



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1950

PRINTERS NO. 2837

PRIME SPONSOR: Ellis

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
Shale Impact Account	(\$107,000,000)	(\$168,000,000)

SUMMARY: House Bill 1950, Printer's Number 2837, amends Title 58 (Oil and Gas) by consolidating the Oil and Gas Act (Act of Dec. 19, 1984, P.L. 1140, No. 223) into Title 58 with modifications to environmental protections and local ordinances as they relates unconventional gas well operations. It also imposes a Shale Impact Fee on unconventional gas wells and provides a formula for distribution of the fee revenue. This legislation would take effect in 60 days.

ANALYSIS: This bill addresses changes to Title 58 (Oil and Gas) by consolidating the Oil and Gas Act (Act of Dec. 19, 1984, P.L. 1140, No. 223) into Title 58 and makes several changes with regard to a imposing a Shale Impact Fee, establishing environmental setbacks and protections, and outlines the authority of local ordinances:

Shale Impact Fee: Beginning January 1, 2011, there shall be imposed a shale impact fee on each unconventional well producing natural gas, while the fee shall not apply to a stripper well, i.e those well that produce less than 90,000 cubic feet of natural gas per day per calendar year. It shall be an annual base fee, with a price adjustment factor as defined in the bill, as follows:

- \$50,000 for the first year of production;
- \$40,000 for the second year of production;
- \$30,000 for the third year of production;
- \$20,000 for the fourth through tenth year of production; and
- \$10,000 for the eleventh through twentieth year of production.

No fee is collected after the twentieth year of production, and vertical gas wells producing gas from an unconventional formation will have a reduced annual fee equal to 50% or 25% of the base fee, depending upon production levels, with no price adjustment. The Pennsylvania Public Utility Commission (PUC) will collect and distribute the impact fee, while the commission may impose an annual fee not to exceed \$100 per well on each reporting producer to pay for the actual costs of the commission to administer and enforce this legislation and activities related to a Natural Gas Energy Development Program.

A restricted receipts account is established in the State Treasury known as the Shale Impact Account to be administered by the PUC and where all fees shall be deposited. The fees deposited in this account shall be distributed and allocated as follows: the County Conservation Districts would

receive \$2.5 million in 2011 and \$5 million for 2012 and each year thereafter; \$1.5 million to the Office of State Fire Commissioner in 2011 and each year thereafter, and \$1.5 million to the Fish and Boat Commission in 2011 and each year thereafter.

Beginning in 2011 and each year thereafter, fifty-five (55%) percent of the revenues remaining in the account shall be allocated to local governments impacted by natural gas activities and divided as follows: 36% to host counties; 37% to host municipalities; and 27% to host and non-host municipalities in host counties. The use of these funds shall be dedicated to emergency preparedness and public safety; road, bridge and infrastructure projects, water, storm water and sewer systems and other environmental projects; records management and information technology; and tax reductions. It also specifies that \$2.5 million shall be made available in 2011 to the Pennsylvania Housing Finance Agency to be used in counties hosting active unconventional wells, and \$5 million for 2012 and each year thereafter.

Beginning in 2011 and each year thereafter, forty-five (45%) percent of the revenues remaining in the account shall be allocated to statewide initiatives as follows:

- 25% to the Commonwealth Financing Authority for grants to eligible applicants for acid mine abatement; orphaned or abandoned oil and gas well plugging; compliance with the Pennsylvania Sewage Facilities Act; planning, acquisition and development of greenways, recreational trails, open space, parks; sewage treatment; and programs to establish baseline water quality data.
- 25% to the Highway Bridge Improvement Restricted Account and distributed to counties based on population to replace or repair locally owned at-risk deteriorated bridges;
- 25% for water and sewer projects equally through PennVEST and the H2O PA program;
- 15% for the planning, acquisition and development of greenways, recreational trails, open space, natural areas, parks etc., distributed to counties based on population;
- 5% to Hazardous Sites Cleanup Fund;
- 5% to DCED in 2011, 2012 and 2013 for projects related to the development and construction of a facility to liquefy natural gas or convert it to ethane, propane and similar gases. After 2013, this 5% will be distributed to HSCA.

Environmental Regulations: The bill consolidates the Oil and Gas Act (Act 223 of 1984) into Title 58 to address the regulation of oil and gas activities and related environmental aspects and issues. Some of the language includes, but is not limited to, several changes related to setbacks from streams, water wells, buildings and public water supplies; addresses bond amounts related to drilling activity; increases civil and criminal penalties, and requires the Pennsylvania Emergency Management Agency (PEMA) and DEP to adopt emergency regulations directing unconventional gas well operators to develop emergency response plans and site registry data.

For example, notification requirements are increased from **1,000** feet to **3,000** feet for unconventional wells, and notification is required for any municipality within **3,000** feet of the proposed unconventional well. It also increases the distance an operator drilling an unconventional well is presumed responsible for pollution of a water supply from **1,000** feet to **3,000** feet if pollution occurred within 12 months after stimulation or alteration of the well.

Well pad sites are required to be designed and constructed to prevent spills to the ground surface or spills off the well pad area, plus there are several changes related to well location restrictions:

- Increases the setback distance from an unconventional well and an existing building or existing water well from **200** feet to **500** feet;
- Increases the setback distance from an unconventional well and a spring or body of water identified from **100** feet to **300** feet;
- Restricts an unconventional well from being located within **1,000** feet of a public water supply source as defined in the Safe Drinking Water Act;
- The department may establish additional protective measures for the storage of hazardous chemicals or materials intended to be used on the well drilling site within **500** feet of any stream, spring, body of water or wetland.

The bill also addresses local ordinances relating to oil and gas operations within the Commonwealth, specifically that a local ordinance may only be enacted pursuant to the Municipalities Planning Code, the 2nd Class City Zoning Law, or the Flood Plain Management Act. A local ordinance shall provide for the reasonable development of minerals within the local government. An operator is permitted to request the Attorney General to review a local ordinance to determine whether it allows for the reasonable development of oil and gas resources. A local government shall be immediately ineligible to receive funds collected through the fee should the Attorney General, Commonwealth Court or the Supreme Court determine that a local ordinance fails to provide for the reasonable development of oil and gas resources. The local government will remain ineligible until a local ordinance is adopted in accordance with this legislation.

FISCAL IMPACT: Enactment of this bill is not expected to adversely impact Commonwealth funds. For example, the DEP will have some administrative and operational expenses to perform its additional duties as outlined. However, these costs will be covered under existing well permit fees received by the department, which are collected and deposited into the Well Plugging Fund and support the oil and gas program. PEMA and DEP will also have some costs to adopt emergency regulations affecting the operators of unconventional wells, but these are expected to be covered under existing operations.

Revenues from the shale impact fee are projected to \$94 million in 2011 and \$155 million in 2012 respectively, and revenues could be \$295 million in 2015. It should be noted that, if the average annual price of natural gas exceeds \$5.00 in any calendar year, the estimated fee revenue will be more as a result of the price adjustment factor. An additional \$25 million is expected to be generated as a result of the 2010 cost assessment done by the PUC for the Natural Gas Energy Development Program. The assessment is due in two equal installments on June 30, 2012 and September 30, 2012, with half of the revenue received in FY 2011-12 and the other half in FY 2012-13.

PREPARED BY: Jeffrey Clukey
House Appropriations Committee (R)

DATE: December 19, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.