WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – EDWIN B. ERICKSON, CHAIRMAN

Monday, December 12, 2011

Senate Bill 894 (Robbins) would amend the Second Class Township Code to provide that supervisors and their dependents who are over 65 years of age are eligible for inclusion in supplemental Medicare insurance coverage paid, in whole or in part, by the township. An additional change would authorize a second class township to pay the cost, in whole or in part, of supplemental Medicare insurance coverage for supervisors and employees who are over 65 years of age. **Passed: 50-0**.

House Bill 715 (Hickernell) would amend the Local Tax Collection Law to permit county treasurers in third through eighth class counties to collect municipal taxes in cases where the office of municipal tax collector is vacant. Prior to executing an agreement for the collection of the taxes, the governing body of the municipality and the county commissioners would each have to adopt a resolution specifying the conditions of the agreement and its purposes and objectives, including the powers and scope of authority delegated. The agreement would also have to provide that the compensation otherwise attributable to the billing and collection of municipal taxes within the municipality be paid to the county treasurer's office. The agreement could only be effective through the end of the calendar year in which a successor tax collector is elected in accordance with law. Court approval would not be required for the execution of an agreement under these provisions. **Passed: 50-0**.

House Bill 755 (Gabler) would amend the County Code to increase the annual meeting and dues expenses allowed for county directors of veterans' affairs from a maximum of $100 to a maximum of $400. **Passed: 50-0**.

Executive Session

Nominations to Various Boards and Commissions. **Confirmed: 50-0**.

Tuesday, December 13, 2011

Senate Bill 730 (Gordner) would amend the Second Class Township Code to allow a township to transfer real or personal property to, or enter into certain types of contracts with, a council of government, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch A (relating to intergovernmental cooperation) without having to follow the formal competitive bidding process. **Passed: 50-0**.

Senate Resolution 250 establishes the Task Force on Child Protection. **Adopted by Voice Vote**.

House Bill 210 (Baker) would amend Act 204 of 1990, the Family Caregiver Support Act, to make a number of changes. More specifically, the bill would:

- Change the name of the act from the Family Caregiver Support Act to the Pennsylvania Caregiver Support Act.

- Permit reimbursements to non-relative caregivers as well as to adult family members and remove the requirement that a caregiver must live with the care recipient.

- Increase the maximum amount available to a qualified caregiver whose household income is under 200 percent of the poverty level from $200 per month up to $5,000 per month for expenses incurred by the caregiver in purchasing services and supplies. [The increase could occur only in cases where there is a demonstrated need that must be documented in the care receiver's plan and is limited to $200 if an Area Agency on Aging's average monthly reimbursement exceeds $300 across its entire caregiver support program caseload.]

- Specify that, after all eligibility criteria have been met, priority in awarding assistance paid for by the State Lottery Fund would be given to primary caregivers (adult family members and other individuals) who care for a functionally dependent older adult and an adult over 60 with chronic dementia, such as Alzheimer's Disease. **Passed: 50-0**.

House Bill 344 (Baker) would create the Gas and Hazardous Liquids Pipelines Act. The act would only apply to pipelines, pipeline operators or pipeline facilities regulated under federal pipeline safety laws. Among other provisions, the legislation would require the Public Utility Commission (PUC) to establish and maintain a registry of all pipeline operators. The Commission could develop an application for the registration and charge a reasonable registration fee and annual renewal fee. Pipeline operators would be required to register with the PUC or be subject to civil penalties as provided for in the act. No application or registration fee would be required of a petroleum gas distributor who is registered under the Propane and Liquefied Petroleum Gas Act and who provides proof of registration to the Commission. In addition, no registration fee or annual renewal registration fee would be required of a borough. The commission would have to require each pipeline operator to disclose in its initial registration and in each annual renewal the country of manufacture for all tubular steel products used in the exploration, gathering or transportation of natural gas and hazardous liquids.

The safety standards and regulations for pipeline operators would be those issued under the federal pipeline safety laws as implemented in 49 CFR Subtitle B Ch. 1, Subch. D (relating to pipeline safety). Amendments to the federal provisions would have the effect of amending or modifying the safety standards and regulations in the Commonwealth. The PUC would be granted general administrative authority to supervise and regulate pipeline operators in the Commonwealth consistent with the federal requirements. In addition, the PUC would be required to determine an appropriate annual assessment of pipeline operators based on intrastate regulated transmission, regulated distribution and regulated onshore gathering pipeline miles. The assessment would be adjusted to collect the Commission's total costs of the pipeline operators' portion, excluding the costs otherwise reimbursed by the federal government. The amount of an assessment could be challenged by a pipeline operator consistent with the existing provisions for challenges related to the assessment for regulatory expenses on public utilities.

The assessment would not apply to natural gas public utilities or to boroughs. Nothing in the act would give the PUC jurisdiction over any pipeline operator for purposes of rates or ratemaking or any purpose other than those set forth in the act.

An additional provision would allow a lease for the replacement or construction of a pipeline carrying natural gas to include provisions relating to the restoration of the surface area, including soil and vegetation. A lease with a public entity could provide for the planting of trees in other areas of a county or municipality if the trees were removed to replace or construct the pipeline. In addition, a person who owns or holds an easement under the Agricultural Area Security Law or the Conservation and Preservation Easements Act that enters into a lease for the replacement or construction of a natural gas pipeline on property located within the easement could request a statement from the pipeline operator describing the impact of the pipeline on the public use of the easement. **Passed: 50-0.**

House Bill 1458 (Tallman) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to make a number of changes. Among other modifications, the bill would:

- Add "county emergency management vehicle" to the definition of "emergency vehicle."
- Clarify that it is unlawful in cities other than those of the first class to display on any vehicle an obscured license plate that would inhibit the proper operation of an automated red light enforcement system.
- Include any person whose commercial driver's license designation has been removed by PennDOT on the list of persons eligible to petition for judicial review.
- Exempt certain county emergency management organization employees from obtaining a commercial driver's license.
- Subject an applicant for a commercial driver learner's permit or an initial commercial driver's license to self-certification and medical certification requirements and mandate that PennDOT remove the commercial driver license designation from the driver's license of an individual who fails to comply.
- Enumerate special codes to be used on a commercial driver's license to indicate various driver endorsements and restrictions.
- Make a violation of the provisions of Section 6154 dealing with nonreciprocity of operational limitations a summary offense punishable by a fine of not less than $500 and not more than $1,000 for each violation.

Red Light Camera Enforcement

The legislation would also modify the automated red light enforcement program in Philadelphia and expand the program to other cities. Among other modifications, the measure would:

First Class Cities

- Decrease from the first 60 days to the first 45 days the amount of time a fine would not be authorized for each additional intersection selected for the automated system;

- Make the number of violations under the program a public record under the Right to Know Law;

- Clarify that the annual report the automated red light system administrator in first class cities must submit to the chairmen and minority chairmen of the Senate and House Transportation Committees would be considered a public document under the Right to Know Law;

- Earmark 50 percent of the fine revenue generated under the program to be used exclusively for the funding of transportation enhancement grants in the city where the violation occurred. The remaining 50 percent would be available for funding transportation enhancement grants except in first class, second class and second class A cities that implement an automated red light enforcement program. The limitation would not apply to any grants expended or committed prior to the effective date of the section;

- Allow the Department of Transportation to retain two percent of the revenue for it costs in administering transportation enhancement grants; and

- Extend the sunset date for the program from December 31, 2011 until December 31, 2017.

Additional Cities

- Expand, until December 31, 2017, the automated red light enforcement program to second class cities; second class A cities; and third class cities with a minimum population of 18,000 under the 2010 federal decennial census and a full-time police department;

- Require the system administrator in the additional cities to provide notice to the Department of Transportation of the location of each proposed intersection to be included in the program before installing the system. The Department would have 60 days to review the information and issue a recommendation to the system administrator as to whether the proposed intersections are appropriate for an automated red light system, the data on which it based the recommendation, and the location of alternative intersections in the city it determines to be appropriate for the program. If the Department does not issue a recommendation within 60 days, the intersections would be deemed appropriate. If all the Department's recommendations are not accepted, the system administrator would be required to provide certain information annually to the chairmen and minority chairmen of the Senate and House Transportation Committees for each instance the administrator determines not to follow the recommendation of the Department regarding

intersections in the program. The information would have to include a copy of the Department's recommendation, a statement explaining the reasons for the administrator's decision and the data the administrator relied upon in making the decision;

- Earmark 50 percent of the fine revenue generated under the program to be used exclusively for the funding of transportation enhancement grants in the city where the violation occurred. The remaining 50 percent would be available for funding transportation enhancement grants except in first class, second class and second class A cities that implement an automated red light enforcement program. The limitation would not apply to any grants expended or committed prior to the effective date of the section;

- Limit the transportation enhancement grants awarded for projects in second class cities to the following, and in the following order of preference: safety improvements for intersections within the city at which red light camera enforcement is installed, safety improvements for intersections within the city, and actual construction, maintenance and repair of streets, roadways and highways; and,

- Allow the Department of Transportation to retain two percent of the revenue for it costs in administering transportation enhancement grants. **Passed: 34-16**.

Executive Session

Nominations to Various Boards and Commissions. **Confirmed: 50-0**.

Wednesday, December 14, 2011

Senate Bill 344 (Rafferty) would amend Title 74 (Transportation) of the Pennsylvania Consolidated Statutes by adding a new chapter providing for public-private transportation partnerships. The new chapter would authorize public entities, with approval of the Board created in the legislation, to enter into transportation partnership agreements with private entities for the development, operation and financing of transportation facilities. A public entity would be defined as the Commonwealth, a municipal authority or an authority created by statute that owns a transportation facility. The term would include the Pennsylvania Turnpike Commission. A transportation partnership agreement would be defined as a contract for a transportation project which transfers the rights for the use or control, in whole or in part, of a transportation facility by a public entity to a development entity for a definite term. During the term, the development entity would provide the transportation facility to the public entity in return for all or a portion of the revenue generated from the use of the facility. The net proceeds received by a public entity under a transportation partnership agreement would be used exclusively to provide funding for transportation needs in the Commonwealth.

A Public-Private Transportation Account would be established in the Motor License Fund as a separate account for the deposit of all monies received by the Department of Transportation when it is the public entity in an agreement. The Pennsylvania Turnpike Commission could enter into a public-private transportation partnership agreement, but it could not enter into an agreement which grants substantial oversight and control over the Turnpike

Mainline to another entity unless specific authority is granted through an act of law passed by the General Assembly.

The newly-created Public-Private Transportation Partnership Board would be composed of seven members as follows: the Secretary of Transportation, who would serve as chair, or a designee who is a employee of the Department of Transportation; the Secretary of the Budget or a designee who is an employee of the Office of the Budget; and one individual each appointed by the Governor, the President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House. Gubernatorial and legislative appointees would serve at the pleasure of the appointing authority and would have to be residents of the Commonwealth with expertise or substantial experience in transportation, finance, law or land use and public planning. Gubernatorial appointees could not hold any other position as an elected official or employee of the Commonwealth. The Board would establish the procedures by which a public entity or private entity could submit a request or plan for a transportation project; consult with persons affected by proposed transportation projects; evaluate the requests or plans for transportation projects and, if a positive determination is made, approve a project by adoption of a resolution; and, submit an annual report to the General Assembly detailing all transportation projects evaluated and resolutions adopted. **Passed: 49-1.**

Senate Bill 375 (Pileggi) would amend Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes to provide that money of an authority could not be used for any grant, loan or other expenditure that is not directly related to the mission or purpose of the authority and to further provide that if the money of an authority is granted, loaned or expended for any other purpose, a ratepayer would have a cause of action in the Court of Common Pleas where the authority is located to seek the return of the money. **Passed: 50-0.**

Senate Bill 638 (Ward) would amend the Public Welfare Code to establish that an individual receiving methadone treatment by a licensed provider pursuant to a narcotic treatment program would be eligible to receive mileage reimbursement equal to the distance from the individual's residence to the treatment program closest to the individual's residence or paratransit services if the treatment is received at the treatment program closest to the individual's residence based on a one-way trip calculation. The Department of Public Welfare would be required to develop an exceptions process based on medical emergency, physical health, safety issues and availability of closest provider. County medical assistance transportation programs, in consultation with the Department, would be required to develop procedures for the prevention, detection and reporting of suspected fraud and abuse relating to the reimbursement of mileage for methadone treatment. The Department of Public Welfare would also be directed to issue biennial reports to the General Assembly and the Governor detailing costs and cost savings related to implementing these provisions. The first report would have to be issued not later than one year from the effective date of the Act. **Concurrence in House Amendments: 50-0.**

Senate Bill 707 (Solobay) would amend Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes to extend the military leave of absence required to be given by an educational institution to a member of the Pennsylvania National Guard or reserves when on active duty to the member's spouse. Both members and their spouses would be entitled to be

restored to the educational status attained prior to the military duty without loss of credits, scholarships, grants and tuition reimbursements. **Passed: 50-0**.

Senate Bill 732 (Vance) would amend the Health Care Facilities Act to require the Department of Health to apply the same regulations applied to ambulatory surgical facilities to abortion facilities. The Department would be required to allow abortion facilities to request an exception. The request would have to identify with specificity the reasons for which the exception is sought. In considering a petition for an exception, the Department would be required to apply the same procedures and criteria that are applicable to other health care facilities. An abortion facility would continue to be required to comply with applicable provisions of the Medical Care Availability and Reduction of Error (Mcare) Act and federal privacy statutes, including the Health Insurance Portability and Accountability Act of 1996.

The bill would create a $250 licensing fee for abortion facilities. In addition, a Licensure Fee Account would be created as a restricted account in the General Fund. Licensing fees collected for the facilities licensed under the act would be deposited in the Licensure Fee Account for use by the Department of Health in the performance of its duties. The Department would also be required to ensure that abortion facilities are in compliance with the requirements of 18 Pa.C.S. Ch. 32 (relating to abortion) and the regulations promulgated thereunder before issuing a license. The measure would also require the Department to conduct, on an annual basis, at least one unannounced inspection of each abortion facility. **Concurrence in House Amendments: 32-18**.

Senate Bill 957 (Tomlinson) would amend the Osteopathic Medical Practice Act to provide for the licensing of athletic trainers by the State Board of Osteopathic Medicine. Any athletic trainer who holds a valid certification issued by the State Board of Osteopathic Medicine or the State Board of Medicine prior to the effective date of the act would be deemed to be licensed. References to certification or certified athletic trainers contained in regulations promulgated under the act and in effect on the effective date of the change would be deemed to be references to licensure or licensed athletic trainers. **Concurrence in House Amendments: 50-0**.

Senate Bill 967 (Tomlinson) would amend the Medical Practice Act to provide for the licensing of athletic trainers by the State Board of Medicine. Any athletic trainer who holds a valid certification issued by the State Board of Medicine or the State Board of Osteopathic Medicine prior to the effective date of the act would be deemed to be licensed. References to certification or certified athletic trainers contained in regulations promulgated under the act and in effect on the effective date of the change would be deemed to be references to licensure or licensed athletic trainers. **Concurrence in House Amendments: 50-0**.

Senate Bill 1183 (Orie) would amend Title 18 (Crimes and Offenses), Title 23 (Domestic Relations), Title 42 (Judiciary and Judicial Procedure), Title 44 (Law and Justice), and Title 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes to make a number of changes related to Megan’s Law, some of which are required to bring Pennsylvania into compliance with the federal Sex Offender Registration and Notification Act. Pennsylvania is required to bring its law into substantial compliance with the federal law or suffer a 10 percent reduction in its Byrne Justice Assistance Grant program. Among other changes, the measure would:

- Expand the list of offenses subject to the law and extend the registration requirement to juvenile offenders who commit certain offenses as listed in the act;
- Create the offense of Institutional Sexual Assault in a school setting and in a child care setting;
- Require placement of offenders in a three-tiered classification system, depending on the severity of the offense;
- Require transient and out-of-state sexual offenders to register and update their information;
- Increase the frequency with which offenders are required to verify their registration information depending on the level of their classification;
- Require notification to the federal government and jurisdictions in other states when the offender travels outside of the country or the Commonwealth;
- Provide for involuntary outpatient treatment and review of certain offenders;
- Prohibit group homes from providing concurrent residence to more than five individuals who are required to register as sexually violent predators; and
- Expand the identifying information collected from each offender and posted on the internet by the Pennsylvania State Police. **Concurrence in House Amendments: 48-2.**

Senate Bill 1249 (Pileggi) would create the Congressional Redistricting Act of 2011 to establish the boundaries of Pennsylvania's 18 Congressional districts from which members of Congress would first be elected in 2012. The Secretary of the Commonwealth would be required to publish notice of the establishment of the new districts in one newspaper of general circulation in each county of the Commonwealth. **Passed: 26-24.**

Senate Resolution 6 (Greenleaf) directs the Joint State Government Commission to establish a bipartisan task force and an advisory committee to conduct a study of capital punishment in the Commonwealth and to report their findings and recommendations. **Adopted: 38-12.**

Senate Resolution 238 (Kitchen) designates the week of January 16 through 22, 2012 as "Martin Luther King, Jr., Holiday Week." **Adopted by Voice Vote.**

Senate Resolution 239 (Orie) designates the week of January 29 through February 5, 2012 as "Catholic Schools Week" in Pennsylvania. **Adopted by Voice Vote.**

House Bill 332 (Killion) would amend the Medical Practice Act of 1985 to provide for the licensure of genetic counselors, individuals who work as members of a health care team to provide information and support to families who have members with birth defects or genetic

disorders, or, who may be at risk for one or more inherited disorders. Two years from the bill's effective date, no person could hold himself out as a genetic counselor unless licensed by the State Board of Medicine. The criteria for licensure would include good moral character, a master's or doctoral degree in human genetics or genetic counseling from an accredited educational program, and certification by examination from either the American Board of Genetic Counselors, or the American Board of Medical Genetics. A "grandfathering" provision would provide for licensure without examination in the three years subsequent to the effective date of the Act to persons with a master's degree or higher and at least three years of experience working as a genetic counselor; or, a bachelor's degree and at least ten years of experience. The Medical Board would be authorized to establish licensure criteria, continuing education requirements and application fees by regulations adopted within one year of the bill's effective date. Until such time as the Board adopts a fee by regulation, applicants would pay a biennial fee of $125. Finally, the bill would require all licensed genetic counselors to maintain liability insurance of at least $1 million per occurrence or of claims made. **Passed: 50-0.**

House Bill 333 (Killion) would amend the Osteopathic Medical Practice Act to provide for the licensure of genetic counselors, individuals who work as members of a health care team to provide information and support to families who have members with birth defects or genetic disorders, or, who may be at risk for one or more inherited disorders. Two years from the bill's effective date, no person could hold himself out as a genetic counselor unless licensed by the State Board of Osteopathic Medicine. The criteria for licensure would include good moral character, a master's or doctoral degree in human genetics or genetic counseling from an accredited educational program, and certification by examination from either the American Board of Genetic Counselors, or the American Board of Medical Genetics. A "grandfathering" provision would provide for licensure without examination in the three years subsequent to the effective date of the Act to persons with a master's degree or higher and at least three years of experience working as a genetic counselor; or, a bachelor's degree and at least ten years of experience. The State Board of Osteopathic Medicine would be authorized to establish licensure criteria, continuing education requirements and application fees by regulations adopted within one year of the bill's effective date. Until such time as the Board adopts a fee by regulation, applicants would pay a biennial fee of $125. Finally, the bill would require all licensed genetic counselors to maintain liability insurance of at least $1 million per occurrence or of claims made. **Passed: 50-0.**

House Bill 1052 (Gingrich) would create the Long-Term Care Nursing Facility Independent Informal Dispute Resolution Act to provide long-term care nursing facilities with the opportunity to redress grievances arising during the survey process prior to the entry of the survey results in the federal data system and without need to engage in formal litigation.

The bill would require the Department of Health to establish an informal dispute resolution (IDR) process to determine whether a cited deficiency contained in a statement of deficiencies against a facility should be upheld. The Department would be required to designate Pennsylvania's QIO (defined as a federally designated Medicare quality improvement organization) as the independent IDR agent. In the event that Pennsylvania's QIO is unable to serve as the independent IDR agent, the Department, in consultation with the Health Policy Board, would designate the QIO of another state that has experience in conducting informal

dispute resolutions for a state survey agent as the independent IDR agent. If no other QIO is available, the Department, in consultation with the Health Policy Board, would designate an independent review organization that is accredited by the Utilization Review Accreditation Commission to serve as the independent IDR agent. The Department would enter into a sole source contract with the independent IDR agent as necessary to implement the provisions of the act. The Department would be directed to obtain all necessary approvals from the Centers for Medicare and Medicaid Services to contract with the agent. The independent IDR agent would offer facilities the following levels of review: desk review, telephone review, or in-person review, including the utilization of video conferencing. The independent IDR process could not replace or be a substitute for the existing informal dispute resolution process conducted by the Department, but would be an optional process that can be selected by facilities on a fee-for-service basis. The fees would be established by the agent provided they are approved by the Department and consistent with law. Independent IDR recommendations would be subject to final review and approval by the Department.

The Department would be required to establish written policies and procedures governing the independent IDR process that comply with federal provisions and the State Operating Manual. Within 10 business days of the end of a survey, the Department would transmit to the facility a statement of alleged deficiencies. Within 10 days, the facility could require an informal dispute resolution review conducted either by Department staff not associated with the survey at no charge or an independent review by the independent IDR agent for a fee. A facility could only select one method of review. Within 45 days of receipt of the request for an independent IDR by a facility, the independent IDR agent would be required to issue a written decision to the facility based upon its review of the facts, survey findings, State Operations Manual and applicable law. If the agent sustains the deficiency, the written determination would have to include the rationale for its decision and provide recommended action that the facility could implement to achieve compliance. If the Department disagrees with the agent's reversal of a deficiency, it would have to provide a written explanation for its decision to nullify the independent IDR agent's decision to the agent and the facility. The Department would be required to collect and maintain data on the total number of review requests received on an annual basis, the total number of independent IDR's completed, and the total number of state informal dispute resolution reviews completed. Except as otherwise provided in the act, nothing in the act would be intended to affect common law or statutory liability and responsibility of licensees. **Passed: 50-0.**

House Bill 1399 (Perry) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to extend the expiration date for the automated red light enforcement program in first class cities from December 31, 2011 until June 30, 2012. The bill would also expand the definition of "motorcycle" to include a vehicle designed to travel on two wheels in contact with the ground which is modified by the addition of two stabilizing wheels on the rear of the motor vehicle. **Passed: 36-14.**

House Bill 1950 (Ellis) would amend Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes to add Part II (Oversight and Development), providing for a drilling impact fee, a natural gas energy development program, regulation of the oil and gas industry and local ordinances relating to oil and gas operations. Among other provisions, the bill would:

- Establish an impact fee on unconventional wells to include an annual base fee with a price adjustment factor as follows:

    - 1st year of production – base fee of $50,000;
    - 2nd year of production – base fee of $40,000;
    - 3rd year of production – base fee of $30,000;
    - 4th through 10th year of production – base fee of $20,000;
    - 11th through 20th year of production – base fee of $10,000.

  There would be no fee after the twentieth year of production. Stripper gas wells producing less than 90,000 cubic feet of gas per day would be exempt from the fee.

- Require the Public Utility Commission to collect the impact fee and distribute it as follows:

    - $2.5 million to conservation districts in 2011 and $5 million in 2012 and each year thereafter;

    - $1.5 million annually to the State Fire Commissioner;

    - $1.5 million annually to the Fish and Boat Commission;

    - $2.5 million in 2011 and $5 million annually thereafter to the Pennsylvania Housing Finance Agency to be used in counties hosting active unconventional wells; and

    - Of the remaining funds, 55 percent would be distributed to local governments impacted by natural gas activity and the remaining 45 percent would be distributed for statewide initiatives.

- Impose a one-time assessment on wells in existence prior to January 1, 2011 to fund the Natural Gas Energy Development Program. Under the program, the Commonwealth Financing Authority would provide grants, loans reimbursements or rebates to eligible applicants for the conversion or replacement of buses, public transit authority vehicles, and other vehicles such as street sweepers and snow plows with natural gas vehicles. Funds could also be used for the construction of natural gas fueling stations and the purchase and installation of the necessary natural gas fleet refueling equipment. A natural gas producer would not be eligible for funds under the program. Program guidelines could require eligible applicants to contribute matching funds up to 50 percent of the project costs. Projects would have to be located in the Commonwealth. The Commonwealth Financing Authority would be required to report on the program to the chairmen and minority chairmen of the Senate and House Appropriations Committees by October 1, 2013 and each October 1 thereafter;

- Repeal the Oil and Gas Act and reenact it, with some modifications, as Chapter 32 (Regulation) of Part II of Title 58. The addition of Chapter 32 would be deemed a continuation of the Oil and Gas Act and all activities and actions initiated under the Oil and Gas Act would remain in full force and effect. Among other modifications, the provisions of Chapter 32 would:

    - Increase certain notification requirements, including that the Department of Environmental Protection (DEP) notify a public drinking water system of any spill it investigated that might affect the water supply;

    - Require owners and operators of gathering lines to comply with the One Call System;

    - Allow DEP to deny a permit if the operator does not have a reasonable plan to reuse the water that will be used to hydraulically facture the shale;

    - Increase the setback distances for unconventional wells from an existing building or water well from 200 feet to 500 feet and from a spring or body of water from 100 feet to 300 feet;

    - Restrict an unconventional well from being located within 1,000 feet of a public water supply source as defined in the Safe Drinking Water Act;

    - Increase the distance within which an operator drilling an unconventional well is presumed responsible for pollution of a water supply from 1,000 feet to 3,000 feet if the pollution occurred within 12 months after stimulation or alteration of the well;

    - Require DEP to adopt recordkeeping requirements for well operators regarding the transporting, processing and treatment or disposal of waste water from unconventional wells;

    - Direct the Pennsylvania Emergency Management Agency (PEMA) and DEP to require unconventional well operators to implement a unique GPS coordinate address for each well, register the address with PEMA, the department and the county emergency management organization, develop an emergency response plan and post a reflective sign at the entrance to each well site with the information required by the bill;

    - Increase well bonding requirement for wells with a total well bore length greater than 6,000 feet;

    - Require DEP to post inspection reports on its website;

    - Strengthen numerous reporting requirements; and

- Increase criminal and civil penalties.

- Add Chapter 33 providing for local ordinances relating to oil and gas operations, as follows:

  - An ordinance could only be enacted pursuant to the Municipalities Planning Code, the Second Class City Zoning Law or the Flood Plain Management Act and would have to provide for the reasonable development of minerals within the local government. A local ordinance could not conflict with and could not regulate oil and gas operations covered by federal and state environmental acts, except to the extent that the environmental acts provide the authority. In addition, the provisions of the ordinance would have to conform to the limitations and standards outlined in the chapter.

  - An owner or operator of an oil and gas operation, or a person having the right to royalty payments, could request the attorney general to review an ordinance to determine whether it allows for the reasonable development of oil and gas resources. Prior to enactment, a local government could also request the attorney general to review the ordinance to determine whether it allows for the reasonable development of the oil and gas resources.

  - The attorney general would be authorized to bring an action against a local government in Commonwealth Court to invalidate or enjoin the enforcement of a local ordinance that does not allow for the reasonable development of the resources. In addition, any person who is aggrieved by the enactment or enforcement of an ordinance that does not allow for the reasonable development of oil and gas resources could bring an action in Commonwealth Court to invalidate the ordinance or enjoin its enforcement.

  - The Commonwealth Court could promulgate rules for the selection and appointment of masters to oversee actions brought under these provisions.

  - If the attorney general, the Commonwealth Court or the Supreme Court determines that a local ordinance fails to provide for the reasonable development of oil and gas resources, the local government would be immediately ineligible to receive any funds collected under the drilling impact fee. The local government would remain ineligible until it amends or repeals the local ordinance.

- Require the Department of Transportation to adopt an appropriate method to determine levels of financial security, degrees of liability and bonding requirements for hauling in excess of the posted weight limits on state and local roads in counties where there are unconventional gas wells and to impose bonding requirements based on levels of use by industry. The method would have to be based on accurate department records reflecting average historical expenses which have been incurred in the repair of excess damages and levels of use by industries, including the transportation of forest and other products. **Passed: 28-22.**

Executive Session

Nominations to the Council of Trustees of Edinboro University. **Confirmed: 50-0.**

(2011-093)