SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 2154

PRINTER NO. 3477

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 19, 2018

PRIME SPONSOR

Representative Causer

DESCRIPTION

House Bill 2154 establishes the Conventional Oil and Gas Well Act, restoring regulatory provisions of the Oil and Gas Act of 1984 and making changes as it relates to conventional wells and well sites only.

Chapter 3 requires the Department of Environmental Protection (department), by regulation, to set permit fees at a level which bears a reasonable relationship to the cost of administering the act. A permit must be obtained to drill or alter a well and to operate an abandoned or orphaned well. Requirements for well plugging including areas underlain by coal are included. It allows for a person who voluntarily plugs an orphan well to apply to the Commonwealth Financing Authority for $5,000 per well plugged payable from the Marcellus Legacy Fund or to be credited for each well plugged in the form of a permit-fee waiver for any well permit application.

Chapter 7 addresses enforcement and remedies against a person or municipality for violations of the act. It establishes two violations: a general violation and a willful violation. The Environmental Hearing Board may assess a civil penalty, which shall not exceed $25,000 plus $1,000 for each day during which the violation continues. The penalty shall be deposited into the Orphan Well Plugging Fund. Nothing in this act is meant to affect, limit or impair the authority of the department from enforcing the Clean Streams Law, Air and Pollution Control Act, Dam Safety and Encroachment Act, and the Solid Waste Management Act.

Chapter 9 outlines the related funds of the program and activities. All fines and civil penalties shall be deposited into the Orphan Well Plugging Fund. Collected permit fees are appropriated to the department to carry out the provisions of this act. A $50 surcharge on permit fees for new wells is maintained and deposited into the Abandoned Well Plugging Fund. A $100 surcharge on permit fees for wells drilled for oil production and a $200 surcharge for wells drilled for gas production are maintained and deposited into the Orphan Well Plugging Fund. The provision that allows operators who rehabilitate a well abandoned by another operator or an orphan well to have its permit fee and surcharge waived is maintained.

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FISCAL IMPACT:

This legislation will have no fiscal impact on the General Fund. Currently, both unconventional and conventional wells are permitted activities, for which permit fees are paid and utilized by the department for the administration of the program through the Well Plugging Account.

House Bill 2154 requires the department to establish a fee structure to continue the administration of the program and imposes a requirement that the fee bear a reasonable relationship to the cost of administering the act. Currently, the Environmental Quality Board and the Independent Regulatory Review Commission (IRRC) are in the process of promulgating a fee increase on unconventional well drillers for revenue that is deposited into the Well Plugging Account. IRRC has asked the department to review the proportional costs borne by the conventional and unconventional programs to determine how their respective fees relate to the cost to administer the act. Given this and the requirement of House Bill 2154 that the fees bear a reasonable relationship to the cost of administering the act, it is possible the permit fees for the conventional industry could increase.

House Bill 2154 provides a new incentive for the plugging of abandoned wells. If an orphaned well is voluntarily plugged, an application may be submitted to the Commonwealth Financing Authority (CFA) for a $5,000 payment per well plugged payable from the Marcellus Legacy Fund or for a credit for each well plugged in the form of a permit-fee waiver on future well drilling permits.

The Marcellus Legacy Fund transfers a percentage of the impact fee revenue (averaging $13.8 million over the past three years) to the CFA for distribution across seven grant programs, including well plugging programs. If a conventional driller chooses to request a $5,000 payment for plugging a well, funding that would have been used on CFA programs will be diverted to this activity.

If a conventional driller chooses to have the $5,000 amount credited in the form of a permit-fee waiver, this would directly reduce the amount of revenue available to the Well Plugging Account for the operation of the program. The amount of revenue diverted from the CFA and revenue loss to the Well Plugging Account will be dependent on the number of wells plugged each year and how the industry chooses to request the new incentive.