
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 459 Session of
2013

INTRODUCED BY COSTA, KASUNIC, BREWSTER, STACK, FONTANA,
ERICKSON, YUDICHAK, FERLO, BROWNE, BLAKE, FARNESE AND SMITH,
FEBRUARY 8, 2013

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 8, 2013

AN ACT

1 Relating to safe drinking water; establishing the Emergency
2 Drinking Water Support Fund; and providing for testing, for
3 purchase of clean drinking water and for surcharge.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Definitions.

7 The following words and phrases when used in this act shall
8 have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Department." The Department of Environmental Protection of
11 the Commonwealth.

12 "Fracking." The injection of water into a Class II well as
13 defined by the Environmental Protection Agency to release or
14 "frack" natural gas from Marcellus Shale.

15 "Marcellus Shale." The rock formation known as the Marcellus
16 Formation, also classified as the Marcellus Subgroup of the
17 Hamilton Group, Marcellus Member of the Romney Formation, is a
18 unit of marine sedimentary rock found in eastern North America.

1 Section 2. Establishment of fund.

2 There is established a fund in the State Treasury to be known
3 as the Emergency Drinking Water Support Fund.

4 Section 3. Surcharge.

5 Upon each permit filed under 58 Pa.C.S. § 3211(d) (relating
6 to well permits), there shall be a surcharge of \$10 which the
7 department shall transfer in the succeeding month from which it
8 was collected to the Emergency Drinking Water Support Fund. The
9 surcharge shall be in addition to any other fees that are
10 currently due and payable to the department.

11 Section 4. Uses of funds.

12 (1) The funds deposited in the Emergency Drinking Water
13 Support Fund shall be used for the testing of well water and
14 purchasing of clean water for residents and businesses that
15 have reason to believe their well water is contaminated from
16 either an accidental spill of fracking water or chemicals,
17 seepage of chemicals and fracking water or seepage of natural
18 gas dislodged by the fracking process.

19 (2) The funds shall only be utilized to test well water
20 by a testing laboratory approved by the department. The test
21 is to determine whether chemicals known to be utilized in the
22 fracking process are present in the sample to a level that is
23 higher than recommended by either the department or the
24 Environmental Protection Agency according to guidelines
25 published. If the test determines that natural gas is present
26 in the water higher than that recommended by either the
27 department or the Environmental Protection Agency, the test
28 results shall state this information. A copy of the test
29 shall be provided to the homeowner or business that requested
30 the test.

1 (3) If a test conducted under paragraph (2), or another
2 test done by an approved testing laboratory, determines that
3 the well water contains chemicals or natural gas higher than
4 recommended levels and the department determines that the
5 contamination probably resulted from Marcellus Shale drilling
6 activity, then the department shall use the funds to purchase
7 water for the affected household or business. Funds may only
8 be spent out of the Emergency Drinking Water Support Fund
9 until a final determination of the source of the
10 contamination is made and the responsible driller begins to
11 provide the water to the affected household or business. If
12 it is determined that drilling activity is not responsible
13 for the contamination, then no more funds shall be provided
14 from the fund.

15 (4) If the well water test conducted under paragraph (2)
16 determines that there is no contamination or the
17 contamination is determined by the department under paragraph
18 (3) to not have been caused by drilling activity, the
19 department may, at its discretion, require the homeowner or
20 business to reimburse the fund for half of the costs of the
21 testing procedure. The department shall notify the homeowner
22 or business of the possibility of this reimbursement before
23 the initial test is conducted.

24 Section 5. Removal of surcharge.

25 The department shall cease collecting the surcharge levied
26 under section 3, if the available balance in the fund is more
27 than \$20,000 and the department sends a notice to discontinue
28 the surcharge to the chairman and minority chairman of the
29 Appropriations Committee of the Senate and the chairman and
30 minority chairman of the Appropriations Committee of the House

1 of Representatives.

2 Section 6. Regulations.

3 The department may promulgate any regulations necessary to
4 implement this act.

5 Section 7. Use of unspent funds.

6 If the department determines that any money accumulated in
7 the Emergency Drinking Water Support Fund is unlikely to be
8 utilized for the purposes contained in this act, the Secretary
9 of Environmental Protection may order those funds to be
10 transferred to any other fund established to provide for the
11 cleanup or rehabilitation of Marcellus Shale drilling sites.

12 Section 8. Effective date.

13 This act shall take effect in 60 days.