

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1176 Session of  
2011

INTRODUCED BY PILEGGI, ERICKSON, RAFFERTY, GREENLEAF, DINNIMAN,  
McILHINNEY, TARTAGLIONE, TOMLINSON AND BROWNE, JUNE 30, 2011

REFERRED TO FINANCE, JUNE 30, 2011

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, imposing a tax on natural gas drilling and using  
3 that tax to reduce taxes on senior citizens.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 58 of the Pennsylvania Consolidated  
7 Statutes is amended by adding chapters to read:

8 CHAPTER 32

9 NATURAL GAS DRILLING

10 Sec.

11 3201. Definitions.

12 3202. Imposition of tax.

13 3203. Administration.

14 3204. Penalties.

15 3205. Criminal acts.

16 3206. Regulations.

17 3207. Unauthorized disclosure.

18 3208. Account.

1 § 3201. Definitions.

2 The following words and phrases when used in this chapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Account." The Marcellus Senior Citizens Account established  
6 in section 3208 (relating to account).

7 "Accredited laboratory." A facility engaged in the testing  
8 and calibration of scientific measurement devices and certified  
9 by the Department of Environmental Protection as having met the  
10 department's standards for accreditation.

11 "Base rate." The rate under section 3202(b) (relating to  
12 imposition of tax).

13 "Coal bed methane." Gas which can be produced from coal  
14 beds, coal seams, mined-out areas or gob wells.

15 "Department." The Department of Revenue of the Commonwealth.

16 "Meter." A device to measure the passage of volumes of gases  
17 or liquids past a certain point.

18 "Person." A natural person or a corporation, fiduciary,  
19 association or other entity, including the Commonwealth, its  
20 political subdivisions, instrumentalities and authorities. When  
21 the term is used in a clause prescribing and imposing a penalty  
22 or imposing a fine or imprisonment, or both, the term shall  
23 include the members, as applied to an association, and the  
24 officers, as applied to a corporation.

25 "Producer." A person who engages or continues within this  
26 Commonwealth in the business of severing natural gas for sale,  
27 profit or commercial use. The term does not include a person who  
28 severs natural gas from a storage field.

29 "Reporting period." A calendar month in which natural gas is  
30 severed.

1     "Sever." To extract or otherwise remove natural gas from the  
2     soil or water of this Commonwealth.

3     "Storage field." A natural formation or other site that is  
4     used to store natural gas that did not originate from and has  
5     been injected into the formation or site.

6     "Stripper well." A producing site or a nonproducing site  
7     that is not capable of producing and does not produce more than  
8     60,000 cubic feet of natural gas per day.

9     "Unconventional well." A bore hole drilled or being drilled  
10    for the purpose of or to be used for producing oil or gas from a  
11    geological formation existing below the base of the Elk  
12    Sandstone or its geologic equivalent stratigraphic interval  
13    where oil or gas generally cannot be produced at economic flow  
14    rates or in economic volumes except by vertical or horizontal  
15    well bores stimulated by hydraulic fracture treatments or by  
16    using multilateral well bores or other techniques to expose more  
17    of the formation of the well bore.

18    "Unit." A thousand cubic feet of natural gas measured at the  
19    wellhead at a temperature of 60 degrees Fahrenheit and an  
20    absolute pressure of 14.73 pounds per square inch in accordance  
21    with American Gas Association Standards and according to Boyle's  
22    Law for the measurement of gas under varying pressures with  
23    deviations as follows:

24           (1) The average absolute atmospheric pressure shall be  
25           assumed to be 14.4 pounds to the square inch, regardless of  
26           elevation or location of point of delivery above sea level or  
27           variations in atmospheric pressure from time to time.

28           (2) The temperature of the gas passing the meters shall  
29           be determined by the continuous use of a recording  
30           thermometer installed to properly record the temperature of

1 gas flowing through the meters. The arithmetic average of the  
2 temperature recorded each 24-hour day shall be used in  
3 computing gas volumes. If a recording thermometer is not  
4 installed, or is installed and not operating properly, an  
5 average flowing temperature of 60 degrees Fahrenheit shall be  
6 used in computing gas volume.

7 (3) The specific gravity of the gas shall be determined  
8 annually by tests made by the use of an Edwards or Acme  
9 gravity balance, or at intervals as found necessary in  
10 practice. Specific gravity determinations shall be used in  
11 computing gas volumes.

12 (4) The deviation of the natural gas from Boyle's Law  
13 shall be determined by annual tests or at other shorter  
14 intervals as found necessary in practice. The apparatus and  
15 method used in making the test shall be in accordance with  
16 recommendations of the National Bureau of Standards or Report  
17 No. 3 of the Gas Measurement Committee of the American Gas  
18 Association, or amendments thereto. The results of the tests  
19 shall be used in computing the volume of gas delivered under  
20 this chapter.

21 "Wellhead meter." A meter placed at a producing or  
22 nonproducing site to measure the volume of natural gas severed  
23 for which a wellhead meter certification has been issued.

24 § 3202. Imposition of tax.

25 (a) Establishment.--Beginning January 1, 2012, there shall  
26 be imposed a severance tax on all natural gas from an  
27 unconventional well producing gas in this Commonwealth.

28 (a.1) Exemptions.--The tax shall not be imposed on the  
29 following:

30 (1) Units provided free of charge to the owner of the

surface under which the gas is severed if the surface owner is the end user of the gas.

(2) A stripper well.

(3) A gas well collecting coal bed methane.

(b) Rate.--The tax imposed shall be 3% of the gross value of the units severed at the wellhead of the unconventional well during a reporting period.

§ 3203. Administration.

(a) Registration.--A producer severing natural gas in this Commonwealth from an unconventional gas well shall, within 30 days of the date of first production, or within 30 days of the effective date of this act, whichever occurs later, apply for a certificate of registration in the manner and subject to the requirements of section 208 of the Tax Reform Code of 1971 to the extent applicable to the tax imposed by this chapter. An application shall include a list of unconventional gas wells in which the producer has an interest and certification of the accuracy of the sales meter at each well or well pad under subsection (c).

(b) Returns, payments and recordkeeping.--A producer subject to the tax imposed by this chapter shall file monthly returns, make payments to the department and keep records in the manner required by sections 215, 216, 217, 218, 219, 220, 221, 222 and 271 of the Tax Reform Code of 1971 to the extent applicable to the tax imposed by this chapter. Returns shall include information to update the producer's registration application submitted under subsection (a) occurring in the month for which returns are filed relating to:

(1) The addition or removal of an unconventional gas well.

1       (2) A change in the status of an unconventional gas  
2       well.

3       (3) A change in the laboratory used to certify the  
4       accuracy of the wellhead meter.

5       (c) Meters.--A producer shall provide and maintain or cause  
6       to be provided and maintained a wellhead meter and a sales meter  
7       for an unconventional gas well that is tested, calibrated and  
8       maintained in accordance with industry standards adopted by the  
9       American Gas Association or other standard adopted by the  
10       department by regulation or, if the sale of gas is to a public  
11       utility, by the Pennsylvania Public Utility Commission. Wellhead  
12       and sales meters shall not be subject to 3 Pa.C.S. Ch. 41  
13       (relating to weights and measures). Multiple wells located on  
14       the same drilling pad may utilize the same meter. A wellhead  
15       meter installed after the effective date of this section shall  
16       be a digital meter.

17       (d) Tax Reform Code of 1971.--The provisions of sections  
18       230, 231, 232, 272, 274, 407.3, 407.4, 408 and 408.1 of the Tax  
19       Reform Code of 1971 shall apply, to the extent applicable to the  
20       tax imposed by this chapter, to:

21       (1) the assessment, reassessment, enforcement and  
22       collection of the tax; and

23       (2) the adoption of regulations by the department  
24       necessary to implement this chapter.

25       (e) Interest; additions to tax and penalties; abatement.--  
26       The provisions of sections 266(a) and (b), 267, 268(a) and 269  
27       of the Tax Reform Code of 1971 and sections 806 and 806.1 of the  
28       act of April 9, 1929 (P.L.343, No. 176), known as The Fiscal  
29       Code, shall apply to interest, additions to tax and penalties to  
30       the extent applicable to the tax imposed by this chapter.

1     (f) Liens.--The provisions of section 242 of the Tax Reform  
2 Code of 1971 shall apply to liens for the severance tax imposed  
3 by this chapter.

4     (g) Service.--The provisions of section 245 of the Tax  
5 Reform Code of 1971 shall apply to service under this chapter.

6     (h) Refunds.--The provisions of sections 2703, 2704, 3003.1  
7 and 3003.5 of the Tax Reform Code of 1971 shall apply to  
8 severance tax refunds under this chapter.

9     § 3204. Penalties.

10     The department shall enforce the following penalties:

11         (1) A penalty against a producer for failure to timely  
12 file a return as required under section 3203(b) (relating to  
13 administration). The penalty shall be 5% of the tax liability  
14 to be reported on the return for each day beyond the due date  
15 that the return is not filed.

16         (2) In addition to the penalty under paragraph (1), a  
17 penalty against the producer for a willful failure to timely  
18 file a return. The penalty shall be 200% of the tax liability  
19 required to be reported on the return.

20     § 3205. Criminal acts.

21     (a) Fraudulent return.--Any person with intent to defraud  
22 the Commonwealth, who willfully makes or causes to be made a  
23 return required by this chapter which is false, is guilty of a  
24 misdemeanor and shall, upon conviction, be sentenced to pay a  
25 fine of not more than \$2,000 or to imprisonment for not more  
26 than three years, or both.

27     (b) Other crimes.--Except as otherwise provided by  
28 subsection (a), a person is guilty of a misdemeanor and shall,  
29 upon conviction, be sentenced to pay a fine of not more than  
30 \$1,000 and costs of prosecution or to imprisonment for not more

1 than one year, or both, for any of the following:

2 (1) Willfully failing to timely remit the tax, penalty  
3 or interest.

4 (2) Willfully failing to preserve its books, papers and  
5 records as directed by the department or to permit the  
6 department or its authorized agents to examine its books,  
7 records or papers.

8 (3) Knowingly making or providing a person with any  
9 incomplete, false or fraudulent return or report, as to the  
10 payment of the tax imposed under this chapter.

11 (c) Other remedies.--Nothing in this section shall restrict,  
12 prohibit or limit the use by the department in collecting taxes  
13 due and payable of another remedy or procedure available at law  
14 or equity for the collection of debts.

15 § 3206. Regulations.

16 The department shall promulgate regulations necessary to  
17 enforce this chapter.

18 § 3207. Unauthorized disclosure.

19 Any information gained by the department as a result of any  
20 return, examination, investigation, hearing or verification  
21 required or authorized by this chapter shall be confidential  
22 except for official purposes and except in accordance with  
23 proper judicial order or as otherwise provided by law, and any  
24 person unlawfully divulging the information shall be guilty of a  
25 misdemeanor and shall, upon conviction, be sentenced to pay a  
26 fine of not more than \$1,000 and costs of prosecution or to  
27 imprisonment for not more than one year, or both.

28 § 3208. Account.

29 (a) Establishment.--The Marcellus Senior Citizens Account is  
30 established as a restricted account within the General Fund.



1     (b) Proceeds.--The proceeds of the tax imposed under section  
2     3202 (relating to imposition of tax) and penalties and interest  
3     imposed under this chapter shall be deposited into the account.

4     (c) Distributions.--The department shall make the  
5     calculations required for the transfers and distributions under  
6     Chapter 33 (relating to tax relief based on natural gas  
7     drilling) and shall submit the calculations to the State  
8     Treasurer in sufficient time for the State Treasurer to make the  
9     transfers and distributions as required by Chapter 33.

10                     CHAPTER 33

11                     TAX RELIEF BASED ON NATURAL GAS DRILLING

12     Sec.

13     3301. Definitions.

14     3302. Distribution.

15     3303. Senior citizen tax relief.

16     § 3301. Definitions.

17     The following words and phrases when used in this chapter  
18     shall have the meanings given to them in this section unless the  
19     context clearly indicates otherwise:

20     "Account." The Marcellus Senior Citizens Account established  
21     in section 3208 (relating to account).

22     "Base payment." The:

23         (1) amount of school property tax levied on the  
24         homestead of an eligible claimant in the base year; or

25         (2) amount of school property tax levied on the  
26         homestead of an eligible claimant in the earlier of:

27             (i) the calendar year prior to the calendar year for  
28             which an eligible claimant files an application under  
29             this section; or

30             (ii) the calendar year prior to the series of

1 consecutive calendar years for which an eligible claimant  
2 has filed applications under this section and during  
3 which the claimant has maintained continuous eligibility.

4 "Base year." The earlier of:

5 (1) the calendar year prior to the calendar year for  
6 which an eligible claimant files an application under this  
7 section; or

8 (2) the calendar year prior to the series of consecutive  
9 calendar years for which an eligible claimant has filed  
10 applications under this section and during which the claimant  
11 has maintained continuous eligibility.

12 "Department." The Department of Education of the  
13 Commonwealth.

14 "Eligible claimant." An individual who meets all of the  
15 following for the base year and each succeeding year up to and  
16 including the year for which the freeze is sought:

17 (1) Was at least 65 years of age or has a spouse who is  
18 a member of the household, who was at least 65 years of age  
19 during the base year.

20 (2) Has held a homestead exemption for the previous five  
21 years.

22 (3) Has paid the full amount of property taxes that were  
23 due for each succeeding year up to and including the year for  
24 which the freeze is sought.

25 "School property tax." The real property tax levied by a  
26 school district on the homestead of an eligible claimant. The  
27 term does not include penalties, interest or payments made in  
28 lieu of taxes.

29 "School property tax increase." The amount of increase in  
30 school property tax levied on the homestead of an eligible

claimant in a calendar year compared to the school property tax levied on the homestead of the eligible claimant in the base year.

§ 3302. Distribution.

For fiscal year 2012-2013 through fiscal year 2017-2018, the department shall distribute the amount deposited in the account in accordance with section 3303 (relating to senior citizen tax relief).

§ 3303. Senior citizen tax relief.

(a) Tax freeze.--Notwithstanding any other law, an eligible claimant who meets the eligibility requirements in this section shall be entitled to a freeze of school property taxes and shall not be required to pay any increases in those school property taxes in excess of the claimant's base payment.

(b) Application.--An eligible claimant may apply for the tax freeze under subsection (a) by filing the following with the school district imposing the school property tax on a form prescribed by the department:

(1) A request for the tax freeze and a copy of the most recent school property tax bill.

(2) Certification that the claimant or the claimant's spouse is the owner of the homestead upon which the real property taxes are imposed.

(3) Evidence that the claimant is one of the following:

(i) An individual who was at least 65 years of age during a calendar year in which school property taxes were due and payable.

(ii) An individual who was a widow or widower and was at least 65 years of age during a calendar year or part of the calendar year in which school property taxes

1       were due and payable.

2       (4) Receipts showing prompt payment of the current  
3       year's school property tax liability.

4       (c) Timing.--

5       (1) The initial application under subsection (b) must be  
6       filed within 45 days prior to the end of the school  
7       district's fiscal year.

8       (2) Within 15 days of receipt of an application, the  
9       political subdivision shall determine the claimant to be  
10      eligible or ineligible. If the political subdivision fails to  
11      determine if the claimant is eligible or ineligible within 15  
12      days of receipt of an application, the claimant shall be  
13      deemed eligible.

14      (d) Renewal.--The school district may require an annual  
15      renewal form to be submitted no later than 45 days prior to the  
16      end of the school district's fiscal year.

17      (e) Termination.--

18      (1) Subject to paragraph (2), the tax rate on and the  
19      assessment of any school property taxes shall become current  
20      on the sale or transfer of that real property, including any  
21      transfer under a recorded real property sales contract.

22      (2) A tax freeze under this section shall remain in  
23      effect upon the transfer of the affected real property to a  
24      surviving spouse if at the time of the death of the claimant,  
25      the surviving spouse is at least 65 years of age or will be  
26      65 years of age within six months of the date of death of the  
27      claimant.

28      (f) Commonwealth payment.--

29      (1) In fiscal year 2012-2013 through 2017-2018, the  
30      department shall pay to school districts the amount of each

1 eligible claimant's increase in school property taxes in  
2 excess of the claimant's base payment.

3 (2) The school district shall provide notification and  
4 documentation to the department of the total balance due to  
5 the local taxing authorities for increases in school property  
6 taxes.

7 (3) The department shall certify the total amount due to  
8 increase in school property taxes for each school district.

9 Section 2. This act shall take effect immediately.