

# Legislative / Regulatory Update

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**Erik A. Ross**

**October 22, 2024**

# Political Update - General

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- ▶ Pennsylvania General Assembly
  - ▶ The 203-member state House is currently comprised of:
    - 102 Democrats
    - 101 Republicans (However, one Republican is on Guard Duty in East Africa)
  - ▶ The 50-member state Senate is currently controlled by the Republicans 28 to 22 Democrats.
- ▶ Governor Josh Shapiro is a Democrat.

# Legislative Update – Session Schedule

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- ▶ The House and Senate session schedule follows:
  - ▶ Senate:
    - ❑ Oct 21, 22 & 23
    - ❑ Nov 13 & 14
  - ▶ House:
    - ❑ Oct 21, 22 & 23
    - ❑ Nov 11, 12 & 13

# Legislative Update – State Budget

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- ▶ The General Assembly passed, and the Governor signed a state budget of \$47.6 billion for FY 2024-25.
- ▶ The budget spends \$740 million **less** than what Gov. Shapiro proposed in February.
- ▶ Rainy Day Fund increased by \$740 million bringing the fund to over \$7 billion.
- ▶ On July 18, 2024, the IFO projected that the General Fund's surplus will likely disappear next year.

# Legislative Update – State Budget

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## ▶ **Permitting Reform and SITES**

- ▶ Creates the **Streamlining Permits for Economic Expansion and Development (SPEED) Program** providing an option for third-party review of certain air, earth disturbance and water permit applications, establishing permit review timelines by DEP and conservation districts, as well as a permit tracking system.
- ▶ Includes \$400 million for the **PA Strategic Investments to Enhance Sites (PA SITES) program**, to fund site development and infrastructure to create shovel ready sites.

# Legislative Update -- Issues

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- ▶ **Reauthorization of PA One Call – Expires Dec 31, 2024**
  - ▶ **Senate Bill 1237** (Baker-R) revises the duties of facility owners, designers, and excavators; and reauthorizes the PA One Call Law.
    - **Status:** Passed Senate, 48-0, 10/1/2024 – Passed House, 196-6, 10/22/2024 – Senate Concurred in House Amendments, 50-0, 10/22/2024 – **On Governor's Desk**
    - A facility owner may not be required to locate lines installed before the effective date of the legislation, unless the facility owner has existing maps of the lines, and the maps meet the specifications of the One Call System's Member Mapping Solutions.

# Legislative Update -- Issues

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## ▶ Reauthorization of PA One Call continued

- The bill requires **facility owners** to make reasonable efforts during excavation to locate or notify excavators of any known lines and abandoned lines. A facility owner is required to document communications with excavators to ensure an excavator is aware of any inability to locate facilities.
- **Facility owners** are required to comply with all requests for information by the Public Utility Commission (PUC) relating to enforcement authority within 30 days.
- Requires **designers** to submit a design notification through the One Call System when a design drawing is completed, to timely respond to notifications received from excavators in accordance with existing law, to inform a project owner of the project owner's duties under existing law and to comply with all requests for information by the PUC relating to enforcement authority within 30 days.

# Legislative Update -- Issues

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## ▶ Reauthorization of PA One Call continued

- **Designers** are required to depict lines or facilities with the appropriate quality levels based on the complexity of the design and construction activities obtained through the subsurface utility engineering process in the planning and design phases in accordance with the American Society of Civil Engineers (ASCE) published standards. In the event that as-builts are required during the construction phase, designers are required to prepare the as-builts in accordance with the most recently published standards of the ASCE.
- Requires **excavators** to submit a locate request to identify the location and type of facility owner lines at each work site through the One Call System. An excavator shall not misrepresent an emergency excavation and may not delegate the duty to submit a locate request to the One Call System to another person and shall have the sole responsibility to submit requests.



# Legislative Update -- Issues

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## ▶ Reauthorization of PA One Call continued

- **Project owners** may not establish provisions in any contract which attempt to limit the rights of excavators under current law, and any such provisions shall not be valid for any reason. Any attempted waiver of excavator rights shall be void and unenforceable and shall be reported to the PUC. Project owners are required to comply with all requests for information by the PUC relating to enforcement authority within 30 days.
- Requires the **damage prevention committee** to review reports of alleged violations and damage prevention investigator findings concerning the basis or root cause of an alleged violation and any recommendations proposed to address an alleged violation. If a person who is subject to an informal determination by an investigator opts to reject the informal determination, the person shall do so in writing within 30 days. The matter then shall be referred to the PUC for a formal complaint.

# Legislative Update -- Issues

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## ▶ Reauthorization of PA One Call continued

- An action resulting in a formal complaint before the PUC must be brought within the time limits specified under Title 66.
- When a written rejection of an informal determination results in a formal complaint, the PUC shall conduct a de novo review of the alleged violation.
- The informal determination of the damage prevention committee shall not be binding upon the PUC.

# Legislative Update -- Issues

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## ▶ Reauthorization of PA One Call continued

- **Penalties:** A person or entity violating the act must pay an administrative penalty to the PUC within 60 days of issuance. If not timely paid, the PUC shall assess an additional penalty of \$100 per day not to exceed \$5,000.
- Changes the sunset date to **12/31/31 (7 years)**.

# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility Code – expires Dec 31, 2024

- ▶ **Senate Bill 1017** (Boscola-D) makes revisions to the “**Responsible Utility Customer Protection Act**” and removes the expiration provision.
  - **Status:** Passed Senate, 42-8, 5/7/2024 – In House Consumer Protection, Technology & Utilities, 5/8/2024
  - The Act protects responsible bill-paying customers from rate increases attributable to the uncollectible accounts of customers that can afford to pay their bills but choose not to pay.
  - The current law will **expire on December 31, 2024**, unless reauthorized.

# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility Code continued

- Expands the definition of “**customer assistance program**” to include an assistance program offered by a public utility including a water distribution utility or a wastewater utility.
  
- Expands the definition of “**public utility**” under this chapter to include a city natural gas distribution operation and a water and sewer authority in the city of the second class (PWWSA).
  
- **Payment Arrangements:** Allows an applicant or customer to receive an initial payment arrangement once the applicant or customer has retired the entire balance of a previous payment arrangement and any current balance is wholly unrelated to the previous balance.

# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility Code continued

- Extends the current length of a payment arrangement by one year for customers whose monthly household income levels meet certain thresholds.
- **Termination of Utility Service:** Expands the required timeline for public utilities to provide written notice of termination from 10 days to 14 days, and the effective period of the termination notice from 60 to 70 days.
  - ▶ Requires that written notice be sent by first class mail to the customer; **AND** it can also be provided electronically, **if affirmatively consented by the customer**. Electronic notice of termination shall mean by either email, text or both.
  - ▶ Requires the conspicuous posting of a termination notice at the service location, in lieu of attempting to make personal contact at the time service is terminated.

# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility Code continued

- ▶ Expands the current duration of a medical certificate from 30 days (regulation) to a maximum length of 60 days.
- ▶ Permits renewal of a medical certificate if the customer meets their obligation to make payment on all new undisputed charges for utility service and provides minimum payment towards any undisputed outstanding balance.
- ▶ Adds a customer with a past-due balance that would otherwise be subject to termination, to be eligible for a LIHEAP Crisis Grant **or other utility assistance from the Department of Human Services for public utility customers**, without termination of service or a notice of termination required.

# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility Code continued

- ▶ Expands public utility termination notice requirements to allow for all forms of contact (in-person, written, phone or electronic) and requires posted notice of termination at the service location for customers terminated due to dishonorable tender of payment after receiving termination notice.
- **Reconnection of Service:** Requires a public utility to return or credit an applicant's or customer's reconnection fee if the applicant or customer enrolls in a utility assistance program and remains enrolled for at least six months.



# Legislative Update – Issues

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## ▶ Reauthorization of Ch 14 of the Public Utility

### Code continued

- **Public Utility Duties:** Adds the requirement that public utilities shall contact customers with arrearages over 90 days to offer payment arrangements, referrals and other resources for which the customer or applicant may be eligible.
- It appears that no agreement between the House & Senate will be reached, and this act will sunset. However, the PUC believes it has sufficient statutory authority to continue Ch 14 through a temporary rulemaking.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

- ▶ **Senate Bill 144** (Yaw-R) passed the Senate, 36-14, 3/7/2023 – In House Veterans Affairs & Emergency Preparedness, 3/8/2023 – Reported, as amended, 10/2/2024 – 1<sup>st</sup> Consideration, 10/2/2024
- ▶ Beginning Jan 1, 2027, no person, firefighting entity, the Commonwealth or a municipality **may possess, discharge or otherwise use** of a class B firefighting foam that contains an intentionally added PFAS chemical.
- ▶  Beginning Jan 1, 2026, no person, firefighting entity, the Commonwealth nor a municipality **may purchase, sell or otherwise use** of a class B firefighting foam that contains an intentionally added PFAS chemical.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

- ▶ Requires manufacturers of personal protective equipment (PPE) for fire prevention or control activities to **affix a warning label** to the product that it contains a PFAS chemical.
- ▶ Water Utility Council (WUC) Proposed Amendment
  - **Prohibits** the use of a class B foam containing PFAS **without** using an ASSE International approved **backflow prevention device** installed on “apparatus equipment” by the firefighting entity. The device is inexpensive - \$150.
  - The purpose of the amendment is to prevent a water contamination event like in McKeesport, PA, where the foam was hooked up to a hydrant and a backflow event caused the foam to enter the distribution system resulting in a “Do Not Consume” order.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

▶ The amendment would also:

- **Prohibit** a firefighting entity from **accepting** class B foam containing PFAS from an airport, individual, manufacturer, government entity, or another firefighting entity.
  
- Require the firefighting entity to **annually test** and certify the **backflow prevention device**.
  
- Require **1-hour notice** to DEP and the public water supplier when a class B foam containing PFAS is used in emergency firefighting or fire suppression operations.

# Legislative Update – Issues

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## ▶ Firefighting Foam Management

- ▶ However, Clean Water Action has opposed our amendment and wants a total ban on PFAS. So, the committee amended the bill to phase in the ban, but the Senate did not agree to it.
  - The bill is likely dead and will need to be reintroduced in the new Session beginning in January.
  - Discussion with House staff lead us to believe a new bill next year will include the WUC language.

# **Water Works Operators' Association of Pennsylvania**

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