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Lobbying Disclosure Rules Shot Down on One Provision

The state's regulatory review board, IRRC, sent its official rejection notice of rules implementing the 2006 lobbying disclosure law to the Department of State this week. IRRC rejected the disclosure rules because one provision would require someone to register as a lobbyist for receiving a payment to lobby. An IRRC spokesman said that receiving money to lobby, without trying to influence a lawmaker or other state official, does not constitute lobbying under the law.

"The IRRC Board saw nothing in the law that stated that simply receiving money to lobby means that you're actually lobbying," said Kim Kaufman, IRRC's executive director. "And we can't just reject one provision in the law and approve the others. We have to reject the entire law."

The role of attorneys and lobbyists was at issue when Pennsylvania enacted an initial lobbyist law in 1998.

The '98 law was declared unconstitutional by the state Supreme Court on grounds it interfered with the court's authority to oversee lawyers who double as lobbyists.

The 2006 law requires that lobbyists paid more than \$2,500 in any quarter of the year must register with the Department of State. The same requirement holds for corporations or trade associations that spend more than \$2,500 for a lobbyist in any quarter.

Lobbyists must categorize how the money is spent and identify the general issues they are lobbying on.

The 2006 law created a special committee under the auspices of the Department of State to write the regulations. The committee decided that lobbyists must register once they are paid for lobbying services.

Kaufman said that the committee could re-write the provision on accepting money, or submit the same proposed regs. He said that if IRRC rejected the regs again – which it almost certainly would – then the governing language would be implemented anyway, unless the House and Senate standing committees on State Government intervened.

"In the end, we can only delay implementation of a law," Kaufman said.

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James Hill

"Licensed Gaming Facility' Clarified Under IRRRC Approval

A licensed gaming facility is limited to the gaming floor, and restaurant and retail outlets connected to the floor, under a regulation approved by the Independent Regulatory Review Commission (IRRC) this week. The Gaming Control Board proposed this "clarifying" definition of license facility in light of a dispute in central Pennsylvania over the local government share of revenues from a nearby casino. In addition, the board wanted to ensure the integrity of a provision in the law that forbids gaming facilities within 15 miles of one another.

"Some of the gaming operations sit on sprawling properties so we wanted it to be clear that the 15 mile rule doesn't start from the end of the property, but from the actual gaming facility," said Doug Harbach, a spokesman for the Control Board.

The casinos at horse tracks, Category 1 licenses under the law, and stand-alone casinos, Category 2 licenses, lie well beyond 15 mile threshold from one another. The Board is more concerned about the location of the resort casinos, Category 3 licenses.

The new definition will also influence a dispute in central Pennsylvania where Lebanon County is hoping to collect a share of the gaming proceeds paid to the local government that is the hosting municipality. A portion of the ground owned by the Penn National Hollywood Casino lies in Lebanon County, but not the building that houses the slot machines and restaurants. Lebanon County officials maintain their roads, police, courts and fire companies are impacted by the casino, and they therefore deserve a share of the revenue.

"Lebanon County can make a deal with Dauphin County if they like. But the law is pretty clear now about what location actually constitutes a casino," Harbach said.

Local Phone Companies: Rural Phone Service Threatened Under Federal Rules Proposal

Reliable and inexpensive local phone service for thousands of rural customers in Pennsylvania is at risk under proposed telecommunication rule changes in Washington. The proposed changes before the Federal Communications Commission (FCC) would increase local phone call rates enough to not only threaten service but the very existence of some rural phone companies, according to the Pennsylvania Telephone Association (PTA).

"We're required by law to provide local service," said Tom Lager, General Manager of the Palmerton Phone Company, and Chairman of PTA. "The irony is that these proposed changes to the law threaten that very service."

Lager says that the main culprit in the proposal to revise the rules on intercarrier compensation would lower access charges, reimbursements other carriers pay to the local carriers for using their networks to complete a call. Carriers pay three separate levels of access charges for the use of each others' networks. The reimbursement rate is higher for a long distance call, for instance, than a local call. The proposal would establish one low rate for all calls.

"We can't continue to provide local services if that rate gets reduced by that much," Lager said.

In addition, the proposal would wipe out the access charges for one type of phone service all together. Calls using Voice over Internet Protocol, VoIP, would pay no access charges because the service is classified by the FCC as an 'information' and not a 'telecommunications' service. Use of VoIP is growing rapidly.

"We have trouble getting VoIP services to pay for using our networks now," Lager said. "If these changes go through, we would receive nothing."

The FCC proposal would also make changes to the Universal Service Fund, USF, which provides telecommunications services to underserved schools and funds other needy programs. A fee on each call supports the Fund. Pennsylvania and the entire Mid-Atlantic region would end up paying more and receiving less from the USF, according to the Public Utility Commission (PUC).

"Our region already pays \$2 billion more than we receive from the Fund," said Joe Witmer, an attorney with the PUC. "Under the propose changes, we'll pay even more into it."

The PUC recently joined four other state commissions in the Mid-Atlantic region to oppose the FCC changes.

An initial proposal on the intercarrier compensation changes was originally slated for consideration by the FCC on November 4. The PTA opposed the proposal based not only on its content but because it was drafted in private. The FCC withdrew that initial proposal from consideration. It now plans a public comment period.

President of the PTA, Steve Samara, said that it's imperative to have a public airing.

"We're confident that when this proposal is debated in a public forum, it will go nowhere," Samara said.

PA Executive & Legislative Actions

Following is a listing for executive and legislative action for the week of November 10, 2008. The House returns to session November 17, 2008; the Senate November 20.

Wolf Resigns As Revenue Secretary; Former Lawmaker, Stetler, to Take Over

Department of Revenue Secretary Tom Wolf is stepping down, effective Nov. 30. Former State Representative Stephen Stetler (York), executive director of the Pennsylvania Economy League, will be the next Revenue secretary.

At Revenue, Wolf oversaw implementation of Act 119 which converted the commonwealth's corporate tax from its antiquated settlement system to an assessment system. He continued to push the department's modernization effort, which:

- Helped more than half of Pennsylvania's six million personal income taxpayers file their 2007 returns electronically, saving the department \$2.67 million in administrative costs;

- Expanded electronic filing to corporations in 2007 and small businesses in 2008; and
- Increased delinquent tax collections to more than \$900 million in 2007-08, a 59.6 percent increase in collections from the \$564 million collected in 2002-03.

During Wolf's tenure, Pennsylvania's Property Tax and Rent Rebate program expanded to nearly double the number of seniors receiving rebates from 313,907 in 2006 to more than 600,000 by the end of 2008. The Pennsylvania Lottery continued to grow, delivering its sixth consecutive year of record sales in fiscal year 2008.

Changes to Commercial Licensing Bill Approved

The House concurred in Senate amendments to a measure, HB 347, which would require the state Department of Transportation to waive the skills test for commercial driver's license applicants who are active or reserve members of the armed forces, or recently discharged veterans, and who hold a valid Class 2, 3 or 4 driver's license issued by any of the military branches or have at least two years experience working in commercial-type vehicles as a part of their military job.

The bill was amended in the Senate to include provisions regarding state police radar testing contained in SB 1135, reissuing Pennsylvania license plates and all-terrain vehicle weight restrictions, originally in HB 2043.

The bill would also save the Pennsylvania Motor License Fund nearly \$60 million over the next three years by revising the reissuing process for Pennsylvania license plates. Current law requires PennDOT to reissue a plate every 10 years, regardless of its condition. The legislation would require plates to be re-issued only when necessary.

Marcellus Shale Subject of Senate Hearing

The Senate Majority Policy Committee will hold a public hearing on Tuesday, November 18th, 2008, to better understand and manage the opportunities and challenges posed by the development of the Marcellus Shale natural gas deposit in the Commonwealth.

Senate Policy Committee Jake Corman (R-Bellefonte) and Sen. Lisa Baker (R-Dallas) said the Senate panel will hear from testifiers on a wide variety of issues related to the Marcellus Shale, including:

- The history and status of Marcellus Shale in the Commonwealth and surrounding region.
- The experience of other states with similar resource development.
- The environmental impact of gas development and the Commonwealth's current state of statute and regulation regarding drilling.
- The readiness of Pennsylvania's various levels of government to properly manage the economic, environmental, infrastructure and social impacts of development.
- The economic impact of large-scale development of Marcellus Shale.

Among those scheduled to testify are representatives of the Department of Environmental Protection and Department of Conservation and Natural Resources, a panel of industry officials, local government and school officials, and others with expertise in this area of energy. Media coverage is invited.

State Urged to Support Local Electric Procurement Measures

Local government officials last week urged the Senate Local Government Committee to support two Senate Bills addressing municipal electric procurement issues.

Several municipal officials and advocates from government associations testifying at the Committee's public hearing in Ephrata Borough Hall said Senate Bill 1491 and Senate Bill 1507 would make significant changes that would lead to cost savings for consumers and municipalities.

"Over the past year, the Pennsylvania General Assembly has taken a number of steps to lower energy costs and to promote energy conservation," said Senator Bob Regola, (R-39 and Chairman of the Local Government Committee. "Today's hearing was intended to lay the groundwork for taking the next steps by giving the Local Government Committee and the Senate essential background on these bills. It was important for us to hear from municipal officials on these measures."

SB 1491 would amend the Borough Code to enable interested Pennsylvania boroughs to participate in certain electric generation projects and power supply arrangements.

SB 1507 would amend the Municipal Authorities Act to permit municipalities to act as a municipal aggregator authority to purchase electricity in bulk or negotiate with suppliers on behalf of their residents.

Anti-Blight Measure Clears House

Legislation that would allow a 'party in interest' to file a petition with the Court of Common Pleas requesting a conservator to take possession of a neglected property won approval in the House last week. The legislation, HB 2188, now goes to the Governor for his signature.

Under the legislation, local officials can petition the Court to appoint a conservator to bring an abandoned property into compliance with municipal codes.

The Court would have to consider certain conditions in granting a conservatorship, such as whether a building is a public nuisance, unfit for human habitation or has not been legally occupied for a year.

Additional anti-blight bills are in the pipeline. They would give officials power to deny permits to property owners with code violations that threaten public health and safety and hold the owner of a blighted property accountable for the costs to demolish

or secure it.

In Mass., Another Ethics Commission Formed

As fallout from an outbreak of ethics investigations on Beacon Hill continues, the state's top GOP lawmaker announced the creation of yet another ethics commission.

House minority leader Rep. Brad Jones (R-North Reading) appointed three Republican representatives to a study group charged with investigating the House's current ethics rules.

"The betrayal of the public trust coupled with recurring appearances of impropriety are a black cloud over Beacon Hill," Jones said in a statement. "I'm hoping by implementing some new rules in the House, we can start to dispel these clouds and take a small step in restoring public confidence in the Legislature

The three-member group is going to look at current House rules and guidelines in other legislative bodies and develop a set of rules and proposals for consideration at the start of the new legislative session in January.

The commission comes just weeks after Gov. [Deval Patrick](#) appointed a 12-member ethics task force to bolster the state's laws on lobbying and other ethics legislation.

The calls for ethics reform come after Sen. [Dianne Wilkerson](#) was arrested for allegedly taking \$23,500 in bribes to create and push through legislation.

House Speaker Sal DiMasi is also under investigation by the attorney general and state Ethics Commission for helping friends at a software company win a multimillion dollar contract with the state.

The House Ethics Committee also investigated a report of phantom voting and an alleged threat made on the House floor to Rep. Jennifer Callahan. While the committee reported on changes following the phantom voting charges, no report has been made concerning the Callahan allegations.

California Seeks Federal Aide

California Governor Arnold Schwarzenegger said this week the federal government should give money to states as part of a financial stimulus package, insisting that such aid would not be a bailout. The Republican governor portrayed federal aid as a way to recapture more of the tax dollars that California residents send to Washington.

"We are also asking the federal government to help," Schwarzenegger told the Greater Fresno Area Chamber of Commerce. "Because we all know ... they are giving us only 80 cents on the dollar. And there's some \$40-some billion they are holding back. So it's not like we are asking for a bailout, because it's our money. We're just saying, 'Hey, give us some of our money back.' "

Federal officials are considering an economic stimulus package that would include grants to states reeling in the wake of declining tax revenues.

Schwarzenegger sent a letter Oct. 21 to congressional leaders asking for assistance in the form of "a temporary increase in the Medicaid matching rate and/or by providing direct grants to states." He also asked for money for infrastructure investment.

Legislative Analyst Mac Taylor on Tuesday projected that without immediate action the state will face a \$27.8 billion revenue shortfall over the next 20 months, and deficits of roughly \$22 billion in subsequent years. Schwarzenegger last week proposed a mix of taxes and spending cuts to close the current year gap of \$11.2 billion.

State legislative leaders may travel next week to Washington, D.C., to plead their case, Schwarzenegger said.

Assembly Speaker Karen Bass, D-Los Angeles, said Tuesday that California deserves federal money as much as struggling industries.

"You would think that with the state of California getting ready to go over a cliff, that we should be a part of this bailout plan as well, meaning that there should be a direct infusion of cash into the state of California," Bass said.

The governor pinned the housing collapse on government – federal, not state – and said that's another reason why Washington should help California.

"Government is really at fault, and this is why government has to get us out this mess now and figure out very quickly how to get us out of it," he said. "And I'm talking about Washington."

Despite the state's financial mess, Schwarzenegger said he plans to continue pursuing a water bond in the Legislature this year.

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