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Gas 'pooling' law unlikely this year



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Measure expected in next session

A controversial provision natural gas companies are looking for is unlikely to become state law just yet, because the legislative year is coming to an end - but discussion on the subject is far from over.

"Forced pooling," or "fair pooling" as the natural gas industry calls it, would allow gas companies to drill beneath the properties of holdout landowners in a drilling block.

Although there was talk of including forced/fair pooling in the natural gas severance tax that passed in the House and is now being considered in the Senate, Senate Republican President Pro Tempore Joseph Scarnati, R-25, Jefferson County, has indicated it isn't likely to happen this term.

Thursday will be the Senate's last voting day this year and, "We in the Senate have made a commitment not to go into lame-duck session after the election for voting," State Sen. Lisa Baker, R-20, Lehman Twp., said.

Lackawanna County landowner Leslie Avakian, founder of ProtectMyRightsPA.org, who has participated in rallies at the Capitol in Harrisburg to oppose forced pooling, thinks it's "terrific" the subject is off the table.

"I'm glad things are moving forward," she said. "But I don't think this issue has died. One of my concerns is they are pushing it into the next legislative session."

Won't let it drop

The natural gas industry is not about to let it drop. Fair pooling "dramatically reduces above-ground disturbance" and allows gas to be collected in an orderly manner, Marcellus Shale Coalition spokesman Travis Windle said.

"It's an absolute environmental winner, and that's why virtually every other energy-producing state in the nation has this on the books," he said.

Mr. Windle said fair pooling is good for landowners - "Everyone's compensated for production, whether they have a lease or not, under a pooling statute" - and for consumers, who would benefit from more supply in the market.

New technology allows companies to drill underground for a mile horizontally, which can be far away from a landowner who does not want a drilling rig on his or her property, he said.

And Mr. Windle said pooling would not hurt landowners' ability to negotiate a lease.

"I don't think it takes away their negotiating power in any way," he said. "I think it increases their ability to leverage."

Ms. Avakian disagreed.

"It kills negotiating power, absolutely," she said. "How much negotiating power do you have if you know that in the end, they can take your gas anyway? It kills the free market."

Ms. Avakian said forced pooling means savings for the gas industry because of the landowners' reduced negotiating power, and also because companies don't need to drill on every property - they only need limited surface access. Once they can take all the gas from beneath a property without a lease, the gas companies could drill without giving landowners an up-front payment, and the only way the owner would be compensated is if the gas is withdrawn, she said.

'Not a fair trade'

"That's money that comes out of the pockets of Pennsylvanians," Ms. Avakian said. "That's not a fair trade at all."

Although some property owners do favor pooling because, as Mr. Windle pointed out, their minerals may not be developed otherwise and they would miss out on royalties, others are more leery of the concept.

"Pro-gas, anti-gas, Republican, Democratic - this is bad for all of us," Ms. Avakian said.


Gary Ide, president of Citizens for Cleaner Energy, said members of his group want to learn more.

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"Not all people in this pro-gas drilling group are convinced that this forced pooling is a good idea," he said. "Forced pooling doesn't sound like a very friendly thing, and I don't even like the term 'fair pooling.'"

Mr. Ide wants to see how forced/fair pooling works in other states, and notes that it is premature for the state Legislature to make a determination on whether it is right for Pennsylvania.

"I just think that now is the wrong time to try to take a permanent position, because I think we need to learn a little bit more about how this affects the leaseholders, the gas companies and the people who oppose drilling," he said.

Mr. Ide's concern is that "the wrong people," such as gas companies, the legislature, a coalition of some sort, would write the law in a way to benefit one particular group.

"There may be a much simpler way of doing this than something we don't understand, and have to deal with once it's passed," he said. "This is one of those situations where it's more important to be right than to be popular."

Similar thoughts

Ms. Avakian has similar thoughts.

"I really believe this can be solved a different way," she said. "We need to look at some creative solutions."

Local lawmakers, sensitive to constituents' concerns, have taken stands. Ms. Baker has stated her opposition to forced pooling.

So has her fellow Back Mountain lawmaker, state Rep. Karen Boback, R-117, Harveys Lake, who stated, "I remain firmly against any efforts to infringe on a landowner's right to decide what happens on and under his or her property."

State Reps. Mike Carroll, D-118, Hughestown, and John Yudichak, D-119, Nanticoke, also oppose forced pooling.

"I'm very sensitive about taking power away from local property owners, local leaders. I think they need to weigh in on these issues," Mr. Yudichak said. "We need to protect them."

Other local lawmakers didn't support the idea of including pooling in the severance tax bill, either.

"My position is, I was not willing to discuss forced pooling or any other aspects of the gas industry until we had voted on and made into law a severance tax," said state Rep. Eddie Day Pashinski, D-Wilkes-Barre.

Mr. Windle denies the industry group was seeking a quid-pro-quo for a severance tax.

"Not in exchange, as part of a comprehensive modernization. It's not just an 'I'll-give-you-that-if-you'll-give-me-this,'" he said.

Mr. Windle noted, "A lot of proponents of the severance tax in Harrisburg say we need one because every other state has one. If you follow that logic, doesn't Pennsylvania need a fair pooling statute because every other state has one?"

Contact the writer: eskrapits@citizensvoice.com

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