

GOVERNMENT RELATIONS

From Milliron and Goodman Government Relations, LLC, Harrisburg, PA

**Berks County
Water & Sewer**
ASSOCIATION

July 1, 2019 Issue 68

PUC Damage Prevention Committee Actions Announced Against Underground Facility Owners, Excavators and Project Owners

A total of 194 disciplinary actions, including \$180,850 in administrative penalties, have been taken against 73 underground facility owners, excavators and project owners in the **latest enforcement actions** http://www.puc.pa.gov/transport/gassafe/pdf/DPC_Agendas/2019/DPC_Case_Summaries061119.pdf by the Public Utility Commission's (PUC's) Damage Prevention Committee (DPC). These actions were taken during the DPC's June 2019 meeting.

The DPC is tasked with enforcing the state's Underground Utility Line Protection Act - also known as the "PA One Call Law."

A comprehensive list of summaries and actions

http://www.puc.pa.gov/transport/gassafe/pdf/DPC_Agendas/2019/DPC_Case_Summaries061119.pdf from DPC meetings is available on the PUC's website. Penalties are payable to the Commonwealth of Pennsylvania. The Commission will offset the costs of administering this program through the penalties collected.

Digging Safety - PA One Call

Every year, underground lines across the state are struck more than 6,000 times - which means that during the average workday a pipeline or other vital utility system is hit every 20 minutes. While underground lines are often "out of sight and out of mind," every hit poses a risk to the contractors and homeowners who are doing the digging; to utility workers and emergency responders who are mobilized when lines are struck; and to bystanders who live, work or travel near the locations of the incidents.

State law

<https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2017&sessInd=0&act=50> requires contractors and residents to

contact PA One Call at least three business days prior to excavation - triggering alerts to all utilities within an intended digging area and prompting utilities to mark where their facilities are located. Pennsylvanians can dial 8-1-1 to connect with the One Call system, while out-of-state residents or businesses can call 1-800-242-1776.

About the DPC

The DPC is part of the PUC's independent Bureau of Investigation and Enforcement, which also includes the Pipeline Safety Division. Modeled after successful programs in other states, the **focus of the committee** http://www.puc.pa.gov/utility_industry/transportation/pipeline_safety/pa_one_call_enforcement.aspx is a reduction in the number of "hits" on underground utilities.

The DPC meets regularly to review alleged violations of the Act and makes determinations as to the appropriate response including, but not limited to, the issuance of warning letters or administrative penalties. The committee holds public meetings in Hearing Room 1 of the Commonwealth Keystone Building, Harrisburg, and each of the meetings is **livestreamed on the PUC's website** http://www.puc.pa.gov/about_puc/live_streaming_video.aspx.

About the Bureau of Investigation & Enforcement

As the independent investigation and enforcement bureau of the PUC, I&E enforces state and federal pipeline safety and motor carrier safety laws and regulations and represents the public interest in ratemaking and service matters before the PUC's Office of Administrative Law Judge. I&E has the authority to bring

enforcement action, seek emergency orders from the Commission or take other steps to ensure public safety.

Source: PUC Press Release, 6/26/2019

PUC Details Nearly \$252 Million Distribution of Gas Drilling Impact Fees; Largest Distribution to Date

On June 27, 2019, the Pennsylvania Public Utility Commission (PUC) posted detailed information about this year's distribution of impact fees on natural gas producers - totaling \$242,964,000 - on the **PUC's Act 13 website** <https://www.act13-reporting.puc.pa.gov/Modules/PublicReporting/Overview.aspx>.

Additionally, another \$8,866,900 is being distributed to municipalities and counties where producer payments had been withheld during a long-running court case concerning the definition of a "stripper well." Because of the unique circumstances surrounding this issue, and the potential financial impact on municipalities where the disputed wells were located, the Commission felt it was important to thoroughly calculate the stripper well collections and allocate the corrected well distributions to the municipalities that did not receive those impact fees during the years the well status had been disputed.

Taken together, the PUC is distributing a total of \$251,830,900 in impact fees, and over the past eight years the PUC has collected and distributed almost \$1.7 billion to communities across Pennsylvania.

County and municipal governments directly affected by drilling will receive a total of \$134,740,050 for the 2018 reporting year. Additionally, \$89,826,700 will be transferred to the Marcellus Legacy Fund, which provides financial support for environmental, highway, water and sewer projects, rehabilitation of greenways and other projects throughout the state. Also, \$18,397,250 will be distributed to state agencies, as specified by Act 13.

The PUC has forwarded the information to the Department of Treasury for payment and expects checks to be distributed in early July.

This year's distribution is approximately \$33.4 million higher than last year, driven primarily by an increase in the number of Pennsylvania wells paying impact fees for this year (9,560 compared to 8,518 last year). The price of natural gas has remained relatively constant over the past year and did not impact the well fee calculations. The distributions for individual municipalities are detailed on the **PUC's Act 13 website** <https://www.act13-reporting.puc.pa.gov/Modules/PublicReporting/Overview.aspx>.

Extensive details regarding the impact fee distribution are available online, including specifics on funds collected and distributed for each year since 2011. Visitors can search and download statistics such as distributions to individual municipalities or counties; allocation and usage of those funds, based on reports submitted by various municipalities; eligible wells per county/municipality; and payments by producers.

The PUC is responsible for implementing the collection and distribution of an

unconventional gas well fee (also called an Impact Fee), established by the Unconventional Gas Well Impact Fee Act and signed into law as Act 13 of 2012.

The Pennsylvania Public Utility Commission balances the needs of consumers and utilities; ensures safe and reliable utility service at reasonable rates; protects the public interest; educates consumers to make independent and informed utility choices; furthers economic development; and fosters new technologies and competitive markets in an environmentally sound manner.

For recent news releases and video of select Commission proceedings or more information about the PUC, visit our **website** at <http://www.puc.pa.gov/>. Follow the PUC on Twitter - @PA_PUC for all things utility. "Like" Pennsylvania Public Utility Commission on Facebook for easy access to information on utility issues.

Source: PUC Press Release, 6/27/2019

Gov. Wolf: Budget Sets Pennsylvania on Path toward Long-Term Prosperity

Wolf Advances Education for All Ages and Workforce Development; Bolsters Rainy Day Fund; Supports Farms and Veterans

On June 28, 2019, Governor Tom Wolf outlined the significant advancements made in the 2019-20 budget that will help move Pennsylvania towards a future of long-term prosperity. The budget makes investments in all levels of education; builds on progress to have the nation's strongest workforce; provides lower

cost options for health insurance; and helps children, families, vulnerable populations, farmers and veterans, all while making the largest deposit in the Rainy Day Fund in two decades and delivering structural balance after years of deficits.

Later today, Gov. Wolf will sign the General Appropriations (HB790), Human Services Code (HB33/SB695), Fiscal Code (SB712), Tax Code (HB262), Admin Code (HB1461), and School Code (HB1615/SB144) Bills.

Gov. Wolf made the following statement:

“I am proud of the budget before me: More than \$300 million for education. Lower health care costs for at least 400,000 Pennsylvanians. The first major state reforms to combat campus sexual assault. Officially doubling early childhood education funding in five years. Stopping cuts to agencies and other services. Making sure kids start school at age six and stay there until they are 18. The most expansive state GI bill in the nation. Spurring agricultural development in rural and urban communities with a Farm Bill tailored to Pennsylvania farmers’ specific needs. A comprehensive plan to build the nation’s strongest workforce. More funding for critical human services, including child care, home-visiting programs, services for people with disabilities, early intervention programs and funding to upgrade and secure our voter registration database.

“But, I lament some of what we were not able to pass.

“I am going to keep fighting tooth and nail for a higher minimum wage. I am going to keep pushing for infrastructure funding that will help strengthen and rebuild our communities. I’m going to keep working to

lower the Corporate Net Income Tax so companies know that Pennsylvania is open for business. I’m going to keep advocating for non-discrimination legislation that signals that Pennsylvania welcomes everyone. And I will keep fighting for support for our most vulnerable neighbors.

“That’s why even though the legislature eliminated general assistance, I made sure to include an additional \$15 million for low-income housing assistance. This will help a lot of the same individuals who previously received general assistance from the commonwealth. It will provide valuable resources to make sure they have a roof over their head. But there is more we can and should do to lift people out of poverty.

“In divided government you have to advocate aggressively, you have to negotiate hard, and you also have to do what’s best for all of the people you serve.

“You have to do everything you can to promote the most forward-looking agenda you can conceive, and to prevent regressive policies from becoming law. You have to fight for every inch to help all of the people.

“This is the job I was elected to do. This is a job I take seriously. This is a job I’m honored to have.

“I am going to keep working every single day to make progress for the people of Pennsylvania. All of the people. And today I am proud of what we were able to accomplish together over the past few months.”

Increasing Investments in Education and Workforce Development

Gov. Wolf’s top priority is education. This year’s budget advances his goal of

investing in schools and workforce development. With this year's funding increase of \$265 million for education, the governor has now secured more than \$1.2 billion in public education funding since taking office.

Among other investments, the budget accomplishes the following:

- Provides an increase of \$265 million for Pre-K through 12, including \$160 million for basic education, \$25 million for Pre-K Counts, \$5 million for Head Start, and \$15 million for preschool Early Intervention. With this funding, Pennsylvania has doubled investments in early childhood education during Gov. Wolf's time in office.
- Increases funding for higher education by 2 percent for Pennsylvania's community colleges, the Pennsylvania State System of Higher Education, and the state-related universities. Over the past five years, funding for higher education has increased by \$188 million.
- Expands on the innovative PAsmart workforce development program by again providing \$20 million for STEM and computer science education, \$10 million for job training and apprenticeships and an additional \$10 million to support career and technical education.
- Raises the school dropout age from 17 to 18 and lowers the required age to start school from 8 to 6.

"This budget makes big strides in pursuing my goal of making Pennsylvania's workforce the best in the nation," said Gov. Wolf. "When I came to office, I made my desire to better fund our public schools

clear. But making our schools stronger and preparing our students for careers that will allow them to thrive in Pennsylvania is about more than just money. Today, I will put into law a new compulsory age of attendance in Pennsylvania. Combined with changes in graduation requirements that focus on trade and technical skills along with historic investments in technical education, we will prepare more students for a wider range of careers.

"Additionally, since I took office, we've more than doubled the annual investment in early childhood education from \$136 million to \$276 million. That's an investment I'm really proud of because it shows a significant commitment to the future of our commonwealth."

Gov. Wolf is a steadfast supporter of campus safety and nearly three years ago established It's On Us PA, the nation's first statewide campaign. The budget package includes initiatives that encourage students to report sexual assault by providing them immunity for violating drug, alcohol, and other minor student conduct policies. Another initiative requires postsecondary institutions to offer students online, anonymous options to report a sexual assault or misconduct.

"More than three years ago, PA became the first state in the nation to start an It's On Us program to combat sexual assault. I have visited colleges and universities, I have sat with survivors of sexual violence, and I have repeatedly asked for legislation on my desk that will protect our students from sexual assault," said Gov. Wolf. "I am proud to be able to sign two key bills that will encourage the reporting of sexual violence, and will help quell the epidemic of sexual assault on our college campuses."

Supporting Vulnerable Pennsylvanians

Gov. Wolf believes our commonwealth succeeds when all individuals have opportunities for their own success. This year's budget assists in this mission by:

- Increasing home visiting services to reach an additional 800 vulnerable families. This program has been proven to reduce neglect and abuse and improve health and education outcomes.
- Increasing the number of slots in high-quality and affordable day care programs, and the amount of available child care subsidies so more children start life on the right path.
- Raising the rate for Early Intervention (EI) programs for the first time in a decade, this 3 percent rate increase will assist EI providers in recruiting and retaining qualified staff members to serve the at-risk children and families in the EI system.
- Increased funding to take nearly 800 individuals off of the waiting list for services for people with intellectual disabilities.

“This budget makes critical investments in early childhood education that will ensure our youngest Pennsylvanians are starting out on a solid footing, giving them lifelong skills and new opportunities,” said Gov. Wolf. “And, we’re expanding support for vulnerable families, including increasing the number of high-quality, affordable childcare slots and adding significant funding to evidence-based home visiting programs.”

Restoring Pennsylvania's Fiscal Health

Gov. Wolf is committed to the long-term prosperity of Pennsylvania. As part of the 2019-20 budget, the governor will make a \$330 million deposit into the Rainy Day Fund. The deposit is the governor's second significant transfer into the fund, which held just \$250,000 when he took office. After the transfer, the fund will contain more than \$350 million, a significant step toward restoring Pennsylvania's fiscal health.

“Making this \$330 million deposit into the Rainy Day Fund is incredibly important for the future of our commonwealth – and we’re doing it with a balanced budget,” said Gov. Wolf. “Growing our Rainy Day Fund means that in worse economic times, we have funds to avoid the disastrous cuts we’ve seen before.”

Securing Historic Funding to PA Agriculture

Gov. Wolf has remained steadfast in his plight to boost Pennsylvania's agriculture industry since first presenting his six-point plan less than one year ago. This year's budget invests \$23.1 million to provide for business development and succession planning, create accommodations for a growing animal agriculture sector, remove regulatory burdens, strengthen the ag workforce, protect infrastructure, and make Pennsylvania the nation's leading organic state.

“The agriculture industry is a critical part of Pennsylvania's economy,” said Gov. Wolf. “This package of bills will support legacy farms and new business ventures.”

Significant investments guided by the governor's plan to bolster the agriculture industry include:

- \$6 million to provide grants, loans and tax credits for farmers to install and implement best management practices.
- \$5 million to fund research and development, organic transition assistance, value-added processing, and marketing grants in support of Pennsylvania’s dairy industry.
- \$500,000 to re-establish a program to fund agricultural and rural youth organizations to help increase knowledge and awareness of agricultural issues within the commonwealth.
- \$500,000 to improve agriculture infrastructure in urban areas, the aggregation of product, sharing of resources, and support for community development efforts.
- \$2 million to create an Agricultural Business Development Center to serve as a resource to help every farmer create a business plan, transition plan, or succession plan.
- \$2.6 million to support the overall PA Preferred program, bolster enrollment in the Homegrown by Heroes Program, and develop the PA Preferred Organic initiative.

Supporting PA National Guard Families

Gov. Wolf recognizes the sacrifices Pennsylvania National Guard members and their families make to protect our commonwealth. To support them in return, Gov. Wolf established the PA GI Bill, a first-in-the-nation program to provide spouses and children of Pennsylvania National Guard member’s tuition reimbursement for higher education.

“I’m proud to say we have done more to make the lives of Pennsylvanians better,” said Gov. Wolf. “The PA GI Bill is a fitting way to show our gratitude to our military member and their families.”

The program will enable:

- Pennsylvania National Guard members who commit to an additional six years of service to receive five years or 10 semesters of higher education benefits for their spouses and children.
- The benefit must be used at a Pennsylvania Higher Education Assistance Agency (PHEAA) approved educational institution at the tuition rate set by the Pennsylvania State System of Higher Education (PASSHE).
- The PA GI bill could benefit up to 8,000 military family members.

Increasing Access to Affordable Health Care: State-Based Exchange and Reinsurance

In addition to these investments, the governor has secured the most significant health care reform since the creation of the Children’s Health Insurance Program (CHIP): the authority to implement a state-based marketplace that will allow for greater access to affordable, quality health insurance for Pennsylvanians. The state-based marketplace, in conjunction with a federal waiver, will also enable a new re-insurance program that will significantly lower premiums for those who purchase their health insurance through the individual market beginning in 2021 – all without spending a single dollar from the state’s general fund.

“Too many people are paying too much and getting too little out of their insurance,” said Gov. Wolf. “This is an opportunity for Pennsylvania to lead on health care reform. Because of this bill, families will have more money to spend on the things they want without having to worry about whether or not they can get the care they or their loved ones need.”

Source: Governor Wolf’s Press Office, 6/28/2019

Gov. Wolf Signs Multiple Bills

On June 28, 2019, Governor Tom Wolf signed multiple bills finalizing the 2019-20 budget and taking other action.

The budgetary and fiscal bills are House Bills 33, 262, 790, 856, 1350, 1351, 1352, 1353, 1354, 1461 and 1615; and Senate Bills 127, 144, 235, 236, 237, 238, 239, 240, 241, 242, 243, 695 and 712.

Additionally, Gov. Wolf continued his tireless efforts to ensure Pennsylvania’s criminal justice system supports victims by signing into law a package of bills providing additional rights and protections to victims of crime.

“We cannot build a just world without knowing the truth,” said Gov. Wolf. “Today’s package of bills will help create a fairer justice system in Pennsylvania by enabling and assisting victims of all types to speak out without fear.”

The bills include:

- **House Bill 315**
<https://www.legis.state.pa.us/CFDOCS/>

[Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0315&pn=0295](https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0315&pn=0295), which criminalizes female genital mutilation by making it a first-degree felony.

- **House Bill 502**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0502&pn=0490>, which amends the Crime Victims Act to allow the victim to be present in any criminal proceeding unless the court determines the victim’s own testimony would be altered by hearing other witnesses.
- **House Bill 504**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0504&pn=0492>, which prevents prosecutors bringing up the victim’s sexual history or prior allegations of sexual abuse while prosecuting certain crimes.
- **Senate Bill 399**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0399&pn=0947>, which makes updates to the Sexual Assault Testing and Evidence Collection Act, including requiring the Pennsylvania State Police to create procedures for anonymous victims and establishing timelines for submitting, testing, and storing rape kits.
- **Senate Bill 469**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0469&pn=0100>

[y=S&billTyp=B&billNbr=0469&pn=0476](https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0469&pn=0476) , which establishes procedures protecting victims and witnesses with intellectual disabilities or autism spectrum disorder, including allowing for testimony and questioning to take place outside of a courtroom.

- **Senate Bill 479**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0479&pn=0498> , which expands the list of crimes for which an out-of-court statement made by a child under 12 can be used.

Gov. Wolf also signed:

- **House Bill 384**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=0384&pn=0354> , which increases the fine for driving a vehicle without an appropriately classed operator’s license to \$200.
- **House Bill 1065**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billTyp=B&billNbr=1065&pn=1226> , which names a bridge on Route 3033 over Redbank Creek in Brookville Borough, Jefferson County, the “Cpl. James Slagle 2nd Ranger Battalion Army Ranger WWII Memorial Bridge” in honor of a veteran who participated in the D-Day operations on Omaha Beach and later maintained American Flags displayed along the bridge.
- **House Bill 1166**
<https://www.legis.state.pa.us/cfdocs/billinfo/billInfo.cfm?sYear=2019&sInd=0&>

[body=H&type=B&bn=1166](https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&type=B&bn=1166) , which changes the rates for pilotage fees in the Port of Philadelphia.

- **Senate Bill 190**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0190&pn=0145> , which transfers a .227-acre property in Somerset Township, Somerset County, from the Department of General Services to Jeffrey C. Walker.
- **Senate Bill 338**
<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0338&pn=0503> , which increases the permissible width for farm vehicles from 16 to 18 feet and mandates the vehicle carry an “oversize load” sign.

Source: Governor Wolf’s Press Office, 6/28/2019

State Budget Holds Line on Taxes and Funds Essential Services

On June 27, 2019, the Senate approved a Fiscal Year 2019-20 spending plan that includes no tax increases, funds essential services, promotes job creation, supports education at all levels and sets revenue aside in the state Rainy Day Fund.

Revenues for Fiscal Year 2018-19 are anticipated to be \$865 million over projections, with an ending balance of about \$300 million. All of that money will go into the Rainy Day Fund, which covers financial

shortfalls in the event of a dip in the economy.

The \$34 billion budget increases state support for all levels of education. Basic Education funding is increased by \$160 million and special education will see a \$50 million increase.

HB 790 increases spending to support early education with Pre-K spending increasing by \$25 million, HeadStart receiving a \$5 million increase, and Early Intervention services receiving a \$15 million increase.

Higher education institutions will also benefit from this budget with an across-the-board 2 percent increase in funding for community colleges, state-related universities (Pitt, Penn State, Temple and Lincoln) and the State System of Higher Education.

The budget continues Senate Republicans' ongoing efforts to protect Pennsylvania's students and school staff by restoring the Governor's \$15 million cut to the Safe Schools program administered by the Pennsylvania Commission on Crime and Delinquency (back to \$60 million) and increases the Safe School initiative under the Department of Education by \$1 million to a total of \$11 million.

The budget promotes workforce development and job training initiatives by:

- Increasing funding for Career and Technical Education by 7.6 percent (\$7 million) from \$92 million to \$99 million.
- Increasing funding for Career and Technical Education Equipment Grants by 117.6 percent (\$3 million) from \$2.5 million to \$5.5 million.

- Increasing funding for the Pennsylvania College of Technology by 17.6 percent (\$4 million) from \$22.7 million to \$26.7 million.
- Increasing funding for Thaddeus Stevens College of Technology by 27.2 percent (\$4 million) from \$14.7 million to \$18.7 million.
- Increasing funding for New Choices/New Options by 50 percent (\$250,000) from \$500,000 to \$750,000.

House Bill 790

<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=H&type=B&bn=0790> was sent to the Governor for enactment into law. **Note:** HB 790 was signed into law as Act 1A on June 28, 2019

Source: Senate Republican Communications, 6/27/2019

CBF urges House not to pass Senate bill that would redefine pollution

Harry Campbell, executive director for the Chesapeake Bay Foundation (CBF) in Pennsylvania, issued this statement after the state Senate's narrow vote to approve Senate Bill 619, which would redefine the term "pollution" in the Clean Streams Law, and potentially allow for certain spills and discharges to go unreported and unregulated.

Senate Bill 619

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2019&sind=0&body=S>

[&type=B&BN=0619](#) was sent to the state House of Representatives for consideration.

NOTE: Senate Bill 619 was referred to the House Environmental Resources & Energy Committee on June 27, 2019

According to the bill, accidental discharges, spills or releases that do not rise to a limited list of numeric water quality criteria, for such factors as temperature or color, would no longer be considered as pollution.

In SB619 the potential polluter would determine whether the numeric water quality standard was violated.

As Senate Bill 619 amends the Clean Streams Law, fewer spills and discharges would be reportable to the Department of Environmental Protection (DEP) and would not be required to be done in a timely manner.

Current law requires that any accidental spill or discharge be reported immediately to DEP and, if reasonably possible, to downstream users of the waters as well.

Mr. Campbell said:

"Senate Bill 619 will make it easier to pollute the Commonwealth's rivers and streams and with fewer consequences. Water quality in Pennsylvania should not be regulated by just by the limited list of numeric water quality criteria. Timely response and remediation are critical.

"A spill or discharge caused a fish kill in the Donegal Creek. The Mariner East II liquid natural gas pipeline has been plagued with spills. In 2017, 63,000 gallons of natural gas drilling waste spilled into the tributary of the Loyalsock Creek. If Senate

Bill 619 passes, spills like these may go unchecked."

"We urge members of the House to consider the consequences Senate Bill 619 could have on aquatic life, recreation, and drinking water supplies."

Source: CBF Press Release, 6/27/2019

CBF Cites Lack of Funding for Clean Water in PA Budget

Harry Campbell, executive director for the Chesapeake Bay Foundation (CBF) in Pennsylvania, issued this statement about the \$34 billion General Fund budget for 2019-20, negotiated by the legislature and signed by Governor Tom Wolf.

Mr. Campbell said:

"With this budget, our elected leaders have once again failed to show the will, leadership, and commitment it takes to restore and protect Pennsylvania's waters.

"Roughly 40 percent of our rivers and streams are harmed by pollution and the Commonwealth is updating its Clean Water Blueprint to fix them. Unfortunately, this budget does next to nothing to provide additional money to support efforts by farmers, municipalities, and state agencies to reduce that pollution.

"Legislators and the Governor have gone so far as to strip millions of dollars from the Environmental Stewardship Fund, making the job even more difficult.

"Through this fund and Growing Greener, CBF provided some money to

family farms to help them plant streamside buffers, and created cost-share so they can afford to install fencing, improve soil health, and more.

“The many boots on the ground working hard for cleaner water - county conservation districts, Natural Resources Conservation Service staff, farmers, sportsmen and women, community and conservation groups, and others deserve all the financial and technical support possible.

“With this budget, Pennsylvania will continue to lose ground in reducing pollution. The Commonwealth already lags far behind in meeting its clean water commitments, and precious soil and other pollutants will continue to foul our rivers and streams.

“We stand ready to work with legislators and Governor Wolf in support of **future funding sources**, like the Keystone Tree Fund and others, that will address this budget’s shortcomings when it comes to clean water.”

Source: CBF Press Release, 6/28/2019

Major Environmental Priorities Not Addressed In FY 2019-20 State Budget, Shell Game Continues

The Senate and House finalized all the pieces of the FY 2019-20 state budget including the Fiscal Code bill, the Tax Code bill, the Administrative Code bill and the General Fund budget bill and they were all signed by the Governor:

- **General Fund:** House Bill 790. *Click here for available budget documents* <http://www.pabudget.com/ProposedBudget.aspx>
- **Fiscal Code:** Senate Bill 712. *Click here for a summary* <https://www.legis.state.pa.us/WU01/LI/BI/FN/2019/0/SB0712P1085.pdf> .
- **Tax Code:** House Bill 262. *Click here for a summary* <https://www.legis.state.pa.us/WU01/LI/BI/SFN/2019/0/HB0262P2266.pdf> .
- **Administrative Code:** House Bill 1461. *Click here for a summary* <https://www.legis.state.pa.us/WU01/LI/BI/SFN/2019/0/HB1461P2267.pdf>

The Big Picture

- **General Transfer Authorization To DEP/DCNR:** The Fiscal Code bill was amended (A02603 <https://drive.google.com/file/d/1xkyzIZakuJpApO3gxD7eG-KUyzYOg1E7/view>) with language saying the Secretary of the Budget is authorized to take up to \$45 million from any other fund under the Governor’s jurisdiction and transfer the money to “augment the operations” of DEP and/or DCNR. Operations generally means administrative costs.
- **“New” Water/Wastewater Funding:** The amended Fiscal Code bill includes \$83 million in funds for water and sewer grants administered by the Commonwealth Financing Authority. The monies are pulled from 5 other non-environmental special funds for \$59 million for small water and sewer projects of \$30,000 to \$500,000 and \$24 million for the existing H2O water/wastewater program.

- **Coal Refuse Reclamation Tax Credit Increased:** The Tax Code bill increases the *Coal Refuse Reclamation Tax Credit* to \$20 million annually from \$10 million to subsidize coal waste-to-energy electricity generation plants and extending the tax credit for the next 17 years from 2026 to 2036 (page 32).
- **Expanded REAP Farm Conservation Tax Credit:** The Tax Code bill includes a \$3 million increase in *Resource Enhancement and Protection Farm Conservation Tax Credit Program* https://www.agriculture.pa.gov/Plants_Land_Water/StateConservationCommission/REAP/Pages/default.aspx targeted to the Pennsylvania portion of the Chesapeake Bay Watershed. It also makes other changes to the REAP Program to expand eligibility and total credits available to farmers and third party sponsors of projects.
- **Changes to PIPE Program:** *The Pipeline Investment Grant Program* <https://dced.pa.gov/programs/pipeline-investment-program/> at the Commonwealth Financing Authority was changed to allow funding of large residential conversion projects and combined heat and power applications and the amount of funding applicants can get is increased to \$1.5 million from \$1 million.
- **Local Environmental, Recreation Project Funding:** The Fiscal Code bill cuts funding for community-based environmental resources, mine reclamation and recreation projects by about \$16 million from the Environmental Stewardship (*Growing Greener*) Fund, once all the transfers are taken into account.
- **Permanent Transfers to Fund DEP/DCNR Operating Costs:** The Fiscal Code bill takes money out of the Environmental Stewardship (\$16.045 million) and Recycling (\$10 million) funds to pay for the day-to-day operating costs of the Department of Environmental Protection and these line items formerly paid for by the General Fund:
 - \$2.5 million in support for county conservation districts; and
 - \$873,000 in costs for the Delaware and Susquehanna River Basin Commission, Interstate Commission on the Potomac River, Interstate Chesapeake Bay Commission, Ohio River Valley Water Sanitation Commission, Delaware River Master.

In addition, \$2.25 million from the Environmental Stewardship Fund is transferred to pay for DCNR’s Heritage Parks Program when it used to come out of the General Fund.

The Fiscal Code bill includes a permanent authorization to transfer monies from the Recycling and Environmental Stewardship funds at any point in the future to pay operating costs.

These changes make DEP’s and now DCNR’s budget even more dependent on fees to run the agency since both the Recycling and Environmental Stewardship funds are supported by fees on municipal waste disposed in Pennsylvania, rather than general tax money.

FYI. The General Fund appropriations for DEP in FY 2019-20 will be \$135.147

million. In the FY 1994-95 General Fund budget, DEP received \$165.6 million. The General Fund appropriation for DEP in FY 2002-03 was \$219.943 million.

- **Growing Greener 2 Bond Debt Service?:** While the commitment of legislators is to pay the debt service for the Growing Greener 2 bond issue from the General Fund rather than the Environmental Stewardship Fund, the actual language in the Fiscal Code bill only has a one-time transfer of \$20 million from the General Fund to the Environment Stewardship fund. The big budget book from February says \$26 million is needed to pay the debt service in the new fiscal year. The bill also does not repeal the language saying the Environmental Stewardship Fund will pay the debt service.
- **Hazardous Sites Cleanup:** \$15 million from DCNR's Oil & Gas Lease Fund to Marcellus Legacy Fund to DEP's Hazardous Sites Cleanup Fund (same as year's past)
- **No Transfer from Marcellus Legacy Fund to ESF:** The Fiscal Code bill language also confirms \$20 million will not be transferred to the Environmental Stewardship Fund from the Marcellus Legacy Fund.
- **Bigger Oil & Gas Lease Fund Transfer:** The General Fund Budget bill increases the amount transferred from the Oil and Gas Lease Fund to \$69.774 million to pay for DCNR operating expenses -- \$37.786 million for General Government Operations, \$17.706 million State Park Operations, and \$14.282 million for State Forest Operations.

This means \$69.774 million will not be available to pay for maintenance and conservation projects in State Parks and Forests.

These transfers were declared unconstitutional by the PA Supreme Court in 2017

<http://www.paenvironmentdigest.com/newsletter/> .

- **Temporary Ban on Law/Ordinances Affecting Single Use Plastics:** Directing the Legislative Budget and Finance Committee and the Independent Fiscal Office to evaluate the economic and environmental impact of any regulation impacting single-use plastics, reusable plastics, auxiliary containers, wrappings or polystyrene containers and submit their reports to the General Assembly by December 31, 2020. Until the reports are submitted the General Assembly and a local governmental body may not pass a law, regulation or ordinance imposing a tax, fee or other restrictions on single-use plastics, reusable plastics, auxiliary containers, wrappings or polystyrene containers.

Scorecard so Far

So the scorecard so far for the environment looks like this:

- **NOT ADDRESSED - River & Stream Cleanup:** \$257 million needed this year to implement the PA Chesapeake Bay Watershed Implementation Plan. Failure to address this funding issue will push back the achievement of 2025 nutrient reduction goals by 19 years to 2044.

\$83 million in water and sewer funding was made available to the Commonwealth Financing Authority, but the need is for

funding for local agricultural and stormwater projects and that money was cut from the Environmental Stewardship Fund.

Some additional funding may be made available for farm conservation under Senate Bill 634

<https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=S&type=B&bn=0634> .

- **NOT ADDRESSED - State Park & Forest Maintenance:** \$100 million needed to address over \$1 billion in backlogged State Park and Forest maintenance. Actually, more money was taken away from the Oil and Gas Lease Fund to pay operating expenses instead of maintenance and improvement projects.

The Details

For those interested in the details, here they are based on the amendments added to the bills so far --

Fiscal Code - Fund Transfers -- Senate Bill 712, A02588

<https://drive.google.com/file/d/1503T6jPgKEAUuvKwdj0rBHzk3OphHtnW/view>

- **General Transfer Authorization to DEP/DCNR:** The Fiscal Code bill was amended again (A02603) with language saying the Secretary of the Budget is authorized to take up to \$45 million from any other fund under the Governor's jurisdiction and transfer the money to "augment the operations" of DEP and/or DCNR. Operations generally means administrative costs.
- **Environmental Stewardship Fund - DEP/DCNR Operations:** A blanket authorization to make transfers from the Environmental Stewardship Fund to

DEP (\$16,045,000 this year for DEP operations and various line items) and DCNR (\$2.25 million Heritage Parks Program) in the annual general appropriation act. Plus permanent authorization to take operating costs from this Fund. (page 15)

- **Recycling Fund - DEP Operations:** A blanket authorization to make transfers from the Recycling Fund to the Department of Environmental Protection in the annual general appropriation act (\$10 million this year for DEP operations). Plus permanent authorization to take operating costs from this Fund. (page 16)
- **Hazardous Sites Cleanup:** \$15 million from DCNR's Oil & Gas Lease Fund to Marcellus Legacy Fund to DEP's Hazardous Sites Cleanup Fund (same as year's past) (page 4)
- **Growing Greener 2 Bond Debt Service?** One time transfer of \$20 million from Personal Income Tax income to Environmental Stewardship Fund. The commitment was to pay Growing Greener II bond issue debt service from here on out of the General Fund, but this is only a one time transfer and the big budget book said \$26 million was needed this year. (page 39)
- **Marcellus Legacy Fund:** No amount transferred from Marcellus Legacy Fund to Environmental Stewardship Fund for FY 2019-20 (page 3)

General Fund Budget Bill - Fund Transfers II - House Bill 790

<https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=H&billType=B&billNbr=0790&pn=2215>

- \$69.774 million to DCNR -- \$37.786 million for General Government Operations, \$17.706 million State Park Operations, \$14.282 million for State Forest Operations (page 341)

Click here for a copy of the 2019-20 Budget Spreadsheet.
https://drive.google.com/file/d/1ym4p13tjgDEmnQqCx1oah8LLCLFDiGa_/view

Click here for other available budget documents.
<http://www.pabudget.com/ProposedBudget.aspx>

Fiscal Code - Water & Wastewater Program Funding -- Senate Bill 712, A02588

- **Small Water & Sewer Projects:** \$59 million transfer from 4 different special funds [First Industries Program, Building PA Program, Water Supply & Wastewater Infrastructure Program, previous water project account] to the Commonwealth Financing Authority for small water and sewer projects of \$30,000 to \$500,000 with no match requirement (page 6)
- **H2O Water/Wastewater Program:** \$24 million transfer from the New PA Venture Capital Program to Commonwealth Financing Authority for H2O water/wastewater program (page 40)

Fiscal Code - Miscellaneous Provisions
 - Senate Bill 712, A02588
<https://drive.google.com/file/d/1503T6jPgKEAUuvKwdj0rBHzk3OphHtnW/view>

- **Changes to PIPE Program:** The Pipeline Investment Grant Program at Commonwealth Financing Authority was changed to allow funding of large residential conversion projects and combined heat and power applications and the amount of funding applicants can get is increased to \$1.5 million from \$1 million (page 14).
- **Organic Farming/Other Funding:** \$5 million organic transition, processing and marketing grants to Commonwealth Financing Authority (page 39)
- **Tick Testing:** \$500,000 for free tick testing by the State System of Higher Education (page 29)
- **Temporary Ban on Law/Ordinances Affecting Single Use Plastics:** Directing the Legislative Budget and Finance Committee and the Independent Fiscal Office to evaluate the economic and environmental impact of any regulation impacting single-use plastics, reusable plastics, auxiliary containers, wrappings or polystyrene containers and submit their reports to the General Assembly by December 31, 2020. Until the reports are submitted the General Assembly and a local governmental body may not pass a law, regulation or ordinance imposing a tax, fee or other restrictions on single-use plastics, reusable plastics, auxiliary containers, wrappings or polystyrene containers (page 17)
- **Eliminating the Joint Legislative Air and Water Pollution Control**

and Conservation Committee by July 1, 2021 (page 21)

Tax Code Changes - House Bill 262, A02596
<https://drive.google.com/file/d/1f8Y94irCFMcHsrNNkGFpAFBjH9i5iAO/view>

- **Coal Refuse Reclamation Tax Credit Increased:** The Tax Code bill increases the Coal Refuse Reclamation Tax Credit to \$20 million annually from \$10 million to subsidize coal waste-to-energy electricity generation plants and extending the tax credit for the next 17 years from 2026 to 2036. (page 32).
- **REAP Farm Conservation Tax Credit:** \$3 million increase in Resource Enhancement and Protection Farm Conservation Tax Credit Program targeted to the Pennsylvania portion of the Chesapeake Bay Watershed (page 27)
- Raising limit on tax credits available from \$150,000 to \$250,000 in any 7-year period (page 23)
- Clarifying that a business, individual or individuals filing jointly are eligible for the tax credit program (page 23)
- State Conservation Commission is authorized to set annual limits on third party sponsors of projects on farms to ensure fair and equitable distribution of tax credits (page 24)

Other Program changes to the REAP Tax Credit:

- Tax credit available for up to 90 percent [instead of 75 percent] for high priority best management practices like riparian forest buffers and their maintenance, livestock exclusions, stream crossings, cover crops, soil health and other practices determined by the State Conservation Commission (page 26)
- Tax Credit available for up to 50 percent [instead of 25 percent] for remediation of legacy sediments (page 25)
- Annual maintenance costs for best management practices like cover crops, buffers and other annual practices can be included in the costs eligible for the tax credit (page 26)

Did You Follow All That?

So, did you follow all those single and double fund transfers that make present day environmental funding one of the most complicated shell games around.

Source: PA Environmental Digest, 7/1/2019

#####

This newsletter provides general information, not legal advice as to any specific matter. It should not be used as a substitute for appropriate legal advice.