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Marcellus Shale industry that wants changes in Pa. laws may have to pay a price: A tax

By Marc Levy

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HARRISBURG, Pa. (AP) - Pennsylvania's Legislature is a place where victory almost always arrives in the form of a hard-won compromise, and the state's rapidly growing natural gas industry may be about to discover that.

So far, the industry has been successful in dodging efforts by Gov. Ed Rendell and many Democratic lawmakers to slap an extraction tax on the methane they pump from the rich Marcellus Shale reserve that lies underneath much of the state.

But the drilling companies will need help from those adversaries in addressing a wish list of changes in state laws they are seeking to make it easier for them to pursue the gas.

Paying a tax just might be the price.

"What we've said all along is that the conversation begins and ends with the extraction tax," said Brett Marcy, a spokesman for House Majority Leader Todd Eachus, D-Luzerne. "We cannot even begin to seriously discuss some of the issues that the natural gas industry wants us to take action on until we get the necessary support for a natural gas extraction tax."

The Rendell administration says the industry's top issues — such as a law that could limit municipal zoning authority over where drilling can occur — will be dealt with separate from the pursuit of a tax.

"Those are apples and oranges in some respects," said Rendell's chief of staff, Steve Crawford. "We're not willing to say, 'We will roll local governments in this state if you support a tax.'"

But Dave Spigelmyer, a Chesapeake Energy Corp. executive who is also vice chairman of the Marcellus Shale Coalition said the administration has told the industry group that a discussion of drilling issues will include talking about a tax.

For now, talk is in the early stages and industry-backed legislation that encompasses the wish list has not been introduced.

Two of the top issues could be controversial.

One would essentially outlaw a municipality from using zoning to prevent the collection of gas from below the property of someone who wishes to sell it — a change opposed by the Pennsylvania State Association of Township Supervisors.

Municipalities "have the ability to properly zone different activities within the jurisdictions. With the industry being able to drill horizontally up to a mile, why do they need to have zoning done away with?" asked Elam Herr, the association's assistant executive director.

The other would allow a state authority to force a holdout landowner into a pool with neighbors who wish to sell their mineral rights in a block to a drilling company. The state would decide how the holdout is to be compensated for the gas, based on the agreements between the willing landowners and the company.

Democratic Rep. Bud George, the House Environmental Resources and Energy Committee chairman from Clearfield County, warned that such a provision is likely to spark fierce public opposition over the perception that government could take away property rights to benefit private companies.

The discussion comes during a tough political window for the industry.

House Democrats and Rendell administration officials are pointing to the Clearfield County well blowout earlier this month as a prime example of why a tax is necessary to pump money into environmental protection efforts, not to mention the cash-strapped state budget.

Last year, opposition from the Senate Republican majority scuttled Democratic efforts to impose a tax as part of the state budget.

In theory, the caucus could try to get a better deal for the industry by opposing a tax again this year in hopes that Tom Corbett, the state's Republican attorney general who has signed a no-new-taxes pledge, wins the gubernatorial election in November.

Senate President Joe Scarnati, R-Jefferson, said Friday that he supports a tax that feeds environmental protection programs and communities where wells are drilled.

But Scarnati, R-Jefferson, whose Brockway house is a short drive from the well blowout, said the enactment of a tax is inextricably linked with a serious attempt to address the complaints of an industry that is investing billions and hiring thousands.

"Let's be honest about it," Scarnati said. "No business or industry is going to sit down and agree to a tax and then not agree to solving problems moving forward."