

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2444 Session of 2022

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FARRY, BERNSTINE, DAVANZO AND HERSHEY, MARCH 23, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 23, 2022

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," further providing for drilling and natural gas;
22 and establishing the Natural Gas Pipeline Development Program
23 and the Natural Gas Pipeline Development Fund.

24 The General Assembly of the Commonwealth of Pennsylvania

25 hereby enacts as follows:

26 Section 1. The act of April 9, 1929 (P.L.177, No.175), known

as The Administrative Code of 1929, is amended by adding an article to read:

ARTICLE XIX-C

DRILLING AND NATURAL GAS

(a) Subsurface Drilling

Section 1901-C. Definitions.

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

"Company." An entity doing business within this Commonwealth and subject to tax under Article III, IV or VI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Department." The Department of Conservation and Natural Resources of the Commonwealth.

"Secretary." The Secretary of Conservation and Natural Resources of the Commonwealth.

Section 1902-C. Subsurface drilling under Commonwealth lands.

(a) Program established.--The department shall establish a program to review submissions or nominations by companies for the potential leasing of subsurface rights under State forest and park property by companies for oil and gas development from subsurface drilling originating from well sites outside the State forest or park property.

(b) Determination.--

(1) The secretary shall have exclusive authority to approve or disapprove a lease under this subarticle.

(2) If the secretary disapproves a lease under this article to a company, the secretary shall provide to the company, in writing, the reason for the disapproval.

1 (c) Resubmission upon disapproval.--

2 (1) Following the disapproval of a lease under this
3 subarticle, a company may resubmit a lease to the department
4 after the company has reasonably attempted to meet the
5 conditions for the secretary's approval.

6 (2) A lease shall be considered approved upon the
7 company's fourth resubmission and subsequent disapproval.

8 Section 1903-C. Revenue.

9 Revenue generated from leases under section 1902-C shall be
10 deposited by the secretary into the Oil and Gas Lease Fund.

11 Section 1904-C. Construction.

12 Nothing in this subarticle shall be construed to modify
13 existing authority that the department has to consider the
14 leasing of oil, natural gas drilling or other mineral rights
15 owned by the Commonwealth that underlie State forest and park
16 property or other lands managed by the department.

17 (b) Natural Gas Pipeline Development

18 Program and Fund

19 Section 1911-C. Definitions.

20 The following words and phrases when used in this subarticle
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Authority." The Commonwealth Financing Authority.

24 "Eligible applicant." A company as defined in section 1901-C
25 whose goal is to increase the access of natural gas to domestic
26 markets.

27 "Fund." The Natural Gas Pipeline Development Fund
28 established under section 1913-C.

29 "Program." The Natural Gas Pipeline Development Program
30 established under section 1912-C.

1 Section 1912-C. Program.

2 (a) Establishment and purpose.--The Natural Gas Pipeline
3 Development Program is established to fund projects in
4 accordance with this subarticle.

5 (b) Administration.--The authority shall administer the
6 program and provide grants under the program in accordance with
7 the section.

8 (c) Eligible projects.--

9 (1) Money in the fund may be utilized by the authority
10 for competitive grants to eligible applicants for eligible
11 projects as provided in this subarticle.

12 (2) To be eligible to receive a grant under the program,
13 an eligible applicant must provide or demonstrate to the
14 authority one or more of the following:

15 (i) A plan to expand access to natural gas
16 infrastructure, while limiting environmental impacts and
17 protecting public lands.

18 (ii) A plan to expand access to natural gas across
19 this Commonwealth.

20 (iii) A plan to accelerate the rate of
21 infrastructure placement and replacement necessary to
22 advance the purposes of this subarticle.

23 (iv) A plan to promote the use of natural gas.

24 (v) A plan to provide rebates or buy down
25 expenditures to reduce upfront costs associated with
26 connecting to a natural gas line, in-house piping and
27 natural gas equipment owned by new or existing customers,
28 including high efficiency natural gas furnaces.

29 (d) Application.--

30 (1) An eligible applicant seeking a grant under the

1 program shall submit an application, including supporting
2 information, as required by the authority.

3 (2) The application shall include:

4 (i) The name, address, telephone number and other
5 contact information of the eligible applicant.

6 (ii) The purpose for which the grant will be used,
7 in accordance with subsection (c)(2).

8 (iii) The cost of the proposed project and the
9 amount sought for the grant.

10 (iv) Any other information deemed necessary by the
11 authority.

12 (3) The authority shall establish application deadlines
13 regarding grants under the program.

14 (e) Project review.--

15 (1) The authority shall review and prepare an assessment
16 of each application and determine which projects will best
17 utilize and promote the use of domestically produced natural
18 gas in this Commonwealth.

19 (2) The authority's review and assessment shall consider
20 the following:

21 (i) The economic impact of the project included in
22 the application.

23 (ii) The number of new end users that will gain
24 access to natural gas as a result of the project.

25 (iii) The extent to which the project extends access
26 to natural gas to serve an unserved or underserved area
27 of this Commonwealth.

28 (iv) The extent to which the project will make the
29 use of natural gas more efficient and affordable to
30 customers.

1 (v) The projected cost of the project.

2 (vi) The source and amount of any money to be
3 contributed by the eligible applicant.

4 (vii) Any other relevant factors as determined by
5 the authority.

6 (3) The authority shall give priority to applications
7 that will result in maximizing the delivery of natural gas
8 from this Commonwealth to domestic markets.

9 (f) Notice.--

10 (1) The authority shall transmit notice of the
11 application and application deadlines to the Legislative
12 Reference Bureau for publication in the Pennsylvania
13 Bulletin.

14 (2) The application and application deadlines shall be
15 posted on the publicly accessible Internet website of the
16 authority.

17 (g) Approval schedule.--The authority shall develop a
18 schedule for the approval of applications under this section.

19 (h) Reapplication.--If an application is not approved under
20 this section, the eligible applicant may revise and resubmit the
21 application and plan for approval.

22 (i) Amount of grant.--A grant under the program shall be
23 limited to the lesser of:

24 (1) 50% of the cost of the proposed project; or

25 (2) \$3,000,000.

26 (j) Guidelines.--The authority shall develop any necessary
27 guidelines regarding the award of grants under the program.

28 Section 1913-C. Fund.

29 (a) Establishment.--The Natural Gas Pipeline Development
30 Fund is established in the State Treasury.

1 (b) Purpose.--Revenue generated from the leases under
2 section 1902-C shall be deposited into the fund to provide
3 grants under the program.

4 (c) Transfer of money.--The sum of \$50,000,000 is
5 transferred from the Oil and Gas Lease Fund to the fund.

6 (d) Unused money.--Any unused portion of money in the fund
7 may be carried over and approved in future fiscal years.

8 Section 1914-C. Reports.

9 (a) Requirement.--By October 1, 2023, and each October 1
10 thereafter, the commission shall prepare an annual report
11 regarding the program and fund.

12 (b) Contents.--Each annual report under this section shall
13 include:

14 (1) A list of all grants approved during the previous
15 fiscal year, including the amount of the grant and a
16 description of each approved project.

17 (2) The estimated natural gas optimization benefits to
18 date for all projects receiving funding during the fiscal
19 year and the methods used to determine estimated benefits.

20 (c) Transmittal.--Each annual report under this section
21 shall be transmitted to:

22 (1) The chairperson and minority chairperson of the
23 Consumer Protection and Professional Licensure Committee of
24 the Senate.

25 (2) The chairperson and minority chairperson of the
26 Consumer Affairs Committee of the House of Representatives.

27 (d) Posting.--Each annual report under this section shall be
28 posted and maintained on the publicly accessible Internet
29 website of the commission.

30 (c) Environmental Permitting Reform

1 Section 1921-C. Definitions.

2 The following words and phrases when used in this subarticle
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 "Department." The Department of Environmental Protection of
6 the Commonwealth.

7 "Permit." A written authorization issued by the department
8 or an authorization under a delegated agreement by the
9 department to engage in a regulated activity, including a new
10 permit, permit renewal, permit amendment, permit modification,
11 permit transfer, change of ownership, plan approval or
12 registration under a general permit. The term does not include a
13 certification or license.

14 "Permit application." The document submitted to the
15 department by an applicant that, if approved, grants a permit to
16 an applicant.

17 "Permit decision." The issuance or denial of a permit.

18 "Permit decision delay." The failure of the department to
19 issue a permit decision within:

20 (1) the time period specified by statute or regulation
21 or by the relevant time period established under 4 Pa. Code
22 Ch. 7a Subch. H (relating to permit decision guarantee for
23 the Department of Environmental Protection); or

24 (2) thirty days after the submission of a permit
25 application or request for plan approval or other
26 authorization when no time period is specified by statute,
27 regulation or 4 Pa. Code Ch. 7a Subch. H.

28 Section 1922-C. Initial review by department.

29 Within 30 days after the effective date of this section, the
30 department shall review all permit decisions and permit decision

1 delays during the immediately prior calendar year and submit a
2 report of findings to the chairperson and minority chairperson
3 of the Environmental Resources and Energy Committee of the
4 Senate and the chairperson and minority chairperson of the
5 Environmental Resources and Energy Committee of the House of
6 Representatives.

7 (d) Unconventional Gas Wells

8 Section 1931-C. Definitions.

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

12 "Applicable time period established for review." As follows:

13 (1) For a well permit required under 58 Pa.C.S. §
14 3211(e) (relating to well permits), within:

15 (i) forty-five calendar days of submission; or

16 (ii) sixty calendar days of submission if the review
17 period has been extended for cause.

18 (2) For a general air quality permit, within 30 calendar
19 days of submission.

20 (3) For an earth disturbance permit as required under 25
21 Pa. Code § 102.5 (relating to permit requirements), within:

22 (i) fifty-three business days of submission; or

23 (ii) twenty-four business days of submission for an
24 expedited application.

25 "Department." The Department of Environmental Protection of
26 the Commonwealth.

27 Section 1932-C. Issuance of permit.

28 (a) Operations.--Notwithstanding any other provision of law,
29 a permit application to undertake an activity related to
30 unconventional oil and gas development which has not been denied

1 by the department within the applicable time period established
2 for review shall be deemed approved. The following apply:

3 (1) If the review period for the permit has been
4 extended for cause, the department shall provide a refund of
5 the fee to the applicant.

6 (2) If the department has notified the person of
7 deficiencies with the application, the period of time from
8 the date of the receipt of the deficiencies to the date of
9 the receipt of the person's response shall toll the
10 applicable time period established for review.

11 (3) Only two tolling periods shall be authorized.

12 (b) Construction.--Nothing under this section shall be
13 construed to relieve a person who commences activity under this
14 section from complying with each law pertaining to the activity
15 for which the permit is sought.

16 (e) Consistency and Uniformity
17 Section 1941-C. Definitions.

18 The following words and phrases when used in this subarticle
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Department." The Department of Environmental Protection of
22 the Commonwealth.

23 Section 1942-C. Effect of permit by department.

24 (a) Local ordinances and enactments.--To maintain
25 consistency and uniformity of the regulation of standards for
26 natural resources and environmental protection throughout this
27 Commonwealth, when a permit is required from the department to
28 conduct a regulated activity within this Commonwealth and the
29 department issues the permit, the provisions of the permit shall
30 supersede all local ordinances and enactments purporting to

1 establish standards for natural resources and environmental
2 protection which are in conflict with the department's
3 regulatory oversight of an activity or the laws and regulations
4 of this Commonwealth.

5 (b) Preemption.--This section preempts the regulation of all
6 local ordinances and enactments which set standards for natural
7 resource and environmental protection in activities for which
8 permits have been issued or are issued by the department.

9 (f) Carbon Dioxide Cap and Trade Authorization
10 Section 1951-C. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) As a matter of Pennsylvania law, no statutory or
13 constitutional authority currently exists that authorizes a
14 State agency to regulate or impose a tax on carbon dioxide
15 emissions. Therefore, it is the responsibility of the General
16 Assembly, working together with the Department of
17 Environmental Protection, the Environmental Quality Board,
18 the Pennsylvania Public Utility Commission and other
19 important stakeholders, to determine whether and how to
20 regulate or impose a tax on carbon dioxide emissions.

21 (2) The General Assembly recognizes that no statute,
22 including the act of January 8, 1960 (1959 P.L.2119, No.787),
23 known as the Air Pollution Control Act, the act of February
24 17, 1972 (P.L.64, No.20), known as the Uniform Interstate Air
25 Pollution Agreements Act, the act of July 9, 2008 (P.L.935,
26 No.70), known as the Pennsylvania Climate Change Act, or the
27 Pennsylvania Constitution, authorizes the Governor, the
28 Environmental Quality Board, the Department of Environmental
29 Protection or any other agency or official to adopt
30 regulations, implement a policy or take any other action to

1 authorize the Commonwealth to join or participate in a State
2 or regional greenhouse gas cap-and-trade program or establish
3 a greenhouse gas cap-and-trade program.

4 (3) Affordable, reliable and resilient sources of
5 electric power generated in Pennsylvania are vital to the
6 health, safety and welfare of this Commonwealth's residents
7 and to the prosperity of its economy.

8 (4) The premature deactivation or retirement of coal-
9 fired and coal refuse electric generation units in
10 Pennsylvania as a direct result of State action will result
11 in significant direct economic hardship to the communities in
12 which they operate and will adversely affect this
13 Commonwealth's economy, environment and electric reliability
14 and the general health, safety and welfare of this
15 Commonwealth's residents, businesses and industries.

16 (5) Given that Pennsylvania is one of the top net
17 exporters of electricity and the third largest coal-producing
18 state in the nation, abating, controlling or limiting carbon
19 dioxide emissions will have a significant, profound and long-
20 lasting impact on this Commonwealth's economy and require its
21 consumers to import electricity generated by out-of-State
22 fossil fuel plants, canceling out any emission reductions.

23 (6) In addition to the impact on coal-fired and coal
24 refuse electric generating facilities, as well as natural
25 gas-fired electric generation facilities that would have to
26 absorb a carbon tax, abating, controlling or limiting carbon
27 dioxide emissions in Pennsylvania will have a significant
28 negative economic impact on this Commonwealth's industrial,
29 manufacturing and transportation sectors.

30 Section 1952-C. Definitions.

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

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

"RGGI." The Regional Greenhouse Gas Initiative, which is a multistate compact that establishes or calls for the compacting states to establish a regional, multistate cap on the amount of greenhouse gases released by electric generation plants.

"Standing committee." Any of the following:

(1) The Environmental Resources and Energy Committee of the Senate.

(2) The Environmental Resources and Energy Committee of the House of Representatives.

Section 1953-C. Regulation of greenhouse gas emissions.

(a) Prohibition.--Except for a measure that is required by Federal law, the department may not adopt a measure or take any other action that is designed to abate, control or limit carbon dioxide emissions, including an action to join or participate in a State or regional greenhouse gas cap-and-trade program, including the RGGI, nor may the department establish a greenhouse gas cap-and-trade program, unless the General Assembly specifically authorizes such a measure or action by statute that is enacted on or after the effective date of this section.

(b) Submission to General Assembly.--If the department proposes a measure of action under subsection (a), the department shall submit the proposed measure or other proposed action to the General Assembly as provided under section 1954-C.
Section 1954-C. Process for submission to General Assembly.

1 (a) Duties of department.--Prior to submitting a proposed
2 measure or other proposed action to the General Assembly under
3 section 1953-C(b), the department shall do the following:

4 (1) Submit to the Legislative Reference Bureau for
5 publication in the Pennsylvania Bulletin the proposed measure
6 or other proposed action that is in the form of draft
7 legislation. The publication shall set a public comment
8 period of no less than 180 days.

9 (2) During the public comment period, the department
10 shall conduct a minimum of four public hearings, conducted in
11 accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings),
12 on the proposed measure or other proposed action and shall
13 conduct the hearings in geographically dispersed locations in
14 this Commonwealth, including locations in which regulated
15 sources of carbon dioxide emissions would be directly
16 economically affected by the proposal.

17 (3) Following the public comment period, the department
18 shall compile a report that will be submitted to each
19 standing committee. The report shall include the following
20 information:

21 (i) A list of all individual facilities, by county,
22 that would be subject to the proposed measure or other
23 proposed action, along with:

24 (A) The amount of carbon dioxide emitted by each
25 of the facilities.

26 (B) The estimated cost that each of the
27 facilities would incur to comply with the proposed
28 measure or other proposed action.

29 (C) The effect that the proposed measure or
30 other proposed action would have on the price of

1 electricity (\$/MWh net) that each of the facilities
2 generates.

3 (D) A list of the facilities that, under the
4 proposed measure or other proposed action, would be
5 unlikely to continue to operate.

6 (E) For the other electric generation
7 facilities, an assessment of the extent to which they
8 would be likely to operate after the proposed measure
9 or other proposed action had been fully implemented.

10 (F) An assessment of the decrease of electricity
11 that would be exported from Pennsylvania after the
12 proposed measure or other proposed action had been
13 fully implemented.

14 (G) An assessment of the contribution to
15 resilience and diversity in the Pennsylvania electric
16 generation fleet from each of the affected facilities
17 and the impacts upon the resilience and diversity if
18 any or all of the facilities are forced to close.

19 (ii) A summary of the impacts on all industries
20 whose public testimony or comments were received by the
21 department during the public comment period.

22 (iii) An estimate of the net carbon dioxide emission
23 reductions that the proposed measure or other proposed
24 action would engender within the PJM Interconnection
25 region, taking into account the electricity generation in
26 neighboring states where there is not a regulation or tax
27 on carbon dioxide emissions.

28 (iv) A summary and justification of any provisions
29 in the proposed measure or other proposed action that
30 would address leakage.

1 (v) A description of the economic and fiscal impacts
2 that would result from the proposed measure or other
3 proposed action, including the following impacts:

4 (A) Direct and indirect costs to the
5 Commonwealth and its political subdivisions and the
6 private sector.

7 (B) The impact of any action or measure upon the
8 wholesale and retail price of electricity, both
9 directly and indirectly, broken down by classes of
10 electricity consumers, including residential,
11 commercial, industrial and transportation.

12 (C) Adverse effects on prices of goods and
13 services, productivity or competition.

14 (D) The nature of the reports, forms or other
15 paperwork that would be required for implementation
16 and administration of the action or measure and the
17 estimated cost for individuals, businesses and
18 organizations in the public and private sectors to
19 prepare them.

20 (E) The nature and estimated cost of legal,
21 consulting or accounting services that the public or
22 private sector would be required or likely to incur
23 for implementation and administration of the action
24 or measure.

25 (F) The impact that it would have on the public
26 interest to exempt individuals, employers or
27 facilities from compliance or require the
28 individuals, employers or facilities to comply with
29 less stringent standards when it would be lawful,
30 desirable and feasible.

1 (vi) Whether a less costly or less intrusive
2 alternative method of achieving the goal of the proposed
3 measure or other proposed action has been considered for
4 an employer or facility that would otherwise be subject
5 to the proposed measure or proposed action.

6 (b) Legislation.--Once the public comment period has
7 concluded and the department has submitted the report to each of
8 the standing committees, the department shall submit the measure
9 in legislative form to each of the standing committees and
10 request that a member of each of the standing committees
11 introduce the legislation. This action shall constitute
12 submitting the measure or action to the General Assembly. If the
13 legislation is introduced, the legislation shall follow the
14 standard legislative process and may be considered by a standing
15 committee if the legislation is referred to the standing
16 committee.

17 Section 2. This act shall take effect as follows:

18 (1) The following shall take effect immediately:

19 (i) This section.

20 (ii) The addition of subarticles (b) and (f) of
21 Article XIX-C of the act.

22 (2) The remainder of this act shall take effect in 60
23 days.