AN ACT

Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, imposing a natural gas impact fee and providing for a model zoning ordinance.

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

Section 1. Title 58 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART I

UNCONVENTIONAL GAS WELLS

Chapter

23. Impact Fee

25. Model Ordinance

CHAPTER 23

IMPACT FEE

Sec.

2301. Definitions.

2302. Shale Impact Fee.
2303. Administration.
2304. Well information.
2305. Duties of department.
2306. Meters.
2308. Enforcement.
2309. Criminal penalties.
2310. Criminal grading.
2311. Enforcement orders.
2312. Administrative penalties.
2313. Regulations.
2314. Recordkeeping.
2315. Examinations.
2316. Local distribution of fee.
2317. Statewide environmental initiatives.

2303. SHALE IMPACT FEE HOUSING CREDIT.

2304. ADMINISTRATION.
2305. WELL INFORMATION.
2306. DUTIES OF DEPARTMENT.
2307. COMMISSION.
2308. ENFORCEMENT.
2309. REGULATIONS.
2310. RECORDKEEPING.
2311. EXAMINATIONS.
2312. LOCAL DISTRIBUTION OF FEE.
2313. ENVIRONMENTAL INITIATIVES DISTRIBUTION OF FEE.
2314. EXPIRATION.

§ 2301. Definitions.

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


"Average annual price of natural gas." The arithmetic mean of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day of each month of a calendar year as reported by the Wall Street Journal for the 12-month period ending December 31.


"Department." The Department of Environmental Protection of the Commonwealth.

"Eligible applicants." A county, municipality, council of governments, watershed organization, institution of higher education, nonprofit organization, Pennsylvania Fish and Boat Commission or an authorized organization as defined in 27 Pa.C.S. § 6103 (relating to definitions).

"Fee." The Shale Impact Fee imposed under section 2302 (relating to Shale Impact Fee).

"Highway mileage." The number of miles of public roads and streets most recently certified by the Department of Transportation as eligible for distribution of liquid fuels funds under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

"Marginal gas well." An unconventional gas well incapable of severing PRODUCING more than 60,000 90,000 cubic feet of gas per day during a calendar month, but incapable of severing more than 90,000 cubic feet of gas per day during a calendar month, including production from the zones and multilateral well bores at a single well, regardless of whether...
the production is metered separately.

"Municipality." A borough, city, town or township.

"Natural gas." A fossil fuel consisting of a mixture of hydrocarbon gases, primarily methane, and possibly including ethane, propane, butane, pentane, carbon dioxide, oxygen, nitrogen and hydrogen sulfide and other gas species. The term includes natural gas from oil fields known as associated gas or casing head gas, natural gas fields known as nonassociated gas, coal beds, shale beds and other formations. The term does not include coal bed methane.

"Natural gas liquids." Hydrocarbons in natural gas which are separated from the gas as liquids through the process of absorption, condensation, adsorption or other methods in gas processing of cycling plants.

"Number of producing unconventional wells." The most recent numerical count of producing unconventional wells on the inventory maintained and provided to the commission by the department as of the last day of each month.

"Price adjustment factor." One of a range of numerical values used to compute the adjusted fee under section 2302 (relating to Shale Impact Fee). The price adjustment factor shall be determined as follows:

(1) If the average annual price of natural gas is less than $5.01, the price adjustment factor shall be five.

(2) If the average annual price of natural gas is $5.01 to $6.00, the price adjustment factor shall be equal to the sum of the average annual price plus one.

(3) If the average annual price of natural gas is $6.01 to $7.00, the price adjustment factor shall be equal to the sum of the average annual price plus two.
If the average annual price of natural gas is $7.01 to $8.00, the price adjustment factor shall be equal to the sum of the average annual price plus three.

If the average annual price of natural gas is greater than $8.00, the price adjustment factor shall be equal to the sum of the average annual price plus five.

"Producer." A person or its subsidiary, affiliate or holding company that holds a permit or other authorization to engage in the business of severing PRODUCING natural gas for sale, profit or commercial use from an unconventional well in this Commonwealth. The term shall not include a producer that sever REMOVES natural gas from a site used to store natural gas that did not originate from the site.

"SHALE IMPACT FEE HOUSING CREDIT." The credit provided under this chapter for a producer, who has a permit from the department to drill for natural gas other than marginal gas in this Commonwealth, upon acceptance of a donation to an optional county affordable housing fund under 53 Pa.C.S. Ch. 60 (relating to optional affordable housing funding) of a county in which a producer has active unconventional wells or a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) which is committed to providing low and moderate income housing in a county in which a producer has active unconventional wells.

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

"Unit:"

(1) A thousand cubic feet of natural gas measured at the
wellhead at a temperature of 60 degrees Fahrenheit and an
absolute pressure of 14.73 pounds per square inch in
accordance with American Gas Association Standards and
according to Boyle's Law for the measurement of gas under
varying pressures with deviations as follows:

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

(ii) The temperature of the gas passing the meters
shall be determined by the continuous use of a recording
thermometer installed to properly record the temperature
of gas flowing through the meters. The arithmetic average
of the temperature recorded each 24-hour day shall be
used in computing gas volumes. If a recording thermometer
is not installed, or is installed and not operating
properly, an average flowing temperature of 60 degrees
Fahrenheit shall be used in computing gas volume.

(iii) The specific gravity of the gas shall be
determined annually by tests made by the use of an
Edwards of Acme gravity balance, or at intervals as
necessary. Specific gravity determinations shall be used
in computing gas volumes.

(iv) The deviation of the natural gas from Boyle's-
Law shall be determined by annual tests or at other shorter intervals as necessary. The apparatus and method used in making the test shall be in accordance with recommendations of the National Bureau of Standards or Report No. 3 of the Gas Measurement Committee of the American Gas Association. The results of the test shall be used in computing the volume of gas delivered under this chapter.

(2) In the case of natural gas produced in liquid form, a unit shall be measured on a 1,000 cubic feet equivalent basis, determined using the ratio of 6,000 cubic feet of natural gas to one barrel of natural gas liquids.

"Vertical gas well." An unconventional well which begins as a vertical linear bore and is not intentionally deviated from the vertical.

"Volume adjustment factor." One of a range of numerical values used to compute the adjusted fee under section 2302 (relating to Shale Impact Fee). The volume adjustment factor shall be determined as follows:

(1) If the annual units of production are less than 21,901, the volume adjustment factor shall be zero.

(2) If the annual units of production are 21,901 to 90,000, the volume adjustment factor shall be 0.2.

(3) If the annual units of production are 90,001 to 180,000, the volume adjustment factor shall be 0.3.

(4) If the annual units of production are 180,001 to 360,000, the volume adjustment factor is 0.4.

(5) If the annual units of production are 360,001 to 750,000, the volume adjustment factor is 0.5.

(6) If the annual units of production are 750,001 to
1,000,000, the volume adjustment factor is 0.6.

(7) If the annual units of production are 1,000,001 to 
1,350,000, the volume adjustment factor is 0.7.

(8) If the annual units of production are greater than 
1,350,001, the volume adjustment factor is 0.8.

§ 2302. Shale Impact Fee.

(a) Imposition.--Beginning EXCEPT AS PROVIDED UNDER 
SUBSECTION (C), BEGINNING January 1, 2010, there shall be 
imposed a Shale Impact Fee on each unconventional well producing 
gas in this Commonwealth.

(b) Fee.--The fee shall consist of a base fee of $10,000 for 
each unconventional well subject to the following adjustments AS 
FOLLOWS:

(1) The fee shall be adjusted by multiplying the base 
fee amount times the volume adjustment factor times the price 
adjustment factor rounded to the nearest $100.

(2) If the natural gas severed from more than one 
unconventional well is measured by a single wellhead meter, 
the combined volumes of gas produced shall be divided by the 
number of unconventional wells and each producer of an 
unconventional well shall use this quotient in determining 
its volume adjustment factor.

(3) The fee for a marginal gas well or vertical gas well 
shall be $10,000 and shall not be subject to adjustment under 
paragraph (1).

(1) FOR THE FIRST YEAR OF PRODUCTION, THE FEE SHALL BE 
$40,000.

(2) FOR THE SECOND YEAR OF PRODUCTION, THE FEE SHALL BE 
$30,000.

(3) FOR THE THIRD YEAR OF PRODUCTION, THE FEE SHALL BE
$20,000.

(4) For the fourth year of production through the tenth year of production, the fee shall be $10,000.

(C) Exemption.--The fee under subsection (A) shall not be imposed on marginal gas wells.

§ 2303. Shale impact fee housing credit.

(A) General rule.--A producer who has a permit from the department to drill for natural gas, other than marginal gas, in this commonwealth may apply for a shale impact fee credit upon acceptance of a donation to an optional county affordable housing fund under 53 Pa.C.S. ch 60 (relating to optional affordable housing funding) of a county in which a producer has active unconventional wells.

(B) Application.--An application shall be developed by the commission.

(C) Maximum amount.--A producer may claim a credit of no greater than 30% of the producer's impact fee liability under this chapter.

(D) Eligible activities.--A county accepting a donation to the optional county affordable housing fund may utilize the funding for the following purposes:

(1) To provide support to projects that meet eligibility criteria as set forth in the programs administered by the Pennsylvania housing finance agency.

(2) To provide support to projects that increase the availability of quality, safe, affordable housing for low-income and moderate-income individuals or families, persons with disabilities or elderly persons.

(3) To provide rental assistance to persons or families whose household income does not exceed the area median.
§ 2303 2304. Administration.

(a) Commission.--On or before January 31 of each year, the commission shall calculate and determine the average annual price of natural gas for the previous calendar year.

(b) Notice. Notice of the average annual price shall be provided to producers of unconventional wells and shall be published on the commission's Internet website.

(c) Method. If publication of the New York Mercantile Exchange (NYMEX) Henry Hub settled price is discontinued, the average annual price of natural gas then in effect shall not be adjusted until a comparable method to determine the average annual price of natural gas is adopted by commission rule. If the base data of the NYMEX Henry Hub settled price is substantially revised, the commission shall make appropriate changes to ensure that the average annual price of natural gas is reasonably consistent with the result that would have been attained had the substantial revision not been made.

(d)(A) Report.--By March 1, 2012, and each March 1 thereafter, each producer shall submit a report and payment of the fee with the commission on a form prescribed by the commission for the previous calendar year. The report shall include the following:

   (1) Annual units of production severed by the producer for each unconventional well for the reporting period.

   (2) The number of producing unconventional wells of a producer in each county and municipality.

(e)(B) Report and fee for 2010.--For calendar year 2010, a report pursuant to subsection (d)(1) (A)(1) and (2) shall be filed by August 1, 2011, and the fee due shall be paid as
follows:

(1) Fifty percent of the fee shall be paid by August 1, 2011.

(2) Fifty percent of the fee shall be paid by November 1, 2011.

(C) Fee due date.--Except as provided under subsection (2), the fee shall be due on the day the report is required to be filed. The fee shall become delinquent if not remitted to the commission on the reporting date.

(D) Cost.--Beginning March 2, 2012, and each March 2 thereafter, the commission shall determine the reasonable annual cost to collect and distribute the fee in accordance with this chapter and shall deduct that amount from the total amount of fees collected under this chapter. On August 1, 2011, the amount to collect and distribute the fee may be deducted from the total amount of fees collected for 2010. Fees collected under this section are hereby annually appropriated to the commission to carry out its duties under this chapter.

§ 2304 2305. Well information.

(a) List.--The department shall provide the commission with a list of all unconventional wells that have received a drilling permit from the department. The list shall be updated on a monthly basis.

(b) Updates.--A producer subject to the fee shall notify the commission of the following within 30 days after a calendar month in which the change occurs:

(1) The initiation of production at a well or the removal of a well from production.

(2) The use of a different accredited laboratory to issue a wellhead meter certification.
PRODUCTION AT A WELL OR THE REMOVAL OF A WELL FROM PRODUCTION OCCURS.

§ 2305 2306. Duties of department.

(a) Confirmation of payment.--Prior to issuing a permit to drill an unconventional well in this Commonwealth, the department shall determine whether the producer has paid all fees owed under section 2302 (relating to Shale Impact Fee).

(b) Prohibition.--The department shall not issue a permit to drill an unconventional well until all fees owed under section 2302 that are not in dispute have been paid to the commission.

§ 2306. Meters.

A producer who drills an unconventional well in this Commonwealth shall provide and maintain a wellhead meter at the unconventional well that is tested, calibrated and maintained in accordance with industry standards approved by the commission. A wellhead meter installed after the effective date of this section shall be a digital meter. Wellhead meters shall not be subject to 3 Pa.C.S. Ch. 41 (relating to weights and measures). Multiple wells located on the same drilling pad may utilize the same meter subject to section 2302(b)(2) (relating to Shale Impact Fee).

§ 2307. Commission.

(a) Powers.--The commission shall have the authority to make all inquiries and determinations necessary to calculate and collect the fee imposed under this chapter, including, if applicable, interest and penalties.

(b) Notice.--If the commission determines that the fee has not been paid in full, it may issue a notice of the amount due and demand for payment and shall set forth the basis for the determination.
(c) Address.--Notice of failure to pay the correct fee shall be sent to the producer at its registered address via certified mail.

(d) Time period.--The commission may challenge the amount of a fee paid under this chapter within three years after the date the report under section 2303(d), 2304(D) (relating to administration) is filed.

(e) Intent.--If no report is filed or a producer files a false or fraudulent return with the intent to evade the fee, an assessment of the amount owed may be made at any time.

§ 2308. Enforcement.

(a) Assessment.--The commission shall assess interest on any delinquent fee at the rate prescribed under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Penalty.--In addition to the interest under subsection (a), if a producer fails to make timely payment of the fee, there shall be added to the amount of the fee due a penalty of 5% of the amount of the fee if failure to file a timely payment is for not more than one month, with an additional 5% penalty for each additional month, or fraction of a month, during which the failure continues, not to exceed 25% in the aggregate.

(c) Timely payment.--If the commission determines that a producer has not made a timely payment of the fee, the commission shall send a written notice of the amount of the deficiency to the producer within 30 days from the date of determining the deficiency. If the producer has not provided a complete and accurate statement of the volume of gas extracted for the payment period, the commission may estimate the volume in its deficiency notice.
(d) Remedies.--The remedies provided under this chapter are in addition to any other remedies provided at law or in equity.

(e) Lien.--Fines, fees, interest and penalties shall be collectible in the manner provided by law for the collection of debts. If the producer liable to pay any amount neglects or refuses to pay the amount after demand, the amount, together with costs which may accrue, shall be a judgment in favor of the Commonwealth upon the property of the producer, but only after the judgment has been entered and docketed of record by the prothonotary of the county where the property is situated. The Commonwealth may transmit to the prothonotaries of the respective counties certified copies of the judgments, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index each judgment, without requiring the payment of costs as a condition precedent to the entry of the judgment.

§ 2309. Criminal penalties.

(a) Offense defined.--It shall be unlawful for any producer to:

(1) Intentionally make or cause to be made a false or fraudulent report under this chapter with the intent to defraud the Commonwealth.

(2) Refuse to permit the commission or its authorized agents to examine books, records or papers or hinder or obstruct the commission in the performance of a duty under this chapter.

(3) Violate 18 Pa.C.S. § 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities), including a violation in providing or preparing information required by this chapter.
(4) Intentionally fail to make timely payment of the fee.

(b) Probable cause.--If the commission believes that probable cause of a violation under this section exists, the commission shall refer the case to the Attorney General for investigation.

§ 2310. Criminal grading.

(a) Summary offense. Except as set forth in subsection (b), a producer that willfully violates this chapter or an order issued under this chapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $100 nor more than $1,000 and costs or to a term of imprisonment for not more than 30 days, or both.

(b) Misdemeanor offense.--A producer that commits a second or subsequent violation of this chapter or an order of the commission commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than $1,000 but not more than $10,000 per day for each violation or to imprisonment for a period of not more than one year, or both.

(c) Violations.--Each violation for each separate day and each violation of this chapter or order issued under this chapter shall constitute a separate offense under subsection (a) or (b).

§ 2311. Enforcement orders.

(a) Issuance. The commission may issue an order as necessary to enforce this chapter. An order issued under this section shall take effect upon notice, unless the order specifies otherwise. An appeal of the order must be in accordance with 66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and hearings).
Compliance.—A producer has the duty to proceed
diligently to comply with an order issued under subsection (a).
If a producer fails to proceed diligently or to comply with an
order within the time required, the producer shall be guilty of
contempt and shall be punished by the court in an appropriate
manner. The commission shall apply to the Commonwealth Court,
which shall have jurisdiction over matters relating to contempt.
§ 2312.  Administrative penalties.
  (a)  Civil penalties.  In addition to any other proceeding
authorized by law, the commission may assess a civil penalty
upon a producer for the violation of this chapter. In
determining the amount of the penalty, the commission shall
consider the willfulness of the violation and other relevant
factors.
  (b)  Separate offense.  Each violation for each separate day
and each violation of this chapter shall constitute a separate
offense.
  (c)  Limitation of actions.  Notwithstanding any limitation
in 42 Pa.C.S. Ch. 55 Subch. B (relating to civil actions and
proceedings), an action under this section must be brought
within three years of the violation.
  (d)  Procedure.  A penalty under this chapter is subject to
66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and
hearings).
§ 2313  2309.  Regulations.
The commission shall promulgate regulations necessary to
enforce this chapter.
§ 2314  2310.  Recordkeeping.
A producer liable for the fee imposed under this chapter
shall keep records, make reports and comply with regulations of
the commission. If necessary, the commission may require a
producer to make reports, render statements or keep records as
the commission deems sufficient to determine liability for the
fee.

$ 2315 2311. Examinations.

(a) Access.--The commission or its authorized agents or
representatives shall:

(1) Have access to the books, papers and records of any
producer in order to verify the accuracy and completeness of
a report filed or fee paid under this chapter.

(2) Require the preservation of all books, papers and
records for any period deemed proper not to exceed three
years from the end of the calendar year to which the records
relate.

(3) Examine any employee of a producer under oath
concerning the severing of natural gas subject to a fee or
any matter relating to the enforcement of this chapter.

(4) Compel the production of books, papers and records
and the attendance of all individuals who the commission
believes to have knowledge of relevant matters in accordance
with 66 Pa.C.S. (relating to public utilities).

(b) Unauthorized disclosure.--Any information obtained by
the commission as a result of any report, examination,
investigation or hearing under this chapter shall be
confidential, except for official purposes, in accordance with
judicial order or as otherwise provided by law. An individual
unlawfully divulging the information commits a misdemeanor and
shall, upon conviction, be sentenced to pay a fine or not more
than $1,000 and costs of prosecution or to imprisonment for not
more than one year, or both.
§ 2316 2312. Local distribution of fee.

(a) Establishment.--There is hereby established a restricted
receipts account to be known as the Shale Impact Account to be
administered by the commission.

(b) Deposit.--All fees imposed shall be deposited into the
account.

(c) Conservation districts.--

(1) For 2010, $2,500,000 from the account shall be
distributed to county conservation districts transferred to
the Conservation District Fund to be distributed to county
Conservation Districts by the State Conservation Commission.

(2) For 2011, $5,000,000 from the account shall be
distributed to county conservation districts transferred to
the Conservation District Fund to be distributed to county
Conservation Districts by the State Conservation Commission.

(3) For 2012, and every year thereafter, $7,500,000 from
the account shall be distributed to county conservation
districts transferred to the Conservation District Fund to be
distributed to county Conservation Districts by the State
Conservation Commission.

(4) Funds under paragraphs (1), (2) and (3) shall be
distributed in accordance with the following:

(i) One-half shall be distributed by dividing the
amount equally among conservation districts for any use
consistent with the Act of May 15, 1945 (P.L.547,
No.217), known as the Conservation District Law.

(ii) One-half shall be distributed using a formula
that divides the annual amount appropriated to each
county conservation district by the county from the
county general fund, special fund and grant sources by
the amount appropriated to county conservation districts
by counties from the county general fund, special fund
and grant sources and multiplying the resulting
percentage by the funds available.

(II) ONE-HALF SHALL BE DISTRIBUTED BY THE STATE
CONSERVATION COMMISSION IN A MANNER CONSISTENT WITH THE
CONSERVATION DISTRICT LAW AND THE PROVISIONS OF THE STATE
CONSERVATION COMMISSION'S CONSERVATION DISTRICT FUND
ALLOCATION PROGRAM—STATEMENT OF POLICY UNDER 25 PA. CODE
CH. 83 SUBCH. B (RELATING TO CONSERVATION DISTRICT FUND
ALLOCATION PROGRAM—STATEMENT OF POLICY).

(C.1) OFFICE OF STATE FIRE COMMISSIONER.--

(1) FOR YEAR 2012, AND EACH YEAR THEREAFTER, $1,000,000
SHALL BE ANNUALLY DISTRIBUTED TO THE OFFICE OF THE STATE FIRE
COMMISSIONER.

(2) FUNDS UNDER PARAGRAPH (1) SHALL BE USED FOR THE
FOLLOWING PURPOSES:

(I) TO SUPPORT TRAINING PROGRAMS FOR EMERGENCY
RESPONDERS LOCATED IN REGIONS OF THIS COMMONWEALTH WHERE
DRILLING OF MARCELLUS SHALE OR OTHER UNCONVENTIONAL
RESOURCES OCCURS.

(II) TO PROVIDE GRANTS TO FIRE DEPARTMENTS FOR THE
PURCHASE OF SPECIAL EQUIPMENT REQUIRED TO RESPOND TO
FIRES AND OTHER EMERGENCIES RELATED TO NATURAL GAS
DRILLING ACTIVITY.

(d) Distribution.--Following distribution under subsection
(c), 60% of the revenues remaining in the account are hereby
appropriated for the purposes authorized under this section.
Local governments are encouraged, where appropriate, to jointly
fund projects that cross jurisdictional lines. The commission
shall distribute the funds appropriated under this subsection as follows within 45 days after the date the fee is remitted:

(1) Thirty-six percent shall be distributed to counties in which producing unconventional gas wells are located. The amount for each county shall be determined using a formula that divides the number of producing unconventional gas wells in the county by the number of producing unconventional gas wells in this Commonwealth and multiplies the resulting percentage by the amount available for distribution under this paragraph.

(2) Thirty-seven percent shall be distributed to municipalities in which producing unconventional gas wells are located. The amount for each municipality shall be determined using a formula that divides the number of producing unconventional gas wells in the municipality by the number of producing unconventional gas wells in this Commonwealth and multiplies the resulting percentage by the amount available for distribution under this paragraph.

(3) Twenty-seven percent shall be distributed to municipalities located in a county in which producing unconventional gas wells are located. The amount available for distribution in each county shall be determined by dividing the number of producing unconventional gas wells in the county by the number of producing unconventional gas wells in this Commonwealth and multiplying the resulting percentage by the amount available for distribution under this paragraph. The resulting amount available for distribution in each county in which producing unconventional gas wells are located shall be distributed to each municipality in the county regardless of whether an
unconventional gas well is located in the municipality as follows:

(i) One-half shall be distributed to each municipality using a formula that divides the population of the municipality within the county by the total population of the county and multiplies the resulting percentage by the amount available for distribution to the county under this subparagraph.

(ii) One-half shall be distributed to each municipality using a formula that divides the highway mileage of the municipality within the county by the total highway mileage of the county and multiplies the resulting percentage by the amount available for distribution to the county under this subparagraph.

(e) Use of funds.—A county or municipality receiving funds under this subsection shall make use of funds received only for the following purposes:

(1) Construction, reconstruction, maintenance and repair of roadways, bridges and public infrastructure.

(2) Water, storm water and sewer systems, including construction, reconstruction, maintenance and repair.

(3) Emergency preparedness and public safety, including police and fire services.

(4) Environmental programs, including trails, parks and recreation, open space, flood plain management, conservation districts and agricultural preservation.

(5) Preservation and reclamation of surface and subsurface waters and water supplies.

(6) Tax reductions, including homestead exclusions.

(7) Records management, geographic information.
systems and information technology.

(8) To provide safe and affordable housing to residents.

§ 2317. Statewide environmental initiatives.

(7) TO PROVIDE FOR A PROJECT, APPROVED BY THE GOVERNING BODY OF A COUNTY OR MUNICIPALITY, THAT INCREASES THE AVAILABILITY OF QUALITY AFFORDABLE HOUSING, EITHER FOR SALE OR RENTAL, TO RESIDENTS WHOSE ANNUAL INCOME IS LESS THAN THE AREA MEDIAN INCOME.

(F) ANNUAL REPORTS.--


(2) ALL COUNTIES AND MUNICIPALITIES RECEIVING DISTRIBUTIONS OF FUNDS FROM THE SHALE IMPACT ACCOUNT UNDER THIS SECTION SHALL SUBMIT INFORMATION TO THE COMMISSION ON A FORM PREPARED BY THE COMMISSION THAT SETS FORTH THE AMOUNT AND USE OF THE FUNDS RECEIVED IN THE PRIOR CALENDAR YEAR. THE FORM SHALL SET FORTH WHETHER THE FUNDS RECEIVED WERE COMMITTED TO A SPECIFIC PROJECT OR USE AS ALLOWED IN THIS SECTION.

(3) EVERY COUNTY AND MUNICIPALITY RECEIVING FUNDS UNDER
THIS SECTION SHALL PUBLISH A REPORT, WHICH AT A MINIMUM SHALL INCLUDE THE AMOUNT OF FUNDS RECEIVED UNDER THIS SECTION AND THE PURPOSES FOR WHICH THE FUNDS WERE EXPENDED. THE REPORTS SHALL BE PUBLISHED ON THE COUNTY OR MUNICIPALITY'S PUBLICLY ACCESSIBLE INTERNET WEBSITE AT LEAST ANNUALLY.

§ 2313. ENVIRONMENTAL INITIATIVES DISTRIBUTION OF FEE.

(a) Deposit and distribution.--Following distribution under section 2316(c) 2312(C), 40% of the revenues in the account are hereby appropriated for distribution by the commission as follows:

(1) Eighty SIXTY percent to the Commonwealth Financing Authority to be utilized for grants to eligible applicants for the following purposes:

(i) To implement acid mine drainage abatement and cleanup efforts, mine reclamation and to plug abandoned and orphaned oil and gas wells.

(I) TO IMPLEMENT ACID MINE DRAINAGE ABATEMENT AND CLEANUP EFFORTS AND MINE RECLAMATION WITH A PRIORITY GIVEN TO THOSE PROJECTS THAT RECYCLE AND TREAT MINE DRAINAGE WATER FOR USE IN DRILLING OPERATIONS.

(II) TO PLUG ABANDONED AND ORPHANED OIL AND GAS WELLS.

(ii) (III) Grants for watershed protection as defined in 27 Pa.C.S. § 6103 (relating to definitions).

(iii) (IV) Planning and enforcement authorized under section 6 of the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act.

(iv) (V) Water, storm water and sewer systems, including construction, reconstruction, maintenance and repair.
(v) The planning, acquisition, development, rehabilitation and repair of greenways, recreational trails, open space, natural areas, community conservation and beautification projects, community and heritage parks and forest conservation.

(vi) Flood control and dam safety projects, including the removal of dams where appropriate.

(2) Ten TWENTY percent to the Motor License Fund.

(3) Ten TWENTY percent to the Hazardous Sites Cleanup Fund.

(4) NO MORE THAN 40% OF THE REVENUE GENERATED UNDER THIS SECTION SHALL BE USED FOR THE PURPOSES LISTED UNDER PARAGRAPH (1)(V).

(b) Restriction on use of proceeds.--

(1) Funds shall not be granted to an eligible applicant for the purpose of public relations, outreach, communications, lobbying or litigation.

(2) No property purchased using revenue generated under this section may be conveyed or resold to another entity without approval from the Department of Conservation and Natural Resources.

(3) Grants may not be used by an authorized organization as defined in 27 Pa.C.S. § 6103 for land acquisition unless the authorized organization has obtained the written consent of the county and municipality in which the land is situated.

(c) Coordination with other agencies.--The department and the Department of Conservation and Natural Resources shall review applications for funding as requested by the Commonwealth Financing Authority and provide recommendations on priority of projects and project approval for consideration by the Commonwealth Financing Authority.
§ 2314. EXPIRATION.

(A) NOTICE.--THE SECRETARY OF STATE SHALL, UPON THE IMPOSITION OF A SEVERANCE TAX ON EACH UNCONVENTIONAL WELL PRODUCING GAS IN THIS COMMONWEALTH, SUBMIT FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN NOTICE OF THE IMPOSITION.

(B) DATE.--THIS CHAPTER SHALL EXPIRE ON THE DATE OF THE PUBLICATION OF THE NOTICE UNDER SUBSECTION (A).

CHAPTER 25
MODEL ORDINANCE

Sec.
2501. Model municipal ordinance.

2502. Local ordinance.

§ 2501. Model municipal ordinance.

(a) Purposes.--The purposes of this section are as follows:

(1) To optimize the development and use of this Commonwealth's oil and gas reserves by increasing reasonable consistency in zoning and other municipal regulation.

(2) To foster expeditious and efficient handling of municipal oil and gas permitting procedures.

(3) To allow municipalities to enact regulations under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, and the act of October 4, 1978 (P.L.851, No.166), known as the Flood Plain Management Act, insofar as the regulation is authorized by section 2502 (relating to local ordinance) and this section.

(b) Authority.--The commission shall develop and adopt a model ordinance to fulfill the purposes of this section.

(c) Adoption of provisions.--

(1) Within 120 days of the effective date of this
section, the commission shall, by majority vote, adopt a model ordinance for counties and municipalities pertaining to oil and gas drilling activities in accordance with the Pennsylvania Municipalities Planning Code, as applicable, the Flood Plain Management Act and this section.

(2) The model zoning ordinance shall do all of the following:

(i) Authorize oil and gas development as a permitted use by right in all zoning districts except residential districts. The commission may develop a model zoning ordinance that allows oil and gas development in residential zoning districts by conditional use or special exception with conditions dependent on the density of existing uses within the district and the isolation distances achievable in each residential district.

(ii) Authorize natural gas compression stations:

(A) as a permitted use by right in all agricultural, industrial and commercial districts; and

(B) as a conditional use in all other zoning districts.

(iii) Authorize natural gas processing plants:

(A) as a permitted use by right in all industrial districts; and

(B) as a conditional use or special exception in agricultural districts.

(3) The model zoning ordinance shall not do any of the following:

(i) Impose limitations on the hours of operation on
drilling operations.

(ii) Impose limitations on noise, light, height or security or fencing on drilling operations, natural gas compressor stations or natural gas processing plants if the limitations are more stringent than limitations imposed on construction activities for other similar land uses. The model zoning ordinance may include limitations on noise, light, height and security and fencing for equipment or processes which are unique to the gas industry and which are rational, nondiscriminatory and reasonably defensible in the particular zone where they apply.

(iii) Have a permit review period for uses by right that exceeds 30 days for complete and responsive submissions.

(iv) Impose restrictions on vehicular access routes for overweight vehicles except as authorized under:
    (A) 75 Pa.C.S. (relating to vehicles); or
    (B) the Pennsylvania Municipalities Planning Code.

(v) Regulate storm water, erosion and sedimentation control or grading where the use is subject to regulation by the department through an Erosion and Sedimentation Control General Permit or similar permit.

(4) Nothing in this subsection shall limit or preempt a county or municipality from action pursuant to the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act.

(d) Effect of model ordinance.--An ordinance adopted by a county or municipality to regulate oil and gas shall not contain
more stringent standards than the model ordinance adopted by the
commission.

(e) Timing.--The commission shall publish the adopted model
ordinance in the Pennsylvania Bulletin immediately after its
adoption and shall disseminate information about the model
ordinance through the Department of Community and Economic
Development, municipal associations and other means as the
commission shall deem appropriate. The costs of the notification
shall be borne by the Department of Community and Economic
Development.

(f) Miscellaneous.--The commission shall review the model
ordinance annually. Proposed amendments shall be published in
the Pennsylvania Bulletin within 30 days after their adoption.

(g) Ordinance.--If an ordinance adopted by a county or
municipality contains more stringent standards than the model
ordinance, the county or municipality shall be ineligible to
receive funding under sections 2316 2312 (relating to local
distribution of fee) and 2317 2313 (relating to environmental
initiatives ENVIRONMENTAL INITIATIVES DISTRIBUTION OF FEE).

(h) Effective date of model ordinance.--The model ordinance
shall take effect 70 days following the commission's publication
of the ordinance in the Pennsylvania Bulletin under this
section.

§ 2502. Local ordinance.

Nothing in this chapter shall impair or infringe upon the
preemption or supersedure of the regulation of gas wells under
section 602 of the act of December 19, 1984 (P.L.1140, No.223),
known as the Oil and Gas Act.

Section 2. This act shall take effect as follows:

(1) This section shall take effect immediately.
(2) The addition of 58 Pa.C.S. § 2501 shall take effect immediately.

(3) The remainder of this act shall take effect in 30 days.