

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1950

PRINTER'S NO. 2837

AMOUNT

FY 2011-12 - \$107 Million

FY 2012-13 - \$168 Million

FUND

Restricted Receipts Account

DATE INTRODUCED

November 1, 2011

PRIME SPONSOR

Representative Ellis

HISTORY OF BILL

Referred to FINANCE, Nov. 1, 2011

Reported as committed, Nov. 2, 2011

First consideration, Nov. 2, 2011

Laid on the table, Nov. 2, 2011

Removed from table, Nov. 2, 2011

(Remarks see House Journal Page), Nov. 14, 2011

(Remarks see House Journal Page), Nov. 15, 2011

Second consideration, with amendments, Nov. 16, 2011

Re-committed to APPROPRIATIONS, Nov. 16, 2011

(Remarks see House Journal Page), Nov. 16, 2011

Re-reported as committed, Nov. 17, 2011

Third consideration, with amendments, Nov. 17, 2011

Final passage, Nov. 17, 2011 (107-76)

(Remarks see House Journal Page), Nov. 17, 2011

In the Senate

Referred to ENVIRONMENTAL RESOURCES AND ENERGY, Nov. 22, 2011

Reported as amended, Dec. 7, 2011

First consideration, Dec. 7, 2011

Second consideration, Dec. 12, 2011

Re-referred to APPROPRIATIONS, Dec. 12, 2011

Re-reported as committed, Dec. 13, 2011

DESCRIPTION AND PURPOSE OF BILL

House Bill 1950, as amended, 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 safeguards and local ordinances as they relate to unconventional gas wells. In addition, the legislation imposes a Shale Impact Fee on unconventional gas wells and provides a formula for distribution of the fee revenue.

Specifically, House Bill 1950 makes the following changes with regard to a Shale Impact Fee, environmental safeguards, and local ordinances:

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Shale Impact Fee on Unconventional Wells

- Annual base fee with a price adjustment factor:
 - 1st year of production is a base \$50,000 fee
 - 2nd year of production is a base \$40,000 fee
 - 3rd year of production is a base \$30,000 fee
 - 4th year of production through the 10th year of production is a base \$20,000 fee
 - 11th year of production through the 20th year of production is a \$10,000 fee
- No fee after the 20th year of production
- Stripper gas wells producing less than 90,000 cubic feet of gas per day are exempted
- 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
- One-time money generated from a 2010 assessment will be used for a Natural Gas Energy Development Program

Distribution of Fee Revenue

- Conservation Districts
 - \$2,500,000 for 2011
 - \$5,000,000 annually thereafter
- State Fire Commissioner
 - \$1,500,000 annually
- Fish and Boat Commission
 - Up to \$1,500,000 annually
- Local Government Allocation
 - **55%** allocated to local governments impacted by natural gas activity, further distributed as follows:
 - 36% to host counties
 - 37% to host municipalities
 - 27% to host & non-host municipalities in host counties
 - Uses of funds include:
 - Emergency preparedness and public safety
 - Road, bridge and infrastructure projects
 - Water, storm water and sewer systems and other environmental projects
 - Records management, IT
 - Tax reductions
- \$2,500,000 in 2011 and \$5,000,000 annually thereafter to the Pennsylvania Housing Finance Agency to be used in counties hosting active unconventional wells
- Statewide Initiatives
 - **45%** allocated to statewide initiatives, further distributed as follows:
 - 25% to the Commonwealth Financing Authority for grants to eligible applicants for the following:

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- Acid mine abatement with priority given to recycled acid mine drainage water for use in drilling operations
- 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
- Programs to establish baseline water quality data
- 25% to the Highway Bridge Improvement Restricted Account distributed to counties based on population for the replacement or repair of locally owned at-risk deteriorated bridges
- 25% for water and sewer projects distributed equally through PennVEST and the H₂O PA program
- 5% to Hazardous Sites Cleanup Fund
- 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 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

Notification

- Increases notification requirements from **1,000** feet to **3,000** feet for unconventional wells
- Requires notification for any municipality within **3,000** feet of the proposed unconventional well
- Requires DEP to notify a public drinking water system of any spill the department investigated that may affect their water supply
- Owners and operators of gathering lines shall comply with the One Call System

Denial of Permit

- The department may further deny a permit if the operator:
 - Is in continuing violation and the likely result of the violation is an unsafe operation or environmental damage
 - Does not have a reasonable plan to reuse the water that will be used to hydraulically fracture the well
- The department shall consider and may deny or condition a well permit based on the impacts to sources used for public drinking water supplies, and whether the proposed well location is within a floodplain

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 on the most current 7 ½ minute topographic map from **100** feet to **300** feet

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- 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

Protection of Water Supplies

- Requires a well operator who affects a public or private water supply by pollution or diminution to replace the water supply with a source that meets the applicable water quality standards consistent with the Safe Drinking Water Act
- Creates a single statewide toll-free number for reported cases of water contamination

Presumption

- 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

Containment

- Requires well pad sites to be designed and constructed to prevent spills to the ground surface or spills off the well pad area
- All buried metallic structures must have corrosion protection measures

Transportation Regulations

- Requires the department to adopt regulations regarding record keeping on transporting, processing and treatment or disposal of wastewater from unconventional wells

Emergency Response Information

- Requires PEMA and the department to adopt emergency regulations directing the operators of unconventional wells to:
 - Implement a unique GPS coordinate address for each well at the access road entrance and well pad site
 - Register the address with the department and the county emergency management organization
 - Develop an emergency response plan
 - Post a reflective sign at the entrance to each well site

Reporting Requirements

- Requires each unconventional well operator to file a semi-annual report specifying the amount of production from each well

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Collection of Data

- Further requires the stimulation record that the operator reports to include:
 - A descriptive list of chemical additives
 - Percent by volume of each chemical additive
 - A list of chemicals in the material safety data sheet
 - Percent by volume of each chemical listed in the material safety data sheets
 - Total volume of the base fluid
 - A list of water sources used under the approved management plan and the volume of water used
 - The pump rates and pressure used in the well
 - The total volume of recycled water used
- Prevents the department from disclosing any confidential information to the extent permitted under Right-to-Know Law, or other Federal or State law

Well Bonding

- Increases well bonding requirements for wells with a total well bore length greater than **6,000** feet to:
 - Up to 25 wells
 - \$10,000 per well, not to exceed \$140,000
 - 26-50 wells
 - \$140,000 plus \$10,000 per well for each well in excess of 25 wells, not to exceed to \$290,000
 - 51-150 wells
 - \$290,000 plus \$10,000 per well for each well in excess of 50 wells, not to exceed \$430,000
 - 150+ wells
 - \$430,000 plus \$10,000 per well for each well in excess of 150 wells, not to exceed \$600,000

Inspection Reports

- The department will post the inspection reports on its publicly accessible Internet website to include the nature and description of violation, operator's written response, status of violation and the remedial steps taken by the operator or the department to address the violation

Penalties

- Criminal
 - Increases the fine paid from \$300 to \$1,000
- Civil
 - Increases the fine for unconventional wells from \$25,000 plus \$1,000 for each continuing day of violation to \$75,000 plus \$5,000 for each continuing day of violation

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Local Ordinances Relating to Oil and Gas Operations

- A local ordinance may only be enacted pursuant to the MPC, 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
- Allows an operator 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 ordinance must do the following:
 - Allow well and pipeline location assessment operations
 - Impose conditions, requirements or limitations on oil and gas operations that are no more stringent than those imposed on construction activities for other land development within the zoning district where the oil and gas operations are situated
 - Impose conditions, requirements or limitations on the height of permanent structures, setbacks from property lines, screening and fencing, lighting and noise restrictions that are no more stringent than those imposed on industrial uses within the local government or set forth in state statute or regulations
 - Have a review period for permitted uses of 30 days for complete submissions or that exceeds 120 days for conditional uses
 - Authorize oil and gas operations, other than compressor stations and processing plants, as a permitted use in all zoning districts
 - May be prohibited or permitted only as a conditional use in residential districts where a well site cannot be placed so that a well head will be at least 500 feet from an existing building
 - In a residential district, the following shall apply:
 - A well site may not be located so that the outer edge of the well pad is closer than 300 feet from an existing building
 - Except for pipelines, access roads or security facilities, oil and gas operations may not take place within 300 feet of an existing building
 - Authorize impoundment areas as a permitted use in all zoning districts, provided that the edge of any impoundment area shall not be closer than 300 feet from an existing building
 - Authorize natural gas compressor stations as a permitted use in agriculture and industrial zoning districts and as conditional use in all other zoning districts if the natural gas compressor buildings meet certain requirements
 - Authorize natural gas processing plants as a permitted use in an industrial zoning district and as a conditional use in agricultural zoning districts if they meet certain requirements
 - Impose restrictions on vehicular access routes for overweight vehicles as authorized under 75 Pa.C.S. or the MPC
 - Does not attempt to impose limits or conditions on subterranean operations or hours of operations

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- This will apply to the enforcement of local ordinances existing on the date of this section and to the enactment or enforcement of local ordinances on or after the effective date
- 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 shall be immediately ineligible to receive funds collected through the fee and will remain ineligible until the local government adopts a local ordinance in accordance of this subchapter

Technical Provisions and Repeals

- Repeals the Oil and Gas Act (Act 223 of 1984), and provides that chapter 32 of Title 58 is a continuation of that act
- Clarifies that the application of regulations and statutes adopted by the Commonwealth will be the exclusive method by which any requirements may be imposed on oil and gas operations in national forest lands (conforms with existing federal law)
- PennDOT will impose road bonding requirements based on levels of use by the industry

FISCAL IMPACT:

With regard to environmental safeguards, House Bill 1950, as amended, mostly affects the regulation and conduct of private entities. Such activities do not have an adverse fiscal impact on Commonwealth funds.

The Department of Environmental Protection may incur minimal costs for performing additional duties such as ensuring compliance, receiving reports and posting them on its Internet website. However, well permit fees received by the department are intended to pay for the department's administrative costs in overseeing oil and gas regulation.

With regard to the requirement that the Pennsylvania Emergency Management Agency and the department adopt emergency regulations affecting the operators of unconventional wells, both the agency and the department have indicated that these requirements can be accomplished with minimal fiscal impact to their respective agencies (see Senate Bill 995).

The 2010 assessment is expected to generate between \$25 million and \$30 million for the Natural Gas Energy Development Program. The assessment is due in two equal installments on June 30, 2012 and September 30, 2012. Therefore, half of the total amount generated from the 2010 assessment will be received in FY 2011-12, and the other half will be received in FY 2012-13.

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The revenue estimate for calendar years 2011 through 2015 is shown in the chart below. 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.

Shale Impact Fee Revenue Estimate			
Calendar Year (Well Life)	Subtotal Fee - Horizontal	Subtotal Fee - Vertical	Total Shale Impact Fee
2011 (Y1)	\$ 85,680,000	\$ 8,425,000	\$ 94,105,000
2012 (Y2)	\$ 145,290,000	\$ 9,385,000	\$ 154,675,000
2013 (Y3)	\$ 202,860,000	\$ 10,260,000	\$ 213,120,000
2014 (Y4)	\$ 244,860,000	\$ 11,010,000	\$ 255,870,000
2015 (Y5)	\$ 283,360,000	\$ 12,010,000	\$ 295,370,000