budget's funding, and recessed until September. But when that legislation reached the House, it was amended several times, which means that with House passage, the Senate will have to return to deal with those changes, and possibly reopen budget negotiations.

Going beyond the sound bite attacks and partisan charges, the legislative leadership got what they could from a bad fiscal picture without increasing taxes, using time tried budget tricks. "We (the Senate) could have supported recurring revenues – but that wasn't going to get through the House and to the governor. You could sit until August, September, November to try to accomplish that or you could try to put a budget in place that recognizes the revenue you have," Senate Appropriations Chairman Jake Corman said.

To do that, the Senate revised revenue projections upward for the 2013-2014 and 2014-2015 by $224 million. Then they included another $40 million that would come from the state's Enhanced Revenue Collection Account (ECRA), which lets the state Department of Revenue conduct expanded tax return review and tax collection.

They anticipated an additional $95 million from the Governor's executive order to allow "non-surface impact drilling" on state forest and park land.

The Senate also increased, by $20 million from the House proposal, the amount it plans to transfer from various special budgetary funds, including the Alternative Fuels Incentive Grant program, the Machinery and Equipment Loan Fund, the Small Business First Fund and the Volunteer Company Loan Fund – a total of $246.6 million.

The new budget also assumes the state will pay $50 million less in tax refunds than the House plan approved. That adds up to $429 million in revenues. The Senate also put several tax credits back in the bill that the House had written out when it passed HB 2328 last week.

The phase out of the Capital Stock and Franchise Tax is being continued in the coming fiscal year. According to the PA Business Council, the delays in the phase out of the CSFT have cost Pennsylvania businesses about $6 billion over the original promise from the legislature

Public schools didn't get all the money they wanted – but that may not be possible. Education is one of the few areas with a significant increase in the budget bill, with an increase of $300 million in basic education subsidies and support for pension payments. The budget provides a record-setting amount of state funding for schools at all levels, but the bulk of that is again tied up with support for payment of teachers' retirement funds. Included in that total is $200 million for a Block Grant program, intended to give schools more flexibility in where to direct state resources. Education funding now accounts for $10.5 billion of the general fund budget total.

Déjà vu...

We must note that last July 1, ERG reported that the Republican legislature passed a budget with a spending increase over the prior year, to derision by Democrats who "protested the plan spent too little on education, and ignored the potential of Medicaid expansion, while the House and Senate Republican leaders continued to wrangle and disagree on several major issues."

In the days leading up to last year's budget passage, the Capitol was dominated by issues relating to relating to pension reform, Medicaid expansion and liquor privatization. It was clear that each of the three major players had established differing agendas, and each played a game of policy chicken that failed because of a lack of trust across the Capitol.

Fast forward to late June 2014: For the past three weeks, and following passage of this year's no new taxes budget, Democrats are attacking Republicans for minimizing the education funding, demanding the state opt in to the federal Medical Assistance expansion program and refusing to support any reform of pensions or the state liquor system. The House and Senate have been unable to pass a bill that addresses pension fund deficits and future pension plans. The Senate has been unable to put together 26 votes to pass ANY liquor system improvements. And the House and Senate appear to be at odds on Fiscal Code amendments necessary to fund state government.

The differences between the House and Senate and Governor are a matter of personal styles, politics and ideologies. The Senate Republicans, with a 27-23 majority, don't really have a working majority. Several Republicans cross the aisle to vote with Democrats on an ongoing basis, and in fact, one voted against the GOP budget. The House GOP, holding a 112-91 majority, has more leeway, but an extremely united group of 30-40 "no tax increase, limited government" members limit leadership's ability to put 102 votes on the board without significant compromises.

Democrats in both chambers, sensing gubernatorial blood in the water, have steadfastly refused to give up even one vote on critical issues from liquor to budget to pension reform to tax policies.

Bill Seeking Control over EPA Clean Power Implementation Passes House

The House of Representatives this week passed House Bill 2354 by a vote of 144-59. The bill, sponsored by state Rep. Pam Snyder (D-Greene) and Rep. Donna Oberlander (R-Clarion) requires the General Assembly to approve the Pennsylvania Department of Environmental Protection's plan to implement federal Environmental Protection Agency's greenhouse gas regulations for power plants.

House Bill 2354 would also direct DEP to focus on impacts to consumers and reliability when crafting a plan to carry out EPA's regulations, which require more than a 30 percent reduction in greenhouse gasses from Pennsylvania power plants by 2030.

"The legislation does not change the proposed federal mandate to cut coal plants' carbon dioxide emissions by 32 percent by 2030 but would enlist all stakeholders and consider all strategies as we move forward," Snyder said. "The state plan would face approvals by the legislature before it can be submitted to the federal Environmental Protection Agency."

Snyder said cooperation and consensus are much better strategies than assuming that the EPA will do what's best for Pennsylvania. "We need to explore all energy sources, technologies and options, including adopting energy efficiency programs, working in tandem with other coal states and employing the best strategies and data available," Snyder said. "The emission curbs are coming, but Pennsylvania has a responsibility to see that they work and that they work in our best interest."

Snyder said the state Department of Environmental Protection would be required to hold public hearings across the commonwealth, including at locations that would feel direct, economic impacts from the federal regulations, before submitting a plan to the General Assembly.

Senate Committee Holds Public Hearing on EPA Carbon Pollution Plan

The State Senate Environmental Resources and Energy Committee last Friday held the first of two public hearings to discuss the U.S. Environmental Protection Agency's plan to cut carbon pollution from nationwide power plants by 30 percent in 2030, compared to 2005 levels.

Earlier this month, the EPA proposed its Clean Energy Policy as part of President Barack Obama's Action Plan to address climate change.

The hearing featured testimony from the Department of Environmental Protection's Deputy Secretary for Waste, Air, Radiation and Remediation who oversees the Bureau of Air Quality, as well as representatives of Pennsylvania's electric, coal and business sectors.

The hearing marked the first time state legislators addressed the proposed federal policy, which has been met with skepticism from Pennsylvania's coal industry and business community who argue that the proposal would increase electric prices and raise the cost of doing business in the state.

Subsequently, environmentalists, including those supporting the solar and wind sectors, heralded the administration's recent proposal.

"I think it is imperative for the committee to look at the short and long-term effects of this federal proposal on our environment and overall economy," said Sen. Gene Yaw (R-Lycoming), Majority Chair of the Committee. "There is a real concern that this regulation could be a threat to electric reliability."

In his opening statement, Sen. Yaw noted that while the United States has already made tremendous strides to reducing its carbon footprint, other countries have taken a different approach with increasing carbon emissions.

During his testimony, Vince Brisini, Deputy Secretary at DEP, discussed a Section 111(d) White Paper DEP submitted to EPA which provides a state framework for cleaner air, a fuel diverse energy profile, lower electric prices and more jobs.

"We (DEP) believe that there is a way to do this in a fashion that allows the markets to make these decisions. That allows people to improve their competitiveness. We believe that there is a way to do this that we can be more competitive as a nation, and we can be more competitive and it preserves the fuel diversity and the jobs," said Brisini. "Our proposal would actually preserve the jobs in the power plants, preserve jobs in the mines. It would expand jobs because people will be investing in their assets to achieve efficiency improvements."

John Pippy, CEO of the Pennsylvania Coal Alliance and Eugene M. Trisko, Esq. representing the United Mine Workers of America, reiterated their support for House Bill 2354, which requires DEP to receive approval from the Pennsylvania Legislature for a state plan to regulate CO_2 emissions prior to submitting any plan to the EPA for approval.

“Since 2005, CO_2 emissions from all fossil-fueled plants in Pennsylvania have decreased by 9 percent,” Trisko added. “EPA’s proposal gives no credit to states such as Pennsylvania that already have reduced their CO_2 emissions due to market-driven forces such as increased natural gas use, or the retirement of existing coal units.”

The Committee also heard from Dan Byers, Senior Director of Policy for the U.S. Chamber of Commerce’s Institute for 21st Century Energy who highlighted a comment made by current Secretary of State John Kerry on the EPA proposal:

“[T]he United States cannot solve this problem or foot the bill alone. Even if every single American got on a bicycle tomorrow and carpooled – instead of – or carpooled to school instead of buses or riding in individual cars or driving, or rode their bike to work, or used only solar power – panels in order to power their homes; if we each, every American, planted a dozen trees; if we eliminated all of our domestic greenhouse gas emissions – guess what? That still wouldn’t be enough to counter the carbon pollution coming from the rest of the world. Because today, if even one or two economies neglects to respond to this threat, it can counter, erase all of the good work that the rest of the world has done. When I say we need a global solution, I mean we need a global solution.”

Byers further emphasized that in the absence of similar actions by other major economies, U.S. regulations to address carbon emissions will fail, something the EPA and Obama Administration are keenly aware of.

The Committee has scheduled a second hearing to discuss the federal proposal for August 21.

Democrat Donor Targets Corbett Race, EPA Rule Playing a Role

Democratic gubernatorial candidate Tom Wolf has a 22-point lead in recent polls over Republican Gov. Tom Corbett, but the incumbent is trying to get mileage out of the EPA power plant rule. Corbett has joined other GOP governors in slamming the rule and sought to connect it to Wolf. Wolf supports the rule as flexible for states but says it must be implemented responsibly, something he argues Corbett couldn't do. Liberal donor Tom Steyer has targeted this race because of the issues of emissions and energy. Steyer’s NextGen Climate Action plans to spend millions to aid Wolf by focusing on low-income voters it says suffer most from pollution, and lapsed voters in Philadelphia.

New Gas Well Regulations Included in Budget Bill

The Philadelphia Inquirer reports state Republican leaders have inserted language to one of the budget bills that would change how Pennsylvania’s natural gas wells are regulated, further distinguishing between two types of oil and gas wells– conventional, shallow wells, and deeper modern unconventional shale wells.

From the Inquirer:

Environmental groups say inserting the language into the fiscal code is tantamount to circumventing the legislative process, including debate on the floor.

They also say they object to the fact that the proposed language does not make it clear what the new regulations would be for traditional shallow wells.

The bills' sponsors, including Senate President Pro Tempore Joe Scarnati (R-Jefferson), told the Pittsburgh Post-Gazette earlier this year the major overhaul of Pennsylvania's oil and gas law that passed in 2012 inadvertently applied some regulations targeted for Marcellus Shale drillers to what he called "mom and pop businesses" that operate smaller wells.

"Clearly, the legislative intent was not to include conventional drilling and wells into this," he told the newspaper.

The language is part of the State Fiscal Code bill, which is necessary to implement the budget.

N.J. Bill Would Benefit Landfill Gas-to-Energy Projects

A bill recently introduced in the New Jersey legislature aims to establish a Class I renewable energy certificate multiplier program for landfill gas-to-energy facilities in the state. The program would allow these facilities to offset economic losses experienced by landfills due to certain costs resulting from engine damage.

According to the text of the legislation, many landfill gas-to-energy facilities in New Jersey have experienced unanticipated and continuing maintenance costs due to engine damage caused by siloxane compounds. The legislation explains that these compounds develop in landfills from common, silicon-based consumer products, including hairspray and other aerosols. As a result of costs incurred due to these compounds, the legislation states that the future economic viability of landfill gas-to-energy facilities is uncertain.

The text of the legislation also points out that the state's energy plan supports the production of energy from landfill gas and that it is in the interest of the state to support the continued operation of these projects in order to eliminate the negative greenhouse gas impacts of methane entering the atmosphere.

Under the program established by the legislation, Class I renewable energy certificates could be issued to a facility that demonstrates an economic loss in the previous year due to this type of engine damage. (Biomass Magazine)

N.Y. Looks to Incentivize Cellulosic Fuels, Biomass Pellets

This month the New York Assembly voted to pass a bill that aims to amend the state's tax law to provide tax credits for the production of cellulosic ethanol, densified biofuel and renewable fuel oil. The legislation passed by a vote of 125 to 12 and was delivered to the state Senate.

According to information published by the New York Assembly, the bill, A.9525, would authorize a 25 cent-per-gallon tax credit for the production of cellulosic ethanol or renewable fuel oil after the first 40,000 gallons per year presented to the market. It would also provide a $15-per-bone-dry-ton tax credit for densified biofuel after the first 10,000 tons per year. The tax credit would have a cap of $10 million per taxpayer per year for a maximum of 10 consecutive years. (Ethanol Producer Magazine)

Federal News

Can Congress Move Any Energy Legislation?

The window of time for Congress to pass meaningful energy (or other) legislation before they turn their attention to November's midterm elections is fast closing. Both chambers have left DC without action on major legislation, and the Chambers' leaders often appear more focused on filing lawsuits and naming professional football teams.

The House just wrapped up a week dedicated to energy bills, all of which put pressure on the Senate, especially vulnerable Democrats in fossil-fuel-heavy states, including passage of cross-border energy pipelines, natural gas exports, and offshore oil and gas drilling legislation. But the Senate leadership is refusing to act on the bills over fears of losing votes from those moderate Democrats when the bills reach the floor.

By passing the cross-border pipeline bill, which essentially eliminates the President's authority to review pipelines that cross the border from Canada and Mexico into the U.S., Republicans hope to draw attention to the Keystone XL permitting process.

Politics are at play between Rep. Corey Gardner's (R-Colo.) and Sen. Mark Udall (D) who he is challenging for a Senate seat. Both have legislation dealing with natural gas exports, but Sen. Lisa Murkowski (R-Alaska) may stall a markup on the Udall bill.

It also remains to be seen how the energy and environmental pieces will be finalized in pending appropriations packages.

Early this week, 302 companies and business associations signed a letter urging Congressional leaders to vote 'yes' and pass the EXPIRE Act, which would extend the tax credits they say "are critical to the continued growth of clean energy technologies."

Other energy legislation moving including the Lowering Gasoline Prices to Fuel an America That Works Act, which contains provisions like expanded offshore oil and gas drilling, a revenue sharing plan for coastal states, and changes designed to speed up the leasing and permitting processes for onshore oil and gas projects. The bill isn't likely to get traction in the Democrat controlled Senate either, but Republicans were quick to point out, the Senate may look very different in a few months.

Supreme Court Issues Decision on EPA's GHG Tailoring Rule

On June 23, the U.S. Supreme Court issued its decision on the U.S. EPA's Tailoring Rule. While the court invalidated a portion of the rule, it essentially held up EPA's ability to regulate greenhouse gas (GHG) emissions for certain facilities, specifically those required to obtain a Prevention of Significant Deterioration permit due to the emission of other regulated pollutants. The court's ruling, however, did nothing to address the uncertainty faced by those in the biomass industry with regard to the EPA's treatment of biogenic emissions.

In its decision, the Supreme Court indicated that the EPA exceeded its statutory authority when it interpreted the Clean Air Act to require PSD and Title V permitting for stationary sources based on their GHG emissions. "Specifically, the agency may not [GHGs] as a pollutant for purposes of defining a 'major emitting facility' (or a 'modification' thereof) in the PSD context or a 'major source' in the Title V context. To the extent its regulations purport to do so, they are invalid. EPA may, however, continue to treat [GHGs] as a 'pollutant subject to regulation under this chapter' for purposes of requiring [best available control technology (BACT)] for 'anyway' sources," wrote the Supreme Court in its decision. More...

25x'25 Statement on CBO's Renewable Fuel Standard Report

How the Congressional Budget Office reached the conclusion in a report released Thursday that the Renewable Fuel Standard (RFS) will raise gas and biodiesel prices is a mystery, given the deep price discount advantages biofuels offer in the transportation fuel market. A spot check this week shows E85 is selling at more than 200 locations in Iowa at an average of $1.64 per gallon, nearly half of the $3.23 being charged for a gallon of regular gasoline there.

And CBO's citation of "available evidence" in contending corn ethanol has "limited potential for reducing greenhouse gas (GHG) emissions" is even more curious, suggesting the congressional agency simply failed to pick up on the latest science, including the Department of Energy's Argonne National Laboratory model that shows average corn ethanol reduces GHG emissions by 34 percent compared to gasoline. More...

Renewable Energy Investments to Surge Globally by 2030

Investments in renewable energy are expected to skyrocket by 2030, according to new projections. The Bloomberg New Energy Finance report released Tuesday predicts that renewable energy sources may garner as much as two-thirds of the $7.7 trillion projected to be funneled into building power plants over the next 15 years.

The report forecasts that 66 percent of the money invested in new generating capacity by 2030 will go toward renewable energy technologies worldwide. Roughly half of overall investment forecasted will be in Asia, which will help drive down global carbon emissions by the end of the next decade, the report states. And while fossil fuels will still account for the greatest share of power generation in 2030, coming in at 44 percent, they will have dropped from 64 percent in 2013. More...

Koch/Steyer/Democracy Alliance Spending Plans Keep Ramping Up

Liberal billionaire Tom Steyer has pledged to drop $100 million into four Senate races and three gubernatorial elections, at least half of which will be his own money. And the Koch's network aims to spend at least $290 million. That's not to mention plans by the liberal Democracy Alliance to spend $374 million during the cycle, or the millions of dollars in projected spending by industry-connected organizations and green groups like the League of Conservation Voters. (Politico)

Funding

DEP Extends Deadline for Clean Diesel Grant Program to July 11

The Department of Environmental Protection has extended the deadline for applications for the Pennsylvania Clean Diesel Grant Program until July 11.

The Department is seeking applications for projects that will replace, repower or retrofit fleet diesel-powered highway and nonroad vehicles. Funding is available for public and private entities that operate diesel-powered fleets throughout this Commonwealth. These entities may include school districts, municipal authorities, political subdivisions, other State agencies, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth.

Projects must use technologies certified or verified by the EPA or the California Air Resources Board to lower diesel emissions. The technology may be a single technology or a combination of available technologies. The majority of the fleet's annual operation time must occur within this Commonwealth.

Our mailing address is:
ERG Partners
223 State Street
Harrisburg, PA 17101