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NY Marcellus Shale drilling moratorium face uphill battle in Legislature

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ALBANY - The Legislature has yet to act on two bills that would enact a moratorium on natural-gas drilling in the state's portion of the Marcellus Shale formation, increasing the likelihood that they won't be taken up before legislative session ends.

The bills would place a temporary ban on the use of hydraulic fracturing, a controversial extraction technique in which a mixture of water, chemicals and sand is blasted deep underground to break up the rock formation and make natural gas more accessible. One bill would place a moratorium on the practice until May 15, 2011. The other would ban the practice until 120 days after a federal Environmental Protection Agency study is completed, which is expected to take at least two years.

The legislation sits in committee in both the Senate and the Assembly, and a spokesman for the Senate Democrats said it is unlikely the bill will be taken to the Senate floor for a vote this week. Lawmakers are expected to leave Albany shortly after a state budget is passed, which could come as soon as Thursday.

"I think both bills have some challenges," said Sen. Antoine Thompson, D-Buffalo, the sponsor of bill that would provide the one-year moratorium and the chair of the Senate Environmental Conservation Committee. "The Senate Democrats have not conferenced those bills to the best of my knowledge, and I have not been asked to shed insight in the conference setting, so that's the answer I can give at this point."

Thompson's bill has more support from the Legislature than the lengthier moratorium, according to several lawmakers and lobbyists. Assembly Environmental Conservation Committee Chairman Robert Sweeney, D-Suffolk County, said his house is watching what the Senate is willing to act on - if it acts at all - and will respond accordingly. Sweeney is the sponsor of Thompson's bill in the Assembly.

"We're trying to monitor where the Senate is and what they are willing and able to do, and obviously we want to match up with them if we can," Sweeney said.

But even if a moratorium bill is passed by the Legislature, it's unclear if Gov. David Paterson would sign the measure into law. Tom Congdon, the governor's deputy secretary for energy, told Gannett's Albany Bureau last week that the state Department of Environmental Conservation hasn't even finished its environmental review, so it would be ill advised to enact a moratorium at this point.

The DEC's review, Congdon said, is going through the "appropriate process and we do have a lot of faith in the DEC's ability to carry that work out." Paterson has put a hold on issuing drilling permits until the review is complete. It is expected to be finished by the end of the year, according to the DEC.

"I think that doing a moratorium would be premature at this point," Congdon added. "No one has even seen what the final EIS (environmental impact statement) is going to do. So I don't think there's a good rationale for it."

Several environmental advocacy groups have been at the Capitol for much of the week in support of

the bills. Most were in favor of the lengthier moratorium, but William Cooke, director of government relations for the Citizens Campaign for the Environment, acknowledged that bill was "on a ventilator."

"It's still the right bill. Just because we can't get enough of these guys to do the right thing doesn't mean it's a bad bill," Cooke said. "The Thompson bill is a good start, but really our view is we shouldn't be drilling in this state until all of the issues have been addressed."

Cooke said, however, that he knows of 34 senators who would vote for Thompson's bill - two more than needed for passage. Three Republican senators - John Bonacic of Mt. Hope, Orange County; James Seward of Milford, Otsego County; and Frank Padavan of Queens - said Wednesday they would vote for the shorter moratorium if it came to a vote, which would be necessary for passage if any of the 32 Democrats voted against the bill.

Both the Independent Oil and Gas Association and the Joint Landowners Coalition of New York have spoken out in opposition of any moratorium, instead urging lawmakers to wait until the DEC review is complete.

"These bills are unnecessary," said Jim Smith, a spokesman for the gas association. "The DEC should complete its work, and the Legislature should not stand in the way of that."
