

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 426 Session of 2011

INTRODUCED BY LEACH, FONTANA, BOSCOLA, ERICKSON, COSTA,
RAFFERTY, BROWNE, GREENLEAF, FERLO, STACK AND BLAKE,
FEBRUARY 7, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 7, 2011

AN ACT

1 Providing for a moratorium on leasing State forest lands for the
2 purposes of natural gas exploration, drilling or production;
3 imposing duties on the Department of Conservation and Natural
4 Resources; and providing for report contents and for
5 Legislative Budget and Finance Committee study.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the State Forest
10 Natural Gas Lease Moratorium Act.

11 Section 2. Moratorium.

12 (a) Establishment.--Notwithstanding any other provision of
13 law, a moratorium is established during which State forest lands
14 may not be leased for the purposes of natural gas exploration,
15 drilling or production.

16 (b) Expiration.--The moratorium in subsection (a) shall
17 expire three years after this act takes effect.

18 Section 3. Duties of department.

19 (a) Monitor and assess.--The Department of Conservation and

1 Natural Resources shall have a duty to monitor and assess the
2 impact of the leases granted for the purposes of natural gas
3 exploration, drilling or production on State forest lands that
4 took effect prior to and during the moratorium imposed in
5 section 2(a). The Department of Conservation and Natural
6 Resources shall continue to monitor and assess after the
7 moratorium expires under section 2(b).

8 (b) Comprehensive Environmental Impact Review.--

9 (1) The Department of Conservation and Natural Resources
10 shall prepare a Comprehensive Environmental Impact Review
11 (CEIR) within two years after the start date of the
12 moratorium. The scope of the CEIR shall include the
13 following:

14 (i) An assessment of the potential impacts related
15 to development of Marcellus gas utilizing alternative
16 development projections. One of these projections shall
17 address the maximum possible development on State forest
18 lands of all current leased acreage and other State
19 forest lands where Marcellus gas is not owned by the
20 Commonwealth. The development projections shall include
21 the potential for shallow gas drilling.

22 (ii) An assessment of the potential impacts for each
23 development projection on the forest ecosystem, forest
24 uses and forest users. This shall include an
25 identification of possible problems that are associated
26 with noncompliance of environmental regulations,
27 nonconformance with lease requirements, accidents and
28 related problems.

29 (iii) The CEIR will identify and evaluate the
30 impacts for each development scenario related to

1 exploration, pad development, drilling operations, road
2 and bridge development, collection and transmission
3 lines, compression facilities, treatment plants, waste
4 disposal, water withdrawals and other associated
5 development. The scope of this evaluation shall include
6 impacts on State forest lands and private landowners and
7 communities.

8 (iv) For those State forest lands where the
9 Marcellus gas is not owned by the Commonwealth, the CEIR
10 shall identify the specific controls in place to protect
11 these State forest lands and compare these with the
12 conservation provisions contained in the Department of
13 Conservation and Natural Resources' leases.

14 (v) The CEIR will identify those lands proximate to
15 State forest land where Marcellus development by other
16 entities has the potential to impact the State forest.
17 Potential impacts will be identified including vehicular
18 use and rights-of-way for roads, pipelines and related
19 development.

20 (vi) The CEIR shall identify the Department of
21 Conservation and Natural Resources workload associated
22 with administration and development of Marcellus gas for
23 each development scenario. A workload baseline shall be
24 established for fiscal year 2009-2010 that identifies the
25 workload allocation within the Bureau of Forestry and
26 shall include staffing assigned to existing
27 responsibilities such as forest fire protection, forest
28 health, timber management, recreation, water supply, deer
29 management and oil and gas development. Marcellus
30 staffing shall be addressed separately.

1 (2) The Marcellus workload assessment shall project the
2 Marcellus workload over the next ten years and identify how
3 this workload will be carried out and staffing options which
4 include flat or reduced staffing levels. Each of these
5 options will be compared to the staffing baseline in
6 paragraph (1)(vi) and describe the likely impacts of the
7 Marcellus development scenarios on staffing levels related to
8 other State forest responsibilities.

9 (3) The Department of Environmental Protection will
10 provide to the Department of Conservation and Natural
11 Resources a workload analysis with projections regarding
12 inspection and enforcement staff time that will be allotted
13 to assure environmental compliance on State forest lands
14 under each of the Marcellus development scenarios. New
15 staffing needs will be identified.

16 (4) The proposed scope and content of the CEIR will be
17 subject to review and comment by the public for 60 days prior
18 to initiation of the work to prepare the report.

19 (c) Report.--Beginning in year three the Department of
20 Conservation and Natural Resources shall submit an annual report
21 to the General Assembly and the Governor regarding the effect of
22 natural gas exploration, drilling or production on State forest
23 lands. The Department of Conservation and Natural Resources
24 shall continue to submit the annual report after the moratorium
25 expires under section 2(b).

26 Section 4. Report contents.

27 The contents of the report required under section 3(c), shall
28 include, but not be limited to, the effect of natural gas
29 exploration, drilling or production on State forest lands on the
30 following:

- 1 (1) Water and soil quality.
- 2 (2) Forest fragmentation.
- 3 (3) Plants, wildlife, habitats and invasive species.
- 4 (4) Air quality.
- 5 (5) Social fabric, including, but not limited to:
 - 6 (i) Tourism.
 - 7 (ii) Recreation.
 - 8 (iii) Hunting.
 - 9 (iv) Fishing.
 - 10 (v) Community aesthetics.
 - 11 (vi) Quality of life.
- 12 (6) The staffing needs of the Department of Conservation
- 13 and Natural Resources regarding the monitoring, assessment
- 14 and regulation of natural gas exploration, drilling or
- 15 production on State forest lands.

16 Section 5. Legislative Budget and Finance Committee study
17 relating to Marcellus gas development.

18 (a) General rule.--Three years after the moratorium set
19 forth above and following the completion of the Department of
20 Conservation and Natural Resources' Comprehensive Environmental
21 Impact Review (CEIR), the Legislative Budget and Finance
22 Committee shall conduct a study regarding the environmental,
23 economic and societal impacts of the leasing of State lands for
24 Marcellus development in this Commonwealth. The Legislative
25 Budget and Finance Committee shall use the CEIR as a basis for
26 its environmental study but may also conduct further
27 investigation and utilize other sources of data for its study.

28 (b) Contents of study.--The study shall, at a minimum,
29 analyze the following:

- 30 (1) The separate environmental, economic and societal

1 impacts to both the Commonwealth and its citizens resulting
2 from Marcellus development on State lands.

3 (2) The overall cumulative impact on this Commonwealth
4 and its citizens resulting from the Marcellus development
5 that has already taken place on State lands.

6 (3) Based on the impacts of Marcellus development that
7 has taken place, a projection of the environmental, economic
8 and societal impacts that will result from Marcellus
9 development of all the existing leases of State land for
10 Marcellus development.

11 (4) The specific impacts on communities and citizens
12 living in close proximity to State land which has been
13 developed.

14 (5) The impact of Marcellus development on various State
15 land user communities such as hunters, fishers, hikers,
16 mountain bikers, campers, all terrain vehicle users,
17 snowmobilers, boaters, horse riders and general visitors.

18 (6) Whether the terms of the leases for State land
19 should be modified to mitigate any identified environmental
20 or societal impacts or maximize economic benefits to this
21 Commonwealth and its citizens.

22 (7) Whether the Department of Environmental Protection,
23 the Department of Conservation and Natural Resources, the
24 Game Commission, Fish and Boat Commission and other State
25 agencies have sufficient resources and personnel to
26 effectively oversee and regulate Marcellus development on
27 leased State land.

28 Section 6. Post-moratorium leasing.

29 The Department of Conservation and Natural Resources shall
30 not offer State forest land for lease for the purposes of

1 natural gas exploration, drilling or production once the
2 moratorium expires unless it, in its sole discretion, determines
3 the State forest can be sustained in a balanced state that
4 preserves water and air quality, plant and animal habitats and
5 the multiple ecosystems, recreational, social and aesthetic
6 values of the forest with the proposed lease.

7 Section 20. Effective date.

8 This act shall take effect immediately.