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PennFuture's Lobbying *Hypocritical, unethical, and possibly illegal*

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PennFuture has received nearly \$1 million during the last five years from alternative energy companies while it promoted tax breaks and corporate welfare for their wind and solar projects.

Introduction

PennFuture (a.k.a. Citizens for Pennsylvania's Future), the organization founded by Pennsylvania Secretary of Environmental Protection John Hanger over 10 years ago, frequently criticizes the lobbying by traditional energy industries. But a close look at the environmental activist group shows at least questionable and hypocritical, if not unethical or illegal, advocacy practices.

While the organization condemns the natural gas industry for its lobbying against increased and selective taxation of its investments, PennFuture has received nearly \$1 million during the last five years from alternative energy companies. These companies benefited from PennFuture's lobbying for corporate tax breaks and taxpayer-funded "economic development" funds for wind and solar projects in Pennsylvania.

And even as PennFuture solicited volunteer and member assistance to pressure legislators to pass or oppose specific pieces of legislation, the group reported to the Internal Revenue Service that it spent *no money* on grassroots lobbying on four of its past five tax returns.

Finally, PennFuture's lobbying of state officials is also funded by the taxpayers. Since 2002, the group has lobbied for and received over \$1 million in taxpayer money. PennFuture then continues to lobby elected and appointed officials for additional taxpayer money.¹

Criticisms of Natural Gas Industry Lobbying

On May 11, 2010, the group joined Common Cause, the League of Women Voters (LWV), and State Rep. David Levdansky at a press conference to express outrage that energy companies were lobbying to protect their business investments from politicians and special interest groups seeking to tax them more.

The report by Common Cause, titled "Deep Drilling, Deep Pockets," noted:²

The natural gas industry gave \$2.85 million to political candidates in Pennsylvania between 2001 and March 2010, and it spent \$4.2 million on lobbying since

Pennsylvania began requiring lobbyist reporting in 2007. Spending in both categories has spiked since 2008 as new drilling techniques have enabled the industry to more fully exploit the Marcellus Shale. This spike also comes as the industry is seeking to defeat a proposed severance tax on natural gas extraction, defeat a moratorium on drilling in state-owned lands, defeat or delay tougher environmental regulations, and keep information about exactly what mixtures of chemicals are used in natural gas extraction secret.

That Common Cause and LWV would single out the natural gas industry with such scrutiny reveals their own biases. But assuming their calculations are accurate, the figures show the natural gas industry gave an average of \$285,000 to candidates each year and spent an annual average of \$1.2 million on lobbying since 2007. That's significant, but as both sides acknowledge, much is at stake with accessing Pennsylvania's natural resources. But rather than lobbying for a taxpayer hand-out—as PennFuture does for its financial backers (which is documented later in this policy brief)—the natural gas industry is simply trying to thwart the imposition of an additional tax that wind and solar energy companies are not compelled to pay.

PennFuture's well-funded advocacy for specific laws on behalf of its activist donors and the heavily-subsidized alternative energy industry did not prevent it from attacking opponents—namely the natural gas industry.

The media and the general public should understand that affluent environmentalists and the alternative energy industry are no shrinking violets when protecting *their* tax breaks, subsidies and ideologies. They poured nearly \$13 million over a five-year period into PennFuture—only one of dozens of environmental interest groups and lobbying firms advocating their causes in Harrisburg—illustrating the power they wield in Pennsylvania politics.

As for participation in electoral politics, just the members of the Heinz family (The Heinz Endowments) and Haas family (William Penn Foundation)—both among PennFuture's backers—alone donated more than \$220,000 to Pennsylvania candidates and political parties³ over the last 10 years. It's not hard to imagine that their fellow donors followed suit, but unfortunately organizations that track political money do not categorize donors according to their environmental advocacy views.

What the Law Says

PennFuture is organized as a tax-exempt nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code, classified as an educational group whose donors may write off their charitable gifts as tax deductions. Under law, such nonprofits are prohibited from campaign and election activities, and may only conduct limited lobbying—either directly with elected officials or indirectly by enlisting public action (“grassroots” support)—for or against specific legislation or regulation.

Every year nonprofits must report on their federal tax return (IRS Form 990) the amount spent for each category of lobbying (direct and indirect). In order to preserve their tax-exempt status, they may only devote a minimal percentage of their annual expenditures to lobbying.

According to the past five years of Form 990, filed by PennFuture, the group reported the following amounts spent for direct and indirect (grassroots) lobbying:⁴

CHART 1: PennFuture Direct/Indirect Lobbying, as reported to IRS

Tax Year	Fiscal Year	Indirect		Total Expenditures	% Lobbying
		Direct Lobbying	(Grassroots) Lobbying		
2004	2004-05	\$185,511	\$0	\$2,322,346	8.0%
2005	2005-06	\$44,396	\$0	\$2,553,701	1.7%
2006	2006-07	\$70,994	\$0	\$2,545,051	2.8%
2007	2007-08	\$5,944	\$0	\$2,558,904	0.2%
2008	2008-09	\$30,000	\$4,257	\$2,601,435	1.3%

Every legislative session, the Commonwealth of Pennsylvania requires all lobbyists, and lobbying firms, to register with the Department of State and to identify who they will represent. Likewise all businesses, organizations, associations, groups—called “principals”—must also register with the State and identify the lobbyists and firms that represent them. Principals in Pennsylvania must also file quarterly reports that disclose their lobbying expenses for the period, separating amounts for gifts, direct lobbying, and indirect lobbying (known as grassroots “calls to action”).

According to PennFuture’s lobbying disclosure expense reports dating back to January 2007, the group reported to the Pennsylvania Department of State the following total amounts spent for direct and indirect (grassroots) lobbying:⁵

CHART 2: PennFuture Direct/Indirect Lobbying, as reported to State

Tax Year	Fiscal Year	Indirect		Total Expenditures (IRS)	% Lobbying
		Direct Lobbying	(Grassroots) Lobbying		
2006(1/2)	Jan-Jun '07	\$57,644	\$19,290	\$1,272,525 (1/2)	6.0%
2007	2007-08	\$81,516	\$11,591	\$2,558,904	3.6%
2008	2008-09	\$80,505	\$8,559	\$2,601,435	3.4%
2009(3/4)	2009-10	\$34,889	\$5,033	NA	NA

In addition to the direct and indirect lobbying amounts, PennFuture also reported it gave state officials or employees gifts or hospitality valued at \$12,291 (\$596 in 2006, \$3,551 in 2007, \$2,535 in 2008, \$5,609 in 2009) during the same three-year time frame.

Whether an organization is fulfilling federal or state requirements, it is required by law to truthfully and accurately report its expenditures for lobbying activities. As shown above and as illustrated by what follows, evidence suggests that PennFuture severely underreports to the IRS its true expenses for the purposes of lobbying for and against legislation and regulation.

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PennFuture's Indirect Lobbying

Based upon information from published reports, tax returns, public statements, legislators' comments, and its own website, PennFuture appears to lobby lawmakers—directly and indirectly—to a much greater extent than it discloses to the IRS. This could potentially endanger its status as a tax-exempt nonprofit organization.

In its effort to inspire action, PennFuture encourages potential supporters to engage in the political process:⁶

PennFuture truly could not be successful without the continued involvement of our members and supporters. As a public interest group, we thrive most when we have citizens engaging in our work, writing to their legislators and attending our events.

You can help PennFuture continue to grow and succeed through many of our volunteer opportunities. No matter where you are in the Commonwealth, you can help us with tasks such as writing letters to newspapers, event planning, data entry or visiting with legislators.

“Fighting” for the implementation of rules and passage of laws, and showing support for a specific bond issue, clearly falls into the category of lobbying—and even campaigning.

The group makes an impassioned plea for volunteers to assist with achieving its legislative and government regulation goals. Among the victories it claims to have achieved in recent years:⁷

“We stood up to polluters and fought for a strong state rule to clean up toxic mercury pollution from the Commonwealth’s power plants.”

“We lead the fight for passage of a new law that requires the state’s electricity providers to supply ever larger amounts of renewable energy to their customers.”

“We won \$80 million to support clean, renewable electricity in utility cases.”

“We convinced Governor Rendell to support a nearly \$1 billion bond issue for environmental funding.”

“Fighting” for the implementation of rules and passage of laws, and showing support for a specific bond issue, clearly falls into the category of lobbying—and even campaigning. Similar to those above, PennFuture said it played an important role in other “victories,” according to the “Legislative and Public Policy” section of its website:⁸

“We helped pass the historic \$625 million Growing Greener Bond in June, 2005 that will protect drinking water, restore streams, and preserve natural areas . . . the BIGGEST environmental bond in the history of Pennsylvania;”

“We led the charge to enact and implement the historic clean energy law (Alternative Energy Portfolio Standard) that will require eight times more electricity from wind, solar and other clean electricity sources and enough wind power alone for one million homes, creating a true clean electricity revolution;”

“We led the fight for a state rule to cut mercury pollution by 90 percent and a clean car rule that will cut pollution and increase Pennsylvanian’s ability to buy new clean cars...”

Even more explicitly, PennFuture hosts pages on its website in which supporters and volunteers can easily personalize pre-written letters—and email them to legislators—that clearly favor specific bills under consideration. One such letter⁹ calls upon volunteers to ask their representative to “Please support HB 80 to create clean energy jobs.” The body of the message for legislators urges:

Please support HB 80 -- legislation that will advance clean energy requirements in Pennsylvania to create green jobs and reduce global warming emissions here at home. HB 80 would expand and increase the renewable energy requirements set forth by the landmark Alternative Energy Portfolio Standard of 2004 that have helped attract dozens of renewable energy companies and thousands of clean energy jobs to Pennsylvania. But now many other states have passed or expanded their own renewable energy requirements. In order to stay economically competitive and continue to attract and grow these businesses, we must pass HB 80.

Despite clearly engaging in grassroots advocacy, PennFuture reported to the IRS that it had no grassroots expenditures for that fiscal year.

And perhaps least ambiguously, PennFuture annually sponsors a “Lobby Day” for supporters and volunteers at the State Capitol in Harrisburg. The June 15, 2010, edition was advertised as a five-hour long effort:¹⁰

“... calling on our state legislators to be heroes by:

“Enacting a natural gas impact fee, or severance tax, to ensure that natural gas drillers- not Pennsylvania taxpayers – shoulder the public costs associated with increased drilling; and

“Passing HB 2235, the Save Our Forests legislation, in the Senate. This bill will put a freeze on new leases for natural gas drilling in our state forests.”

In 2008, PennFuture co-sponsored a similar Lobby Day on June 10, during which it asked its supporters to lobby state senators to vote in favor of the Energy Savings Bill and the Clean Energy Funding Bill, both of which had already passed in the House.¹¹

Despite clearly engaging in grassroots advocacy, PennFuture reported to the IRS that it had **no grassroots expenditures** for that fiscal year. Considering its aggressive and well-organized approach, and past successes, assertions that its efforts cost nothing are absurd.

PennFuture’s Direct Lobbying

PennFuture’s direct lobbying reports are equally questionable. One Republican legislator interviewed for this report wrote in an email that he had “voluminous” emails from the group “urging support or opposition to bills and amendments.” Another GOP lawmaker said, “As legislators, we get emails in newsletter form from PennFuture several times a week. I would consider this lobbying.”

Since 2004, when they reported \$185,511 in direct lobbying to the IRS, PennFuture reported an average of about \$38,000 in such expenditures in the four years following. Considering the high-priced nature of the individuals lobbying and the constant communication to plead its cases, the numbers PennFuture reports are just not believable.

PennFuture not only exhorts supporters and members to contact lawmakers to act on specific legislation, but it pays handsomely for employees and powerful consultants to lobby as well. The organization’s high-profile presidents, both past and present, can easily be categorized as its top lobbyists.

Its founding president, John Hanger, wielded so much influence that he was appointed Gov. Ed Rendell’s Secretary of Environmental Protection in 2008 after 10 years with PennFuture. According to the group’s five most recent IRS tax returns, Hanger’s annual salary and benefits rose from \$119,337 in 2004 to 140,884 for the partial year he worked at PennFuture in 2008.

Like Hanger, current PennFuture President Katherine “Jan” Jarrett is functionally a lobbyist. Her salary and benefits rose from \$85,138 as the group’s vice president—less than PennFuture’s three staff attorneys, treasurer, and communications director—to a reported \$117,464.

Today, PennFuture is nothing short of a lobbying powerhouse in the state Capitol. In addition to its arsenal of volunteers, cadre of attorneys, and its president, it employs at least one full-time legislative envoy and has at its disposal one of the most influential Republican lobbying firms in Harrisburg: Commonwealth Strategic Solutions / Long, Nyquist & Associates.

Who Funds PennFuture’s Lobbying?

PennFuture’s legislative activity has also been accompanied by increases in taxpayer-funded grants from state government. Given the organization’s historic ties to John Hanger, it is not surprising that PennFuture has received millions of taxpayer dollars. Completing the circle of funding, a.k.a. the iron triangle, PennFuture then uses that money to lobby for even higher taxes and fees, more mandates, and taxpayer-funded grants.¹²

According to a Right-to-Know request from the Pennsylvania Department of Treasury, PennFuture received taxpayer money over and above the amounts reported in its federal tax returns in three of the past five years (see CHART 3, next page). However, the Department noted that the total of taxpayer dollars sent to PennFuture may not be comprehensive. Indeed, in May 2007, then-president John Hanger admitted to Capitolwire, an online Capitol news service, that PennFuture had received about \$430,000 in taxpayer money to fund the organization’s operations. Capitolwire further noted that in FY2005 and FY2006, the Department of Environmental Protection and the Energy Development Authority approved grants to PennFuture totaling over \$1,000,000.¹³ These large discrepancies between what PennFuture reported to the IRS and what Hanger admitted to in the media should cause someone to question PennFuture’s compliance with state and federal laws.

PennFuture received taxpayer money over and above the amounts reported in its federal tax returns in three of five years.

CHART 3: PennFuture Taxpayer-Funded Grants, 2002-2009

Fiscal Year	Taxpayer-Funded Grants (according to PennFuture IRS 990s)	Taxpayer-Funded Grants (according to PA Dept of Treasury)	State Government Funding Source
2002-03	NA	\$172,055	DOT
2003-04	NA	\$118,800	DEP/DOT
2004-05	\$325,000	\$372,000	DEP/DCED
2005-06	\$0	\$32,789	DEP
2006-07	\$193,955	\$193,955	DEP/DCED
2007-08	\$65,311	\$65,311	DEP
2008-09	\$213,250	\$233,561	DEP/DCED
Total		\$1,188,471	

PennFuture’s lobbying successes have also led to increased loyalty from foundations that support its work. For example, the Energy Foundation (2004 revenues: \$10.8 million; 2008 revenues: \$102.9 million) granted PennFuture \$48,000 in 2004, but by 2008 the Foundation increased its investment to \$193,000.

That investment, however, paled in comparison to the significant cash infusion from three well-heeled Pennsylvania-based foundations: The Heinz Endowments, William Penn Foundation, and the Pew Charitable Trusts. All three foundations invest millions of dollars in organizations like PennFuture which advocate for taxpayer subsidization of less efficient and expensive “alternative” energy forms.¹⁴

PennFuture could be considered the *de facto* state lobbyist for dozens of alternative energy companies.

CHART 4: PennFuture Major Foundation Support, 2005-2009

Grant Year	Heinz Endowments	William Penn Foundation	Pew Charitable Trusts
2005	\$897,000	\$340,000	\$1,320,000 (2003)
2006	\$0	\$660,000	\$1,320,000
2007	\$747,000	\$550,000	\$0
2008	\$747,000	\$1,000,000	\$0
2009	\$1,950,000	\$0	\$0
Total	\$4,341,000	\$2,550,000	\$2,640,000

Of course, these subsidies go directly to many of the companies that also provide financial support to PennFuture’s direct and indirect lobbying of legislators and regulators.

PennFuture could very well be considered the *de facto* state lobbyist for dozens of alternative energy companies. Over the last 10 years, many wind and solar businesses, most for a four- or five-figure sum, happily saw PennFuture promote legislation—including the push for renewable mandates in House Bill 80 and House Bill 2405—that would increase subsidies and tax breaks for the products and services they sold. Even the “Big Oil” giant BP donated a total of \$40,000 in recent years!

The contributions to PennFuture from alternative energy businesses and advocacy groups—which represent major contributions disclosed on its IRS tax returns and is not exhaustive—total more than \$912,000 over a five-year period (see CHART 5, next page).

Conclusion

As documented in this report, PennFuture spends a significant amount of time and money enlisting lobbyists, supporters, and volunteers to contact legislators to advocate for or against legislation and regulation. And while it is instructive to highlight PennFuture’s hypocritical, unethical and possibly illegal activities, of greatest concern is the undue influence and impact this organization has on the policy-making process in Pennsylvania under the guise of the “public interest.”

While PennFuture points fingers at its opponents, it ignores its own lack of honesty and transparency as evidence by its own conflicting reports to state and federal government agencies.

As an educational non-profit under the IRS 501(c)(3) code, PennFuture is prohibited from being organized or operated for the benefit of private interests, nor can it attempt to influence legislation (lobby) as a *substantial* part of its activities. Yet given PennFuture’s own representation of itself as an “action organization” and its significant financial support from private interests seeking public benefits, PennFuture appears to be serving as a “lobbying laundering” organization for alternative energy special interests rather than the public interest.

Companies such as BP, Gamesa Energy, Iberdrola Renewables, and others have poured tens of thousands of dollars into the promotion of tax breaks, subsidies, and mandates for their products, yet thanks to PennFuture were able to avoid Pennsylvania’s lobbying disclosure laws.

PennFuture’s lobbying activities and expenditures during the last five years certainly place it in the top echelon of attention-getters in Harrisburg. It has learned to play the political game of money and relationships well. But while PennFuture points fingers at its opponents, it ignores its own lack of honesty and transparency as evidence by its own conflicting reports to state and federal government agencies. PennFuture may or may not have run afoul of the law, but the amounts it says it spends on lobbying do not align with the robust nature of its activities. That should give state legislators substantive reasons to question the motivations and activities of PennFuture. It should also be a source of curiosity for both state and IRS investigators.

CHART 5: PennFuture De Facto Lobbyists for Alternative Energy Companies, 2004-2008

Contributor	Headquarters	Year	Amount	Contributor	Headquarters	Year	Amount
Acciona Energy	Chicago, IL	2007	\$20,000	Highland New Wind	Harrisonburg, VA	2006	\$12,000
		2008	\$15,000			2007	\$10,000
AES Corporation	Arlington, VA	2005	\$17,000	Horizon Wind Energy	Houston, TX	2007	\$6,500
		2006	\$15,000	Hybrid Ventures LLC	Lancaster, PA	2007	\$9,250
		2007	\$15,000	PPM Energy	Portland, OR	2004	\$33,000
American Wind Energy Assoc.		2005	\$12,000	(Iberdrola Renewables)		2005	\$19,000
		2006	\$8,000			2006	\$32,000
		2007	\$37,000			2007	\$57,000
Bergey Windpower	Norman, OK	2006	\$5,000	Invenergy LLC	Olney, MD	2006	\$12,000
BP Wind/BP Solar	Frederick, MD	2005	\$5,000			2007	\$10,000
		2006	\$15,000	Lancaster Biofuels	Paramus, NJ	2007	\$5,000
		2007	\$20,000	Magellan Resources	Chantilly, VA	2004	\$12,000
Celunol Corp.	Cambridge, MA	2006	\$5,000			2005	\$10,000
Clipper Windpower	Bethesda, MD	2004	\$16,500	PV Now	Washington	2006	\$5,000
		2005	\$13,000	Reinvestment Fund	Philadelphia	2005	\$17,580
		2006	\$12,000	(Sustainable Development Fund)		2006	\$7,500
		2007	\$10,000			2007	\$7,500
Community Energy	Wayne, PA	2004	\$8,500			2008	\$7,500
		2005	\$5,000	Sunnyside Ethanol	Pittsburgh	2006	\$5,000
		2006	\$8,000	Suntechnics	Sacramento, CA	2008	\$5,000
Everpower Renewables	New York	2005	\$5,000	Synergics	Annapolis, MD	2004	\$5,000
		2006	\$8,000	UPC Wind Mgt.	New Tripoli, PA	2005	\$5,000
FPL Energy-PA Wind	Palm Beach, FL	2007	\$31,000			2006	\$17,500
		2004	\$25,000			2007	\$16,000
		2005	\$19,000			2008	\$12,000
		2006	\$32,000	US Wind Force	Wyoming, PA	2004	\$11,249
Gamesa Energy	Philadelphia	2007	\$25,000			2005	\$10,249
		2004	\$9,000			2006	\$14,000
		2005	\$13,000			2007	\$10,000
		2006	\$20,000	West Penn Power	Greensburg, PA	2004	\$22,500
		2007	\$35,000	(Sustainable Energy Fund)		2005	\$7,500
						2006	\$7,500
						2008	\$7,500
				Total			\$912,828

ENDNOTES

1. Text revised for clarity on July 14, 2010. Original text: “Since 2002, the group has lobbied for and received over \$1 million in taxpayer money, which is then used to lobby elected and appointed officials for additional taxpayer money.”
2. <http://ourphiladelphia.org/reports/13>
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12. Text revised for clarity on July 14, 2010. Original text: “Completing the circle of funding, a.k.a. the iron triangle, PennFuture then uses that money to lobby for even higher taxes, more mandates, and taxpayer-funded grants. to support its lobbying efforts.”
13. DeCoursey, Peter L. (2007, May 1). *Enviros got \$1 million from state officials they defend and sue*. Retrieved March 2, 2010, from <http://www.Capitolwire.com>.
14. Text revised for clarity on July 14, 2010. Original text: “All three foundations invest millions of dollars in organizations like PennFuture to advocate for taxpayer subsidization of less efficient and expensive “alternative” energy forms.”

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