

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2235 Session of 2010

INTRODUCED BY VITALI, LEVDANSKY, HARPER, McILVAINE SMITH, HOUGHTON, BOYLE, BRADFORD, BRIGGS, CALTAGIRONE, COHEN, CURRY, DeWEESE, FRANKEL, FREEMAN, GERBER, GOODMAN, HANNA, JOSEPHS, KESSLER, KIRKLAND, KORTZ, LENTZ, MANDERINO, McGEEHAN, MELIO, MOUL, MUNDY, M. O'BRIEN, PASHINSKI, PAYTON, SANTARSIERO, SIPTROTH, STABACK, STURLA, R. TAYLOR, MURT, SCAVELLO, HARHAI, WAGNER, QUINN, ROEBUCK AND MURPHY, FEBRUARY 2, 2010

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 3, 2010

AN ACT

1 Providing for a moratorium on leasing State forest lands for the
2 purposes of natural gas exploration, drilling or production;
3 imposing duties on the Department of Conservation and Natural
4 Resources; and providing for report contents AND FOR
5 LEGISLATIVE BUDGET AND FINANCE COMMITTEE STUDY.



6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the State Forest
10 Natural Gas Lease Moratorium Act.

11 Section 2. Moratorium.

12 (a) Establishment.--Notwithstanding any other provision of
13 law, a moratorium is established during which State forest lands
14 may not be leased for the purposes of natural gas exploration,
15 drilling or production.

16 (b) Expiration.--The moratorium in subsection (a) shall

1 expire ~~five~~ THREE years after this act takes effect. ←

2 Section 3. Duties of department.

3 (a) Monitor and assess.--The Department of Conservation and
4 Natural Resources shall have a duty to monitor and assess the
5 impact of the leases granted for the purposes of natural gas
6 exploration, drilling or production on State forest lands that
7 took effect prior to and during the moratorium imposed in
8 section 2(a). The Department of Conservation and Natural
9 Resources shall continue to monitor and assess after the
10 moratorium expires under section 2(b).

11 (B) COMPREHENSIVE ENVIRONMENTAL IMPACT REVIEW.-- ←

12 (1) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
13 SHALL PREPARE A COMPREHENSIVE ENVIRONMENTAL IMPACT REVIEW
14 (CEIR) WITHIN TWO YEARS AFTER THE START DATE OF THE
15 MORATORIUM. THE SCOPE OF THE CEIR SHALL INCLUDE THE
16 FOLLOWING:

17 (I) AN ASSESSMENT OF THE POTENTIAL IMPACTS RELATED
18 TO DEVELOPMENT OF MARCELLUS GAS UTILIZING ALTERNATIVE
19 DEVELOPMENT PROJECTIONS. ONE OF THESE PROJECTIONS SHALL
20 ADDRESS THE MAXIMUM POSSIBLE DEVELOPMENT ON STATE FOREST
21 LANDS OF ALL CURRENT LEASED ACREAGE AND OTHER STATE
22 FOREST LANDS WHERE MARCELLUS GAS IS NOT OWNED BY THE
23 COMMONWEALTH. THE DEVELOPMENT PROJECTIONS SHALL INCLUDE
24 THE POTENTIAL FOR SHALLOW GAS DRILLING.

25 (II) AN ASSESSMENT OF THE POTENTIAL IMPACTS FOR EACH
26 DEVELOPMENT PROJECTION ON THE FOREST ECOSYSTEM, FOREST
27 USES AND FOREST USERS. THIS SHALL INCLUDE AN
28 IDENTIFICATION OF POSSIBLE PROBLEMS THAT ARE ASSOCIATED
29 WITH NONCOMPLIANCE OF ENVIRONMENTAL REGULATIONS,
30 NONCONFORMANCE WITH LEASE REQUIREMENTS, ACCIDENTS AND

1 RELATED PROBLEMS.

2 (III) THE CEIR WILL IDENTIFY AND EVALUATE THE
3 IMPACTS FOR EACH DEVELOPMENT SCENARIO RELATED TO
4 EXPLORATION, PAD DEVELOPMENT, DRILLING OPERATIONS, ROAD
5 AND BRIDGE DEVELOPMENT, COLLECTION AND TRANSMISSION
6 LINES, COMPRESSION FACILITIES, TREATMENT PLANTS, WASTE
7 DISPOSAL, WATER WITHDRAWALS AND OTHER ASSOCIATED
8 DEVELOPMENT. THE SCOPE OF THIS EVALUATION SHALL INCLUDE
9 IMPACTS ON STATE FOREST LANDS AND PRIVATE LANDOWNERS AND
10 COMMUNITIES.

11 (IV) FOR THOSE STATE FOREST LANDS WHERE THE
12 MARCELLUS GAS IS NOT OWNED BY THE COMMONWEALTH, THE CEIR
13 SHALL IDENTIFY THE SPECIFIC CONTROLS IN PLACE TO PROTECT
14 THESE STATE FOREST LANDS AND COMPARE THESE WITH THE
15 CONSERVATION PROVISIONS CONTAINED IN THE DEPARTMENT OF
16 CONSERVATION AND NATURAL RESOURCES' LEASES.

17 (V) THE CEIR WILL IDENTIFY THOSE LANDS PROXIMATE TO
18 STATE FOREST LAND WHERE MARCELLUS DEVELOPMENT BY OTHER
19 ENTITIES HAS THE POTENTIAL TO IMPACT THE STATE FOREST.
20 POTENTIAL IMPACTS WILL BE IDENTIFIED INCLUDING VEHICULAR
21 USE AND RIGHTS-OF-WAY FOR ROADS, PIPELINES AND RELATED
22 DEVELOPMENT.

23 (VI) THE CEIR SHALL IDENTIFY THE DEPARTMENT OF
24 CONSERVATION AND NATURAL RESOURCES WORKLOAD ASSOCIATED
25 WITH ADMINISTRATION AND DEVELOPMENT OF MARCELLUS GAS FOR
26 EACH DEVELOPMENT SCENARIO. A WORKLOAD BASELINE SHALL BE
27 ESTABLISHED FOR FISCAL YEAR 2006-2007 THAT IDENTIFIES THE
28 WORKLOAD ALLOCATION WITHIN THE BUREAU OF FORESTRY AND
29 SHALL INCLUDE STAFFING ASSIGNED TO EXISTING
30 RESPONSIBILITIES SUCH AS FOREST FIRE PROTECTION, FOREST

1 HEALTH, TIMBER MANAGEMENT, RECREATION, WATER SUPPLY, DEER
2 MANAGEMENT AND OIL AND GAS DEVELOPMENT. MARCELLUS
3 STAFFING SHALL BE ADDRESSED SEPARATELY.

4 (2) THE MARCELLUS WORKLOAD ASSESSMENT SHALL PROJECT THE
5 MARCELLUS WORKLOAD OVER THE NEXT TEN YEARS AND IDENTIFY HOW
6 THIS WORKLOAD WILL BE CARRIED OUT AND STAFFING OPTIONS WHICH
7 INCLUDE FLAT OR REDUCED STAFFING LEVELS. EACH OF THESE
8 OPTIONS WILL BE COMPARED TO THE STAFFING BASELINE IN
9 PARAGRAPH (1) (VI) AND DESCRIBE THE LIKELY IMPACTS OF THE
10 MARCELLUS DEVELOPMENT SCENARIOS ON STAFFING LEVELS RELATED TO
11 OTHER STATE FOREST RESPONSIBILITIES.

12 (3) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION WILL
13 PROVIDE TO THE DEPARTMENT OF CONSERVATION AND NATURAL
14 RESOURCES A WORKLOAD ANALYSIS WITH PROJECTIONS REGARDING
15 INSPECTION AND ENFORCEMENT STAFF TIME THAT WILL BE ALLOTTED
16 TO ASSURE ENVIRONMENTAL COMPLIANCE ON STATE FOREST LANDS
17 UNDER EACH OF THE MARCELLUS DEVELOPMENT SCENARIOS. NEW
18 STAFFING NEEDS WILL BE IDENTIFIED.

19 (4) THE PROPOSED SCOPE AND CONTENT OF THE CEIR WILL BE
20 SUBJECT TO REVIEW AND COMMENT BY THE PUBLIC FOR 60 DAYS PRIOR
21 TO INITIATION OF THE WORK TO PREPARE THE REPORT.

22 ~~(b) Report. The~~ (C) REPORT.--BEGINNING IN YEAR THREE THE ←
23 Department of Conservation and Natural Resources shall submit an
24 annual report to the General Assembly and the Governor regarding
25 the effect of natural gas exploration, drilling or production on
26 State forest lands ~~that occurred prior to and during the~~ ←
27 ~~moratorium imposed in section 2(a).~~ The Department of
28 Conservation and Natural Resources shall continue to submit the
29 annual report after the moratorium expires under section 2(b).
30 Section 4. Report contents.

1 The contents of the report required under section ~~3(b)~~ 3(C), ←
2 shall include, but not be limited to, the effect of natural gas
3 exploration, drilling or production on State forest lands on the
4 following:

- 5 (1) Water and soil quality.
- 6 (2) Forest fragmentation.
- 7 (3) Plants, wildlife, habitats and invasive species.
- 8 (4) Air quality.
- 9 (5) Social fabric, including, but not limited to:
 - 10 (i) Tourism.
 - 11 (ii) Recreation.
 - 12 (iii) Hunting.
 - 13 (iv) Fishing.
 - 14 (v) Community aesthetics.
 - 15 (vi) Quality of life.
- 16 (6) The staffing needs of the Department of Conservation
17 and Natural Resources regarding the monitoring, assessment
18 and regulation of natural gas exploration, drilling or
19 production on State forest lands.

20 SECTION 5. LEGISLATIVE BUDGET AND FINANCE COMMITTEE STUDY ←
21 RELATING TO MARCELLUS GAS DEVELOPMENT.

22 (A) GENERAL RULE.--THREE YEARS AFTER THE MORATORIUM SET
23 FORTH ABOVE AND FOLLOWING THE COMPLETION OF THE DEPARTMENT OF
24 CONSERVATION AND NATURAL RESOURCES' COMPREHENSIVE ENVIRONMENTAL
25 IMPACT REVIEW (CEIR), THE LEGISLATIVE BUDGET AND FINANCE
26 COMMITTEE SHALL CONDUCT A STUDY REGARDING THE ENVIRONMENTAL,
27 ECONOMIC AND SOCIETAL IMPACTS OF THE LEASING OF STATE LANDS FOR
28 MARCELLUS DEVELOPMENT IN THIS COMMONWEALTH. THE LEGISLATIVE
29 BUDGET AND FINANCE COMMITTEE SHALL USE THE CEIR AS A BASIS FOR
30 ITS ENVIRONMENTAL STUDY BUT MAY ALSO CONDUCT FURTHER

1 INVESTIGATION AND UTILIZE OTHER SOURCES OF DATA FOR ITS STUDY.

2 (B) CONTENTS OF STUDY.--THE STUDY SHALL, AT A MINIMUM,
3 ANALYZE THE FOLLOWING:

4 (1) THE SEPARATE ENVIRONMENTAL, ECONOMIC AND SOCIETAL
5 IMPACTS TO BOTH THE COMMONWEALTH AND ITS CITIZENS RESULTING
6 FROM MARCELLUS DEVELOPMENT ON STATE LANDS.

7 (2) THE OVERALL CUMULATIVE IMPACT ON THIS COMMONWEALTH
8 AND ITS CITIZENS RESULTING FROM THE MARCELLUS DEVELOPMENT
9 THAT HAS ALREADY TAKEN PLACE ON STATE LANDS.

10 (3) BASED ON THE IMPACTS OF MARCELLUS DEVELOPMENT THAT
11 HAS TAKEN PLACE, A PROJECTION OF THE ENVIRONMENTAL, ECONOMIC
12 AND SOCIETAL IMPACTS THAT WILL RESULT FROM MARCELLUS
13 DEVELOPMENT OF ALL THE EXISTING LEASES OF STATE LAND FOR
14 MARCELLUS DEVELOPMENT.

15 (4) THE SPECIFIC IMPACTS ON COMMUNITIES AND CITIZENS
16 LIVING IN CLOSE PROXIMITY TO STATE LAND WHICH HAS BEEN
17 DEVELOPED.

18 (5) THE IMPACT OF MARCELLUS DEVELOPMENT ON VARIOUS STATE
19 LAND USER COMMUNITIES SUCH AS HUNTERS, FISHERS, HIKERS,
20 MOUNTAIN BIKERS, CAMPERS, ALL TERRAIN VEHICLE USERS,
21 SNOWMOBILERS, BOATERS, HORSE RIDERS AND GENERAL VISITORS.

22 (6) WHETHER THE TERMS OF THE LEASES FOR STATE LAND
23 SHOULD BE MODIFIED TO MITIGATE ANY IDENTIFIED ENVIRONMENTAL
24 OR SOCIETAL IMPACTS OR MAXIMIZES ECONOMIC BENEFITS TO THIS
25 COMMONWEALTH AND ITS CITIZENS.

26 (7) WHETHER THE DEPARTMENT OF ENVIRONMENTAL PROTECTION,
27 THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, THE
28 GAME COMMISSION, FISH AND BOAT COMMISSION AND OTHER STATE
29 AGENCIES HAVE SUFFICIENT RESOURCES AND PERSONNEL TO
30 EFFECTIVELY OVERSEE AND REGULATE MARCELLUS DEVELOPMENT ON

1 LEASED STATE LAND.

2 Section 5 6. Post-moratorium leasing. ←

3 The Department of Conservation and Natural Resources shall
4 not offer State Forest land for lease for the purposes of
5 natural gas exploration, drilling or production once the
6 moratorium expires unless it, in its sole discretion, determines
7 the State Forest can be sustained in a balanced state that
8 preserves water and air quality, plant and animal habitats and
9 the multiple ecosystems, recreational, social and aesthetic
10 values of the forest with the proposed lease.

11 Section 20. Effective date.

12 This act shall take effect immediately.