



# The Bulletin

August 6, 2012

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## **Marcellus Drillers Hopeful for Quick Action On Appeal of Local Zoning Provision**

An attorney with the natural gas drilling industry said he expects quick action on an appeal of a Commonwealth Court ruling that overturned a local zoning provision in Act 13, the recently approved Marcellus Shale drilling law. The ruling stripped the law of a provision that would prevent local governments from enacting changes in their zoning ordinances merely to block drilling. The Corbett Administration has appealed the ruling to the State Supreme Court.

"If you read the opinion it's almost as if the General Assembly should have used stronger language to prevent local governments from blocking drilling in their jurisdictions," the attorney for the industry said. "A long line of court cases state that the General Assembly can dictate what the local governments do. They are creations of the General Assembly."

In its July 26th decision, Commonwealth Court struck down the uniformity provision of Act 13 that required municipalities to allow "reasonable development" of oil and gas in all zones if certain criteria were met. The provision preempted and superseded all local oil and gas ordinances.

In a statement announcing the appeal, Governor Corbett said the court's decision "casually set aside" months of compromise and negotiation, and also endangers the impact fee and environmental standards of Act 13. "Indeed, there is no Act without each of these crucial pieces," Corbett said, adding that the court's decision "endangers the jobs of tens of thousands of Pennsylvanians and deprives citizens of their property rights."

A group made up of a few municipalities, an environmental organization, and a medical doctor sued the Attorney General, the Public Utility Commission, and the Department of Environmental Protection (DEP) to overturn the law signed by the Governor in February. "The irony is we have no problem at all working with almost all the local governments," the industry attorney said. He added, "It really is just a very small group that has caused all the problems."

In its decision, Commonwealth Court also repealed a provision that allowed DEP to waive requirements on the distance a natural gas well needs to be from a body of water. Legal experts say the General Assembly might be required to revisit that provision in the law to clarify DEP's waiver authority.

## **PA Already Realizing Savings Under New Unemployment Compensation Law**

Governor Tom Corbett announced that Pennsylvania saved more than \$12 million by refinancing its unemployment compensation (UC) debt owed to the federal government. The refinancing was made possible by Act 60 – signed by the Governor earlier this summer which also contains provisions that will lead to lower costs in the UC system. Act 60 was strongly supported by PMA.

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The Governor said in a statement that transferring the balance on a high-interest rate credit card to a no, or low-interest card for a period of time allows you to pay off the debt while saving on interest.

"That's exactly what Pennsylvania did with its federal unemployment compensation debt," Corbett said. "Only the transferred balance is nearly \$3.2 billion, the high-interest rate credit card is the federal government, the low-interest card is Citibank, and the savings on interest is more than \$12 million for Pennsylvania."

As of July 25, Pennsylvania has cleared its debt to the federal government through interim refinancing with Citibank. The Pennsylvania Economic Development Financing Authority (PEDFA) and the Pennsylvania Department of Labor and Industry engineered the refinancing. Pennsylvania owed Washington \$3.78 billion for covering the state's unemployment compensation payouts during the recession. A Senate Republican fiscal analysis of Act 60 shows a total of \$2.345 billion in savings between 2013 and 2019 -- when the trust fund will achieve 100 percent solvency.

As of January 1 of this year, Pennsylvania employers began paying the federal government for the borrowed money, and Pennsylvania assessed an interest tax on state employers to make those payments. The Senate Appropriations Committee estimates that businesses could save between \$160 million and \$265 under the law.

"This bill was developed with labor and management, each side knowing that the other has a central role to play in making our economy thrive," Governor Corbett said when he signed the bill into law. "While more reform to our unemployment compensation system is still needed, Governor Corbett, Secretary Hearthway, Senate Labor and Industry Chairman Gordner, and House Labor and Industry Chairman Miller have brokered an effective solution to avoid disaster and return our broken UC system to solvency within a decade," said PMA Executive Director David N. Taylor. "Timely action has saved Pennsylvania employers millions of dollars and helped lower the cost of creating and keeping Pennsylvania jobs."

## **Pennsylvania Pollster Disagrees With Recent Poll Showing Obama With Strong Lead in Pennsylvania**

Jim Lee, President of the Harrisburg-based Susquehanna Polling, said he's in "complete disagreement" with a recent poll that shows President Obama with a strong lead in Pennsylvania, particularly among independent voters. "Our latest statewide poll shows Obama leading Romney 46-43 with independents splitting 50-50," Lee said.

A Quinnipiac University/CBS News/New York Times Swing State poll has Obama leading Republican candidate Mitt Romney by 53 percent to 42 percent. The poll also has independent voters backing Obama 58 percent to 36 percent in Pennsylvania and leading with similarly strong numbers in Florida and Ohio.

"If today were November 6th, President Barack Obama would sweep the key swing states of Florida, Ohio and Pennsylvania and – if history is any guide – into a second term in the Oval Office," said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute. "The president is running better in the key swing states than he is nationally. Part of the reason may be that the unemployment rate in Ohio is well below the national average. In Florida it has been dropping over the past year, while nationally that has not been the case."

Lee said that everything he is seeing points to a much closer race in Pennsylvania. "It's more important to follow the 'swing' voters who split their tickets in most statewide elections," Lee said. "These are mainly conservative Democrats in southwest Pennsylvania, and liberal GOP voters in southeast Pennsylvania. Romney and Obama are splitting that vote equally. The reason the race is so close nationally is because independents are moving away from Obama, and unlike in Pennsylvania these independents make up a majority of all voters in some states."

## PLCB Profits Not What They Seem

Year-to-year profits reported by the Pennsylvania Liquor Control Board (PLCB) are far lower than the money the Board transfers to the General Fund each year, according to a recent article published in the *Pennsylvania Independent*. Yet, the profit figures and the amount of money transferred are used interchangeably by some state officials.

Supporters of keeping state control over liquor sales and distribution often cite the substantial profits the Board transfers to the General Fund. Financial statements made public by the PLCB and examined by the *Independent* show that between the three fiscal years of 2008-09 and 2010-11, Governor Ed Rendell's Budget Office and the General Assembly overestimated by \$49.2 million the amount of profits Pennsylvania's 600 liquor stores could transfer to the Treasury.

In FY 2009-10 alone, the state overshot its \$105 million profit estimate by \$32.4 million. Despite the state's overestimates, the liquor board still managed to withdraw from reserves the \$49.2 million in cash that it did not earn from operations in those three years.

The *Independent* says the PLCB makes up the difference with cash flow and a "flush rainy day fund." For example, in fiscal year 2009-10, the state claims that it took \$105 million in "profits" from the liquor board. This would suggest that the PLCB's 2009-10 operations were in the black in excess of \$105 million. The liquor board's actual operating profit in 2009-10 was \$72.56 million; it still transferred \$105 million in cash to the state, but the \$32.4 million difference did not come from its 2009-10 profits. That's the year that PLCB's rainy day fund went below zero, the *Independent* reports.

A budget expert with the General Assembly said no formula exists for how much the PLCB turns over the General Fund each year. "The amount is part of the budget discussions," the expert said. "It comes down to a question of what they can really afford, not what the profit is."