
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1700 Session of
2011

INTRODUCED BY QUINN, ADOLPH, BRENNAN, BURNS, CALTAGIRONE,
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READSHAW, REICHLEY, ROSS, SCAVELLO, TOBASH, TRUITT, WATSON,
M. O'BRIEN, GERBER, HORNAMAN AND R. BROWN, JUNE 17, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 17, 2011

AN ACT

1 Establishing a well impact fee; providing for distribution of
2 fees; establishing the Local Government Shale Impact
3 Mitigation Fund, the Environmental Shale Impact Mitigation
4 Fund and the Road and Bridge Shale Impact Mitigation Account;
5 and providing for the powers and duties of the Department of
6 Revenue.

7 The General Assembly of the Commonwealth of Pennsylvania

8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Shale Impact
11 Mitigation Policy for Local Government, the Environment and
12 Roads Act.

13 Section 2. Definitions.

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

17 "Association." A partnership, limited partnership or any
18 other form of unincorporated enterprise owned or conducted by

1 two or more persons.

2 "Coal bed methane." Gas that can be produced from coal beds,
3 coal seams, mined-out areas or gob wells.

4 "Construction." The point in time when well drilling
5 operations are completed.

6 "Corporation." A corporation, joint stock association,
7 limited liability company, business trust or any other
8 incorporated enterprise organized under the laws of the United
9 States, this Commonwealth or any other state, territory or
10 foreign country or dependency.

11 "Department." The Department of Revenue of the Commonwealth.

12 "Municipality." A city, borough, incorporated town or
13 township.

14 "Natural gas." A fossil fuel consisting of a mixture of
15 hydrocarbon gases, primarily methane, possibly including ethane,
16 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
17 hydrogen sulfide and other gas species. The term includes gas
18 from oil fields known as associated gas or casing head gas,
19 natural gas fields known as nonassociated gas, coal beds, shale
20 beds and other formations. The term does not include coal bed
21 methane.

22 "Nonproducing well." A natural gas well that does not
23 produce natural gas in excess of 90,000 cubic feet per day.

24 "Operator." A person or its subsidiary, affiliate or holding
25 company that holds a permit or other authorization to engage in
26 the business of severing natural gas for sale, profit or
27 commercial use from an unconventional well in this Commonwealth.
28 The term does not include a person who severs natural gas from a
29 storage field.

30 "Person." A natural person or a corporation, fiduciary,

1 association or other entity, including the Commonwealth and any
2 of its political subdivisions, instrumentalities and
3 authorities. When the term is used in a provision prescribing
4 and imposing a penalty or imposing a fine or both, the term
5 shall include a member of an association and an officer of a
6 corporation.

7 "Rate." The rate under section 3.

8 "Reporting period." The fiscal year in which a well impact
9 fee is assessed.

10 "Secretary." The Secretary of Revenue of the Commonwealth.

11 "Unconventional gas well." A bore hole drilled or being
12 drilled for the purpose of or to be used for producing oil or
13 gas from a geologic formation existing below the base of the Elk
14 Sandstone or its geologic equivalent stratigraphic interval
15 where oil or gas generally cannot be produced at economic flow
16 rates or in economic volumes except by wells stimulated by
17 hydraulic fracture treatments, a horizontal well bore or by
18 using multilateral well bores or other techniques to expose more
19 of the formation of the well bore.

20 "Well impact fee." A fee that is adopted under section 3 on
21 each unconventional well producing natural gas within this
22 Commonwealth and is calculated and distributed as a means to
23 defray the impacts on the environment and infrastructure where
24 such wells are located.

25 Section 3. Well impact fee.

26 (a) Imposition.--Beginning July 1, 2011, except as otherwise
27 provided in subsection (b), a well impact fee shall be levied on
28 every unconventional natural gas well in which construction of
29 the well has been completed in this Commonwealth.

30 (b) Exemptions.--The well impact fee shall not be imposed

1 on:

2 (1) nonproducing wells; or

3 (2) unconventional wells in which the natural gas is
4 used directly by a consumer.

5 (c) Rate.--Upon completion of the construction of an
6 unconventional gas well, the well impact fee imposed in
7 subsection (a) shall be assessed annually on the unconventional
8 gas well beginning in the year construction was completed and
9 based upon the following schedule:

10 (1) Years 1 and 2 - \$50,000

11 (2) Years 3 and 4 - \$45,000

12 (3) Years 5 and 6 - \$40,000

13 (4) Years 7 and 8 - \$35,000

14 (5) Years 9 and 10 - \$30,000

15 (6) Years 11 and 12 - \$25,000

16 (7) Years 13 and 14 - \$20,000

17 (8) Years 15 through 20 - \$15,000

18 (9) Years 21 and thereafter - \$10,000

19 (d) Cessation.--The annual payments shall cease upon
20 certification to the department by the operator that the
21 unconventional well has ceased production and has been plugged
22 according to the regulations established by the Department of
23 Environmental Protection.

24 Section 4. Return and payment.

25 (a) General rule.--An operator shall file a certificate with
26 the department, on a form prescribed by the department, which
27 shall include a list by county and municipality of the total
28 number of unconventional gas wells owned by the operator for the
29 reporting period. The operator shall also submit the amount of
30 the well impact fee due at the time the certificate is

1 submitted.

2 (b) Filing.--The certificate required by subsection (a)
3 shall be filed with the department within 30 days following the
4 end of a reporting period. The operator may submit the well
5 impact fee due on a quarterly basis on a schedule approved by
6 the department.

7 (c) Deadline.--The well impact fee shall be due on the day
8 the certificate is required to be filed and shall become
9 delinquent if not remitted to the department by that date.

10 (d) Prohibition.--The Department of Environmental Protection
11 shall not issue a permit to drill an unconventional well until
12 all fees owed under section 3 that are not in dispute have been
13 paid to the department.

14 Section 5. Penalties.

15 (a) Failure to file a timely certificate.--An operator who
16 willfully fails to file a timely certificate shall be assessed
17 an administrative fine equal to 200% of the well impact fee
18 liability required to be reported on the certificate. The
19 department shall enforce this penalty.

20 (b) Fraudulent certificate.--Any person, with intent to
21 defraud the Commonwealth, who willfully makes or causes to be
22 made a certificate required by this act which is false, shall,
23 upon finding by the department, be ordered to pay an
24 administrative fine of not more than 200% of the liability and
25 shall have all well permits currently issued to the operator
26 suspended by the Department of Environmental Protection pending
27 the payment of the fine and providing to the department a plan
28 demonstrating safeguards have been instituted by the operator to
29 ensure the proper filing of certificates.

30 (c) Penalties or other acts.--

1 (1) Except as otherwise provided by subsection (a), an
2 operator shall be ordered to pay a fine of not more than
3 \$50,000 and costs of prosecution for any of the following:

4 (i) Willfully failing to timely remit the well
5 impact fee to the department.

6 (ii) Willfully failing or neglecting to timely file
7 a certificate or report required by this act.

8 (iii) Refusing to timely pay a penalty or interest
9 imposed or provided for by this act.

10 (iv) Willfully failing to preserve its books, papers
11 and records as directed by the department.

12 (v) Refusing to permit the department or its
13 authorized agents to examine its books, records or
14 papers.

15 (vi) Knowingly making any incomplete, false or
16 fraudulent certificate or report required by this act.

17 (vii) Preventing or attempting to prevent the full
18 disclosure of the amount of well impact fee due.

19 (viii) Providing any person with a false statement
20 as to the payment of the well impact fee with respect to
21 any pertinent facts.

22 (ix) Making, uttering or issuing a false or
23 fraudulent statement required by this act.

24 (2) The penalties imposed by this section shall be in
25 addition to other penalties imposed by law.

26 Section 6. Rules and regulations.

27 (a) Establishment and enforcement of regulations.--The
28 department shall enforce the provisions of this act and may
29 prescribe, adopt, promulgate and enforce rules and regulations
30 not inconsistent with the provisions of this act relating to any

1 matter or thing pertaining to the administration and enforcement
2 of the provisions of this act and the collection of well impact
3 fees, penalties and interest imposed by this act. The department
4 may prescribe the extent, if any, to which any of the rules and
5 regulations shall be applied without retroactive effect.

6 (b) Recordkeeping.--

7 (1) Every person liable for the collection and
8 remittance of the well impact fee shall keep records,
9 including those enumerated in this subsection, render
10 statements, file certificates and comply with the rules and
11 regulations as the department may prescribe regarding matters
12 pertinent to the person's business.

13 (2) Whenever it is necessary, the department may require
14 a person, by notice served upon the person, to file
15 certificates, render statements or keep records as the
16 department deems sufficient to show whether the person is
17 liable to pay the well impact fee.

18 (c) Records.--Every person responsible for the submittal of
19 the well impact fee shall maintain records, statements and other
20 instruments as the department may prescribe by regulation.

21 (d) Examinations.--The department or any of its authorized
22 agents may:

23 (1) Examine the books, papers and records of any
24 operator in order to verify the accuracy and completeness of
25 the well impact fee submitted or reported.

26 (2) Require the preservation of all books, papers and
27 records for any period deemed proper by it, but not to exceed
28 five years from the end of the calendar year to which the
29 records relate.

30 (3) Examine any person, under oath, concerning any

1 matter relating to the enforcement or administration of this
2 act, and to this end, may compel the production of books,
3 papers and records and the attendance of all persons whether
4 as parties or witnesses whom it believes to have knowledge of
5 relevant matters. The procedure for the hearings or
6 examinations shall be the same as that provided by the act of
7 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

8 (e) Duties of operators.--Every operator shall provide the
9 department or its agent with the means, facilities and
10 opportunity for examinations and investigations under this
11 section.

12 (f) Unauthorized disclosure.--

13 (1) Any information gained by the department as a result
14 of any certificate, examination, investigation, hearing or
15 verification required or authorized by this act shall be
16 confidential, except for official purposes, or in accordance
17 with proper judicial order or as otherwise provided by law.

18 (2) Any person who unlawfully divulges information
19 required to be kept confidential under this act shall, upon
20 conviction thereof, be sentenced to pay a fine of not more
21 than \$1,000 and costs of prosecution.

22 Section 7. Funds and accounts established.

23 (a) Local Government Shale Impact Mitigation Fund.--

24 (1) The Local Government Shale Impact Mitigation Fund is
25 established in the State Treasury.

26 (2) The allocation under section 8 shall be deposited
27 into this fund and shall be distributed as provided in
28 section 8(1)(i)(B).

29 (b) Environmental Shale Impact Mitigation Fund.--

30 (1) The Environmental Shale Impact Mitigation Fund is

1 established in the State Treasury.

2 (2) The allocation under section 8 shall be deposited
3 into this fund and shall be distributed as provided in
4 section 8(2).

5 (c) Road and Bridge Shale Impact Mitigation Account.--

6 (1) The Road and Bridge Shale Impact Mitigation Account
7 is established as a restricted account within the Motor
8 License Fund.

9 (2) The allocation under section 8 shall be deposited
10 into this restricted account and shall be distributed as
11 provided in section 8(3).

12 Section 8. Deposits, distributions and interfund transfers.

13 The moneys collected under this act shall be deposited,
14 distributed and transferred as follows:

15 (1) Fifty percent of the moneys shall be deposited into
16 the Local Government Shale Impact Mitigation Fund and shall
17 be distributed by the State Treasurer as follows:

18 (i) Fifty percent of those moneys shall be provided
19 to municipalities in which unconventional gas wells are
20 located. The amount for each municipality shall be
21 determined by the number of constructed unconventional
22 wells located within the municipality. The funds received
23 by a municipality under this subsection shall be used
24 only for the following purposes:

25 (A) For the construction, reconstruction,
26 maintenance and repair of water, storm water and
27 sewer systems.

28 (B) For the preservation and reclamation of
29 surface and subsurface waters and water supplies.

30 (C) For the construction and maintenance of

1 municipal roads and bridges.

2 (ii) Fifty percent of those moneys shall be provided
3 to counties in which unconventional gas wells are located
4 to be used to:

5 (A) Provide grants to municipal police, fire and
6 emergency medical services for equipment and
7 training.

8 (B) Purchase equipment specifically for use by
9 the county and to conduct county-wide training as
10 necessary for municipal first responders related to
11 the emergency preparedness response associated with
12 incidents at unconventional gas wells.

13 (C) Provide grants to municipalities for
14 environmental projects which shall be limited to
15 watershed protection or improvement, flood control
16 and flood plain management.

17 (D) Provide grants to municipalities to offset
18 costs not reimbursed by the Commonwealth for planning
19 and enforcement activities authorized under section 6
20 of the act of January 24, 1966 (1965 P.L.1535,
21 No.537), known as the Pennsylvania Sewage Facilities
22 Act.

23 (2) Thirty percent of the moneys shall be deposited into
24 the Environmental Shale Impact Mitigation Fund and shall be
25 transferred by the State Treasurer as follows:

26 (i) (A) Beginning fiscal year 2011-2012 through
27 fiscal year 2014-2015, 25% of the moneys shall be
28 transferred to the Environmental Stewardship Fund.

29 (B) Beginning in fiscal year 2015-2016 and each
30 fiscal year thereafter, 15% of the moneys shall be

1 transferred to the Environmental Stewardship Fund.

2 (ii) Beginning in fiscal year 2015-2016 and each
3 fiscal year thereafter, 10% of the moneys shall be
4 transferred to the Hazardous Sites Cleanup Fund.

5 (iii) Five percent of the moneys shall be
6 transferred to the Conservation District Fund for
7 distribution to county conservation districts pursuant to
8 the guidelines established by the State Conservation
9 Commission.

10 (3) Twenty percent of the moneys shall be deposited into
11 the Impact Road and Bridge Shale Impact Mitigation Account.
12 All money within this account shall be allocated solely for
13 the purpose of funding highway and bridge infrastructure
14 projects within this Commonwealth. All money shall be
15 administered according to the procedures established for
16 funding highway and bridge construction priority projects by
17 the Department of Transportation.

18 Section 9. Calculation of payments.

19 The State Treasurer shall:

20 (1) Certify the number of all unconventional gas wells
21 located within each county and municipality based upon the
22 appropriate reports provided by the Department of
23 Environmental Protection.

24 (2) Pay to each municipality in which unconventional gas
25 wells are located an amount equal to the total number of
26 unconventional gas wells located within the municipality
27 based on the fee schedule established in section 3.

28 (3) Pay to each county in which unconventional gas wells
29 are located an amount equal to the total number of
30 unconventional gas wells located within the county based on

1 the fee schedule established in section 3.

2 Section 10. Distribution to counties.

3 (a) General rule.--Commencing in calendar year 2012 and each
4 year thereafter, before December 1, each county that receives
5 funds under section 8 shall prepare and deliver a report to the
6 Secretary of the Senate and the Chief Clerk of the House of
7 Representatives detailing the expenditure of the funds.

8 (b) Audit.--The Department of Community and Economic
9 Development may audit a county's and municipality's expenditure
10 of the funds.

11 (c) Availability of records.--A county and municipality that
12 receives the funds shall make its financial records and other
13 documents relating to its expenditure of the funds available to
14 the department.

15 (d) Report.--Each municipality receiving distributions under
16 this act shall prepare and deliver a report to the county
17 commissioners of the county detailing the expenditure of the
18 funds received, which information shall be included in the
19 report required under subsection (a).

20 Section 11. Effective date.

21 This act shall take effect in 120 days.