



**HOUSE COMMITTEE ON APPROPRIATIONS**  
2009-10 Legislative Session

**FISCAL NOTE**

**HOUSE BILL: 1847**

**PRINTER'S NO: 2794**

**PRIME SPONSOR: Harhai**

<b>FISCAL IMPACT SUMMARY</b>	<b>FY 2009/10</b>	<b>FY 2010/11</b>
<b>Expenditure Increase/(Decrease):</b>		
General Fund	\$48,000*	\$0

\*See Analysis

**OVERVIEW:**

The Coal Refuse Disposal Control Act (Act 318 of 1968) provides that preferred sites shall be used for coal refuse disposal unless the applicant demonstrates to the Department of Environmental Protection (DEP) another site is more suitable based upon engineering, geology, economics, transportation systems and social factors and is not adverse to the public interest. The Act currently describes a preferred site as one of the following:

- (1) A watershed polluted by acid mine drainage.
- (2) A watershed containing an unreclaimed surface mine but which has no mining discharge.
- (3) A watershed containing an unreclaimed surface mine with discharges that could be improved by the proposed coal refuse disposal operation.
- (4) Unreclaimed coal refuse disposal piles that could be improved by the proposed coal refuse disposal operation.
- (5) Other unreclaimed areas previously affected by mining activities.

However, the Act also provides that if the adverse environmental impacts of the preferred site clearly outweigh the public benefits, the site shall not be considered a preferred site.

House Bill 1847 amends the Coal Refuse Disposal Control Act adding "an area adjacent to or an expansion of an existing coal refuse disposal site" to the list of preferred sites by the DEP for coal refuse disposal.

The bill was amended in the Senate establishing a Coal Bed Methane Review Board and alternative dispute resolution procedures. The purpose of the board shall be to consider objections and attempt to reach agreement on or determine a location for the coal bed methane well or access road.

The board shall be comprised of three members appointed by the Governor that are selected from three lists comprised of three individuals submitted by the Pennsylvania Farm Bureau, The Pennsylvania State University and a jointly compiled list from the Pennsylvania Oil and Gas Association, the Independent Oil and Gas Association and the Pennsylvania Coal Association.

Section 5 of the bill establishes Alternative Dispute Resolution Procedures:

Notification to land owners by well operators of their intent to drill a well or construct an access road must include notification of the land owner's right to participate in alternative dispute resolution.

If a land owner intends to pursue alternative dispute resolution, written objections must be filed with the DEP within 15 days of receipt of the notification. The DEP must notify the well operator and the board within two days of receipt of the owner's objections.

The board will schedule the conference with the owner and the operator, no later than 10 business days following the operator's receipt of the objections. The board must notify the DEP of an agreement within 10 business days of the conference's completion. If no agreement is reached, the board must make a determination within 10 business days and notify the owner, operator, and the DEP. Finding of facts and reasons in support of the board's determination must be submitted to the DEP and served to the owner and operator within 15 days of the conference's completion.

An appeal of the board's determination can be made in the Common Pleas Court of the county where the property is located. Neither the board nor the DEP can be a party to the appeal. The Court must hold a hearing within 30 days of the filing of the appeal.

The act would supersede any ordinances or resolutions of a political subdivision regarding the material regulated by the act.

The act may not be construed to affect, limit, or impair any enforcement action taken by the DEP under the Oil and Gas Act prior to the effective date of the act.

Section 5 of this legislation shall take effect upon publication of the notice of the appointment of the board.

The remainder of the act is effective immediately.

#### **ANALYSIS:**

According to the DEP, adoption of this legislation will cause the Department to incur additional costs.

The addition of "an area adjacent to or an expansion of an existing coal refuse disposal site" to the list of preferred sites by the DEP for coal refuse disposal will have no adverse fiscal impact.

However, the bill requires the DEP to provide administrative and clerical support to the board as requested.

The bill also provides that each board member shall be compensated at a per diem rate of no less than \$150 per day, based on the prevailing formula administered by the Commonwealth, plus all reasonable expenses incurred while performing their official duties. Compensation shall be adjusted annually by the Secretary of Environmental Protection to account for inflation based on the rate of inflation identified by the Consumer Price Index published by the United States Department of Labor. The individual member may waive his right to all or part of the compensation set forth in this subsection.

The DEP estimates that the administrative support to the board and compensation of board members could cost the department \$1,000 per day. The volume of disputes and time needed to come to a resolution cannot be quantified at this time. Assuming the board meets for 12 days each quarter, the cost to the DEP annually would be \$48,000. The DEP is also responsible for costs for representation during the appeal process.

**PREPARED BY:** Antoinette L. Marchowsky, Budget Analyst  
House Appropriations Committee, (D)

**DATE:** January 25, 2010

**General Note and Disclaimer:** *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*