



February 2, 2012

## SMC News

### **Harrisburg Grassroots Lobbying**

Monday, April 30, 2012 7:00 am – 11:00 pm

SMC will be making its annual visit to the State Capitol in conjunction with other business groups across Pennsylvania. Activities for the day include visits to the offices of western and central Pennsylvania representatives and senators to express the views of small businesses on current legislation. Travelers will also enjoy a luncheon and dinner with guest speakers. Watch for additional details. Call Eileen Anderson with any questions at 412-342-1606, or email her at [eileenanderson@smc.org](mailto:eileenanderson@smc.org).

### **SMC Business Councils's Annual Legislation Reception Exceeds Expectations**

by David Testa

SMC Business Councils's Annual Legislative Reception, held on January 12<sup>th</sup> in the Reflections Lounge at the Sheraton Station Square, was an extraordinary success. Nearly 30 lawmakers and representatives from all levels of government were in attendance and were joined by approximately 120 SMC Business Councils guests, members and staff. Notable attendees included government dignitaries Jack Wagner, Pennsylvania Auditor General; Linda Kelly, Pennsylvania Attorney General; and Mary Ann Eisenreich, Director Governor's Office-Southwest Region

Members had quite a bit to say about the reception. Marilyn D. Landis, President & CEO, Basic Business Concepts, Inc., stated, "Small businesses are told to speak with one voice. Last night over a hundred business owners came together to amplify that voice and talk to their local, state and national legislators about the issues that will make a difference for the small business community."

"The SMC Legislative Reception was a total success for small businesses. The impact could easily be seen in the dozens of state and federal officials who came to hear members' thoughts on issues impacting them daily," stated John Nikoloff, Partner, Pennsylvania Energy Resources Group, LLC, affirming the night's success.

SMC Business Councils would also like to extend thanks to its sponsors: Bognar & Company (Platinum Sponsor), Meyer, Unkovic & Scott, LLP, Precision Kidd Steel Co., Inc., Dollar Bank (Bronze Sponsors), Vista Metals, Inc., and Fragasso Financial.



From left to right: John Nikoloff, Dan Focht, and Pennsylvania Auditor General, Jack Wagner.

Advisors (Event Supporters). To view the photos from this exciting event please go to:  
<http://on.fb.me/wz6ThK>

**Join Now: The Working Groups Want You** by David Testa

SMC Business Councils's working groups are operational and seeking new members. If you have an interest in shaping small business legislation then this is your opportunity. The five groups (Tax, Healthcare, Energy, Labor, Workforce & Regulations, and Economic Development) act as sub-groups apart of the SMC Business Councils Government Relations Committee. Each group holds regular phone conferences to discuss the issues, helps write policy statements, determines SMC positions, and advises the organization on pending legislation while still reporting to the overarching Government Relations Committee at least once a month. If you're interested in participating on the working groups, please contact Eileen Anderson, SMC Government Relations Manager at 412-342-1606 or [eileenanderson@smc.org](mailto:eileenanderson@smc.org).

**Government Relations Committee Meeting**

February 29, 2012 - Phone Conference Call 8:30 a.m. The committee will be reviewing policy that was drafted by the new working groups. RSVP for agenda and dial-in instructions by February 27. Please contact Eileen Anderson, SMC Government Relations Manager at 412-342-1606 or [eileenanderson@smc.org](mailto:eileenanderson@smc.org)

**2011 SMC Business Councils's Government Relations Progress Report**

by Eileen Anderson, SMC Business Councils, Government Relations Manager

Since 1944, SMC Business Councils has been the voice of Pennsylvania's small business community to lawmakers in Harrisburg and Washington, D.C. As an advocate for business-friendly, economic growth policies, part of SMC's mission is to improve the business climate for all small businesses. SMC also works to control the runaway costs of health care, lower taxes and eliminate onerous regulations that make it difficult to create and retain jobs.

In 2011 the SMC Government Relations department has made much progress at the state and federal levels. We have accomplished many goals that contribute directly to the bottom line of your business. This is only possible through financial support and contributions of our members' connections and their expertise. This past year members and staff carried out grassroots lobbying campaigns with lawmakers, and gave testimony and commented on issues that are important to small and medium-sized businesses.

**In Harrisburg:**

- **Health Care Cost Containment** - SMC helped restore funding to the Pennsylvania Health Care Cost Containment Council, the one agency in the state in a position to do something about escalating health care costs. Their 10% budget cut was restored at 9% and the agency is now allowed to retain 100% of the sales of data and reports.  
<http://www.smc.org/government-news>
- **Litigation Reform** - Members' grassroots lobbying efforts were instrumental in pushing for passage of the Fair Share Act, which repealed the antiquated doctrine of "Joint and Several Liabilities."
- **Unemployment Compensation Reform** - SMC helped push through Act 6, which is a first step in reform of the Unemployment Compensation system in Pennsylvania.
- **The Health Insurance Exchanges (HIE)** - SMC met with Pennsylvania Insurance Department (PID) Commissioner Michael Consedine, representatives of the PID and the Governor's Policy Office to discuss the impact of the HIE on small business. SMC gave

comments at one of three statewide PID Listening Sessions on HIE to ensure that the small business viewpoint was considered. <http://www.smc.org/government-news>

- **Highmark/UPMC Contract Dispute** - SMC hosted a town hall at SMC headquarters with representatives of Highmark and UPMC to discuss the impact of their contract dispute on small businesses. SMC gave testimony at the Pennsylvania House of Representatives Insurance Committee hearing on the Highmark/UPMC contract dispute at the Allegheny County Courthouse. <http://www.smc.org/government-news>
- **Tax and Regulatory Reform** - SMC members and staff gave testimony at the Pennsylvania House of Representatives Republican Policy Committee Hearing on “The Cost of Doing Business in PA.” They presented testimony on the need for working capital, tax reform, and regulatory reform. <http://www.smc.org/government-news>

#### **In Washington, D.C:**

- **Paperwork Reduction** - SMC lobbied and assumed a national profile in the push for repeal of the 1099 Expanded Corporate Information Reporting provision in the new Patient Protection and Affordable Care Act. The provision threatened to create new filing requirements for small businesses. Repeal legislation was signed by President Obama in April.
- **Confirmation of Dr. Winslow Sargeant - Chief Counsel for Advocacy, the U.S. Small Business Administration Office of Advocacy** - SMC supported Dr. Winslow Sargeant for full confirmation by the Senate to be Chief Counsel for Advocacy for Small Business and applauds his appointment. The Chief Counsel serves as the “in-house” voice for small business within the federal government. If he had not been confirmed, most likely we would have been without a Chief Counsel all of next year.

#### **Member Engagement**

SMC has relationships with elected officials and they want to hear from small businesses and small manufacturers. We never let them down. One of the distinguishing features of SMC membership is our large number of politically active members who are willing to get involved with and work on the issues. Their involvement ranges from contacting lawmakers, serving on committees, developing a public policy agenda, to traveling on SMC advocacy trips.

- **Advocacy Trips** - There’s nothing like a unified presence to send a message, and for decades, SMC Business Councils has been doing that with its annual lobbying trips to the State Capitol in Harrisburg and a two-day trip to Washington, D.C.
  - Thirty-five SMC members traveled to Harrisburg to advocate for small business issues at the 2011 Small Business Lobbying Day at the Capitol. SMC members attended legislative meetings with more than 25 legislators and staff. All total they visited more than 60 offices. They discussed important issues such as tort reform, taxation, access to capital, and the HIE. Senator John Pippy spoke to members at a luncheon and Auditor General Jack Wagner addressed the group at an evening reception.
  - Thirty members traveled to Washington, D.C. for grassroots lobbying and visited the offices of our 14 central and western Pennsylvania congressional delegation to discuss small- and medium-sized business and manufacturers’ issues. Follow-up meetings were held with representatives from Senator Toomey’s office.
- **Government Relations Committee** – The committee, which historically has met on an “as-needed” basis, adopted a monthly meeting schedule and developed new working groups on Tax, Health Care, Energy, Labor & Workforce, and Economic Development. Each group meets independently by phone and, with the assistance of SMC staff to:
  - Develop expertise on the issues
  - Help write policy statements and determine SMC’s positions
  - Advise the organization on pending legislation

- Develop a list of legislative priorities that are top of mind for small businesses
- This is one step in the process of getting our voices heard by lawmakers. It will provide legislators and policymakers with a roadmap on the issues small businesses need to address in order to grow and thrive.
- **Annual Legislative Reception** - For more than 19 years, SMC Business Councils has sponsored an Annual Legislative Reception (held in January) that brings the small business community together with federal, state and local officials. The January 2012 Annual Legislative Reception had record lawmaker attendance. The event gave members an opportunity to speak directly to elected officials about their issues. This year's special guests included the Pennsylvania Director of the Governor's Office for the South West Region, as well as the Pennsylvania Auditor General and the Attorney General. <http://www.smc.org/government-news>
- **Special Meetings and Events** - Members also had meetings with U.S. Congressman Rep. Tim Murphy to discuss improvements to the new health care law, Esther Vassar, National Small Business Ombudsman, Dr. Winslow Sargeant, Chief Counsel for Advocacy, the U.S. Small Business Administration Office of Advocacy and Robert Strauss, Economics and Public Policy Professor, Carnegie Mellon University. SMC was a resource partner for "Start-Up-America," a White House event held at Chatham College. SMC members and staff attended and participated in working groups addressing business issues.

If you're interested in learning more or participating in SMC's Government Relations, please contact Eileen Anderson, SMC Government Relations Manager at 412-342-1606 or [eileenanderson@smc.org](mailto:eileenanderson@smc.org).

## Federal News

### The State of the Union According to Kent Hoover

The National Small Business Association hosted a conference call to discuss and field questions concerning President Obama's State of the Union address. Guest speaker, Kent Hoover, Washington Bureau Chief for American City Business Journals, gave a brief summary of the state of affairs and answered questions. Hoover covers Congress and federal agencies for 40 business journals around the country. He primarily focuses on laws and regulations affecting small businesses. Here are the highlights of his assessment:

- Not much will be enacted by Congress before the 2012 elections. Hoover has been covering Washington, D.C. since 1999 and stated Congress is more dysfunctional now than it has ever been. The atmosphere is not conducive for getting productive legislation.
- Government is divided, but the Republican Party itself is divided. The political challenge is in getting compromises, which is difficult because there are few moderates in Congress. The partisan divide is partly caused by redistricting. There are too many safe Democrat and Republican seats so not enough seats are "in play."
- The endless election cycle is also a problem. Lawmakers are always looking for votes instead of doing what's right for the country. The atmosphere is poisonous; Republicans block Presidential appointments and then the President uses recess appointments. It will be harder to negotiate agreements in the future.
- The electorate was in the mood to "Throw the Bums Out" in the 2006 and 2010 elections, but lawmakers have taken that as a mandate and have gone too far.

Hoover said, "The practical impact of all this is uncertainty." Uncertainty keeps businesses from hiring and expanding. The economy is always uncertain, but the elections won't solve political

uncertainty because after the election it is unlikely that the Republicans will have 60 votes in the Senate.

- As far as “guessing” about the fate of upcoming issues, he thought the payroll tax extension may pass, but it could also have an outside issue attached and break down.
- The big question is whether or not they will make another attempt at deficit reduction. Because the Super-Committee failed, massive cuts are scheduled to take place unless an alternate way of making cuts is agreed upon. The Simpson-Bowles plan was good but not supported by the Super-Committee. The only way to get meaningful deficit reduction is to have spending cuts, revenue increases and entitlement reform.
- Another big question is the fate of the Bush Era tax cuts. That will be decided after the 2012 election. Broad-based tax reform will be kicked into the next congress.

Where does small business track with policy makers? The Republicans want government to get out of the way. The Democrats want to create special programs and tax breaks.

### **SBA Administrator Elevation and Possible Undercut**

by David Testa

A new dawn breaks for small businesses nationwide as President Obama recently elevated the Karen Mills, Administrator of the U.S. Small Business Association (SBA) position, to his cabinet. However, this wonderful news comes with a price. After this position’s elevation the President proposed to combine the SBA with five other Commerce Department agencies. Not only would this limit the amount of funding for small business, which is already stringent at best, but it would also remove the recently elevated Administrator of SBA from the President’s cabinet. SMC Business Councils agrees with the elevation of the Administrator position, for it will bring small business to a Presidential focus that hasn’t been seen since Clinton’s administration; however, merging the SBA with other commerce agencies will only limit the growth of small business.

### **National Labor Relations Board (NLRB) Update**

**The NLRB employee rights poster deadline has been delayed once again.** The new implementation date is April 30, 2012. To print and/or view the new workplace poster, visit the NLRB website at <https://www.nlr.gov/poster>. The deadline changed from November 14, 2011 to January 31, 2011 to April 30, 2012 in order for the NLRB to allow for additional education and outreach to employers, specifically small- to medium-sized businesses. Employers that comply with the National Labor Relations Act (NLRA), which includes most private employers, must post a notice from the NLRB informing employees of their rights under the NLRA.

**The NLRB Issues New Union Elections Rules for April 30, 2012.** Last June the NLRB issued proposed rules changing the employee union election process. After controversy surrounding Board members, the NLRB voted on a resolution to move forward with creating the final rules. The rules show some improvement, but are still unattractive to employers and serve to make unions stronger. According to the NLRB, the new election case rules include:

- Regional hearings will be expressly limited to issues relevant to the question of whether an election should be conducted.
- Hearing officer will have the authority to limit testimony to relevant issues, and to decide whether or not to accept post-hearing briefs.
- All appeals of regional director decisions to the Board will be consolidated into a single post-election request for review.

On a positive note, the NLRB deleted the proposed requirement for employers to provide employee voters' personal email addresses and phone numbers.

The recess appointments of the three NLRB board members are very controversial. It is questionable as to whether or not Congress was actually in recess so there will probably be litigation. Without those appointments the NLRB board does not have a quorum. If the appointments are determined unlawful then much of the NLRB activity will be in doubt.

## State News

### **Major Tax Reform Proposal Introduced**

Representatives Dave Reed (R) and Eugene DePasquale (D) are co-sponsors of H.B. 2150, a proposal to reform Pennsylvania's business tax structure. Reed said the proposal is a necessary mechanism for job creation. The bill's business tax reforms will make Pennsylvania more competitive and business-friendly, this is especially critical since Pennsylvania has a long history of being uncompetitive with its business tax climate. The key components of the bill include:

- Reducing the Corporate Net Income(CNI) Tax from 9.99% to 6.99% over 6 years
- Having a single sales factor
- A 9 year phase-out of the net operating loss carry-forward
- Closing the Delaware Loophole

Efforts to close the loophole in the past through combined reporting did not work because of fear that it would hurt the business community. The loophole will be closed through the inclusion of an expense add-back provision requiring those businesses that generate a profit through Pennsylvania operations to add back those profits in their Pennsylvania tax returns. Reed argued the days of economic development through loopholes, bailouts, and corporate welfare must come to an end and all businesses must have an equal opportunity to succeed on their own merits.

Representative DePasquale, tired of the lack of progress on reforming business tax issues in Pennsylvania, said there has been a debate on how to best complete these reforms, either through closing the Delaware Loophole or lowering the CNI Tax. Both of these issues need to be tied together in order to create a tax structure that is fair. Calling the proposal "a solid middle ground" approach, he vowed to work with those who disagree, with the Senate and administration to move the proposal forward.

- *Adapted from Pennsylvania Legislative Services*

### **Peifer's Pro-Jobs Business Portal Legislation Now Before Full House**

Representative Mike Peifer's portal legislation, which will streamline the business permitting process in Pennsylvania, has earned unanimous approval from the House Commerce Committee.

HB 2022 calls for the establishment of an online portal where businesses can access their personal accounts to register, apply for, and track documents associated with setting up or doing business in Pennsylvania.

The measure was proposed in response to testimony offered at a series of hearings conducted in 2011 by the House Republican Policy Committee's Job Creation Policy Development Team. SMC first pushed the idea of a small business portal modeled after one operated by the state of Virginia at a House Commerce committee hearing almost 2 years ago. Governor Corbett included the concept as part of his small business policy in his gubernatorial campaign. SMC also pushed for the portal in testimony at the August hearing sponsored by the House Republican Policy Committee's Job Creation Policy Development Team.

Under the legislation, the online portal would have to, at minimum, provide the following services:

- Electronic submission of a permit application, permit fees or fines
- Tracking of payment status and pending permit applications
- Recording of electronic signatures
- Access to a customized, agency-created checklist specific to the individual business account
- Online interaction with Commonwealth agencies to resolve difficulties with the permitting portal
- Listing of information related to local permit application information for relevant local permitting authorities

HB2022 now goes to the full House for consideration.

### **Bill Reducing the Size of House of Representatives Clears Committee**

The state House Government Committee voted to approve legislation that would reduce the size of the PA House by 50 members to 153 members. The Pennsylvania House is currently the second largest in the country, trailing New Hampshire, a part-time legislature. The size of the legislature requires an amendment to the state Constitution. The same bill must be debated and passed in two consecutive legislative sessions and then approved by statewide referendum vote.

### **New Law Gives Pennsylvania Insurance Department (PID) Expanded Rate Authority for Small Employer Health Policies**

A new law signed by Governor Tom Corbett will give the PID greater authority to review and disapprove rate increases for companies with 50 or fewer employees, a requirement of the federal Affordable Care Act of 2010. It requires all rate-increase requests of more than 10% to be posted for public review on the PID website. State regulators have the authority to deny rate increases of 10% or more if they're deemed excessive. Previously, the department's review authority in the small group market was limited and only applied to a small portion of products. The bill maintains PID authority to review rates for individual products, but, does not apply to large employer plans.

### **Health Insurance Exchange (HIE) Update**

All state must create a HIE, a key component of the new health care law, and have it operational by 2014 or the federal government will do it for them. Pennsylvania has decided it will have a state-run exchange, likely run by an existing state agency such as the PID. The purpose of the HIE is to provide an online store where individuals and small businesses can compare and buy health insurance. While the exchanges themselves aren't controversial, the constitutionality of the "individual mandate" provision is. Under the law, the individual mandate is what gives the HIE's "heft" because most individuals would go to the exchanges to obtain coverage.

The federal law gives states flexibility in tailoring exchanges to their own particular needs. Pennsylvania must make many choices, such as how generous the benefits of health plans offered through the exchange must be, whether it will limit participation to businesses with no more than 50 employees, and who will run the exchange.

“...Representative Matt Baker, Chair of the House Health Committee, circulated a memo in December seeking sponsors for his bill establishing the HIE. His bill establishes a regulatory framework within the Insurance Department to meet the requirements of the Patient Protection Affordable Care Act (PPACA). It falls more in line with the Utah Model where the Exchange acts as a facilitator to help people find coverage in the private sector. The Corbett Administration is still working on its own HIE proposal and has not yet released language.

- *Adapted from LEG REG REVIEW, a periodic newsletter produced by PHILLIPS ASSOCIATES*

To learn more about the HIE in Pennsylvania, go to [www.PAHealthOptions.com](http://www.PAHealthOptions.com).

### **UPMC/Highmark Contract Dispute**

UPMC and Highmark have agreed to extend their regional health care contract. The extension will give people in western Pennsylvania more time to figure out their future health insurance plans. Highmark customers who use UPMC doctors have an extra year not to worry about whether they'll be able to see them without paying higher, out-of-network fees. The agreement came after discussions, led by Gov. Tom Corbett, with a third-party mediator, and work that had been conducted by members of the state House of Representatives and the state Senate. The extension to the current contract will expire June 30, 2013. The agreement, however, does not solve the larger issue of getting the two companies to sign a new, long-term deal.

### **Members Comment**

#### **“The Ups & Downs of Health Care in Western Pennsylvania” by Joseph A. Vater, Jr., Meyer, Unkovic & Scott, LLP**

“The negotiations between Highmark and UPMC, or the lack thereof, have engendered heated discussion within the community at large, the philanthropic community and the business community. This is certainly not surprising since the failure of the largest health insurer and largest healthcare provider to enter into a new agreement will have significant impact on Western Pennsylvania employers and employees. Through Highmark, Western Pennsylvania employers have historically been able to obtain health insurance for their employees which provided access to virtually every medical provider in Western Pennsylvania. If Highmark and UPMC are unable to agree upon a contract, there is no doubt that in the short run employers and employees will have their health insurance worlds turned upside down. While most of the discussion has involved the impact of the failure of Highmark and UPMC to renegotiate their contract, this article will focus on the potential impact if these two parties agree to continue their relationship.” [continue to full article >>](#)

SMC Government Update is published online monthly by [www.smc.org](http://www.smc.org) as a service to our members by the SMC Government Relations Department.

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