

**Malady & Wooten, LLP**

Legislative Report

September 6, 2013

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**Pennsylvania Golf Course Owners Association**

**LEGISLATIVE UPDATE**

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**Session Schedule:**

**2013 HOUSE SESSION SCHEDULE**

September 23, 24, 25, 30

October 1, 2, 15, 16, 17 (NV), 21, 22, 23

November 12, 13, 18, 19, 20

December 9, 10, 11, 16, 17, 18 (NV)

**2013 SENATE SESSION SCHEDULE**

September 23, 24, 25, 30

October 1, 2, 15, 16, 21, 22, 23

November 12, 13, 18, 19, 20

December 3, 4, 9, 10, 11

## **PA SENATE BILL 994 ADDRESSES CONCERNS HIGHLIGHTED AT SENATE SUBCOMMITTEE FIELD HEARING**

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MANHEIM, Pa.--(BUSINESS WIRE)--A Senate Subcommittee field hearing held on Tuesday, September 3, discussed the four key concerns that are the focus of the proposed **Pennsylvania Senate Bill 994 (SB 994)** legislation. The hearing, led by U.S. Senator Ben Cardin (D-MD), Chairman of the Subcommittee on Water and Wildlife, and Congressman John Sarbanes (MD-03) reviewed progress made by the EPA-administered Chesapeake Bay Program.

The hearing's discussion focused on progress toward Bay recovery and the effectiveness of current programs. The main points made by the speakers focused on accountability, transparency, cost and innovation. "SB 994 and the successful Colorado River Basin Salinity Control Project on which it was modeled, covers these same four points," noted Honorable Ed Schafer, former U.S. Secretary of Agriculture, Vice Chairman of Bion Environmental Technologies, Inc. and current chair of the Coalition for an Affordable Bay Solution.

SB 994, the Major Watershed Improvement Act, passed the PA Senate Committee on Agriculture and Rural Affairs in June and will be introduced to the full Senate in the Fall Session. The proposed legislation will provide a competitive bidding procurement program for the Commonwealth to acquire the most cost-effective verified nutrient reductions, regardless of source. To summarize the four key concerns:

- **Accountability:** SB 994 requires credits to be 'verified' by the PA Department of Environmental Protection (DEP) to alleviate the uncertainty in non-point source credits such as agricultural BMPs (best management practices) that are modeled on historical data. Certainty is higher for traditional point sources (wastewater treatment plants and industrial facilities) that are monitored, and lower for nonpoint sources (agriculture) that typically are not. Therefore, commencing October 2015, EPA and PA DEP will no longer accept best management practice modeled credits at face value and will require that they be discounted to properly reflect the real and tangible environmental reductions they provide.

According to EPA Technical Memorandum, Accounting for Uncertainty in Offset and Trading Programs (June 18, 2013), "EPA expects an uncertainty ratio equal to or greater than 2:1 be applied to transactions involving credits generated by nonpoint sources to mediate any uncertainty generated by assuming average hydrology." As for reductions from data-driven manure technologies, the EPA memorandum further states, "Where direct and representative monitoring of a nonpoint source is performed at a similar level as is performed at traditional NPDES point sources and there is a consistency in operation and direct and representative monitoring of the nonpoint source, an uncertainty ratio as low as 1:1 may be appropriate, provided the jurisdiction can demonstrate through monitoring data that adoption of a 1:1 ratio is justified in such circumstances."

- **Transparency:** Verified nutrient reductions will be acquired by Pennsylvania using science-based metrics vs. the current strategy that accepts modeled reductions and makes subjective conclusions

that are endorsed by invested stakeholders. Under SB 994, awards will be made solely on the basis of the most cost-effective proposals using price and other defined benefits such as local phosphorous or sediment reductions.

- **Cost:** SB 994 was designed to reduce the cost of nutrient compliance to both local freshwater and downstream basin water bodies. Its structure and projections of cost benefit were based upon the highly successful Colorado River Basin Salinity Control Project; the Chesapeake Bay Commission report, Nutrient Credit Trading for the Chesapeake Bay – an Economic Study (May 2012); and the Pennsylvania Legislative Budget and Finance Committee (LBFC) report, A Cost Effective Alternative Approach to Meeting Pennsylvania’s Chesapeake Bay Nutrient Reduction Targets (Jan 2013). The LBFC report projected that utilizing an upstream non-point source strategy could provide savings to PA taxpayers and rate-payers of up to \$1.5B annually by 2025. SB 994 will transfer project development and performance risk to the private sector that under the present system of financing is borne by the taxpayer and rate-payer. SB 994 requires payment to the credit vendor only after verified reductions have been certified by the DEP, ensuring that the taxpayer will no longer be required to underwrite the performance of projects.
- **Innovation:** SB 994 will enable the PA DEP to modify its Watershed Improvement Plan to procure verified nitrogen reductions under a competitive bidding program, enabling those verified reductions to be utilized as a substitute for reductions imposed under existing sector allocations, such as storm water. Numerous studies have documented that once nitrogen reductions are incorporated in storm water project requirements; the cost of those projects increases five- to tenfold. With the recent passage of PA SB 351 that enables local communities to form and fund storm water authorities to meet their clean water mandates, the spending fuse has been lit. Absent the passage and implementation of SB 994 or some other mechanism for verified nitrogen reductions to be sourced outside of those storm water initiatives, the PA LBFC report projection of excess compliance costs of \$1.5B by 2025 will become reality.

Little progress has been made in restoring the Bay over the last 30 years, other than to marginally keep up with growth while interior freshwater conditions and habitat continues to decline.

“The issue is not more funding,” says Schafer. “Innovation is needed to allow public funding to maximize its purchasing power using a public/private partnership (PPP) approach. SB 994 provides such an approach, enabling all sectors (public and private) to provide the lowest cost-based solution.”

The EPA Technical Memorandum states the obvious: Modeled reductions are simply not being reflected in measured results. The Chesapeake Bay Foundation’s statistics demonstrate that in spite of the hundreds of millions of dollars invested in reducing non-point sources, the programs have not been effective.

As Will Baker, President of the Chesapeake Bay Foundation, admitted at the hearing, “We do not have the luxury of time” to delay Bay cleanup. SB 994 provides for lower cost and more effective solutions for the Chesapeake Bay clean-up program.

For more information on Coalition for an Affordable Bay Solution, please visit [www.AffordableBaySolutions.org](http://www.AffordableBaySolutions.org).

## **MARYLAND, EPA, CHESAPEAKE BAY TRUST PROVIDE \$3.4 MILLION FOR GREEN INFRASTRUCTURE PROGRAM**

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BALTIMORE – U.S. Environmental Protection Agency Administrator Gina McCarthy and Maryland Governor Martin O'Malley today announced an expansion of the Green Streets, Green Towns, Green Jobs Initiative (G3) thanks to a joint investment of \$3.4 million by the State of Maryland, EPA, and the Chesapeake Bay Trust.

The G3 grant program, which is administered by the Chesapeake Bay Trust, helps support President Obama's Executive Order for Protecting and Restoring the Chesapeake Bay. Its purpose is to help municipalities and nonprofit organizations support projects that add green space and reduce stormwater runoff by using green infrastructure practices that increase tree canopy, capture and filter rainwater, and improve watershed protection, community livability, and economic vitality.

"Supporting investments in green jobs and green infrastructure is critical in our effort to help our economy, protect the environment, and reduce carbon pollution," said EPA Administrator Gina McCarthy. "EPA's expanded partnership with the State of Maryland and the Chesapeake Bay Trust will support projects to improve water quality and economic vitality in the region through the G3 program. This funding provides another example of Governor O'Malley's innovative leadership when it comes to meeting the State's commitments to restoring local waters and the Bay."

"We are very pleased to partner with the EPA and the Chesapeake Bay Trust in the G3 Initiative, which supports local greening efforts that improve our neighborhoods and our environment, and create green jobs," said Governor O'Malley. "Through this partnership we are making a significant investment in Maryland communities that will further our progress toward three critical goals: restoring our Bay, reducing our greenhouse gas emissions and expanding our forest cover."

Maryland's \$3 million investment comes from the urban tree canopy allocation in the State's FY '14 Chesapeake and Atlantic Coastal Bays Trust Fund which is administered by the Maryland Department of Natural Resources. EPA is providing \$300,000 and the Chesapeake Bay Trust is providing \$100,000 for G3 projects bringing the total of available funding to \$3.4 million over the next two years. By creating a one-stop shop, this collaboration will more effectively maximize resources and target funds, while reducing the administrative burden on local governments.

"Through the G3 initiative, the Chesapeake Bay Trust has been able to work with cities and towns throughout the region to implement meaningful stormwater management and greening projects that improve water quality and better local communities," said Jana Davis, executive director of the Chesapeake Bay Trust. "We are so pleased that the state of Maryland has joined as a partner in this initiative at such a strong scale, and look forward to working with them and the EPA to expand the scope of the program and its results."

"Stormwater is the fastest-growing water quality problem, for the Chesapeake Bay and across the country. We know that there are some useful approaches to the problem," said Senator Cardin, Chairman of the Senate Environment and Public Works Water Subcommittee. "Instead of relying only on the old, gray infrastructure, we can build our roads and cities to include permeable materials, non-structural alternatives, and other green infrastructure solutions. The grants being announced today support exactly these kinds of proactive solutions that can only be accomplished through strong federal-state and local partnerships."

"This partnership between the State of Maryland, the Chesapeake Bay Trust, and the EPA to expand the G3 program means that communities throughout the Bay watershed will have a helping hand in their efforts to become greener and more environmentally friendly," said Congressman Sarbanes. "Investing in

innovative solutions that improve the health of the Chesapeake Bay is good for our environment and our economy."

EPA and the Chesapeake Bay Trust created G3 in 2011 to support projects that reduce stormwater runoff through the creation of "green streets." A green street is one that minimizes the environmental impact of a roadway by practices such as reducing the amount of water that is piped directly into streams and rivers; creating rain gardens; installing urban tree canopy; using energy efficient lighting; and encouraging pedestrian and bicycle access. Green streets also provide aesthetic and economic benefits.

G3 projects increase stormwater management and treatment, empowering communities and states to better meet water quality goals, improving livability and walkability of communities, increasing tree canopy and air quality, and contributing to the economic well-being of communities through adding green elements to business districts and creating green jobs.

The Green Streets, Green Jobs, Green Towns grant program is open to local governments and nonprofit organizations interested in pursuing urban green stormwater infrastructure and green jobs as part of an integrated community or watershed plan.

For more information on the Green Streets, Green Jobs, Green Towns Grant Program, please visit [www.cbtrust.org](http://www.cbtrust.org)

## **COSPONSOR MEMOS**

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Rep. Benninghoff  
- [Property Tax Relief via Homestead Exclusion](#)

Rep. Mustio  
- [Workers' Compensation Act](#)

## **COMMITTEE HEARINGS**

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### **House Appropriations (PUBLIC HEARING)**

**TUESDAY - 9/17/13**

**9:00 a.m., National Park Service Museum & Visitors Center, Boeing Conference Room, 2nd Floor, 1195 Baltimore Pike, Gettysburg**

Public hearing on agricultural issues and tourism

### **House Agriculture and Rural Affairs**

**FRIDAY - 9/27/13**

**11:00 a.m., Bloomsburg University, Assembly Room, Upper Campus, 400 E. Second St, Bloomsburg**

Joint public meeting with House Tourism and Recreational Development Committee to discuss the impact of the Bloomsburg Fair on agriculture and tourism

## **BILL REPORT**

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

## STATE NEWS

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### WESTERN PA PRIVATE COLLEGES' STRATEGIES WORKING

Generous tuition discounts and aggressive recruitment campaigns are netting record freshman enrollments at some private universities in Western Pennsylvania while lower-cost, state-owned universities struggle. Duquesne University and Clarion University of Pennsylvania illustrate the conundrum: Duquesne, a private university where base tuition is \$28,913, welcomed its largest-ever freshman class this fall. Clarion, a state-owned university where base tuition is \$9,454, marks its fourth consecutive year of declining freshman enrollment.

### STATE GOVERNMENT WORKFORCE HAS SHRUNK SINCE JULY 1

Labor Day weekend found fewer state government employees on the state's payroll than existed on July 1. Since the start of the state's fiscal year, eight employees have been let go, said Dan Egan, a spokesman for the governor's Office of Administration. An unspecified number of other employees whose jobs were cut were placed in other positions in government agencies, Egan said.

### CORBETT WANTS FEDS ANSWER ON CHIP

Gov. Tom Corbett wants an answer in a week on whether the federal government will waive a requirement that tens of thousands of Pennsylvania children switch from a state-subsidized health insurance program to Medicaid. Corbett's letter says the lack of an answer is creating operational and systems challenges for the state, but a spokeswoman says the Republican governor isn't looking at suing if U.S. Health and Human Services Secretary Kathleen Sebelius refuses an exemption.

## IN THE NEWS

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- 09-04-2013 **[Wanted: Meaningful property tax reform](#)**  
Generations of Pennsylvania lawmakers have failed to reform the commonwealth's destructive over-reliance on local property taxes to fund education. Politically, the reason is simple. Leaving so much of the burden at the local level means it isn't a problem for the lawmakers themselves. They can... - [Wilkes-Barre Citizens' Voice](#)
- 09-03-2013 **[Alternative property tax bill emerges](#)**  
HARRISBURG - A new House bill designed to provide school districts with options to reduce or eliminate property taxes could get a green light for some action this fall. The measure, sponsored by Rep. Seth Grove, R-196, York, offers an alternative to a much-publicized bill to increase both the state personal... - [Scranton Times](#)
- 09-03-2013 **[Nutrient trading key to Chesapeake effort](#)**  
HARRISBURG - An effort to spread the burden for reducing pollution harming the Chesapeake Bay is getting new attention with separate proposals to expand the scope of an existing state program and introduce a different approach. Pennsylvania established its nutrient trading program to give sewage... - [Scranton Times](#)

## WEEK IN REVIEW

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- 09-06-2013 **[Sandusky prosecutor: Paterno not part of cover-up](#)**  
One of the attorneys who prosecuted the Jerry Sandusky child-abuse case said he found no evidence that former Pennsylvania State University football coach Joe Paterno participated in a cover-up of the allegations. In an interview Wednesday night on the Showtime program 60 Minutes Sports,... - [Philadelphia Inquirer](#)
- 09-06-2013 **[Court: Political caucuses have immunity from lawsuits](#)**  
Decision stems from contract fight between Senate Republicans and a Northampton County political consultant. HARRISBURG — Thomas Severson, the Pen Argyl campaign consultant once convicted of

minor campaign violations and harassing a political rival, lost another court battle Thursday.... - [Allentown Morning Call](#)

- 09-05-2013 **Court says lawsuit to keep Penn State fine money in Pennsylvania can proceed**  
HARRISBURG -- In a blow to the NCAA, a state court has ruled that a lawsuit by two Pennsylvania officials to keep Penn State University's landmark \$60 million fine in-state can proceed. The fine was imposed by the collegiate athletic association in the wake of... - [Pittsburgh Post-Gazette](#)
- 09-05-2013 **Slot machine revenue falls in August**  
Slot machine revenue fell 2.5 percent in August, despite the addition of a 12th Pennsylvania casino, the state Gaming Control Board said. Gross slot machine revenue was \$205.4 million. Nearly \$110 million was generated in tax revenue, the board said. Without the Lady Luck Casino Nemacolin, which opened July 1, slot machine... - [Levittown Intelligencer](#)
- 09-04-2013 **Overall state tax collections come in slower than anticipated in August**  
Amidst a report of lower than anticipated state revenue collections for August could be found a bit of good news. The state Department of Revenue reported that sales tax receipts came in at \$761.4 million, which is \$21.5 million above estimate. This revenue source is the one that officials at the state's... - [Harrisburg Patriot-News](#)
- 09-04-2013 **On Tap in Harrisburg: Liquor privatization, transportation and more**  
By Eric Boehm and Melissa Daniels | PA Independent Click to enlarge HARRISBURG — Lawmakers have a full plate, but the real question is whether they are hungry. After spending summer back home in the district and attending the occasional hearing, the General Assembly will reconvene on Sept. 23 for the... - [Primos Delaware County Daily and Sunday Times](#)
- 09-03-2013 **Ruling may make open records process more complex, costly**  
Execution of Pennsylvania's open records law just got more complex. And more costly. And more time-consuming. Pennsylvania's Supreme Court has endorsed wide authority for state courts to determine whether government records should be released publicly. The ruling, in a matter involving a Pittsburgh tribune-Review reporter who... - [Williamsport Sun-Gazette](#)
- 09-03-2013 **PennDOT chief, U.S. congressman to make Western Pa. trip in driverless vehicle**  
PennDOT Secretary Barry Schoch and U.S. Rep. Bill Shuster, chairman of the House Transportation and Infrastructure Committee, said they will travel Wednesday between Cranberry and Pittsburgh International Airport in a driverless vehicle. Shuster, R-Hollidaysburg, said the 30-mile route will include highways,... - [Pittsburgh Tribune-Review](#)