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Most local Assembly members oppose fracking moratorium legislation

Measure perhaps ceremonial as state waits on DEC report

By Jon Campbell • jcampbell1@gannett.com • August 21, 2010, 6:00 pm

Natural gas drilling advocates have had their New York Marcellus Shale aspirations on hold since July 2008, and a bill awaiting Assembly approval would extend their wait until mid-May at the earliest.

While the bill is expected to have the necessary votes to pass that house, five of six local Assembly members polled pledged they'll vote against that measure, which would ban hydraulic fracturing until May 15, 2011.

Horizontal drilling in the Marcellus will remain on hold in New York, regardless of legislation, until the state Department of Environmental Conservation finishes its review of its Supplemental Generic Environmental Impact Statement, which will set rules and regulations for high-volume hydraulic fracturing. A mix of water, sand and chemicals is blasted deep underground to break up rock and free natural gas as part of the drilling technique.

"It appears now that (the DEC's) review will continue into 2011, and we have no indication that it will wrap up anytime soon," said Assemblywoman Donna A. Lupardo, D-Endwell. "I anticipate they will go well into 2011, so a May 15 moratorium deadline in light of the progress DEC is making seems arbitrary."

After months of back-and-forth lobbying between environmental and gas industry advocates, the state Senate passed the bill in an after-midnight, one-sided, bi-partisan vote Aug. 3 shortly before heading home for the end of legislative session. The Assembly was sent home without taking up the measure, but is expected to return in September to discuss additional legislation and distribute federal funds.

Sen. Thomas W. Libous, R-Binghamton, was one of nine senators to vote against the bill, as did Sen. George Winner, R-Elmira. Both pleaded to let the DEC finish its review rather than temporarily

banning hydraulic fracturing altogether. Several local Assembly members agreed.

"From the standpoint of the legislature, we provide funding for the DEC," said Assemblyman Clifford Crouch, R-Town of Binghamton. "And with a lot of the misinformation out there, a lot of the legislators have been tweaked into thinking we need a moratorium. If we don't have faith in DEC, why are we funding them?"

Along with Crouch and Lupardo, Assemblymen Gary Finch, R-Union Springs; James Bacalles, R-Corning; and Tom O'Mara, R-Elmira said they would vote "no."

Ithaca Assemblywoman Barbara Lifton, a Democrat, bucks the local trend. She has co-sponsored the bill in the Assembly and supports a stronger moratorium that would put fracking on hold until the U.S. Environmental Protection Agency files a report on the practice, which is expected to come in 2012.

"Looking around the county and what has happened in Pennsylvania, we know there are a lot of risks here. There are a lot of problems with water and people's health. They're serious problems, they're real problems, they're longstanding problems, and I don't think we know nearly enough about this process."

Other local lawmakers said they have issues with the wording of the bill. Bacalles said he is voting against it, in part because it would put a ban on

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issuing permits for vertical wells in the Marcellus and Utica Shale formations. Vertical fracking uses far less fluid and has a longer history than horizontal wells.

"We have about 14,000 wells in [New York state](#) that still use that process to fracture the wells and release the gas, and DEC is still issuing permits for those vertical wells," Bacalles said. "This legislation would effectively shut that process down. I don't think they meant to, but that's the way the bill was drafted."

All six Assembly members polled said they believe the measure would pass if it did hit the Assembly floor, but it remains far from certain it will. Assembly Speaker Sheldon Silver, D-Manhattan, said in a statement his house would "carefully monitor the actions of the Department of Environmental Conservation and consider all additional measures necessary to ensure the health and [safety](#) of all New Yorkers," but he stopped short of saying he would present the moratorium for a vote.

Lifton, however, said she has fought to make sure it will happen.

"I have been pushing very hard to make sure it hits the Assembly floor when we reconvene," Lifton said. "I assume it will and I'm hopeful it will, but I'll be pushing very, very hard until it does."

Even if it does pass the Assembly, it faces an uncertain future on Gov. David Paterson's desk. Paterson has said in the past he wants to see what the DEC comes up with in its impact statement, which he ordered, before making a decision.

Paterson would have to sign the measure for it to become law. The legislature could override a veto with a two-thirds vote.



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