

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1100 Session of 2011

INTRODUCED BY SCARNATI, CORMAN, BROWNE, VOGEL, SMUCKER, D. WHITE, BRUBAKER, PIPPY, MENSCH, YAW AND PICCOLA, MAY 16, 2011

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, JUNE 14, 2011

AN ACT

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

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 a part to read:

8 PART I

9 UNCONVENTIONAL GAS WELLS

10 Chapter

11 23. Impact Fee

12 25. Model Ordinance

13 CHAPTER 23

14 IMPACT FEE

15 Sec.

16 2301. Definitions.

17 2302. Shale Impact Fee.



- 1 ~~2303. Administration.~~
- 2 ~~2304. Well information.~~
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- 16 2303. SHALE IMPACT FEE HOUSING CREDIT.
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- 26 2313. ENVIRONMENTAL INITIATIVES DISTRIBUTION OF FEE.
- 27 2314. EXPIRATION.
- 28 § 2301. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Account." The Shale Impact Account.

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

8 "Barrel." A barrel of 42 U.S. gallons of natural gas
9 liquids.

10 "Commission." The Pennsylvania Public Utility Commission.

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

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

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

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

25 "Marginal gas well." An unconventional gas well ~~capable~~ ←
26 ~~INCAPABLE of severing~~ PRODUCING more than ~~60,000~~ 90,000 cubic ←
27 ~~feet of gas per day during a calendar month, but incapable of~~ ←
28 ~~severing more than 90,000 cubic feet of gas per day during a~~
29 ~~calendar month, including production from the zones and~~
30 multilateral well bores at a single well, regardless of whether

1 the production is metered separately.

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

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

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

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

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

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

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

28 ~~(3) If the average annual price of natural gas is \$6.01~~
29 ~~to \$7.00, the price adjustment factor shall be equal to the~~
30 ~~sum of the average annual price plus two.~~

1 ~~(4) If the average annual price of natural gas is \$7.01~~
2 ~~to \$8.00, the price adjustment factor shall be equal to the~~
3 ~~sum of the average annual price plus three.~~

4 ~~(5) If the average annual price of natural gas is~~
5 ~~greater than \$8.00, the price adjustment factor shall be~~
6 ~~equal to the sum of the average annual price plus five.~~

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

14 "SHALE IMPACT FEE HOUSING CREDIT." THE CREDIT PROVIDED UNDER ←
15 THIS CHAPTER FOR A PRODUCER, WHO HAS A PERMIT FROM THE
16 DEPARTMENT TO DRILL FOR NATURAL GAS OTHER THAN MARGINAL GAS IN
17 THIS COMMONWEALTH, UPON ACCEPTANCE OF A DONATION TO AN OPTIONAL
18 COUNTY AFFORDABLE HOUSING FUND UNDER 53 PA.C.S. CH .60 (RELATING
19 TO OPTIONAL AFFORDABLE HOUSING FUNDING) OF A COUNTY IN WHICH A
20 PRODUCER HAS ACTIVE UNCONVENTIONAL WELLS OR A NONPROFIT
21 ORGANIZATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE
22 CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501(C)(3)) WHICH IS
23 COMMITTED TO PROVIDING LOW AND MODERATE INCOME HOUSING IN A
24 COUNTY IN WHICH A PRODUCER HAS ACTIVE UNCONVENTIONAL WELLS.

25 "Unconventional well." A bore hole drilled or being drilled
26 for the purpose of or to be used for producing oil or gas from a
27 geological formation existing below the base of the Elk
28 Sandstone or its geologic equivalent stratigraphic interval
29 where oil or gas generally cannot be produced at economic flow
30 rates or in economic volumes except by vertical or horizontal

1 well bores stimulated by hydraulic fracture treatments or by
2 using multilateral well bores or other techniques to expose more
3 of the formation of the well bore.

4 "Unit." ←

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

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

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

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

30 (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 ~~1,000,000, the volume adjustment factor is 0.6.~~

2 ~~(7) If the annual units of production are 1,000,001 to~~
3 ~~1,350,000, the volume adjustment factor is 0.7.~~

4 ~~(8) If the annual units of production are greater than~~
5 ~~1,350,001, the volume adjustment factor is 0.8.~~

6 § 2302. Shale Impact Fee.

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

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

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

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

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

26 (1) FOR THE FIRST YEAR OF PRODUCTION, THE FEE SHALL BE ←
27 \$40,000.

28 (2) FOR THE SECOND YEAR OF PRODUCTION, THE FEE SHALL BE
29 \$30,000.

30 (3) FOR THE THIRD YEAR OF PRODUCTION, THE FEE SHALL BE

1 \$20,000.

2 (4) FOR THE FOURTH YEAR OF PRODUCTION THROUGH THE TENTH
3 YEAR OF PRODUCTION, THE FEE SHALL BE \$10,000.

4 (C) EXEMPTION.--THE FEE UNDER SUBSECTION (A) SHALL NOT BE
5 IMPOSED ON MARGINAL GAS WELLS.

6 § 2303. SHALE IMPACT FEE HOUSING CREDIT.

7 (A) GENERAL RULE.--A PRODUCER WHO HAS A PERMIT FROM THE
8 DEPARTMENT TO DRILL FOR NATURAL GAS, OTHER THAN MARGINAL GAS, IN
9 THIS COMMONWEALTH MAY APPLY FOR A SHALE IMPACT FEE CREDIT UPON
10 ACCEPTANCE OF A DONATION TO AN OPTIONAL COUNTY AFFORDABLE
11 HOUSING FUND UNDER 53 PA.C.S. CH 60 (RELATING TO OPTIONAL
12 AFFORDABLE HOUSING FUNDING) OF A COUNTY IN WHICH A PRODUCER HAS
13 ACTIVE UNCONVENTIONAL WELLS.

14 (B) APPLICATION.--AN APPLICATION SHALL BE DEVELOPED BY THE
15 COMMISSION.

16 (C) MAXIMUM AMOUNT.--A PRODUCER MAY CLAIM A CREDIT OF NO
17 GREATER THAN 30% OF THE PRODUCER'S IMPACT FEE LIABILITY UNDER
18 THIS CHAPTER.

19 (D) ELIGIBLE ACTIVITIES.--A COUNTY ACCEPTING A DONATION TO
20 THE OPTIONAL COUNTY AFFORDABLE HOUSING FUND MAY UTILIZE THE
21 FUNDING FOR THE FOLLOWING PURPOSES:

22 (1) TO PROVIDE SUPPORT TO PROJECTS THAT MEET ELIGIBILITY
23 CRITERIA AS SET FORTH IN THE PROGRAMS ADMINISTERED BY THE
24 PENNSYLVANIA HOUSING FINANCE AGENCY.

25 (2) TO PROVIDE SUPPORT TO PROJECTS THAT INCREASE THE
26 AVAILABILITY OF QUALITY, SAFE, AFFORDABLE HOUSING FOR LOW-
27 INCOME AND MODERATE-INCOME INDIVIDUALS OR FAMILIES, PERSONS
28 WITH DISABILITIES OR ELDERLY PERSONS.

29 (3) TO PROVIDE RENTAL ASSISTANCE TO PERSONS OR FAMILIES
30 WHOSE HOUSEHOLD INCOME DOES NOT EXCEED THE AREA MEDIAN

1 INCOME.

2 § 2303 2304. Administration. ←

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

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

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

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

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

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

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

1 follows:

2 (1) Fifty percent of the fee shall be paid by August 1,
3 2011.

4 (2) Fifty percent of the fee shall be paid by November
5 1, 2011.

6 ~~(f)~~ (C) Fee due date.--Except as provided under subsection ←
7 ~~(e)(2)~~ (B) (2), the fee shall be due on the day the report is ←
8 required to be filed. The fee shall become delinquent if not
9 remitted to the commission on the reporting date.

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

19 ~~§ 2304~~ 2305. Well information. ←

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

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

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

29 ~~(2)~~ The use of a different accredited laboratory to
30 issue a wellhead meter certification. INITIATION OF ←

1 PRODUCTION AT A WELL OR THE REMOVAL OF A WELL FROM PRODUCTION
2 OCCURS.

3 § 2305 2306. Duties of department. ←

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

8 (b) Prohibition.--The department shall not issue a permit to
9 drill an unconventional well until all fees owed under section
10 2302 that are not in dispute have been paid to the commission.

11 ~~§ 2306. Meters.~~ ←

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

22 § 2307. Commission.

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

27 (b) Notice.--If the commission determines that the fee has
28 not been paid in full, it may issue a notice of the amount due
29 and demand for payment and shall set forth the basis for the
30 determination.

1 (c) Address.--Notice of failure to pay the correct fee shall
2 be sent to the producer at its registered address via certified
3 mail.

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



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

11 § 2308. Enforcement.

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

16 (b) Penalty.--In addition to the interest under subsection
17 (a), if a producer fails to make timely payment of the fee,
18 there shall be added to the amount of the fee due a penalty of
19 5% of the amount of the fee if failure to file a timely payment
20 is for not more than one month, with an additional 5% penalty
21 for each additional month, or fraction of a month, during which
22 the failure continues, not to exceed 25% in the aggregate.

23 (c) Timely payment.--If the commission determines that a
24 producer has not made a timely payment of the fee, the
25 commission shall send a written notice of the amount of the
26 deficiency to the producer within 30 days from the date of
27 determining the deficiency. If the producer has not provided a
28 complete and accurate statement of the volume of gas extracted
29 for the payment period, the commission may estimate the volume
30 in its deficiency notice.

1 (d) Remedies.--The remedies provided under this chapter are
2 in addition to any other remedies provided at law or in equity.

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

17 ~~§ 2309. Criminal penalties.~~

18 ~~(a) Offense defined. It shall be unlawful for any producer~~
19 ~~to:~~

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

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

27 ~~(3) Violate 18 Pa.C.S. § 4903 (relating to false~~
28 ~~swearing) or 4904 (relating to unsworn falsification to~~
29 ~~authorities), including a violation in providing or preparing~~
30 ~~information required by this chapter.~~

1 ~~(4) Intentionally fail to make timely payment of the~~
2 ~~fee.~~

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

7 ~~§ 2310. Criminal grading.~~

8 ~~(a) Summary offense. Except as set forth in subsection (b),~~
9 ~~a producer that willfully violates this chapter or an order~~
10 ~~issued under this chapter commits a summary offense and shall,~~
11 ~~upon conviction, be sentenced to pay a fine of not less than~~
12 ~~\$100 nor more than \$1,000 and costs or to a term of imprisonment~~
13 ~~for not more than 30 days, or both.~~

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

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

24 ~~§ 2311. Enforcement orders.~~

25 ~~(a) Issuance. The commission may issue an order as~~
26 ~~necessary to enforce this chapter. An order issued under this~~
27 ~~section shall take effect upon notice, unless the order~~
28 ~~specifies otherwise. An appeal of the order must be in~~
29 ~~accordance with 66 Pa.C.S. Ch. 3 Subch. B (relating to~~
30 ~~investigations and hearings).~~

1 ~~(b) Compliance. A producer has the duty to proceed~~
2 ~~diligently to comply with an order issued under subsection (a).~~
3 ~~If a producer fails to proceed diligently or to comply with an~~
4 ~~order within the time required, the producer shall be guilty of~~
5 ~~contempt and shall be punished by the court in an appropriate~~
6 ~~manner. The commission shall apply to the Commonwealth Court,~~
7 ~~which shall have jurisdiction over matters relating to contempt.~~

8 ~~§ 2312. Administrative penalties.~~

9 ~~(a) Civil penalties. In addition to any other proceeding~~
10 ~~authorized by law, the commission may assess a civil penalty~~
11 ~~upon a producer for the violation of this chapter. In~~
12 ~~determining the amount of the penalty, the commission shall~~
13 ~~consider the willfulness of the violation and other relevant~~
14 ~~factors.~~

15 ~~(b) Separate offense. Each violation for each separate day~~
16 ~~and each violation of this chapter shall constitute a separate~~
17 ~~offense.~~

18 ~~(c) Limitation of actions. Notwithstanding any limitation~~
19 ~~in 42 Pa.C.S. Ch. 55 Subch. B (relating to civil actions and~~
20 ~~proceedings), an action under this section must be brought~~
21 ~~within three years of the violation.~~

22 ~~(d) Procedure. A penalty under this chapter is subject to~~
23 ~~66 Pa.C.S. Ch. 3 Subch. B (relating to investigations and~~
24 ~~hearings).~~

25 ~~§ 2313 2309. Regulations.~~

26 ~~The commission shall promulgate regulations necessary to~~
27 ~~enforce this chapter.~~

28 ~~§ 2314 2310. Recordkeeping.~~

29 ~~A producer liable for the fee imposed under this chapter~~
30 ~~shall keep records, make reports and comply with regulations of~~

1 the commission. If necessary, the commission may require a
2 producer to make reports, render statements or keep records as
3 the commission deems sufficient to determine liability for the
4 fee.

5 § ~~2315~~ 2311. Examinations.



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

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

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

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

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

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

1 § 2316 2312. Local distribution of fee. ←

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

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

7 (c) Conservation districts.--

8 (1) For 2010, \$2,500,000 from the account shall be
9 ~~distributed to county conservation districts~~ TRANSFERRED TO ←
10 THE CONSERVATION DISTRICT FUND TO BE DISTRIBUTED TO COUNTY
11 CONSERVATION DISTRICTS BY THE STATE CONSERVATION COMMISSION.

12 (2) For 2011, \$5,000,000 from the account shall be
13 ~~distributed to county conservation districts~~ TRANSFERRED TO ←
14 THE CONSERVATION DISTRICT FUND TO BE DISTRIBUTED TO COUNTY
15 CONSERVATION DISTRICTS BY THE STATE CONSERVATION COMMISSION.

16 (3) For 2012, and every year thereafter, \$7,500,000 from
17 the account shall be ~~distributed to county conservation~~ ←
18 ~~districts~~ TRANSFERRED TO THE CONSERVATION DISTRICT FUND TO BE ←
19 DISTRIBUTED TO COUNTY CONSERVATION DISTRICTS BY THE STATE
20 CONSERVATION COMMISSION.

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

23 (i) One-half shall be distributed by dividing the
24 amount equally among conservation districts FOR ANY USE ←
25 CONSISTENT WITH THE ACT OF MAY 15, 1945 (P.L.547,
26 NO.217), KNOWN AS THE CONSERVATION DISTRICT LAW.

27 ~~(ii) One half shall be distributed using a formula~~ ←
28 ~~that divides the annual amount appropriated to each~~
29 ~~county conservation district by the county from the~~
30 ~~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



1 shall distribute the funds appropriated under this subsection as
2 follows within 45 days after the date the fee is remitted:

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

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

19 (3) Twenty-seven percent shall be distributed to
20 municipalities located in a county in which producing
21 unconventional gas wells are located. The amount available
22 for distribution in each county shall be determined by
23 dividing the number of producing unconventional gas wells in
24 the county by the number of producing unconventional gas
25 wells in this Commonwealth and multiplying the resulting
26 percentage by the amount available for distribution under
27 this paragraph. The resulting amount available for
28 distribution in each county in which producing unconventional
29 gas wells are located shall be distributed to each
30 municipality in the county regardless of whether an

1 unconventional gas well is located in the municipality as
2 follows:

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

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

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

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

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

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

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

27 ~~(5) (4) Preservation and reclamation of surface and~~ ←
28 ~~subsurface waters and water supplies.~~

29 ~~(6) (5) Tax reductions, including homestead exclusions.~~ ←

30 ~~(7) (6) Records management, geographic information~~ ←

1 systems and information technology.

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

3 ~~§ 2317. Statewide environmental initiatives.~~

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

9 (F) ANNUAL REPORTS.--

10 (1) THE COMMISSION SHALL SUBMIT AN ANNUAL REPORT ON ALL
11 DISTRIBUTIONS OF FUNDS IN THE SHALE IMPACT ACCOUNT UNDER THIS
12 SECTION. THE REPORT SHALL BE SUBMITTED TO THE CHAIRMAN AND
13 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE
14 SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
15 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE
16 CHAIRMAN AND MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES
17 AND ENERGY COMMITTEE OF THE SENATE AND THE CHAIRMAN AND
18 MINORITY CHAIRMAN OF THE ENVIRONMENTAL RESOURCES AND ENERGY
19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL
20 BE SUBMITTED BY AUGUST 31, 2012, AND BY AUGUST 31 OF EACH
21 YEAR THEREAFTER.

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

30 (3) EVERY COUNTY AND MUNICIPALITY RECEIVING FUNDS UNDER

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

6 § 2313. ENVIRONMENTAL INITIATIVES DISTRIBUTION OF FEE.

7 (a) Deposit and distribution.--Following distribution under
8 section ~~2316(e)~~ 2312(C), 40% of the revenues in the account are ←
9 hereby appropriated for distribution by the commission as
10 follows:

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

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

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

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

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

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

28 ~~(iv)~~ (V) Water, storm water and sewer systems, ←
29 including construction, reconstruction, maintenance and
30 repair.

1 ~~(v) The planning, acquisition, development,~~ ←
2 ~~rehabilitation and repair of greenways, recreational~~
3 ~~trails, open space, natural areas, community conservation~~
4 ~~and beautification projects, community and heritage parks~~
5 ~~and forest conservation.~~

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

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

9 ~~(3) Ten TWENTY percent to the Hazardous Sites Cleanup~~ ←
10 ~~Fund.~~

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

14 ~~(b) Restriction on use of proceeds.--~~

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

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

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

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



1 Commonwealth Financing Authority.

2 § 2314. EXPIRATION.

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

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

9 CHAPTER 25

10 MODEL ORDINANCE

11 Sec.

12 2501. Model municipal ordinance.

13 2502. Local ordinance.

14 § 2501. Model municipal ordinance.

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

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

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

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

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

29 (c) Adoption of provisions.--

30 (1) Within 120 days of the effective date of this

1 section, the commission shall, by majority vote, adopt a
2 model ordinance for counties and municipalities pertaining to
3 oil and gas drilling activities in accordance with the
4 Pennsylvania Municipalities Planning Code, as applicable, the
5 Flood Plain Management Act and this section.

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

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

17 (ii) Authorize natural gas compression stations:

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

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

23 (iii) Authorize natural gas processing plants:

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

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

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

30 (i) Impose limitations on the hours of operation on

1 drilling operations.

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

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

16 (iv) Impose restrictions on vehicular access routes
17 for overweight vehicles except as authorized under:

18 (A) 75 Pa.C.S. (relating to vehicles); or

19 (B) the Pennsylvania Municipalities Planning
20 Code.

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

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

29 (d) Effect of model ordinance.--An ordinance adopted by a
30 county or municipality to regulate oil and gas shall not contain

1 more stringent standards than the model ordinance adopted by the
2 commission.

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

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

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

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

24 § 2502. Local ordinance.

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

29 Section 2. This act shall take effect as follows:

30 (1) This section shall take effect immediately.

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

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