

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.**

House Bill 1847

**PRINTER'S NO.**

2794

**AMOUNT**

\$60,000

**FUND**

General Fund

**DATE INTRODUCED**

July 10, 2009

**PRIME SPONSOR**

Representative Harhai

**HISTORY OF BILL**

Referred to ENVIRONMENTAL RESOURCES & ENERGY, July 10, 2009

Reported as committed, July 22, 2009

First consideration, July 22, 2009

Re-committed to RULES, July 22, 2009

Re-reported as committed, Aug. 3, 2009

Re-committed to APPROPRIATIONS, Aug. 3, 2009

Re-reported as committed, Aug. 4, 2009

Second consideration, Aug. 4, 2009

Laid on the table, Aug. 17, 2009

Removed from table, Aug. 17, 2009

Laid on the table, Aug. 20, 2009

Removed from the table, Aug, 20, 2009

Third consideration and final passage, Sept. 17, 2009 (183-12)

**IN THE SENATE**

Referred to ENVIRONMENTAL RESOURCES & ENERGY, Sept. 21, 2009

Reported as committed, Sept. 30, 2009

First consideration, Sept. 30, 2009

Second consideration, Oct. 1, 2009

Re-referred to APPROPRIATIONS, Oct. 1, 2009

Re-reported as amended, Oct. 9, 2009

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 1847 amends the Coal Refuse Disposal Control Act. It adds "an area adjacent to or an expansion of an existing coal refuse disposal site" to the list of preferred sites considered by the Department of Environmental Protection for coal refuse disposal.

## **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

Amendment #A04301 to House Bill 1847 establishes a coal bed methane dispute resolution process. The act establishes an alternative to court action for consideration and resolution of objections by the property owners to the location of a coal methane well or access road. The act also modifies the Department of Environmental Protection's (the Department) permit application review procedure to accommodate the alternative dispute resolution process specified in the act.

The act establishes a 3-member Coal Bed Methane Review Board for the purpose of considering objections to the location of a well or access road and attempting to resolve any disputes. The legislation provides for the Governor's selective appointment of each member to the board based on specified affiliations of each member. Each board member will be compensated at a per diem rate of at least \$150 per day plus all reasonable expenses incurred in the performance of their duties. An annual adjustment to the per diem rate shall occur based on inflation. The Department must publish notice of the appointment of the initial members.

The notification to land owners by the well operators of their intent to drill a well or construct an access road must also include notification of the land owner's right to participate in alternative dispute resolution. If the land owner intends to pursue alternative dispute resolution, his written objections must be filed with the Department within 15 days of receipt of the notification. The Department must notify the well operator and the board within 2 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 Department of an agreement, if reached, 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 Department. Finding of facts and reasons in support of the board's determination must be submitted to the Department and served to the owner and operator within 15 days of the conference's completion. An aggrieved party may appeal the board's determination in the Common Pleas Court of the county where the property is located. Neither the board nor the Department can be a party to the appeal. The Court must hold a hearing within 30 days of the filing of the appeal.

# **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

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 Department under the Oil and Gas Act prior to the effective date of the act.

Section 5 relating to procedures shall take effect upon publication of the notice of the appointment of the board. The remainder of the act is effective immediately.

## **FISCAL IMPACT:**

Adding to the list of preferred sites considered by DEP, an adjacent site or the expansion of an existing coal refuse disposal site, should not cause any additional costs to the Commonwealth. The Department of Environmental Protection estimates that establishing the Coal Bed Methane Review Board could cost \$1,000 per day for compensation to and administrative support of the board. Because the Department is unable to reliably estimate the volume and complexity of the disputes and resolution until they gain some experience, annualized costs are difficult to project. This fiscal note assumes the possibility of about 15 days of conference by the board members each quarter, which totals about \$60,000 annually for per diems and administrative support by the Department. The Department has stated that additional and potentially substantial expenses could be incurred if there were lengthy appeals or significant changes to the permit application. The Department would have to pay for representation during the appeal proceedings.