



# CHESAPEAKE BAY COMMISSION

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2011 General Assembly Sessions  
Maryland, Virginia & Pennsylvania

## Maryland

Chesapeake Bay Related Legislation (all passed and signed into law by the Governor)

### Water Quality

#### **Senate Bill 487/House Bill 573, - Fertilizer Use Act of 2011**

Del. Hubbard, Del. Wood, Sen. Middleton, Sen. Frosh

Maryland's recently completed Phase I Watershed Implementation Plan (WIP), the initial plan for meeting Maryland's share of the Chesapeake Bay Total Maximum Daily Load or "pollution diet," includes recommendations related to fertilizer use. Senate Bill 487/House Bill 573 address a number of the strategies related to lawn fertilizer use in the WIP. The bill modifies the scope of application of an existing low phosphorous fertilizer requirement and establishes fertilizer content and application requirements and restrictions, which take effect October 1, 2013, that further limit the amount of phosphorus, and limit the amount of nitrogen, that can be included in fertilizer labeled or offered for sale for use on turf and applied to turf. The requirements and restrictions include:

- specified limits on the amount of nitrogen that fertilizer labeled or offered for sale for use on turf can contain and a requirement that at least 20% be slow-release nitrogen;
- separate nitrogen limits applicable to "enhanced efficiency fertilizers" labeled or offered for sale for use on turf;
- a restriction against fertilizer labeled or offered for sale for use on turf containing any phosphorus, except for organic and natural organic fertilizer sold to a professional fertilizer applicator or when labeled or intended for specific uses on turf;
- restrictions against application of fertilizer intended for use on turf to an impervious surface;
- a restriction against applying fertilizer containing phosphorus or nitrogen to turf before March 1 or after November 15, with the exception of water-soluble nitrogen applied at a specified rate by a professional fertilizer applicator from November 16 through December 1; (2) any time the ground is frozen; or (3) generally within 15 feet of waters of the State (for certain application methods, the limit may be reduced to 10 feet);
- a requirement that a professional fertilizer applicator be certified before applying fertilizer to turf, unless the person is under the direct supervision of a certified professional fertilizer applicator.

#### **Senate Bill 320/ House Bill 53 Phosphorus - Commercial Dishwashing Detergent.**

Del. Hubbard

Prohibiting a person from using, selling, manufacturing, or distributing for use or sale *commercial* dishwashing detergents that contain greater than 0.5 percent phosphorus by weight after July 1, 2013. (MD passed this prohibition for *household* detergent effective in July 2010.) Fine for use is \$100; Fine for sale, manufacture, or distribution of the detergent is up to \$1,000; penalties also apply to use sale, manufacture, or distribution of other cleaning agents with phosphorus.

**Senate Bill 751** Increases these penalties as applied to household dishwashing detergents to a maximum of \$1,000 for a first offense and between \$1,000 and \$25,000 for a subsequent offense, for a person who knowingly violates the prohibitions.

**Senate Bill/ House Bill 57** Bay Restoration Fund - Authorized Uses

Authorizes use of BRF funds to connect properties served by septic systems to existing municipal wastewater facilities.

**Land Conservation**

**Senate Bill 513** Maryland Estate Tax - Payment Deferral for Qualified Agricultural Property - Extension of Payment Deferral

Sen. Middleton

Authorizes the Comptroller to grant an extension of the deferred estate tax payment period allowed for qualified agricultural property. To qualify for an extension, the recipient must have a pending application to place the land on which the deferred estate tax is due under a permanent land conservation easement with the Maryland Agricultural Land Preservation Foundation, the Rural Legacy Board, or a similar easement purchase program.

(Background) Chapter 554 of 2010 required the Comptroller to allow a payment deferral for up to three years for the Maryland estate tax imposed on qualified agricultural property that passes from a decedent to or for the use of a qualified recipient. The provision allowing an interest-free deferral of estate taxes of up to \$375,000 expires June 30, 2014

**Senate Bill 421** Increases the maximum percentage (from 75% to 100%) of POS funds that a local government may spend on development projects

once it has attained its acreage acquisition goals and repeals a five-year limit on the period of time during which the POS funds may be used for such projects. Counties that qualify to use funds for development projects must use 25% of the funds only for land acquisition, repair or renovation of existing recreational facilities or structures, or capital renewal. The bill takes effect June 1, 2011, and terminates May 31, 2014.

**Senate Bill 849/ House Bill 1025** Consolidates State land acquisition and

planning functions related to open space, recreation, conservation, and other purposes in the Natural Resources Article, within DNR. Authority to negotiate State POS land acquisitions is transferred from the Department of General Services to DNR. Also, responsibility for preparation of the State's Land Preservation, Parks, and Recreation Plan is transferred from the Maryland Department of Planning to DNR. Finally, transfers of property within the Executive Branch of the State government are made exempt from independent appraisal requirements

**House Bill 890** Requires that consideration be given to conserving land that drains into a reservoir in the State when local governments prioritize applications for MALPF easements and the Secretary of Natural Resources allocates State POS funds.

**House Bill 214** Gives the MD Agricultural Land Preservation Foundation sole responsibility for establishing the Critical Farms Program and determining, with county approval, if a property qualifies for the program. Under the bill, the program's objectives to acquire agricultural preservation easements on critical farms are accomplished through either a purchase of an easement option from an owner or purchaser of a critical farm or the purchase of a fee simple interest in property and the sale, lease, exchange, or transfer of the property, with an agricultural land preservation easement in place. The program's objectives are financed by a Critical Farms Fund, which is established under the bill. The bill authorizes the Governor to include in the annual budget an appropriation to the Critical Farms Fund consistent with the Agricultural Stewardship Act of 2006 (Chapter 289). The Act expressed legislative intent that the Governor provides \$20.0 million annually in general funds for MALPF to be used for, among other things, the Critical Farms Program.

## Natural Resources

**Penalties for Poaching Crabs and Striped Bass:** In January, 2011, DNR and Natural Resources Police (NRP) officers confiscated more than 10 tons of illegally caught striped bass from four illegally anchored gill nets near Bloody Point Light, south of Kent Island, in the Chesapeake Bay. This event forced DNR to temporarily shut down the striped bass gill net season. In response, the General Assembly passed a number of bills to increase the penalties for poaching fish.

**House Bill 1252** Establishes a new misdemeanor charge for capturing over \$20,000 worth of striped bass, as determined by the proceeds of the unlawful capture, as a result of using unlawful gear, harvesting during closed seasons, harvesting from a closed area, violating established harvest, catch, or size limits, or violating tagging and reporting requirements.

**House Bill 1225/ and Senate Bill 655** Establishes a new misdemeanor charge for

(1) committing a separate violation related to a suspended or revoked commercial license while the commercial fishing license or authorization is suspended or revoked; and (2) engaging in commercial fishing without holding the appropriate license or authorization. In addition to other applicable penalties, a violator is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year, a fine not exceeding \$25,000, or both, with costs imposed in the discretion of the court.

**House Bill 273/ and Senate Bill 159**

Sen . Frosh

**Requires DNR to revoke a tidal fish license for commercial oyster harvesting for the following offenses:**

(1) taking oysters located more than 200 feet within a closed or prohibited area; (2) taking oysters with gear prohibited in that area; (3) taking oysters by more than one hour outside of a time restriction; (4) taking oysters during closed seasons; and (5) taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

**Senate Bill 414/House Bill 396**

Sen. Frosh

**Authorizes Natural Resources Police officers to issue electronic citations for offenses. The bill also allows any police officer to inspect commercial fishing vessels,** vehicles used to transport fish for commercial purposes, and fish businesses owned or operated by a licensee. Inspections are restricted to inspections of fishing gear and places where fish may be stored. Inspections of businesses may not include a dwelling house

**House Bill 111** Authorizes the Secretary of Natural Resources, to adopt regulations to define and govern the use of recreational fishing gear and specific commercial fishing gear (namely fish pots, bank traps, fyke nets, and hoop nets). DNR must consider relevant biological, ecological, and socioeconomic factors before adopting the regulations. (While DNR has authority to regulate fishing gear for specific species under individual fishery management plans, it lacks the authority to address broad gear issues.)

## Aquaculture

**Senate Bill 847/House Bill 1053** Establishes DNR as the lead State agency for (1) permits; (2) promoting, coordinating, and marketing aquaculture and aquaculture products; and (3) enforcing laws, regulations, and rules. (Several State agencies had responsibility for programs related to the promotion and regulation of shellfish aquaculture in the State- MDA, MDE and Board of Public Works)

**House Bill 208** Aquaculture Enterprise Zones (AEZs), established by DNR, are areas of the bay approved for the leasing of submerged land or the water column for cultivating oysters or other shellfish for commercial purposes. AEZ's cannot be located within 150 feet of an oyster sanctuary- this bill adds to that limit by prohibiting a sanctuary within 150 feet of a "Yates Bar", which is any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, excluding amendments. This will result in an estimated **20% increase in leasable acreage in the bay**. The bill also authorizes DNR to resurvey any submerged area of the State to determine the position and extent of any natural oyster bar and amend existing charts or coordinates by regulation to make any natural oyster bar location or submerged land condition accurate.

## **Renewable Energy**

HB 860 /SB 380 Electricity - Net Energy Metering  
Sen.'s Frosh, Middleton

Alters the net energy metering program by changing the way most eligible customer-generators may accrue credits from excess generation from a dollar basis back to a kilowatt-hour basis. Eligible customer-generators may accrue net excess generation for a 12-month accrual period and electric companies must carry forward net excess generation until the customer's electricity consumption eliminates the net excess generation or the 12-month accrual period expires.

Calculating the net excess monthly generation on a kWh basis, instead of a dollar basis, will allow a customer to recover 100% of excess electricity generated in a given month at a later time, instead of less than 50% (calculated at PJM wholesale, excluding transmission and distribution charges) of the value, as provided under current law.

House Bill 275 Public Utilities- Net Energy Metering - Hydroelectric

Including in the definition of eligible customer-generators that are eligible for net energy metering a customer that uses a specified type of hydroelectric generating facility; and defining "closed conduit hydro".

**Senate Bill 690** Renewable Energy Portfolio-Waste-to-Energy and Refuse-Derived Fuel  
Sen. Middleton

Alters the Renewable Energy Portfolio Standard (RPS) to designate energy from waste-to-energy as a Tier 1 renewable source rather than Tier 2 renewable source. The bill also adds refuse-derived fuel as a Tier 1 renewable source. Refuse-derived fuel, not currently a Tier 2 renewable source, is created from municipal solid waste by finely shredding the material before combustion. The bill provides a significant monetary incentive, in the form of Tier 1 RECs, to the owners of existing waste-to-energy facilities, future planned waste-to-energy and refuse-derived fuel facilities. These facilities, an alternative to land filling trash, must comply with clean air standards.

**Senate Bill 691/House Bill 590** State law did not allow a nonelectric company (ie "person) to obtain a CPCN for a transmission line. This bill specifies that a *person* ( rather than an electric company ) must obtain a CPCN from PSC to construct a qualified generator lead line. A "qualified generator lead line" is an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company. A person may not apply for a CPCN to construct a qualified generator lead line unless the person offered the electric company that owns the portion of the grid to which the qualified generator lead line would interconnect the right of first refusal to construct the qualified generator lead line.

## **Agriculture**

**House Bill** Invasive plants can put pressure on native plants and animals, alter habitats, and reduce biodiversity. HB 831 Establishes the Invasive Plants Advisory Committee in the Department of Agriculture to advise the Secretary of Agriculture in adopting regulations related to invasive plants and to review and report on a science-based risk assessment protocol for invasive plants required to be established under the bill. MDA must adopt regulations establish a science-based risk assessment protocol for invasive plants on which to base the establishment of specified tier 1 and tier 2 plant lists. MDA must adopt regulations to establish tier 1 and tier 2 plant lists.

**Senate Bill 607/House Bill 881** Waste Kitchen Grease- Biofuels

In recent years, as oil prices soar, there has been a growing problem with the theft of restaurant grease which has become a valuable commodity in producing biofuels. Similar to a law enacted in Virginia in 2010, this bill requires a person to register annually with MDA before transporting waste kitchen grease, unless the person falls under specified exemptions for the transportation of limited quantities of waste kitchen grease for small-scale production of biofuel. Each registrant must carry a registration certificate containing a unique registration number issued by MDA when transporting waste kitchen grease, conspicuously display the registrant's name on any vehicle used to transport waste kitchen grease, and keep records of the source, destination, date, and volume of waste kitchen grease hauled.

**House Bill 817** Requires MDE to maintain information on its website to educate the public about composting and to promote composting in Maryland as a part of MDE's efforts to encourage waste diversion. According to EPA, yard trimmings and food residuals together constitute 26% of the U.S. municipal solid waste stream.

**MISCELLANEOUS**

**Electric Vehicle Charging Program**

**Senate Bill 179/House Bill 164 (both passed)** are Administration bills that require PSC to establish by regulation or order, by June 30, 2013, a pilot program for electric customers to recharge electric vehicles during off-peak hours. PSC must make every effort to involve at least two electric companies in the pilot program, and an electric company may request to participate. The pilot program must include incentives for residential, commercial, and governmental customers to recharge electric vehicles. The incentives should increase the efficiency and reliability of the electric distribution system and lower electricity uses at times of high demand. The incentives may include time-of-day pricing; credits on distribution charges; rebates on the cost of charging systems; demand response programs; or other incentives approved by PSC.

**TASK FORCES AND INTERIM STUDIES:**

**Task Force on Sustainable Growth and Wastewater Disposal- Formed by Executive Order of Governor O'Malley**

**Senate Bill 160/House Bill 177. Sen Frosh (both failed)** would have required all new septic systems in the entire *watershed* of the Chesapeake and Atlantic Coastal Bays, to be BAT for nitrogen removal ( currently new and replacement systems in the Critical area must be upgraded to BAT ) The bills also would have required MDE to assist homeowners in upgrading septic systems if sufficient funds had been available from the Septics Account.

Governor Martin O'Malley joined Delegate Maggie McIntosh, Chair of the House Environmental Matters Committee, and CBC member, for the signing of The Executive Order to create a Task Force composed of a broad cross-section of representatives from business, agriculture, science, environmental advocacy and government to study the issue of the use of septic systems in Maryland, and the extent to which they contribute to the pollution of the Chesapeake Bay.

## **INTERIM STUDY**

### **Offshore Wind Generators**

**Senate Bill 861/House Bill 1054 (both failed)** were Administration bills that would have required PSC to order the State's four investor-owned electric companies to enter into a long-term ( at least 20 years) power purchase agreement with one or more qualifying offshore wind generators. The bills would have required PSC to establish a nonbypassable surcharge or other mechanism to ensure costs or savings associated with a power purchase agreement are shared equitably among all customers across all distribution territories, with some exceptions. Due to concerns about the increased cost of power-purchase agreements with offshore wind generators, the bills were held for further study in the legislative interim.

**MARCELLUS SHALE-** MDE has received three permit applications for drilling in the Marcellus Shale that are currently active. Several bills were introduced that failed. One bill would have required a permit applicant to make environmental, public health, emergency response, and financial security demonstrations to MDE before getting a permit.

Another bill would have required MDE and DNR to study of the extraction of natural gas from shale formations in the State before a permit could be issued in 2013.( with some exceptions) It would also have required persons who acquired a gas interest in Allegany or Garrett counties to pay a fee based on the acreage of the interest acquired. Fee revenue would have been deposited into MDE's Oil and Gas Fund and used to pay for the required study.

The other bill would have required MDE to submit regulations to address a water testing plan to ensure drinking water resources are protected, the containment and disposal of fluid used in hydraulic fracturing processes, the identification of all chemicals and materials used in hydraulic fracturing processes, a prohibition on unregulated discharge of drilling materials and fluids, and site reclamation and bonding requirements to the Joint Committee on Administrative, Executive, and Legislative Review by December 31, 2011.

## **FUNDING FOR CHESAPEAKE BAY RESTORATION**

### **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund**

The revenue comes from a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals and focuses limited financial resources on the most effective non-point source pollution control projects. Also used to promote the development of new technologies that could accelerate Bay restoration efforts

2012 Funding- \$23.5 million

Projections: 2013 - \$30.0 million; 2014 - \$35.0 million; 2015- \$40.0 million;  
2016- \$45.0 million

**RESULTS:** In its third year, the Trust Fund has targeted over \$38M resulting in a total of 1.5 millions lbs of nitrogen, 117,000 lbs of phosphorus, and 111 tons of sediment reduced from the Bay watershed.

## **Virginia**

Chesapeake Bay Related Legislation (all passed and signed into law by the Governor)

### **Fertilizer Content**

SB 1055 Fertilizer; regulation of application and labeling, report.



Senators Richard H. Stuart, Ryan T. McDougle, Mary Margaret Whipple, David W. Marsden, Jeffrey L. McWaters, Ralph S. Northam, Delegates Edward T. Scott, David L. Bulova, Kaye Kory, Harvey B. Morgan, Kenneth R. Plum, Thomas Davis Rust, Mark D. Sickles

Beginning December 31, 2013, lawn maintenance fertilizer containing phosphorus can no longer be registered with the Department of Agriculture for sale, distribution or use in Virginia. Also prohibited as of that date is the sale of any deicing agent containing urea, nitrogen, or phosphorus. However, retailers are allowed to sell their existing inventory of lawn maintenance fertilizer and deicing agents. Also, on that date, a label will be required on bags of lawn fertilizer that states that the product should not be applied near storm drains or drainage ditches or when heavy rain is expected.

The Board of Agriculture and Consumer Services is required to establish reporting requirements for contractor-applicators who apply lawn fertilizer to more than 100 acres of nonagricultural lands annually. The report will include the total acreage and the location of where the fertilizer is applied. Golf courses must implement nutrient management plans by July 1, 2017, which must be submitted to the Department of Conservation and Recreation for review and approval. DCR must provide technical assistance and training for golf course operators and establish a cost-share program to assist in implementation of the golf courses' nutrient management plans.

The Department of Agriculture will develop consumer information and recommended best practices for the application of lawn fertilizer, and provide a public listing of certified commercial contractor-applicators. The Agency must also study and report to the General Assembly by the end of 2011 findings and recommendations for using slow release nitrogen in lawn fertilizers. Finally, the bill limits localities from further regulating fertilizer.

### **Land Conservation**

SB 979 Land preservation tax credit; report on land qualifying for credit to protect water quality.

Mary Margaret Whipple

This bill requires the annual report compiled by the Department of Conservation and Recreation on qualified donations of conservation easements now include information on riparian buffers required by deed restriction on land qualifying for conservation tax credits.

SJ 335 Study of long-term dedicated funding sources for land conservation.

Mary Margaret Whipple

The Joint Legislative Audit and Review Commission is directed to study long-term dedicated funding sources for land conservation. In conducting its study, the Commission shall look to other states for innovative funding mechanisms and identify and develop viable options for potential long-term dedicated funding sources for land conservation in the Commonwealth.

SB 1105 Virginia Farmland Preservation Fund; created.

Emmett W. Hanger, Jr.

This bill creates the Virginia Farmland Preservation Fund, consisting of funds as may be appropriated by the General Assembly and any other moneys made available from public or private sources to be used solely for the purposes of preserving farmland in the Commonwealth. The fund will be administered by the Department of Agriculture and Consumer Services.

### **Agriculture**

SB 974 Agricultural best management practices tax credits.

Mary Margaret Whipple and Delegate Lynwood Lewis

This bill allows any taxpayer to apply for a refund of individual income tax credits that he receives for agricultural best management practices and that he cannot use, which would be refunded by the Tax Commissioner on behalf of Virginia for 100 percent of their face value.

HB 1830 Agricultural Resource Management Plans.

Edward T. Scott, Lynwood W. Lewis, Jr., Harvey B. Morgan, Mark D. Sickles

This bill allows owners of agricultural land who implement and maintain a resource management plan (RMP) to be deemed as being in full compliance with: (i) load allocations contained in a TMDL established under § 303(d) of the federal Clean Water Act; (ii) any requirements of the Virginia Bay TMDL Watershed Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment. The presumption does not prevent or preclude enforcement of provisions pursuant to (i) a RMP otherwise required by law, (ii) a Virginia Pollutant Discharge Elimination System permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay Preservation Act. The Soil and Water Conservation Board shall by regulation, and in consultation with the Department of Agriculture and the Department of Environmental Quality, specify the criteria to be included in a RMP. The bill sets out minimum criteria for such regulations.

### **Nutrient Trading**

SJ 334 Study expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program.

Mary Margaret Whipple

The Secretary of Natural Resources will study the expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program, which was identified in the state submitted Watershed Implementation Plan as a key mechanism for Virginia to accomplish its portion of the Bay TMDL. In conducting the study, the Secretary shall convene a stakeholder committee including representatives from nutrient source sectors identified in the Chesapeake Bay TMDL, those with expertise in market-based approaches and nutrient credits and trading, state agency personnel, local governments, conservation and environmental organizations, and others with relevant knowledge, perspective or experience.

SB 1099 Stormwater nonpoint nutrient offsets; priorities to be used by permit issuing authorities.

Emmett W. Hanger, Jr.

This bill establishes flexible off-site phosphorous credits to be used by permit issuing authorities for stormwater permits. It sets out: (i) allowable conditions and limitations for the use of off-site phosphorous credits and (ii) priorities to be used by permit issuing authorities when considering off-site phosphorous control options.

SB 1100 Virginia Nutrient Offset Fund; created.

Emmett W. Hanger, Jr.

This bill creates the Nutrient Offset Fund to be administered by the Director of the Department of Environmental Quality for the purchase of nutrient reductions certified under the Chesapeake Bay Watershed Nutrient Credit Exchange Program. Using moneys from the subfund, the Director may enter into long-term contracts to purchase nutrient offsets, with priority given to offsets produced by facilities that generate electricity from animal waste. The nutrient offsets purchased with moneys from the subfund will be available for sale to owners or operators of new or expanded facilities required to offset nutrient loads through the watershed general permit.

SB 1102 Point source nutrient trading; exemptions from two-for-one trading ratio.

Emmett W. Hanger, Jr.

Currently the Chesapeake Bay Watershed Nutrient Credit Exchange Program requires that two pounds of a nutrient be purchased for each pound to be offset when the allocation is purchased from a nonpoint source for trading. This bill exempts from the "two-for-one" rule point source nutrient removal technologies such as manure gasifiers that are being used by nonpoint sources (a farm) to generate and sell nutrient allocation offsets.



## Water Quality

SB 1427 Secretary of Natural Resources to develop guidelines for water reuse

Emmett W. Hanger, Jr.

This bill requires the Secretary of Natural Resources to work with the State Health Commissioner to develop guidelines to define criteria and financial incentives for water reuse. The guidance will be applied as new criteria for awarding grants from the Water Quality Improvement Fund.

## **Pennsylvania**

### **Chesapeake Bay-Related Legislation, 2011-2012 Session**

#### **Action as of April 30, 2011**

(All bills are in their respective chamber's Environmental Resource & Energy Committee unless otherwise noted.)

### Lawn Fertilizer

Introduction pending (Sen. Brubaker, Rep. Everett):

- would limit the amount of nitrogen applied to turf and require a minimum slow release content, with exceptions for "enhanced efficiency controlled release" fertilizer products.
- would also limit phosphorus application for lawn maintenance, with exceptions for a certain amount of "organic" fertilizer products.
- would prohibit the use of fertilizer on impervious surfaces and as a de-icer.
- would restrict the application of fertilizer during late fall through spring, and provide for setbacks from streams.
- would require certification of professional fertilizer applicators. Provisions do not apply to agricultural production.

### Marcellus Shale

#### Impact Fee:

Introduction pending (Sen. Scarnati): Would create a base fee of \$10,000 per well, plus a factor for gas production and price of gas. Expected to generate \$121.6 million in FY12, \$1 billion over five years.

#### Severance Tax:

SB 905 (Sen. Yudichak): would be gradually implemented based on the gas production of each well:

- A severance tax of 2 percent of the gross value of the natural gas severed at the wellhead; this tax rate would be in place for the first three years of well production;
- When the well has been in production for more than three years, the tax rate would increase to 5 percent;
- The tax rate would readjust back to 2 percent if a well's rate of production fell below 150 MCF of natural gas per day and above 60 MCF per day; and
- Wells that produce less than 60 MCF of natural gas per day are exempt from the tax.

If implemented, the severance tax would go into effect on July 1, 2011.

Revenue from the severance tax would be distributed to three program areas:

- 33 percent of the revenue generated to the Commonwealth Financing Authority for water supply, wastewater treatment, stormwater and flood control projects;
- 33 percent to the Environmental Stewardship Fund (Growing Greener); and
- 34 percent to local governments in those areas of Pennsylvania that are experiencing the direct effects of natural gas drilling.

It is estimated the tax could generate more than \$126 million in the first year and more than \$406 million by 2016.

HB 1406 (Rep. Harper): Would create a Natural Gas Severance Tax Account to be distributed as follows:

- 36 percent to environmental programs, including the Environmental Stewardship Fund which funds the popular Growing Greener program, Hazardous Sites Cleanup Fund, the Fish and Boat Commission and other agencies;
- 32 percent to the Local Government Services Account, to be further distributed to counties and municipalities affected by natural gas drilling with a portion going to the Pennsylvania Emergency Management Agency; and
- 32 percent to the Education Supplemental Account. Two-thirds would be used to support basic education, while the remaining one-third would support community colleges and higher education in the Commonwealth.

(Referred to House Finance Committee)

HB 833 (Rep. George): would generate \$343 million in FY 2011-12 to be distributed to the following programs--

- 10 percent to PennDOT road and bridge fund-- \$34.3 million;
- 20 percent to PennVEST for wastewater plant upgrades, including funding drilling wastewater treatment facilities-- \$68.6 million;
- 6 percent to the PennDOT Liquid Fuels account for local transportation projects-- \$20.5 million;
- 35 percent to a Local Government Services Account for counties, municipalities and the PA Emergency Management Agency-- \$120 million;
- 15 percent to the Environmental Stewardship (Growing Greener) Fund-- \$51 million;
- 3 percent to Conservation District Fund-- \$10.2 million;
- 3 percent to Fish and Boat Commission-- \$10.2 million;
- 2 percent to Game Commission-- \$8.6 million;
- 2 percent for LIHEAP Energy Assistance at DPW-- \$6.8 million;
- 2 percent to Hazardous Sites Cleanup Fund-- 6.8 million; and
- 2 percent to a new Oil and Gas Environmental Disaster Recovery Account-- \$6.8 million.

HB 33 (Rep. Vitali): 5 percent of the value of each 1,000 cubic feet of natural gas severed, plus 4.6 cents per 1,000 cubic feet.

The tax would generate an estimated \$245 million for fiscal year 2011-12 this year, growing to nearly \$570 million by 2015.

### **Lease Proceeds:**

HB 866 (Rep. Aument): requiring revenues from leasing oil and gas minerals from any land owned by the Commonwealth, except game and fish lands, to be placed in a new Oil and Gas Lease Fund to be used for conservation, recreation, dams or flood control or to match any federal grants made for those purposes.

### **Drilling Moratorium:**

SB 906 (Sen. Ferlo)

HB 233 (Rep. Mundy)

### **State Land Leasing Moratorium:**

SB 426 (Sen. Leach)

HB 150 (Rep. Vitali)

### **Pipeline Oversight**

SB 325 (Sen. Baker) and HB 344 (Rep. Baker): Would give the PA Public Utility Commission regulatory oversight of pipelines.

(Have passed their respective chambers, referred to the Consumer Affairs (House) and Consumer Protection and Professional Licensure (Senate) Committees.)

### **Drilling Wastewater**

SB 996 (Sen. Baker): Would ensure competency of individuals operating treatment equipment.

HB 234 (Rep. Mundy): Would create an online tracking and reporting system for drilling waste.

### **Well Siting**

SB 447 (Sen. Yaw): Would encourage pooling of leasehold interests to minimize the number of well pads.

SB 601 (Sen. Yaw): Would increase the distance of presumed drinking water contamination to 2,500 feet.

HB 230 (Rep. Mundy): Would increase the buffer around public drinking water supplies from 100 feet to 2,500 feet.

HB 232 (Rep. Mundy): Would restrict drilling and site preparation in floodplains.

HB 604 (Rep. Hutchinson): Would expand the scope of state lands available for leasing.

HB 768 (Rep. Conklin): Would expand the notification period for a permit.

HB 781 (Rep. Hanna): Would increase the distance of presumed drinking water contamination to 5,000 feet.

HB 895 (Rep. Pickett): Would increase the distance of presumed drinking water contamination to 2,500 feet.

HB 1211 (Rep. Vitali): Would require at least a two mile space between drilling sites.

Introduction pending (Rep. Boback): Would increase setbacks of drilling wells from waterways and require notification of all drinking water plant operators in the watershed and neighboring landowners.

### **Inspections**

SB 600 (Sen. Ward): Would require the posting of inspection reports and enforcement actions on the Internet.

### **Drilling Generally**

SB 425 (Sen. Leach)

SB 680 (Sen. Ferlo)

HB 971 (Rep. George)

(Referred to House Consumer Affairs Committee)

HB 1046 (Rep. Sonney): Would increase setback, bonding and well plugging requirements.

HB 1163 (Rep. George)

HB 1263 (Rep. Boback): Would include Conservation Districts in the well permitting process.

### **Alternative Fuels**

**SB 849** (Sen. Solobay): Would require that an environmental and economic impact study be prepared for the Commonwealth's Alternative Energy Portfolio Standards.

(Referred to Senate Consumer Protection and Professional Licensure Committee)

**HB 608** (Rep. Brooks): Would promote, through bonding and other provisions, the use of bioenergy crops for reclamation of mine land.

(Tabled in the House)

**HB 807** (Rep. Sonney): Would add language regarding blending to the biodiesel mandate, to aid *enforcement*.

(Tabled in the House)

### **Energy Efficiency**

**HB 179** (Rep. Miller): Would require a reduction in energy use by state government and establish an Interagency Task Force on Energy.

### **Green Buildings**

**HB 490** (Rep. M. Smith): Would establish a tax credit for installation of a green roof.

(Referred to House Finance Committee)

**HB 491** (Rep. M. Smith): Would establish a tax credit for construction of a high-performance green building.

(Referred to House Finance Committee)

### **Stormwater Planning**

**SB 452** (Sen. Erickson): Would provide for watershed-based stormwater plans and the creation of stormwater management authorities. Would also allow for the development of integrated water resources management plans.

### **Program Review**

**SB 302** (Sen. MJ White): Would require an annual report of the Keystone Recreation, Parks and Conservation Fund by DCNR.

**HR 71** (Rep. Gillespie): Would require the Legislative Budget and Finance Committee to review the Act 537 Sewage Facilities Planning program.

### **Preferential Assessment of Farmland**

**HB 1213** (Rep. Sturla): Would require applicants for farmland preferential assessments under the Clean and Green Program to verify the farmer is in compliance with existing farm conservation requirements.

(Referred to House Agriculture and Rural Affairs Committee)

### **Conservation District Funding**

**HB 168** (Rep. Miller): would collect a 10 percent surcharge on environmental fines and penalties to fund county conservation districts.