
WUC

Water Utility Council of the
PA-Section, American Water
Works Association (PA-AWWA)



GOVERNMENT RELATIONS UPDATE

From Milliron & Goodman Government Relations, LLC.

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*PA- Section, American Water Works Association
National Association of Water Companies
Water Works Operators' Association of Pennsylvania*

Final Rulemaking: Safe Drinking Water General Update and Fees (25 Pa. Code Chapter 109)

The Department of Environmental Protection (DEP) has completed its preparation of the Safe Drinking Water General Update and Fees final rulemaking and has submitted the rulemaking to the Environmental Quality Board (EQB) for consideration at the EQB's April 17, 2018 meeting.

You may access the rulemaking package on the [EQB's 2018 Meetings page](#).

Included in the rulemaking package is a comment and response document, which includes responses from DEP to all comments received on the rulemaking during the public comment period.

If you have any questions concerning the rulemaking or any other regulatory initiative, please contact Laura Edinger, Regulatory Coordinator at ledinger@pa.gov.

Source: DEP, 4/6/2018

Revenue Department Releases March 2018 Collections

Pennsylvania collected \$4.3 billion in General Fund revenue in March, which was **\$274.2 million, or 6 percent, less than anticipated**, Revenue Secretary Dan Hassell reported. Fiscal year-to-date General Fund collections total \$25.3 billion, which is **\$221.7 million, or 0.9 percent, above estimate**.

March corporation tax revenue was \$2.2 billion, \$121.4 million below estimate. Year-to-date corporation tax collections total \$3.7 billion, which is **\$151.9 million, or 3.9 percent, below estimate**.

Corporate net income tax (CNIT) for the month was **\$135 million below estimate**. The department expects that part of this shortfall could be made up in May when annual CNIT payments are due.

For the other corporation taxes, **gross receipts tax** was **\$80.2 million below estimate**. **Financial institutions taxes** - which includes bank shares and mutual thrift institutions taxes - and **insurance premiums tax** were **\$95.2 million above estimate**.

Sales tax receipts totaled \$787.1 million for March, \$9 million below estimate. Year-to-date sales tax collections total \$7.6 billion, which is **\$13.4 million, or 0.2 percent, less than anticipated.**

Personal income tax (PIT) revenue in March was \$1.1 billion, \$23.1 million below estimate. This brings year-to-date PIT collections to \$9.3 billion, which is **\$115.1 million, or 1.3 percent, above estimate.**

Inheritance tax revenue for the month was \$89.5 million, \$14.7 million below estimate, bringing the year-to-date total to \$718.7 million, which is **\$16.9 million, or 2.3 percent, below estimate.**

Realty transfer tax revenue was \$40.3 million for March, \$5.7 million above estimate, bringing the fiscal-year total to \$374.8 million, which is **\$4.2 million, or 1.1 percent, more than anticipated.**

Other General Fund tax revenue, including cigarette, malt beverage, liquor and gaming taxes, totaled \$70.2 million for the month, \$14.2 million below estimate. That brings the year-to-date total to \$1.3 billion, which is **\$18.3 million, or 1.4 percent, below estimate.**

Non-tax revenue, which includes gaming fees, is \$97.4 million below estimate for the month. The revenue estimate included \$70 million from iGaming license fees, which are now expected to be received in fiscal year 2018-19. In addition, a winter storm required the auction of a Category 4 license to be rescheduled for April 4, 2018. Collections through February from the Category 4 licenses were **\$84.5 million above estimate.**

In addition to the General Fund collections, the **Motor License Fund** received \$191.1 million for the month, \$41.6 million below estimate. Fiscal year-to-date collections for the fund - which include the commonly known gas and diesel taxes, as well as other license, fine and fee revenues - total \$2.1 billion, which is **\$11.7 million, or 0.5 percent, above estimate.**

Source: Department of Revenue Press Release, 4/2/2018

Pennsylvania 811 Celebrates Eleventh Annual National Safe Digging Month

Pennsylvania 811 encourages state residents to always dial 8-1-1 three business days before digging.

This April marks the eleventh annual National Safe Digging Month, reminding Pennsylvania residents to always dial 8-1-1 three business days before any digging project. National Safe Digging Month is formally recognized by the U.S. House of Representatives and Senate and has traditionally earned the support from nearly every state governor across the country. Within the Commonwealth of Pennsylvania, National Safe Digging Month is also supported by almost 300 local government entities: cities, townships, municipalities, and county governments. (See the map [here](#).)

Every nine minutes an underground utility is at risk of damage. Dial 8-1-1 before you dig!

When dialing 8-1-1, homeowners and contractors are connected to Pennsylvania 811, the local one call center, which notifies the appropriate utility companies of their intent to dig. Professional locators are then sent to the requested digging site to mark the approximate locations of underground lines with colored flags, paint or both.

An underground utility is damaged every nine minutes because someone decided to dig without first dialing 8-1-1. Striking a single line can cause injury, incur repair costs, fines and inconvenient outages. Every digging project, no matter how large or small, warrants a call to 811. Installing a mailbox, building a deck and planting a tree are all examples of digging projects that should only begin three business days after a call to 811.

"As April marks the traditional start of digging season, we are using this month to strongly encourage individuals and companies to dial 8-1-1 before they begin digging," said Bill Kiger, President & CEO. "By dialing 8-1-1 three business days in advance to have the underground utility

lines in their area marked, homeowners and professional excavators are making an important decision that can help keep them and their communities safe and connected."

The depth of utility lines can vary for a number of reasons, such as erosion, previous digging projects and uneven surfaces. Utility lines need to be properly marked because even when digging only a few inches, the risk of striking an underground utility line still exists.

Pennsylvania 811 encourages residents to visit www.pa811.org or www.palcall.org for more information about safe digging.

Source: Pennsylvania 811, 4/2/2018

Law Providing Oversight of Pittsburgh Water and Sewer Authority Now in Effect

A law which places the Pittsburgh Water and Sewer Authority (PWSA) under the oversight of the Public Utility Commission (PUC) went into effect (4/1/2018), said House Speaker Mike Turzai (R-Allegheny).

Over the last year, local and national newspapers have recounted many service issues facing PWSA. They include multi-million dollar debt and uncollectible accounts, unmetered accounts, incorrect billing, system leaks, and thousands of lead service lines, many of which have not been identified or located. They have been cited with non-compliance by the Environmental Protection Agency for Clean Water Act violations. These issues call into serious question the sustainability of PWSA and the health and safety of those served by the system.

"The Pittsburgh Water and Sewer Authority has been grossly mismanaged," said Turzai. "The state had to step in. Working in a bipartisan fashion with my good friend, Rep. Harry Readshaw, we knew something needed to be done. We developed a solution that will provide more oversight, ensure fiscal responsibility and demand best practices. The authority needs to be held to the same standards as the private sector."

While Act 65 of 2017 was signed into law on Dec. 21, 2017, the law became effective on April 1, 2018, to allow the PWSA and the PUC time to prepare for the transition. On March 15, 2018, the PUC approved the Final Implementation Order by a 5-0 vote. The order details ratemaking, tariff approval, compliance plans, infrastructure improvements, consumer protections and other issues related to the implementation of Act 65.

"The PUC's professionalism and grasp of the issues facing the PWSA has been outstanding and underscores that they are the appropriate entity to step in and provide the necessary oversight," said Turzai. "We have been receiving updates from the commissioners on their progress, and we look forward to continuing with an open line of communication."

A consultant's report issued in August 2017 by Infrastructure Management Group called the PWSA "a failed organization atop a dangerous and crumbling structure." The report noted a dysfunctional culture at the authority and exposed the fact that about 20 percent of PWSA's 250 employees are out of work on short-term disability.

In addition, a November 2017 performance audit released by the state auditor general's office highlighted several of the deficiencies with the PWSA's operation. They include:

- Under a 1995 agreement with the city, the PWSA is required to provide 600 million gallons of free water each year. However, the PWSA does not track how much water the city uses annually because many city-owned properties are not metered.
- Between 2012 and 2016, PWSA's financial position went from a positive balance of \$7.7 million to a negative balance of \$15.7 million.
- As of Dec. 31, 2016, PWSA has a debt load of \$842.5 million, which has grown by \$43.2 million since Dec. 31, 2012.
- PWSA is not able to bill for approximately 50 percent of clean water its system produces due to leaky pipes and unbilled accounts.

- Since 2014, four individuals have served as executive director.
- Billing irregularities frequently occur, including a complete lack of billing for thousands of customers for a period of several months arising from changes in PWSA's billing system and the installation of new meters.

Source: Rep. Turzai Press Release, 4/2/2018

DEP Issues New CAFO General Permit

The Pennsylvania Department of Environmental Protection (DEP) has released a new general permit, PAG-12, for NPDES permit coverage to persons operating concentrated animal feeding operations (CAFOs) in Pennsylvania. The previous PAG-12 General Permit was set to expire on March 31, 2018.

"This updated PAG-12 will streamline and clear up some requirements for farmers, while also improving water quality by strengthening protections for manure storage and leak detection," said DEP Secretary Patrick McDonnell.

Notable changes to PAG-12 include:

- Electronic submission of Annual Reports, when required by DEP
- Annual inspections of earthen storage facilities and sampling of leak detection systems
- Changing the reporting period from "calendar year" to "crop year" (October 1 - September 30)
- Updated forms to comply with EPA requirements and elimination of duplicative and conflicting requirements

The new permit includes a \$500 annual Notice of Intent (NOI) fee starting no earlier than January 1, 2020, but has eliminated the proposed initial NOI fee of \$500 for new CAFOs. The annual fees would be paid to the Clean Water Fund for the purpose of supporting DEP's pollution control efforts.

DEP held a 30-day comment on proposed changes to the new permit from January 20 -

February 20, 2018. All comments received during the comment period and DEP's responses to those comments are included as part of the PAG-12 materials. Other changes are described in the fact sheet for the PAG-12 General Permit, which can be found on the DEP eLibrary with the other PAG-12 materials:

<http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4740>

Source: DEP Press Release, 3/29/2018

EPA plans to host a National Leadership Summit in Washington, D.C. to take action on Per- and Polyfluoroalkyl Substances

PFAAS is a category of man-made chemicals that have been widely used to make products because of their stain-resistant, waterproof and/or nonstick properties.

"EPA's leadership summit will bring together stakeholders from across the country to build on the steps we are already taking and to identify immediate actions to protect public health," said Administrator Pruitt.

<https://www.epa.gov/newsreleases/epa-convening-national-leadership-summit-take-action-pfas>

Source: EPA Newsletter, 4/2/2018

Bill Would Require DEP to Replace Delaware, Susquehanna River Basin Commissions in Regulating Groundwater

Rep. Dan Moul (R-Adams) reserved [House Bill 2222](#) for the purpose of introducing legislation to have the Department of Environmental Protection replace the interstate

Delaware and Susquehanna River Basin Commissions in the regulation of groundwater and extend that authority statewide.

The bill would also require DEP to submit any new or amended regulations to regulate groundwater to the House and Senate Environmental Resources and Energy Committees for their approval before the regulations could be promulgated.

This procedure is substantially different from the detailed review procedures established under the Regulatory Review Act which requires no legislative approval before regulations are allowed to proceed.

In a [co-sponsor memo](#) circulated to House colleagues in February, Rep. Moul said, “Currently, there are several entities that issue this type of [groundwater] regulation including the DEP and the Susquehanna and Delaware River Basin Commissions.

“This joint authority often requires water users to engage in duplicative efforts in attempting to comply with overlapping regulations, leading to great expense to the water users in our communities.”

[Note: DEP has no statutory authority to regulate the withdrawal of groundwater. It only has authority to regulate the [withdrawal of water by supply water companies](#) from surface water sources.

[DEP [can only collect information](#) on how much water is being withdrawn from surface and ground water sources under the [Water Resources Planning Act of 2002](#).

[In fact, the 2002 Act specifically says, “Nothing in this paragraph shall be construed to authorize a delegation to the Statewide committee or the department of any power to regulate, control or require permits for the withdrawal or use of water.”

[In addition, no state or federal statutory authority exists to regulate the withdrawal of ground or surface water from sources in the Ohio

River Watershed in the entire Western part of the state.

[Both the Susquehanna and Delaware River Compacts has explicit authority to regulate ground and surface water withdrawals in their respective areas.]

Rep. Moul’s memo went on to say, “My legislation would make DEP the exclusive authority to regulate groundwater within the Commonwealth and to impose fees, fines or penalties on the use, withdrawal, or retention of groundwater.”

The idea for this legislation came from a series of hearings by the House State Government Committee last year prompted by Rep. Moul who alleged the Susquehanna River Basin Commission fees and other requirements went beyond its authority.

Rep. Daryl Metcalfe (R-Butler), Majority Chair of the Committee, went so far as to say the members of the General Assembly who originally adopted the Susquehanna River Basin Compact [were either incompetent, negligent or corrupt](#).

Click [here](#) for a sponsor summary. No bill text is yet available online.

Source: PA Environmental Digest, 4/9/2018

House Committee Meets April 11 on Alternative Ratemaking Bill to Encourage Conservation, Renewable Energy

The House Consumer Affairs Committee is scheduled to meet April 11 to consider [House Bill 1782](#) (Delozier-R-Cumberland) authorizing alternative ratemaking for electric and natural distribution companies to encourage energy efficiency improvements, distributed and renewable energy projects ([sponsor summary](#)).

The Committee [held a hearing on the legislation November 20](#) and heard a variety of conflicting comments on the proposal.

Public Utility Commissioner Andrew Place told the Committee the Commission has been actively studying the alternative ratemaking issue since it approved a Secretarial Letter in December of 2015 soliciting comments on the issue.

Place said the PUC is neutral on the legislation, but urged the Committee to review the language of the bill to determine how to resolve conflicts with existing law on issues like improper single-issue ratemaking, retroactive ratemaking and violation of the just and reasonable rate standard.

Terry Fitzpatrick, President of the Energy Association of PA, said his group supports the legislation because it modernizes the state's current utility ratemaking system, but notes the bill does not mandate alternative ratemaking and the flexibility for more competitive pricing of energy.

Greg Dudkin, President of PPL Utilities, supported the legislation saying decoupling with multi-year rates will best provide for consumers because of the reliability of pricing, price-adjustment refunds and accessibility to energy conservation measures. Click [here](#) for more.

Bill Roland, Director of Government Affairs for Peoples Natural Gas, said they see House Bill 1782 as a way to help customers and expand the economy, adding because of the changing dynamics of energy use, flexibility in pricing is needed for customers.

Eric Miller, Director of Policy for the Keystone Energy Efficiency Alliance, said the legislation is a critical step to getting away from a rate model that compensates utilities based on how much energy they sell and not necessarily the other services like energy conservation.

Tanya McCoskey, Acting PUC Consumer Advocate, said alternative ratemaking mechanisms “pose significant risks to Pennsylvania ratepayers by disrupting this careful balance” of utility benefits and consumer protections.

John Evans, PUC Small Business Advocate, echoed McCoskey's concerns and said the legislation is not needed.

John Cox, Director of Rates and Regulatory Affairs at PA American Water, also supported the bill recommending the bill be expanded to operators of water and wastewater facilities.

He added because of the overall decrease in water use, the current utility rate structure penalizes conserving water because the price minimizes the effect of being resourceful. Decoupling also limits rate shock and provides revenue directly for infrastructure improvements.

The meeting will be held in Room B-31 Main Capitol and will be called Off the Floor Wednesday when the House takes a break. Committee meetings are typically webcast through the House Republican Caucus [website](#).

Rep. Robert Godshall (R-Montgomery) serves as Majority Chair of the Committee and can be contacted by calling 717-783-6428 or sending email to: rgodshal@pahousegop.com. Rep. Thomas Caltagirone (D-Berks) serves as Minority Chair and can be contacted by calling 717-787-3525 or sending email to: RepCaltagirone@pahouse.net.

Source: PA Environmental Digest, 4/9/2018

EPA Directly Soliciting Applications for Water Infrastructure Project Loans

The U.S. Environmental Protection Agency this week announced it is now accepting [applications for an estimated \\$5.5 billion in loan funding for water and wastewater infrastructure projects](#), including green infrastructure projects, under the federal Water Infrastructure Finance and Innovation Act. The deadline for letters of interest is July 6.

Eligible applicants include local, state, tribal, and federal government entities, partnerships and joint ventures; corporations and trusts; nonprofit groups

and Clean Water and Drinking Water State Revolving Fund programs.

Eligible projects include:

- Any projects eligible for [Clean Water](#) -- including green infrastructure projects -- and [Drinking Water](#) State Revolving Fund program funding;
- Enhanced energy efficiency projects at drinking water and wastewater facilities;
- Brackish or seawater desalination, aquifer recharge, alternative water supply, and water recycling projects;
- Drought prevention, reduction, or mitigation projects;
- Acquisition of property if it is integral to the project or will mitigate the environmental impact of a project; and
- A combination of projects secured by a common security pledge or submitted under one application by an SRF program.

Minimum project size:

- \$20 million: Minimum project size for large communities;
- \$5 million: Minimum project size for small communities (population of 25,000 or less); and
- 49 Percent: Maximum portion of eligible project costs that WIFIA can fund.

WIFIA is being managed by program staff located in EPA headquarters. All questions should be directed to EPA headquarters staff at: wifia@epa.gov, and all application materials will be submitted to EPA headquarters. EPA regional staff may assist with the process including coordination with State Revolving Fund programs in their region.

For all the details, visit EPA's Water Infrastructure Finance and Innovation Act [webpage](#).

Source: PA Environmental Digest, 4/9/2018

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