

Water Works Operators' Association of Pennsylvania

Legislative / Regulatory Update

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September 30, 2024

Political Update - General

- ▶ 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

▶ The House and Senate session schedule follows:

▶ Senate:

- Sept 30
- Oct 1, 2, 7, 8, 9, 21, 22 & 23
- Nov 13 & 14

▶ House:

- Sept 30
- Oct 1, 2, 7, 8, 9, 21, 22 & 23
- Nov 11, 12 & 13

Legislative Update – State Budget

- ▶ 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

▶ **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

▶ **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:** Senate Consumer Protection & Professional Licensure, 6/6/2024 – Reported, as amended, 9/17/2024 – 1st Consideration, 9/17/2024 -- **2nd Consideration, 9/18/2024**

- Facility owners shall make **reasonable efforts** during excavation phase **to locate and notify excavators** of the existence of any **known** lines and **abandoned** lines.

Legislative Update -- Issues

▶ Reauthorization of PA One Call continued

- ~~Requires **facility owners** to identify the location of a **known** service line connected to its facilities through which the facility owner uses the services line to pursue a business that derives revenue by providing a product or service to an end-use customer via the service line is owned or operated by the facility owner.~~
- Requires **facility owners** to document communications between a facility owner and the excavator to ensure that the excavator is aware of a facility owner's inability to locate its facilities.

Legislative Update -- Issues

▶ Reauthorization of PA One Call continued

- Prohibits **project owners** from including provisions in contracts, public or private, which attempt to limit the rights of excavators including waivers or rights.
- Requires that a person appointed to the **Damage Prevention Committee** ~~maintain employment~~ **have expertise related to** the industry represented.
- **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.

Legislative Update -- Issues

▶ Reauthorization of PA One Call continued

- ▶ **House Bill 2189** (Matzie-D) amends the Underground Utility Line Protection Law, further providing for definitions, for duties of facility owners, for duties of designers, for duties of excavators, for duties of project owners, for damage prevention committee, for compliance orders and administrative penalties and for expiration to assert that this act shall expire on Dec. 31, 2031.

- Status:** House Consumer Protection, Technology & Utilities, 4/8/2024

- It shall be the duty of each **facility owner** to document communications between the facility owner and the excavator to ensure that the excavator is aware of a facility owner's inability to locate its facilities.

Legislative Update -- Issues

▶ Reauthorization of PA One Call continued

- It shall be the duty of each **excavator** who intends to perform excavation or demolition work within this Commonwealth:
 - ▶ To submit a locate request to identify the location and type of facility owner lines at each work site by notifying the facility owner through the One Call System.
 - ▶ To not delegate the excavator's duty to submit a locate request to another person. The excavator shall have the sole duty to submit a locate request.
 - ▶ To not repair a damaged underground facility without having first obtained authorization from the facility owner.

Legislative Update -- Issues

▶ Reauthorization of PA One Call continued

- Prohibits project owners from including provisions in contracts, public or private, which attempt to limit the rights of excavators including waivers or rights.
- **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.
- Keep the sunset, set for Dec. 31, 2031.

Legislative Update – Issues

- ▶ [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

▶ 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

▶ 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

▶ 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

▶ 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

▶ 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.

Legislative Update – Issues

▶ 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
- ▶ Provides for firefighting foam management, **prohibiting** the discharge or usage of a class B firefighting foam that contains an intentionally added PFAS chemical **for testing purposes or training purposes.**
- ▶ Directs the State Fire Commissioner to **assist firefighting entities** with evaluating and determining how to transition to the use of class B firefighting foam that **does not contain an intentionally added** PFAS chemical for testing purposes.

Legislative Update – Issues

▶ 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 PFOS or PFOA.
- ▶ 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

▶ 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

▶ Firefighting Foam Management

- ▶ However, Clean Water Action has opposed our amendment and wants a total ban on PFAS. So, the committee intends to meet on Oct 1, 2024, to consider a “gut and replace” amendment:

- 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.

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