

* PennFuture * PennEnvironment * Sierra Club * Environmental Defense Fund *
* Clean Air Council * Natural Resources Defense Council * Moms Clean Air Force *
* Audubon PA * Clean Water Action * Conservation Consultants Inc. *
* Conservation Voters of Pennsylvania * Energy Coordinating Agency *
* League of Women Voters of Pennsylvania * Mid-Atlantic Renewable Energy Association *
* Nature Abounds * PA Interfaith Power & Light * Sustainable Business Network *
* Sustainable Pittsburgh * The Environmental Justice Center at Chestnut Hill United Church *

August 21, 2017

Dear Members of the General Assembly,

On behalf of our more than one hundred thousand Pennsylvania citizen members, activists and volunteers, as well as the undersigned public health, environmental, clean energy, business, faith, and conservation organizations, we urge you to vote NO on House Bill 542 (Tax Code), House Bill 118 (Administrative Code), and House Bill 453 (Fiscal Code), the package of budget bills recently passed by the state Senate with a host of anti-environmental riders.

While the use of code bills to weaken environmental policies has become distressingly common in recent years, the anti-environmental riders in this year's code bills are unprecedented in their scope, severity, and recklessness. They would exacerbate years of budget cuts to conservation, water pollution, and public health programs, and have devastating impacts on the Commonwealth's ability to protect public health and our environment – all with little or no public debate.

For these reasons, we call on members of the General Assembly to remove the following provisions from the code bills, and vote "NO" on any bills in which they are included:

House Bill 542 (Tax Code)

- *Privatizes Permit Review.* HB 542 mandates the creation of a Third Party Permit Review Program at the Department of Environmental Protection (DEP). This would create conflicts of interest, since most (if not all) of the third-party reviewers would work for consulting companies that also prepare permit applications for industry, and because HB 542 would let permit applicants pick their own reviewers. Moreover, the Commonwealth tried third-party reviews under the Corbett administration, through a pilot project tested in DEP's Coal Mining Program. The initiative was an abysmal failure and quietly scrapped. Rather than transfer permitting from unbiased engineers and scientists at the DEP to interested third parties, the legislature should adequately fund

the DEP. To add insult to injury, by diverting permit fee revenue away from DEP to third party reviewers, HB 542 would only further decimate the agency's budget.

- *Allows "Constructive" Approval of Unconventional Oil and Gas Permits.* HB 542 provides that any unconventional oil and gas permit application that the DEP does not process fast enough will be "deemed approved", regardless of whether it meets legal standards for approval. The purpose of this provision is to address the gas industry's grievance that its permits are frequently delayed. But ironically, environmental groups and industry representatives alike agree that permit delay issues are mainly due to severe DEP budget cuts and in turn staffing cuts.¹ Arbitrarily forcing the DEP to issue permits because a certain number of days have passed would not solve the permitting challenges at the DEP; it would only put the public's health and the Commonwealth's environment at risk.
- *Blocks Standards for Reducing Air Pollution from Oil and Gas Drilling.* HB 542 creates an Air Quality Permit Advisory Committee, made up of one gubernatorial and six legislative appointees to approve or reject two types of General Permits meant to address air pollution from new natural gas infrastructure under development at DEP. This would amend the Air Pollution Control Act, which gives the DEP the authority to determine what constitutes best available technology for sources of air pollution. In practical terms, legislators would usurp DEP's regulatory authority to make technical decisions that require science and engineering expertise. Because the General Assembly and its staff do not, like the DEP, have such expertise, HB 542 threatens the health of local communities and residents, and our environment.

House Bill 118 (Administrative Code)

- *Allows Coal Companies to Discharge More Toxic Manganese in Our Rivers and Streams.* HB 118 orders the Environmental Quality Board to replace Pennsylvania's longstanding limits on manganese with new regulations that would exempt dischargers more within five miles of a known drinking water intake. Manganese is a toxic substance that can impact the central nervous system of humans and wildlife as well as cause water to have a foul taste, odor, and color. If promulgated, the new standards would be 20 times

¹ Dan Weaver, President of the Pennsylvania Independent Oil and Gas Association, stated, "So tell me how they're supposed to get their permits through an expedited basis if they have less money and less staff? And here they [General Assembly] go and cut their budget further. Doesn't that exacerbate the problem?" Marc Levy, "Senate jams shale tax, industry permits into unhappy package," *AP*, August 5, 2017.

weaker than federal guidelines for drinking water supplies.

- *Allows Conventional Oil and Gas Wastewater Facilities to Operate Under Expired Permits until 2020.* HB 118 includes language to allow three specific oil and gas wastewater treatment plants owned by Fluid Recovery Services (FRS) to operate until 2020 without updating their facilities. This will mean more dangerous pollution like arsenic, chlorides, and other heavy metals in Pennsylvania's rivers and streams.

House Bill 453 (Fiscal Code)

- *Raids Funding from the Volkswagen Settlement.* Volkswagen was caught defrauding the public by selling diesel vehicles that evaded air emissions tests and emitted illegal levels of pollution. Pennsylvania, along with nine other states, sued Volkswagen and will receive \$30.4 million in a settlement. Given that Pennsylvania's claims were based on air quality and public health impacts, these settlement proceeds should be used to improve air quality in Pennsylvania. HB 453 instead transfers all the \$30.4 million into the General Fund with no corresponding increase in DEP's budget. If the General Assembly wants these funds to be expended "in compliance with the Commonwealth's Trustee duties" under Article I, Section 27 of the State Constitution (as HB 453 suggests), it should explicitly provide for the funds to be used to support the DEP, the promotion of electric vehicles, or some other use that will conserve and maintain air quality.
- *Cuts Land and Water Conservation Investments by \$15 Million.* HB 453 cuts the transfer from the Oil and Gas Lease Fund to the Environmental Stewardship Fund, which supports land and water conservation programs, by \$15 million.
- *Diverts Investment from Protecting Pennsylvania's Rivers and Creates More Bureaucratic Red Tape.* HB 453 orders the Auditor General to audit the Susquehanna and Delaware River Basin Commissions, at the Commissions' expense. The SRBC and DRBC are federal-interstate compact organizations that monitor water quality and provide permits to limit water withdrawals in their respective basins, and are critical to protect against the impacts of large-scale water withdrawals and uses that could endanger human and aquatic health during times of drought. With no proven need for an audit of these successful agencies, we should not waste tax dollars on increased bureaucracy.

Our state constitution, under Article 1, Section 27, provides our citizens "the right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment," and entrusts state and local governments with protecting those rights. Doing so

requires prudent and equitable means of raising revenue, responsible public investment, well-staffed agencies, public policies based on science, rather than politics, and permits that hold polluters accountable.

For over a decade, legislators and governors have severely cut much-needed funds for environmental protection, forced agencies to eliminate hundreds of staff that inspect large industrial facilities and write permits, and worked to weaken or outright eliminated strong environmental policies. The FY2017-18 state budget sadly continues this trend with rash and ill-considered attacks on our cornerstone environmental protections.

We therefore respectfully urge the General Assembly to remove the provisions discussed above from House Bill 542, House Bill 118, and House Bill 453 and to vote “NO” on these Code bills – or any other bills in which these provisions are included.

Sincerely,

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