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### Off-Year Election, Turnout a Big Factor

One Governor, half of the State Senate, the state's Congressional delegation and all 203 state House seats will be filled in this fall's election November 4. The question remains as to what changes will occur and whether those changes will impact how either Harrisburg or Washington works in 2015-2016.

The 2014 election is considered an "off-year" election. Voting percentages tend to drop significantly during these years, with turnout well below levels expected in years where voters elect a president. In 2008, for instance, 57.1% of the voting-age population cast ballots — the highest level in four. Two years later in 2010, only 36.9% voted in the midterm election. But these elections can determine the future policies of the state, as well as control of Congress.

Governor Corbett has trailed former Revenue Secretary Tom Wolf by as many as 27 points in polls this summer and fall, but recent polling suggests Wolf's call for income tax changes have become a liability, as Corbett appears to be narrowing the gap considerably.

The state's Congressional delegation, split 13-5 Republican, much thanks to the 2012 reapportionment, appears likely to remain 13-5, as Democratic hopes for picking up two seats in southeastern PA have faded this fall.

In the General Assembly, after more than a year's delay and a trail of paperwork that spanned a census, redistricting votes, lawsuits, and more redistricting, Pennsylvania is finally ready to test out its new state House and Senate districts. But regardless of the process that led to the final redistricting plan, ERG does not foresee major changes in composition of the State House and Senate, and Republicans appear likely to maintain control of both chambers.

During this midterm election, all even numbered Senate seats and all House seats are on the ballot. Out of the 25 even-numbered Senate seats, nine incumbents - five Republicans and four Democrats - are unopposed. Of the 203 House seats on the ballot, more than half - 108 Representatives are running unopposed.

In other words, 117 of the 228 Senate and House seats to be voted on this cycle have just one candidate on the ballot.

Republicans hold a narrow margin in the Senate, with 27 members, compared to 23 Democrats. But Democrats are hoping Governor Corbett's unpopularity, combined with

several contests in the eastern part of the state that might be more favorable to Democratic candidates, will translate to Democratic wins in November.

Republicans, who also have a majority in the House, believe their party can pick up seats and make gains in the Senate, due to the demographics of the Democratic-held seats on the ballot. They also have high hopes for the race in a newly created district in the Pocono Mountain region where Rep. Mario Scavello has shown consistent double digit leads in polls. Republican incumbents in the 26<sup>th</sup>, 36<sup>th</sup>, and 50<sup>th</sup> districts are not running for re-election.

The 26<sup>th</sup> district, held by Sen. Ted Erickson, covers part of Delaware and Chester counties. The district is Republican leaning, but voter turnout has trended toward Democrats. This seat is probably the Democrat's best hope for a take-away this election cycle if candidate John Kane can best Tom McGarrigle. Democrats had also targeted two other Bucks County seats, which now appear to be relatively safe for Republican incumbents.

Democrat incumbents in the 32<sup>nd</sup> and 38<sup>th</sup> districts are also retiring. The 38<sup>th</sup>, as a result of reapportionment, has an unopposed incumbent Republican Senator, Randy Vulakovich. The 32<sup>nd</sup>, held by Sen. Rich Kasunic, contains all of Fayette and Somerset counties and the seat may be the Republican's best hope for a gain this election cycle if Republican candidate Pat Stefano can best Democratic State Rep. Deb Kula. Some Republicans are also hoping for an upset in a race for the 46<sup>th</sup> Senate district now held by Sen. Tim Solobay in Washington and Greene Counties.

In the State House of Representatives, 13 members are retiring (9 R / 4 D); 4 are still in the running for state Senate (3 R / 1 D), and 6 lost their primary races for House or Senate (2 R / 4 D).

Transportation Chair Nick Micozzie's seat in Delaware County is seen as competitive and may turn from red to blue for the first time in 36 years since he first took office. Other interesting races to watch include Rep. Mike Fleck of Huntingdon County who lost his GOP primary but won the Democratic slot via write in.

As with any state election, retirements and turnovers create opportunities to shakeup caucus leadership and change committee chairs. With unrest in both the Senate and House Republican caucuses, expect changes – or at least an internal struggle for big changes. ERG will follow those changes and internal caucus elections in the coming months. What we know now is that House Republicans will be electing new leadership with the retirement of House Speaker Sam Smith (R-Jefferson). And in the Senate, some of the more conservative members have started to publicly challenge the leadership of Majority Leader Dominic Pileggi (R-Delaware).

***It all comes down to voter turnout. Be sure to vote on November 4!***

### **Corbett Signs Bill Giving Legislature Oversight of State's Clean Power Plan**

After some jockeying in the Senate to add and then remove amendments to the controversial bill, the legislature ultimately approved HB 2354, sponsored by Rep. Pam Snyder (D-Greene) that requires legislative approval of the state's Clean Power Plan before submission to the Environmental Protection Agency for review and approval. Governor Corbett signed the legislation, which is now Act 175 of 2014.

Under the EPA's proposed rule, the state must cut its carbon emissions by 32 percent over the next 15 years. This means big changes for how the state produces energy and has rattled many coal-county legislators.

Several House and Senate Democrats, as well as environmental advocates, had two major complaints with the bill: that the legislature is not equipped to properly assess the merits of an environmental plan; and that their involvement will over politicize the issue adding extra bureaucratic hurdles.

If the EPA does not accept a state's plan, or if a state fails to submit a plan, the EPA reserves the right to create a plan for that state.

### **State Agency Green Tech Implementation Act Approved**

A bill establishing the State Agency Green Technology Implementation Act (HB 1672) sponsored by Rep. Ron Miller (R-York) has been approved by Gov. Corbett. Act 165 authorizes the Pennsylvania Department of General Services to test and implement new, environmentally beneficial and energy-efficient technologies within state agencies.

### **Governor OKs Bill Requiring More Frequent Gas Production Reports, Royalties**

Gov. Tom Corbett has approved two bills sponsored by Rep. Tina Pickett (R-Bradford) pertaining to the oil and gas industry. House Bill 2278 would change the way drillers report gas production figures. Prior to the new law, gas companies were only required to file reports with the state Department of Environmental Protection twice a year. Act 173 puts the state on par with other major gas producing states by requiring monthly production reports.

Transparency has become a major issue for leaseholders trying to identify if their monthly royalty payments are correct. The change should also help the state and the U.S. Energy Information Administration (statistics unit for the U.S. Department of Energy) to have the most up-to-date numbers and assess changing production trends in real-time.

Corbett also signed the Recording of Release from Oil and Natural Gas Lease Act (Act 152), which requires oil and gas producers who are party to an oil or natural gas lease to deliver a recordable surrender document not more than 30 days after the termination, expiration, or cancellation of a lease.

### **General Assembly Approves Increase to Nuclear Reactor Fees**

The House and Senate have approved Senate Bill 1355 that would amend the Radiation Protection Act, increasing nuclear facility fees to \$650,000. Fees are currently set at \$550,000. The bill, sponsored by Sen. Gene Yaw (R-Lycoming) would also require permit and license holders to pay \$275,000 prior to July 1 of each year to be collected and used by agency in accordance with the provisions of 35 PA.C.S. 7320, and \$150,000 to be collected and used by the agency for radiological emergency response equipment, planning, training and exercise costs involving non-agency personnel. The act shall apply fees on or after July 1, 2015.

### **CFA Approves \$19 Million in Alternative, Clean Energy Program Grants, Loans**

Pennsylvania's Commonwealth Financing Authority this week unanimously approved more than \$17.5 million in grants and more than \$1.5 million in loans for 20 clean, alternative and renewable energy projects.

“Through these projects we are investing in cost-effective energy efficiency and conservation of our resources,” Gov. Corbett said. “They will support and improve upon the development of renewable energy use across Pennsylvania.”

The CFA approved 19 projects through the state’s Alternative and Clean Energy (ACE) Program and one through the High Performance Building Program including seven alternative energy production projects, five high performance building projects and eight compressed natural gas (CNG)/liquefied natural gas (LNG) fueling stations which have the benefits of reducing emissions. The proliferation of fueling stations is expected to result in fuel savings and the utilization of domestically produced natural gas.

The CFA investments in Adams, Allegheny, Armstrong, Bucks, Carbon, Centre, Cumberland, Chester, Dauphin, Franklin, Lackawanna, Lancaster, Lebanon, Philadelphia, Tioga and Washington counties are projected to result in more than \$194.7 million in additional economic investments.

The ACE Program provides financial assistance in the form of grants and loan funds that will be used by eligible applicants for the utilization, development and construction of alternative and clean energy projects in the state. Click [here](#) for a list of approved energy projects.

### **CFA Okays Marcellus Legacy Fund Projects**

The CFA also approved \$16.4 million in funding to support 106 projects through seven Act 13 Marcellus Legacy Fund programs designed to support conservation projects and environmental protection measures throughout Pennsylvania.

The 106 projects approved yesterday are located in 36 counties: Adams, Allegheny, Bedford, Berks, Bucks, Cambria, Chester, Clarion, Clearfield, Cumberland, Dauphin, Delaware, Elk, Erie, Fayette, Indiana, Jefferson, Lackawanna, Lancaster, Luzerne, Lycoming, McKean, Mercer, Monroe, Montgomery, Northampton, Northumberland, Philadelphia, Pike, Potter, Schuylkill, Tioga, Union, Washington, Westmoreland and Wyoming.

The funds were a part of the \$44.9 million made available over the past three years to fund the Marcellus Legacy Fund programs administered by the Commonwealth Financing Authority (CFA).

### **PEDA Approves \$12.4 Million in Advanced, Clean Energy Grants**

On Wednesday, the Pennsylvania Energy Development Authority met and approved 27 grant awards totaling \$12.4 million for Clean Alternative and Advanced Energy projects across the state.

Dana Aunkst, Acting Secretary of DEP, chairing the meeting, said that the DEP had received 184 applications for grants totaling \$82 million in this round of funding. With so many applicants, he said that the technical screening committee and staff recommendations had to consider not only the standard criteria for the awards, but also geographic scoring, as well as considering projects that were the “best of class” in various categories.

Aunkst said the funding for this round came from three sources: \$4.1 million from the Energy Development Fund, \$8.034 million from Growing Greener II, and \$259,694 from

the Duquesne Light Settlement Fund.

Of the grants approved, 19 projects, totaling \$9,680,340 were for advanced energy projects including six solar, three combined heat and power, five energy efficiency, and five biomass, biogas, hydropower and solar/thermal projects. Another \$2,427,366 in grants were approved for five projects considered clean alternative energy, including manufacturing of fuel cell components, recycling electrolytes from batteries, expanding energy efficient window systems, solar-diesel hybrid lighting systems, and a new solar photovoltaic mounting system. A final group of three projects for advanced energy were approved for projects in the Duquesne Light service area totaling \$278,465.00. Click [here](#) for a full list of approved projects.

### **Pennsylvania Gets Mixed Scores in State Efficiency Ranking**

*By Tony M. Guerrieri, PA Join Legislative Air and Water Quality Conservation Committee*

October is National Energy Awareness Month, but a national survey shows Pennsylvania has some work to do if it wants to catch up with the rest of the country.

The survey by WalletHub, a web research organization that specializes in comparison surveys, identified the nation's most (and least) energy efficient states. Analyzing the energy efficiency of cars and homes, the survey ranks Pennsylvania 39th overall in energy efficiency. Hawaii, Alaska and the District of Columbia were excluded from the survey because of insufficient data.

In order to rank the states by energy efficiency, WalletHub compared states based on two key measures: "home-related energy efficiency" and "car-related energy efficiency." Home-related energy efficiency was determined by tabulating the total amount of energy consumed per capita by residential homes and adjusting for degree days (degree days are a measure of how much temperatures vary from a base of 65 degrees Fahrenheit). The study did not take into account commercial or industrial data. [More...](#)

### **Poll Finds Pennsylvanians Concerned about Proposed EPA Power Plant Regs**

According to [new polling data](#) from the Partnership for a Better Energy Future (PBEF), voters in Pennsylvania and nationwide are concerned about the EPA's proposed greenhouse gas regulations and are reluctant to pay more for the energy they use.

The survey, which included 1,005 likely voters in Pennsylvania, found that a majority believe the U.S. cannot afford new costs and potential job losses that could result from EPA regulations and nearly half of those polled said they are "not willing to pay a single dollar more in their energy bill".

Undoubtedly, voters in states that would be hardest hit from the EPA regulations hold stronger opposition to the regs and told pollsters that they would be less likely to vote for candidates who support the measure.

Despite any voter or industry opposition, taking no action on energy efficiency or greenhouse gas and other harmful pollutants is not realistic.

The EPA will continue to receive public comments regarding the proposed regulation through December 1.

### **DEP Extends Oil & Gas Enforcement Policy Comment Period**

DEP's Bureau of Oil and Gas Planning and Program Management this week told the DEP Citizens Advisory Council that the agency plans to extend the public comment period for proposed changes to the Oil and Gas Program Enforcement Policy through November 18. According to DEP, the enforcement policy has not been updated since 2005.

### **Dose of Reality for Philadelphia's Energy Hub Proponents**

*By Andrew Maykuth, Philadelphia Inquirer*

Boosters of an emerging movement to develop Philadelphia as an energy hub were cautioned Tuesday that they need to do more to sell a skeptical public.

Energy consultants told a gathering of the Greater Philadelphia Chamber of Commerce that public opposition may be the biggest obstacle to advancing the dream of a Delaware River industrial revival tied to the Marcellus Shale natural gas boom.

"This industry has not done a good job with public interface and informing the public about the nature of the projects coming through their communities," said Andrew S. Levine, the cochair of the environment and energy practice at the law firm of Stradley Ronon Stevens & Young L.L.P. [More...](#)

### **FAA Ruling Could Block Erie Wind Farm Plans**

A recent decision by the Federal Aviation Administration could take the wind out of the sails of a Texas company planning to build a commercial wind farm in Erie County. The FAA has determined that the wind turbines would interfere with radar used by air traffic controllers at Erie International Airport.

The FAA denied the developer's request to extend an earlier FAA determination that the turbines would not interfere with aviation.

"The (new) analysis done by FAA Technical Operations indicates that all of the wind turbines would be in the radar line of sight for the Erie ASR-11 radar and would create unwanted primary returns (clutter) and dropped primary targets in the vicinity of the wind turbines," FAA specialist Cindy Whitten said Oct. 9, in a written notification to Paul Harris, of Pioneer Green Energy affiliate North East Wind I LLC.

About 61 aircraft a day would be affected by the inaccurate radar returns, Whitten said. There is nothing developers can do to make the turbines safe for that air traffic, she said.

"There is a method to reduce this impact; however it diminishes the capability of air traffic control to provide a safe environment for the aviation community," Whitten said in the notification. "Therefore, all potential mitigations have been rejected by air traffic control ..."

FAA approval is required to build any structure taller than 200 feet. The agency originally decided in September 2012 that the proposed North East wind farm posed "no hazard" to local aviation. That determination expired May 27 when Pioneer had not yet begun turbine construction.

Pioneer Green Energy planned to build as many as 67 turbines as tall as 450 feet to harness wind power to generate electricity, but those plans are being reworked and "downsized," maybe into several small projects instead of one large one, Pioneer Vice President David Savage said last week. The company will relocate turbines and seek FAA approval for the new locations, he said.

The company is still committed to east Erie County, Savage said. Opponents of the proposed wind farm said that they are "pleased" with the new FAA decision and hope that it might be a death knell for the project.

The air surveillance radar used by Erie air traffic controllers is located south of Interstate 90 in McKean Township. The radar covers airspace from the southern shore of Canada to Tidioute in the Allegheny National Forest, and from Ashtabula, Ohio, to Jamestown, N.Y.

### **Limerick Nuclear Plant Unit Licenses Extended**

The Nuclear Regulatory Commission has extended the operating licenses of both units at the Limerick Generating Station in Montgomery County. The new licenses for will now run until October 2044 for Unit One and until June 2049 for Unit Two. Exelon says the plant generates 2,345 megawatts of electricity, enough power for roughly two million homes.

### **Regional News**

#### **New York: Fracking Study Delayed Again – Now Finished “by End of Year”**

New York Gov. Andrew Cuomo said a long-running health study on the state’s hydraulic fracturing will be finished “by the end of the year.” The remark was made during the state’s only scheduled gubernatorial debate. Cuomo has said he would not make a decision on tracking until the health department finished the study, which has been delayed for roughly two years.

Albany news sources this week reported that a federal water study commissioned by the Cuomo administration as it weighed the decision on fracking was edited and delayed by state officials before it was published.

The study, originally commissioned by the state in 2011, when the administration was reportedly considering approving fracking on a limited basis, was going to result in a number of politically inconvenient conclusions for Governor Andrew Cuomo, according to an early draft of the report by the U.S. Geological Survey obtained through a Freedom of Information Act request.

[New York: Energy Management Operations Center in Created in Albany](#)

[Cuomo Administration Edited and Delayed Key Fracking Study](#)

[Maryland: Environmental Activists Press for Clean Energy](#)

[New Jersey: How the Garden State Plans to Grow Energy Infrastructure](#)

[West Virginia: Report Says State Could Meet EPA Plant Standards](#)

### **Federal News**

#### **Tax Extenders, PTC on Senate's Lame Duck List**

The US Senate is looking at retroactive reinstatement and extension of lapsed incentives and the production tax credit as a top priority for the post-election legislative session, according to staff sources that have talked with ERG this week.



A tax extenders package – with nearly 60 temporary incentives on the line – would greatly benefit alternative and renewable energy companies, but the elections themselves could have a chilling effect on possible legislative actions. While the major energy related piece is that bill, and Democratic leaders want to get the bill done this year, Senate Republicans have not signaled any great hurry to move on the legislation.

The other major item on the Congressional agenda will be keeping the government funded. A continuing resolution will be necessary because the spending bill passed by Congress earlier this fall only finances government operations through December 11.

It appears there will not be time to take up other major energy legislation including the Shaheen-Portman Energy Savings and Industrial Competitiveness (ESIC) Act (S. 1392) which enjoys strong bipartisan support and the endorsement of various business coalitions, environmental groups, and labor.

Senate Republican Leader Mitch McConnell last month said that the extender package is one issue that he hoped all could agree on, but said he would “talk about how to put that together once we’ve got the election behind us.”

McConnell had led a Republican filibuster over procedural issues when the EXPIRE bill (Expiring Provisions Improvement Reform and Efficiency Act – S. 2260) was originally considered in May. The bill is sponsored by Sen. Ron Wyden, D-OR.

Wyden has pitched his EXPIRE bill as a final extension of the temporary tax incentives before they are all reconsidered in a comprehensive overhaul of the tax code in the next session. The legislation's incentives currently include energy provisions such as the PTC, a two-year extension of which is expected to cost more than \$13.3 billion over 10 years, as well as similar extensions of subsidies for residential energy efficiency improvements that would cost over \$1.6 billion over the same period.

If Democrats try to put the extender provisions and PTC into a bill that would block corporate inversions, where US companies reduce their taxes by reincorporating in other nations, chances of passage drop significantly. The IRS announced a series of actions in late September that would make it more difficult for companies to invert and they would reduce the tax benefits for such actions. But Senate Majority Leader Harry Reid has signaled that he may look to legislation to block inversions when the Senate returns. Such an action would create additional issues with Republican Senators who plan to take up additional corporate tax reforms in 2015.

Another complicating factor for the 2.3 cents per kWh PTC and other lapsed incentives is that Republican senators may insist on incorporating provisions of the Jobs for America Act (H.R. 4) into a new extenders package. That legislation includes a provision opposed by the Obama administration that would make the \$156 billion research and development tax credit permanent without any spending offsets or revenue increases. H.R. 4 was passed by the House in spite of a veto threat just before lawmakers recessed to campaign for re-election.

### **Vote Could Depend on Election Results**

If Republicans pick up the six seats needed to regain control of the Senate, the EXPIRE Act and the PTC could be less likely to pass in 2014. Senate Democrats would have much less bargaining power, and Republicans could push the entire debate into 2015 and a



consideration of comprehensive tax reforms when they would control the agenda in both houses.

The IRS has urged House and Senate leadership to decide on extenders no later than the end of November, because retroactive changes in 2015 could actually force postponement of the 2015 filing season and delay processing of tax returns for millions of businesses and individual taxpayers. Of course, this would not be the first time Congress ignored requests from the IRS for action on taxes or incentives. Most recently, the \$1 per gallon biodiesel tax credit for 2012 was passed in January 2013, retroactive back to Jan. 1, 2012.

The American Wind Energy Association is saying they are most worried about the current delay, and not who controls the Senate. Spokesmen for the Association note that their major concern is the uncertainty, which has always been an issue for wind and the PTC.

This week, the AWEA announced that 13,600 MW of wind is under construction, much of it in Texas, but that work on all of those projects began before the end of 2013, so they are eligible under the last PTC extension. Any new or future projects would need a new extension to qualify. Projects appear to be drying up on the front end and AWEA fears they will dry up throughout the industry over time without an extension.

It appears that in the end, the extenders package and PTC will be approved this year. But the decisions on what and how much will come down to a negotiation between the Senate and the House, and the election in November will determine how strong the Senate Democrats' hand is.

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