

**Malady & Wooten, LLP**

Legislative Report

March 15, 2013

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**Pennsylvania Golf Course Owners Association**

**LEGISLATIVE UPDATE**

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**Session Schedule:**

**2013 HOUSE SESSION SCHEDULE**

|       |   |
|-------|---|
| March | 18, 19, 20  |
| April | 8, 9, 10, 15, 16, 17, 22, 23, 24                        |
| May   | 6, 7, 8, 13, 14, 15                                     |
| June  | 3, 4, 5, 10, 11, 12, 17, 18, 19, 20, 24, 25, 26, 27, 28 |

**2013 SENATE SESSION SCHEDULE**

|       |   |
|-------|---|
| March | 18, 19, 20  |
| April | 8, 9, 10, 15, 16, 17, 29, 30                        |
| May   | 1, 6, 7, 8, 9, 13, 14                               |
| June  | 3, 4, 5, 10, 11, 12, 17, 18, 19, 24, 25, 26, 27, 28 |

## **CORBETT ADMINISTRATION ANNOUNCES OPENING FOR NEW ROUND OF ECONOMIC GROWTH INITIATIVE SUBMISSIONS**

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**Harrisburg** – Governor Tom Corbett today announced the opening of the next Economic Growth Initiative submission window. Project plan submissions will be accepted through close of business on Monday, April 15, 2013.

The Economic Growth Initiative, also known as the Redevelopment Assistance Capital Program (RACP), is an administration-sponsored economic development program that provides local communities with grants for the acquisition and construction of economic, cultural, civic, and historical improvement projects.

Last month, the Corbett Administration announced the award of 54 new Economic Growth Initiative grants. These projects, totaling nearly \$125 million, will create or retain more than 56,000 jobs in 28 counties across the state.

Last year, Corbett reformed the state's method of funding redevelopment assistance capital projects with a significant redesign, making the process more transparent and objective. Projects are now selected based upon their job-creation potential, their economic impact, as well as their viability and construction readiness.

For a full listing of submission criteria and for more information, visit the Budget Office online at [www.budget.state.pa.us](http://www.budget.state.pa.us) and select the Redevelopment Assistance Capital Program link.

## **PENNSYLVANIA BULLETIN ANNOUNCEMENTS**

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### **DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT Notices**

[Consolidated plan; 2012 annual performance and evaluation report](#)

### **COSPONSOR MEMOS**

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Sen. Alloway

- [Option for Fourth Class Counties to Raise the Ceiling of the County Hotel Tax from 3% to 5%](#)

Rep. Petri

- [Soil Scientist Licensing](#)

### **COMMITTEE MEETINGS**

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#### **Joint Legislative Conservation Committee**

**MONDAY - 3/18/13**

**12:00 p.m., Room 8E-B, East Wing**

Environmental Issues Forum on the PA Association of Conservation Districts

## COMMITTEE NEWS

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### Senate Appropriations Committee

03/11/13, 12:30 p.m., Room 461, Main Capitol

**SB 83 Greenleaf, Stewart** - (PN 48) Amends Title 75 (Vehicles) defining and providing for neighborhood electric vehicles. A neighborhood electric vehicle operated upon any highway or roadway is required to be maintained in proper condition and comply with the equipment requirements and standards as set forth in 49 CFR 571.500 (relating to Standard No. 500; Low-speed vehicles) and shall be equipped with the following additional equipment: (1) brakes adequate to control the movement of and to stop the vehicle; (2) an odometer; (3) a speedometer; (4) the original manufacturer's vehicle identification number; (5) a windshield wiper; (6) a horn; and (7) a battery charge indicator. Further provides a neighborhood electric vehicle shall be considered a passenger car for the purpose of Part II (relating to title, registration and licensing) and section 4581 (relating to restraint systems). Also provides for a 25 mph vehicle decal. Local authorities may permit the use of a neighborhood electric vehicle where the posted speed limit is greater than 25 miles per hour but not greater than 35 miles per hour. "Neighborhood electric vehicle" is defined as a four-wheeled electric vehicle that has a maximum design speed of not less than 20 miles per hour and of not more than 25 miles per hour and that is certified by the manufacturer to comply with the federal motor vehicle safety standards. - The bill was unanimously **reported as amended**.

**A00092** by Greenleaf, was said to be a technical amendment. The amendment was unanimously **adopted**.

### House Environmental Resources and Energy Committee

11:00 a.m., 3/11/13, Room 205 Ryan Office Building

The committee held an informational meeting to discuss Pennsylvania Infrastructure and Investment Authority's (PENNVEST) nutrient trading program.

Chairman Miller said the committee was holding the meeting for the benefit of the new members of the committee to get a better understanding of nutrient trading.

**Paul Marchetti**, Executive Director, PENNVEST, discussed how PENNVEST's nutrient program originated. "We started the nutrient trading program four years ago largely in response to our observation that there was a need in this market for some risk absorption for both sides, nutrient credit sellers and buyers," he stated. "We conduct an auction where we buy credits from credit sellers, we offer credits to credit buyers but we absorb all of the market risk, we absorb the risk for market failure. When a treatment plant wants to buy credits, they buy it from us. We guarantee delivery. The whole point for us getting into the market was making it less risky for treatment plants to enter into the market and thereby encouraging demand for credits."

**Robert Boos**, Credit Trading Specialist, PENNVEST, explained that the Chesapeake Bay Tributary Strategy requires Pennsylvania to reduce nitrogen by 37 million pounds a year, phosphorus by an additional 1.1 million pounds per year and sediment by an additional 116,000 tons per year from discharging into the Chesapeake Bay annually to meet the total daily maximum load (TDML) and remove the Chesapeake Bay from the Federal Impaired waters list. "A nutrient credit is a measured reduction of one pound of nitrogen or phosphorus that is removed from being discharged to the Chesapeake Bay over and above regulatory requirements that can be bought or sold and applied to an NPDES discharge permit for purposes or compliance," he stated. "The maximum tradable load represents 5,760,000 pounds of nitrogen and three million pounds of phosphorus that can be traded as credits annually within Pennsylvania's portion of the Chesapeake Bay Watershed."

Boos explained that PENNVEST's Nutrient Clearinghouse "can facilitate an increase in demand that makes undertaking credit-generating projects more viable and possibly create an additional revenue source" and that PENNVEST holds "forward auctions" and "spot auctions" to facilitate the buying and selling of the credits. "There's is no cost to register and participate in any of the auctions," he stated. "PENNVEST charges 2.5 cents for every credit bought and sold in the auction to cover administrative expenses for implementing the program which is due when credits are delivered." Boos also highlighted the benefits of a using an auction, including the following:

- PENNVEST guarantees purchase and delivery of credits to successful participants in auction
- Credits through the auction provide a potentially cost effective means to comply with discharge limits without having to implement a "bricks and mortar" infrastructure project
- Registration to participate in auctions can serve as documentation for Department of Environmental Protection (DEP) permit applications as the means to comply with net zero nitrogen and zero phosphorus limits for new land development to get permits issued

Chairman Miller asked if Pennsylvania trades credits with other states. Marchetti said PENNVEST has reached out to other states to conduct interstate trading but nothing is in place yet. "I think it's coming but not for another couple years," he stated. "What needs to happen is somebody needs to figure out how a Pennsylvania credit would trade in Maryland," he stated. "Someone needs to figure out the trade ratios. I think there's a lot of interest from both us and at the federal level in encouraging interstate trading in the bay watershed. The other states just don't seem to be there."

Chairman Vitali asked how the allowance for an emitter is established. Boos stated "that's actually done by DEP as part of their permitting process."

Chairman Vitali questioned if a municipality could "buy their way out" of their phosphorus and nitrogen requirements which could lead to a local water quality issue. Boos stated "no, you can't cause a local water quality problem; you have to be in compliance with permit requirements in order to trade."

Rep. Evankovich asked how big the market is for the clearinghouse. Boos stated "1.5 million pounds of nitrogen that were transacted last year and another 20 or 30,000 pounds of phosphorus; that market is continuing to grow because of the way the Chesapeake Bay Strategy was established."

Rep. Evankovich questioned if a program could be extended to other water basins such as the Allegheny or Ohio water basins. Marchetti stated "there is a movement afoot to replicate this model in the Ohio more generally the Mississippi basin in the Gulf; if that gets off the ground this model would be applicable to the western side of the state." He added "what we have here is DEP created this commodity by certifying and verifying credits there is no such commodity yet for the Ohio River Basin." Chairman Miller noted "it is probably not something you would try to create on the front side" and explained "the Chesapeake Bay is the largest estuary in the United States and it has major impacts on it from years of wastewater treatment plants, farming practices and everything else; these are mandates that have come along under the Clean Water Act to have these reductions."

Rep. Pyle said Pennsylvania is "carrying the load" for other states such as Virginia and Maryland that also contribute to the Chesapeake Bay. Chairman Miller noted that he is a member of the Chesapeake Bay Commission and stated "the other states believe that are carrying the majority of the load; it's something we debate all the time."

Rep. Ross said a number of municipalities are being held responsible for sediment reduction by DEP and EPA and questioned if PENNVEST has examined establishing a clearinghouse for sediment. Marchetti responded "no" but "that doesn't mean we couldn't."

**Peter Hughes**, Red Barn Consulting, said the company is an aggregator of nutrient credits and since 2006 the company has held 27 nutrient credit trading contracts which resulted in 346,257 pounds of nutrients reduced to the Chesapeake Bay. He explained agriculture contributes more than 50 percent of the phosphorus and nitrogen that enters the Chesapeake Bay and then walked through how the company determines if a farm meets "baseline compliance" for the program. "It's very important that we have assured additionally within our credit trading program; that we're able to see a farm throughout the year that it is a done by a qualified professional to ensure that these credits that have been traded are there and they comply," he stated. "The fact of the matter is that not all farms are going to qualify, not all farms are meeting that baseline requirement."

Hughes also offered recommendations for changing the program. "Of the three stages of a credit, the certification stage is where a business would rely on a decision by DEP to go ahead and make an investment that would generate the credits," he stated. "The business can challenge DEP's calculation at the certification stage but it is not clear whether interested members of the public have standing to challenge those calculation and in fact the general understanding is that they do not have standing at this point. This leaves the credit calculation open to challenge at a later stage, when the credit is applied to an NPDES permit. By this point, investments have been made, but uncertainty not only undermines the confidence of the potential credit financiers but also potential buyers, thus limiting the market. It would be very helpful to have any potential challenges come forward up front at the certification stage, so that both buyers and sellers have certainty in the number of credits generated. For this to happen, we need a clear understanding that interested members of the public have standing to challenge a certification decision by DEP. This may require legislation."

Chairman Miller asked what can be done to enhance the program. Hughes stated "we really need to look at the cost associated with compliance; cap and trade is one component as a way to meet the regulatory requirements under the Clean Water Act and NPDES permit process." He noted "we've seen a lot of the waste treatment plants decide that they are going to raise rates put in the capital upgrade and not trade but they are only 20 percent of the problem."

Chairman Vitali questioned if the baseline allowances are low enough. Hughes stated "I believe that they are I believe we would not want to go any lower."

### **House Local Government Committee**

*3/13/13, 10:00 a.m., Room 205 Ryan Office Building*

**HB 488 Kauffman, Rob** - (PN 511) Amends Second Class Township Code, in corporate powers, further providing for appropriations for hospitals and tourist promotion agencies in unspecified amounts. - The bill was unanimously **reported as amended**.

**A00227** by Harper, is a technical amendment. The amendment was unanimously **adopted**.

### **BILL REPORT**

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**\*ATTACHED TO THE REPORT\***

## STATE NEWS

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### **CORBETT OPEN TO ALL LIQUOR PRIVATIZATION PROPOSALS**

Gov. Tom Corbett said that he would not rule out alternative plans to privatize the state liquor system, boosting the prospects for passage in the General Assembly. "I'll look at everything that comes across my desk," said Gov. Corbett. "I'd be foolish to say no." Asked whether he would consider a plan that has no date certain for closing state stores, Corbett said: "I would have an open ear to something like that, yes."

### **STATE SYSTEM FACULTY APPROVE CONTRACT**

Faculty at Pennsylvania's 14 state-owned universities approved a new four-year labor contract with the State System Higher Education, the union announced after tallying the campus-by-campus vote taken earlier this week. More than 95 percent of the faculty who voted supported the contract, the union said. The Association of Pennsylvania State College and University Faculties represents 5,500 faculty.

### **PA UNEMPLOYMENT HIGHEST SINCE OCTOBER 2010**

A state report shows Pennsylvania's unemployment rate shot to its highest point since October 2010, as unemployment grew faster than the labor force. The state Department of Labor and Industry says the unemployment rate rose to 8.2 percent in January — up from 7.9 percent in December.

## IN THE NEWS

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### **Senate Passes Greenleaf's Neighborhood Electric Vehicle Legislation**

Today, the Pennsylvania Senate passed State Senator Stewart J. Greenleaf's (R, Montgomery, Bucks) [SB 83](#) which would authorize the operation of low speed electric vehicles on certain roadways in the Commonwealth.

A low speed electric vehicle, also referred to as Neighborhood Electric Vehicle (NEV), is any four-wheeled electric vehicle with a top speed of at least 20 mph, but not greater than 25 mph. The Pennsylvania Department of Transportation currently prohibits NEVs on state roadways because they fail to meet state safety inspection requirements for a passenger vehicle.

SB 83 would allow the operation of NEVs on roads with a speed limit of 25 mph or less. The measure gives discretion to the Secretary of Transportation and local governments to approve travel on selected roadways with a posted speed limit between 25 and 35 miles per hour. However, it also gives them the authority to prohibit the operation of these vehicles on any roadway under their jurisdiction.

Under the bill, NEVs must comply with the rules of the road and safety provisions. Electric vehicles would be equipped with federal safety requirements such as headlights, turn signals, windshields, and seat belts.

"NEVs are very environmentally friendly and produce no emissions," said Senator Greenleaf. "They can provide for cleaner air and less noise and traffic congestion. NEVs provide a more cost effective means of transportation and reduce our dependence on foreign oil."

NEVs are currently street-legal in 46 states. SB 83 is modeled after the New Jersey legislation which was signed into law in 2006.

### **EPA Sets Water Quality Improvement Plan for Pine Creek Watershed in Western Pennsylvania**

**(PHILADELPHIA - March 11, 2013)** The U.S. Environmental Protection Agency has established a water quality improvement plan for bacteria to protect public health and streams, creeks and a lake in the Pine

Creek watershed in Allegheny County, Pa. The waters are severely impacted by sewer overflows, stormwater runoff, failing septic systems and other sources that have driven bacteria levels as high as 100 times the acceptable limits.

EPA established the bacteria Total Maximum Daily Load or TMDL for the Pine Creek watershed in coordination with the Pennsylvania Department of Environmental Protection (PADEP). This TMDL identifies the maximum amount of bacteria the waterbodies can accept from various sources and still meet Pennsylvania water quality standards.

"We are guiding these reductions in harmful bacteria to protect public health in the Pine Creek watershed," said EPA Regional Administrator Shawn M. Garvin. "These waters are meant for trout fishing, kayaking, canoeing and other recreational activities, and this TMDL provides a clear path to clean water based on extensive data and sound science."

Pine Creek flows through the North Hills area in Allegheny County and joins the Allegheny River in Etna, north of Pittsburgh. The 67-square-mile watershed includes parts of 14 municipalities.

Since 2008, PADEP has listed Pine Creek and many smaller tributaries in the watershed – 118 stream miles in all – as impaired for recreational uses. Under the federal Clean Water Act, a TMDL is required for waters listed as impaired for a particular pollutant.

Contamination from raw sewage includes hundreds of different types of bacteria, viruses, and parasites. The predominant symptoms of pathogenic bacterial infections include abdominal cramps, diarrhea, fever, and vomiting. In addition to attacking the human digestive tract, pathogenic bacteria can cause illnesses such as pneumonia, bronchitis, swimmer's ear, eye infections and hepatitis.

This TMDL addresses all sources of bacteria in the watershed, from sewage treatment plants and storm water pipes, to more diffuse dischargers such as failing septic systems.

EPA and PADEP solicited broad stakeholder involvement and public participation, and held discussions with local governments on developing a practical framework for achieving the necessary pollution reductions.

The framework's recommendations include encouraging municipalities to take steps that would offer significant and immediate improvements, such as connecting failing septic systems to public sewers and eliminating illicit discharges.

The final TMDL can be reviewed on the EPA mid-Atlantic Region website at:  
[http://www.epa.gov/reg3wapd/pdf/pdf\\_tmdl/pinecreek-bacteria-mar2013.pdf](http://www.epa.gov/reg3wapd/pdf/pdf_tmdl/pinecreek-bacteria-mar2013.pdf).

- 03-15-2013     **Country Club of the Poconos will tee it up again this year**  
The once-embattled Country Club of the Poconos, a golf course owned by Middle Smithfield Township, will open this year with upgrades to its facilities and image. Additions include 10 new golf carts and a new point-of-sale system in the pro shop, which will also help speed golfers from check-in to tee off,... - *Pocono Record*
- 03-15-2013     **Tourism program awards \$305G in grants**  
Resort owners and B&B proprietors, festival organizers and historic preservationists, sportsmen and artists share a common goal of attracting visitors to Somerset County. The more services they can combine to offer, the more likely local tourism will grow. The groups have been assisted in their efforts by the Somerset County... - *Johnstown Tribune-Democrat*
- 03-12-2013     **Dick's Sporting Goods sees reduced earnings**  
Dick's Sporting Goods announced Monday that earnings in the coming year will be trimmed by investments in long-term growth, even as the Findlay retailer reported that earnings in the recently

ended fourth quarter were trimmed by unpredictable weather and an all-too-human athletic hero.... - [Pittsburgh Post-Gazette](#)

- 03-11-2013 **With Brand USA, a campaign to lure back foreign tourists — and their money**  
A record one billion people — one in seven on the planet — traveled to another country last year. So why aren't more tourists coming to America? The United States has Hollywood, the Grand Canyon, the Statue of Liberty, Hawaiian surf, Maine lobsters, Florida beaches and the neon dreams of Las... - [Washington Post](#)
- 03-11-2013 **Tourism questions: Representative can't have it both ways**  
For the second time in a couple weeks, state Rep. Rick Mirabito leveled some haymakers at the Williamsport/Lycoming Chamber of Commerce Visitors Bureau at a recent town hall meeting. Mirabito, a Democrat who represents the Williamsport area, accused the group of not being "transparent" and questioned its procedures and spending... - [Williamsport Sun-Gazette](#)
- 03-11-2013 **Rep. Ron Miller's office to livestream meeting on Chesapeake Bay cleanup program**  
The House Environmental Resource and Energy Committee, chaired by state Rep. Ron Miller, R-Jacobus, will hold an informational meeting on the nutrient credit trading program enacted by the Pennsylvania Infrastructure and Investment Authority, according to a news release.... - [York Daily](#)
- 03-11-2013 **Adams County funds economic study**  
Adams County plans to hire a Maryland-based firm to perform a countywide economic report that officials say will be an essential component to a revised county comprehensive plan. The county commissioners approved using \$29,840 in community block grant money for the demographic study, which will look at the county's economic... - [Hanover Evening Sun](#)

## WEEK IN REVIEW

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- 03-15-2013 **Grand jury report suggests more may be charged in Turnpike Commission's 'pay to play' scheme**  
HARRISBURG — A stunning grand jury report alleging a "pay-to-play" scheme for gifts and campaign money at the Pennsylvania Turnpike Commission raises more questions than it answers and suggests more officials may be charged, analysts said. "The only surprise is there were not more people implicated in what has... - [Pittsburgh Tribune-Review](#)
- 03-15-2013 **US wholesale prices rise on gas spike**  
US wholesale prices rise on gas spike.. - [AP](#)
- 03-14-2013 **Corbett asking U.S. judge to dismiss lawsuits challenging PA judge retirement law**  
An alliance of Pennsylvania judges who are suing in federal court to try to overturn a state law requiring judges to retire at age 70 is on shaky legal ground, Gov. Tom Corbett is claiming. The arguments the judges are making have already been weighed, and found... - [Harrisburg Patriot-News](#)
- 03-14-2013 **Bill to ditch school property tax introduced in Pa. Senate**  
A bill to eliminate school property taxes was introduced Tuesday by state Sens. David G. Argall, R-29, and John Yudichak, D-14. The tax would be replaced with higher sales and income taxes. Both senators' districts include parts of Monroe County, which has some of the... - [Pocono Record](#)
- 03-13-2013 **Pa. said to be revising, resubmitting lottery contract**  
HARRISBURG -- Gov. Tom Corbett plans to ask state Attorney General Kathleen Kane's office to reverse its rejection of a contract with a British firm to manage the \$3.5 billion Pennsylvania Lottery, a top lawmaker said Tuesday... - [AP](#)
- 03-13-2013 **Ex-Sen. leader, 7 others charged in Turnpike probe**  
HARRISBURG - A former state Senate leader and seven others have been charged in a "pay to play"



case involving the Pennsylvania Turnpike, Attorney General Kathleen Kane said Wednesday... - [AP](#)

03-12-2013

**Pa. Inspector General leaving**

Pennsylvania Inspector General and former Ballard Spahr partner Kenya Mann Faulkner has been named vice president for legal affairs and general counsel at the University of Cincinnati, the Business Courier reported. The Courier said Faulkner is expected to begin work at the university as a... - [Philadelphia Business Journal](#)

03-12-2013

**New poll shows Corbett's numbers put him in "dire shape"**

Gov. Tom Corbett is "in dire shape for reelection," according to the latest Public Policy Polling study. The study by the Democratic-leaning pollsters shows the governor's approval ratings have slipped from their already bad state in January: as of this month 33 percent of voters approve of his job performance to 57 percent who... - [Pittsburgh Post-Gazette](#)

03-11-2013

**U.S. and PA's economic recovery haunted by faces of the unemployed**

Some 12 million out-of-work Americans – and 537,000 jobless Pennsylvanians -- continue to search for employment three year's into the country's fitful economic recovery. They make up the nation's 7.7 percent unemployment rate for February, announced last week. Meanwhile, Pennsylvania's unemployment rate... - [Harrisburg Patriot-News](#)

03-11-2013

**Lawmakers seek cosponsors for resolution on impeaching Joan Orié Melvin**

HARRISBURG — Two members of the House Judiciary Committee on Monday sent other House members a memo seeking cosponsors for a bipartisan resolution to investigate the conduct of suspended Supreme Court Justice Joan Orié Melvin and determine whether she should be impeached.... - [Pittsburgh Tribune-Review](#)