

WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – EDWIN B. ERICKSON, CHAIRMAN

Monday, April 7, 2014

[Senate Bill 1236](#) (Yaw) would amend Act 60 of 1979, the Oil and Gas Lease Act, to provide protections for leaseholders. Under the provisions of the bill, a lessee would be required to include a unique property identification on documentation relating to royalty payments and to make required payments to the lessor within 60 days of production, unless otherwise provided in the contract. If the proceeds total less than \$100 in three months, the lessee could remit them quarterly to the lessor. Late payments would have to be paid at the legal rate of interest. A section would be added regarding joint ventures which would require the following information to be provided annually to interest owners if the joint venture company is separately paying its share of the royalty: 1) name of the company; 2) company address; 3) company telephone number; and 4) the proportionate share of oil or natural gas that each joint venture markets.

Provisions would also be added to allow a lessor or someone acting on their behalf to inspect the supporting documentation of a lessee for payment information for any property for which the lessor has been paid royalties within the three-year period immediately preceding the date of the request. The lessor would be required to make a written request to inspect the records and could make a request no more than once a year. Within 30 days of receipt of the written request, the lessee would have to: designate a location in Pennsylvania for inspection which is within a reasonable travel distance; designate a mutually agreed upon date for inspection or a date within 90 days; designate a reasonable time for inspection; provide supporting documentation of payment information including invoiced amounts for services provided; and have a knowledgeable person available to answer any questions. The information which is inspected would have to remain confidential. [Passed: 48-0.](#)

[Senate Bill 1237](#) (Yaw) would establish the Natural Gas Lease Anti-Retaliation Act to protect a lessor of natural gas rights who reports a violation or suspected violation of a contractual agreement. A lessee would be prohibited from ceasing development or production or taking other reprisals against a lessor due to a good faith action by the lessor. If a lessor believes a reprisal has occurred, the lessor could bring a civil action within one year of the alleged violation. A lessor would be required to show by a preponderance of the evidence that the action meets the definition of a good faith action and that the retaliatory action was taken by the lessee after the lessee became aware of the action of the lessor. A court finding in favor of the lessor could order the lessee to pay reasonable damages and could impose a civil fine of up to \$1,000 per day. A court finding in favor of the lessee could order the lessor to pay reasonable damages to the lessee. [Passed: 45-4.](#)

[Senate Bill 1238](#) (Yaw) would establish the Oil and Gas Lease Surrender Act. The bill would require every lessee, within 30 days after the expiration, termination or forfeiture of an oil and gas lease, to present a surrender document to the county Recorder of Deeds office where the oil or gas well is recorded. The surrender documents would have to be accompanied by a copy of

the recorded memorandum of lease or the original oil and gas lease and a fee. The surrender document would discharge, defeat and release a lessee's interests in the lease upon recording. The form of the surrender document is outlined in the bill. If the lessee does not submit the surrender document within the 30-day time period, the lessor could send a notice as outlined in the bill to the lessee to present for recording a surrender document to avoid damages. If the lessee fails to present a surrender document within 60 days of receipt of the first written request from the lessor, and does not have a satisfactory reason, the lessor could initiate an appropriate court action to compel surrender of the lease. In a successful action to compel surrender of the lease, the lessee would be required to reimburse the lessor for the costs of the action, including the lessor's reasonable attorney fees. Unless otherwise specified by contract, the provisions in this bill would apply to every oil and gas lease on real property in the state which has not been surrendered prior to the effective date and regardless of whether the oil and gas lease was executed before the effective date. **Passed: 49-0.**

Senate Resolution 342 (Baker) designates the week of April 6 through 12, 2014 as the "Week of the Young Child" in Pennsylvania. **Adopted by Voice Vote.**

Senate Resolution 343 (Tomlinson) designates the month of April 2014 as "Pennsylvania 8-1-1 Safe Digging Month." **Adopted by Voice Vote.**

Senate Resolution 344 (Eichelberger) designates the week of April 14 through 19, 2014 as "Local Government Week" and April 15, 2015 as "Local Government Day" in Pennsylvania. **Adopted by Voice Vote.**

House Bill 436 (Stephens) would amend the Child Protective Services Law to require any attorney who is affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children to report suspected child abuse. Except under specific exemptions, privileged communication between a mandated reporter and a patient or client would not apply to a situation involving child abuse, or relieve the mandated reporter of the duty to make a report of suspected child abuse. The legislation would continue to protect confidential communications with a member of the clergy or an attorney when made within the scope of attorney-client confidential communication protections provided for in Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, the attorney work product doctrine or the rules of professional conduct for attorneys.

The legislation would make it a third degree felony if a mandated reporter had direct knowledge of suspected child abuse, willfully failed to report it and the abuse constituted a first degree felony or higher. Any other failure to report child abuse by a person or official required to do so would be a second degree misdemeanor. However, if a person's willful failure to report continues while the person knows or has reasonable cause to believe the child is actively being abused, the person would commit a first degree misdemeanor, unless the abuse constitutes a first degree felony or higher in which case it would be a third degree felony. Any subsequent offense would be a third degree felony, unless the abuse constitutes a first degree felony or higher, in which case a subsequent offense would be a second degree felony. The statute of limitations for

failure to report suspected child abuse would be either the statute of limitations for the crime committed against the minor or five years, whichever is greater. **Passed: 48-0.**

House Bill 1154 (R. Miller) would amend Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to remove the exemption for parties to a labor dispute from the crimes of harassment and stalking unless the conduct or activity is protected by the United States Constitution, the Pennsylvania Constitution, or federal law. An additional change would remove the exemption for parties to a labor dispute for the crime of threatening to use weapons of mass destruction. **Passed: 48-0.**

House Bill 1263 (Kavulich) would amend Title 75 (Vehicles) of Pennsylvania Consolidated Statutes to require the seller of a mobile home or manufactured home that has been anchored to the ground to obtain a tax status certification form from the tax claim bureau of the county where the home is located showing any real estate taxes due on the mobile home or manufactured home. The form would then be sent to the buyer and the Pennsylvania Department of Transportation (PennDOT). If the seller has been delinquent in paying the real estate taxes on the mobile or manufactured home, he or she would be required to pay those taxes before the home could be sold. The seller would have to provide the buyer and PennDOT with an updated tax certification form. If the tax status certification form incorrectly states that the taxes have all been paid, or that less than the true amount is owed, then the seller, buyer or third party would not be liable for the amount of the error. **Passed: 49-0.**

House Bill 1794 (Masser) would designate the portion of Route 11 in Montour County as the Veterans Highway. **Passed: 49-0.**

Executive Session

Nominations to Various Boards and Commissions, Jennifer L. Hoy as Recorder of Deeds, Register of Wills and Clerk of Orphans' Court, Clinton County, and Harva Owings Baughman as Treasurer, Perry County. **Confirmed: 49-0.**

Tuesday, April 8, 2014

Senate Bill 33 (Mensch) would amend the Child Protective Services Law to provide protection from employment discrimination to individuals reporting child abuse. A person could commence an action for appropriate relief if all of the following apply:

- the person, by law, is required to or encouraged to report suspected child abuse;
- the person acted in good faith in making or causing the report to be made; and
- as a result of making the report, the person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment.

These provisions would not apply to a person making a report who is found to be a perpetrator of child abuse or to any individual who, as required by law, fails to make a report of suspected child abuse. A court of common pleas could grant appropriate relief including

reinstatement of the plaintiff with back pay. The Department of Public Welfare would be authorized to intervene in an action. The legislation would take effect on December 31, 2014.

Concurrence in House Amendments: 49-0.

Senate Bill 267 (Greenleaf) would amend the Public School Code to further provide for excused absences from school. Under the bill, a school district would be allowed to excuse a student from school attendance to participate in an educational tour or trip, not sponsored by the school district, as long as it is consistent with State Board of Education regulations. **Concurrence in House Amendments: 49-0.**

Senate Bill 1254 (Yudichak) would amend Act 33 of 1989, known as the Plumbing System Lead Ban and Notification Act, to revise and tighten the standards under which various parts of plumbing systems are classified as “lead free.” The current statute only refers to pipes and pipe fittings, and specifies that they may only contain eight percent lead to be classified as “lead free.” The bill would expand the list of plumbing system components that would have to meet the standards to include the wetted surfaces of pipes and pipe fixtures, as well as the wetted surfaces of plumbing fixtures and fittings. Under the bill, all of these components could not contain a weighted average lead content of more than 0.25 percent in order to be labeled “lead free.” The bill provides the formula for determining the weighted average lead content of a lead pipe, pipe fitting, plumbing fitting or fixture. The changes included in the bill are required by federal law. **Passed: 49-0.**

Senate Bill 1267 (Vance) would amend the Health Care Cost Containment Act to re-authorize the Health Care Cost Containment Council and to extend its expiration date from June 30, 2014 to June 30, 2017. **Passed: 49-0.**

Senate Bill 1290 (Vulakovich) would create the Kelsey Smith Act. Under the provisions of the legislation, a wireless service provider would be required to send a signal to a cell phone – known as “pinging” it – at the request of a law enforcement agency to help locate a missing person. The law enforcement agency would have to make the request to the service provider on a standard written form approved by the Attorney General. The wireless service provider would be required to establish procedures to govern its response to these requests by law enforcement agencies. The bill would shield a wireless service provider from lawsuits that stem from providing the requested information to a law enforcement agency under the act. **Passed: 48-1.**

Senate Resolution 346 (Teplitz) commemorates the 100th anniversary of the Dauphin County Library System. **Adopted by Voice Vote.**

Senate Resolution 347 (Rafferty) recognizes April 8, 2014 as “Architects’ Day” in Pennsylvania. **Adopted by Voice Vote.**

Senate Resolution 348 (Stack) designates April 27 through May 4, 2014 as “Days of Remembrance of the Victims of the Holocaust” in Pennsylvania. **Adopted by Voice Vote.**

Senate Resolution 349 (Fontana) recognizes the week of April 13 through 19, 2014 as “National Library Week” in Pennsylvania. **Adopted by Voice Vote.**

Wednesday, April 9, 2014

[Senate Bill 21](#) (Ward) would amend Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes to add a number of definitions to the Child Protective Services Law. In addition, the measure would further clarify that individuals listed in the legislation would be required to make a report of suspected child abuse if the person has reasonable cause to suspect that a child is a victim of child abuse. The measure would also further outline the reporting procedure for mandated reporters. A mandated reporter would be required to immediately make an oral report of suspected child abuse via the statewide toll-free telephone number or a written report using electronic technology. A mandated reporter making an oral report would be required to submit a written report containing the information listed in the bill within 48 hours to the Department of Public Welfare or the county agency assigned to the case in a manner and format prescribed by the Department. The legislation would also require the Department to provide specific information related to the recognition and reporting of child abuse on its Internet website and with all clearance certifications relating to prospective child care personnel.

Concurrence in House Amendments: 49-0.

[Senate Bill 1181](#) (Vogel) would amend The Fiscal Code to direct that 14 weekly transfers of \$300,000 totaling \$4.2 million be made from the Pennsylvania Horse Racing Development Fund to the State Racing Fund. The funds would be used exclusively for enforcement of the Race Horse Industry Reform Act and could not be transferred to any other fund or account.

Concurrence in House Amendments: 49-0.

[Senate Bill 1096](#) (White) would amend Title 26 (Eminent Domain) of the Pennsylvania Consolidated Statutes to specify that the limited reimbursement for fees in the Eminent Domain Code would be \$4,000 per property regardless of right, title or interest. If a taking is for an easement related to underground piping for water or sewer infrastructure, the reimbursement would be limited to \$1,000, regardless of right, title or interest. **Passed: 49-0.**

[Senate Bill 1327](#) (Baker) would amend Title 65 (Public Officials) of the Pennsylvania Consolidated Statutes to specifically prohibit a public official or public employee from accepting or soliciting a cash gift from a lobbyist, principal, or a person that is seeking official action from the public official or public employee. Any person who violates the prohibition involving an amount of less than \$250 would commit a misdemeanor punishable by a fine of not more than \$1,000 plus costs, and if payment of the fine and costs is not made in a timely manner, to imprisonment for not more than two years. If the amount is \$250 or more, the offense would be considered a felony punishable by a fine of not more than \$10,000 plus costs or to imprisonment for not more than five years, or both. Among other definitions, the bill would define a “cash gift” as United States or foreign currency, a money order, a check, a prepaid debit or credit card, or a gift card or certificate. The term would not include: an expenditure or other transaction subject to reporting under the Pennsylvania Election Code; a commercial loan made in the ordinary course of business; a transaction involving reasonable consideration of equal or greater value; a cash gift from a family member when the circumstances make it clear that the motivation for the action was a personal or family relationship; a cash gift available to the public or offered to members of a group or class in which membership is not related to being a public

official or employee; or an award or prize given to competitors in any contest or event open to the public, including random drawings. **Passed: 49-0.**

Senate Resolution 339 (Baker) amends Rule 1 and Rule 2 of the Senate Ethical Conduct Rules to specifically prohibit a Senator or a Senate employee from accepting or soliciting a cash gift from a lobbyist, principal, or a person that is seeking official action from the Senator or Senate employee. Among other definitions, the resolution defines a “cash gift” as United States or foreign currency, a money order, a check, a prepaid debit or credit card, or a gift card or certificate. The term does not include: an expenditure or other transaction subject to reporting under the Pennsylvania Election Code; a commercial loan made in the ordinary course of business; a transaction involving reasonable consideration of equal or greater value; a cash gift from a family member when the circumstances make it clear that the motivation for the action was a personal or family relationship; a cash gift available to the public or offered to members of a group or class in which membership is not related to being a Senator or Senate employee; or an award or prize given to competitors in any contest or event open to the public, including random drawings. **Adopted by Voice Vote.**

Senate Resolution 350 (Baker) designates April 9, 2014 as “National Guard Day” in Pennsylvania. **Adopted by Voice Vote.**

Senate Resolution 351 (Gordner) designates April 22, 2014 as “Governor James Pollock Remembrance Day” in Pennsylvania. **Adopted by Voice Vote.**

Senate Resolution 352 (Tartaglione) designates the week of April 6 through 12, 2014 as “Crime Victims’ Rights Week” in Pennsylvania. **Adopted by Voice Vote.**

House Bill 1259 (Farry) would create the Indoor Tanning Regulation Act. The measure would require a legal entity, defined as an individual, corporation, partnership, proprietorship or association, to obtain a certificate of registration from the Department of Health before operating a tanning facility. The legal entity would have to apply for an annual certificate of registration for each tanning facility on a form prescribed by the Department with the information outlined in the legislation. An annual registration fee of \$150 per tanning facility that operates two beds or less and \$300 per salon that operates more than two beds (and \$20 per additional bed over ten beds) would be established. The Department could increase fees by regulation to ensure proper implementation of the act. The operator would be required to post the facility’s certificate of registration in a location clearly visible to customers. The Department would have the authority to inspect licensed facilities for compliance with the act.

No person who is 16 years of age or under would be permitted to use a tanning facility. Individuals who are age 17 could use a tanning facility with written authorization from a parent or guardian. A tanning facility would be required to post a sign as outlined in the bill with a number of warnings and recommendations, including a statement that a customer could call the Department of Health to report an alleged health concern or injury regarding the tanning facility. In addition, each customer would have to be provided a written warning statement requiring his or her signature before initial exposure. The warning statement would not affect the liability of the legal entity or operator of the facility in the event that a customer fails to follow the warning

and incurs damages. Records would have to be maintained of each customer's tanning visits. Operators would be required to limit a customer's session duration and frequency to maximums recommended by the manufacturer. Only tanning devices manufactured and certified under federal regulations could be used in the tanning facilities. The devices would also have to meet the additional safety requirements outlined in the legislation and operators would have to require customers to wear protective eyewear in order to use a tanning device. A trained operator would have to be present at a facility during all operating hours while tanning equipment is in operation to inform and assist customers. No customer could use tanning equipment in the absence of a trained operator.

The Department would have the ability to deny, revoke or suspend a certificate of registration for the reasons outlined in the bill including the submission of false statements on an application or the failure to allow the Department to inspect the facility. The bill would establish the Indoor Tanning Regulation Fund as a restricted account within the General Fund. All fees and fines would be paid into the Fund for use by the Department in its implementation and administration of the act. [Passed: 40-9.](#)

[House Bill 1899](#) (C. Harris) would designate the bridge that carries State Route 35 over the Juniata River as the Juniata County Veterans Memorial Bridge. [Passed: 49-0.](#)

Executive Session

Nominations to Various Boards and Commissions. [Confirmed: 48-0.](#)

(2014-025)