

## Pa. State Senator Introduces Marcellus Legislation

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State Sen. Gene Yaw said Tuesday that his main legislative accomplishments so far have been in introducing bills related to Marcellus Shale drilling and getting them passed, and he said that will continue to be the main focus of his work in the coming year.

In an interview on Tuesday with news and editorial staff of The Daily Review, Yaw discussed his proposed legislation and also talked about the magnitude of Marcellus Shale drilling, saying it could end up being a bigger phenomenon than the oil industry was in Texas.

"I intend to introduce a package of bills, and an awful lot of them have to do with the gas industry, and they are oriented primarily to landowners and the rights of landowners," said Yaw, who represents most of the counties in Pennsylvania that have the highest amount of Marcellus Shale drilling activity, including Bradford County.

Yaw said that the legislation he is introducing would give counties the authority to have property taxes assessed on gas wells, would establish a type of forced gas pooling, and clarify who owns the mineral rights on many properties.

"If we go about it and manage it (the Marcellus Shale drilling) properly and are willing to accept a leadership role, it (the Marcellus Shale drilling) can be bigger than what the oil industry was in Texas," said Yaw.

Yaw added that his assessment of the magnitude of Marcellus Shale drilling was based on statements made Monday by Penn State geologist Terry Engelder at a Penn State Cooperative Extension event in Hughesville.

## Property taxes

Yaw said he is in favor of giving counties the authority to decide whether property taxes should be levied on gas wells.

Prior to 2002, counties in Pennsylvania had the authority to include gas wells in residents' property tax assessments, Yaw said.

However, in 2002, a Pennsylvania Supreme Court case occurred that said that Pennsylvania law did not permit assessing property taxes on gas wells, according to Yaw.

"My proposed legislation would legislatively overrule that court case," Yaw said.

Yaw said that if his legislation becomes law, gas wells would generate property taxes for school districts, municipalities and counties.

In Pennsylvania, there are three ways to assess a property: the cost of replacing the structure, the value of sales of comparable properties, and the income that the property generates, Yaw said.

Yaw said his bill would assess gas wells based on the income they generate.

"I think the best way to value it (a gas well) is based on the royalty that is produced out of the gas well," Yaw said. If a person, for example, received 10 percent of the royalties that were paid out for a particular well, he would owe 10 percent of the property taxes on the well, Yaw said.

Only wells that are producing and generating royalty payments would be subject to the property tax, he said.

Yaw said he believes there is eventually going to be a tax on gas wells, and that his proposal is the best way to tax them.

"I am not in favor of increasing taxes," said Yaw, who is beginning his third year as a state senator. "However, if I

have to pay taxes, I would prefer to pay them locally and see them spent locally than through Harrisburg."

## Pooling

From an environmental point of view, "we must have some form of forced pooling," Yaw said.

That's because if a gas company wants to create a production unit for drilling, and a landowner in the middle of the proposed unit refuses to enter into a gas lease, the gas company may have to develop two well pads instead of one to extract the gas from under the proposed unit, Yaw said.

That would "double the environmental impact" of the gas drilling at the site, he said.

But Yaw said that most of the "pooling problems" are not caused by "holdout" landowners, but by gas companies that happen to have a gas lease in the middle of an area where another company wants to drill.

"What I've been told by some gas industry people is that 90 percent of the pooling problems are created by other (gas) companies that happen to have a lease in the middle of one of these units" and they refuse to transfer the lease to the other company or otherwise cooperate to allow the drilling to go forward, Yaw said.

Yaw said that he is proposing pooling legislation that would address the "holdout" gas companies, instead of the "holdout" landowners.

Yaw said that under his proposed legislation, such "holdout" gas companies would be required to cooperate to allow the drilling to go forward, and that the "holdout" companies would be compensated for their cooperation by the companies doing the drilling.

Yaw calls his proposed legislation "company-to-company pooling." Yaw says he respects the property rights of the "holdout" landowners and he says his legislation would not cause gas to be extracted from underneath such "holdout" landowners' property.

"If I can solve 90 percent of any issue, I will be extremely satisfied with the result," Yaw said, adding that his legislation would take care of most of the pooling problems.

## Pugh Clause

Yaw said he has introduced legislation that would address a problem that can occur when gas companies enter into a gas lease on a property -- say 200 acres -- but only put a small portion of the property, perhaps 10 acres, into a production unit.

The other 190 acres "could sit there with nothing happening on them for 20 years," Yaw said. The gas company has no obligation to extract gas from underneath the 190 acres, he said.

Yaw said he is proposing legislation that would establish a so-called "Pugh Clause" for all production units established after the legislation is passed.

"This provision (the Pugh Clause) would provide the landowners and gas companies the option to develop the acreage not included in a production unit," Yaw said in a press release.

## Royalty stubs

A lot of people receiving royalty checks from their gas leases have said they can't understand the check stubs, Yaw said.

Yaw said he is proposing legislation that would require certain things to be shown on the check stubs, such as what deductions were made and what the production of the well was.

"What we intend here is to standardize the information (on the check stubs) so that all royalty recipients are dealing with the same, easy-to-understand information," Yaw said.

## Gas rights

"Due to the thorough manner in which the gas companies search real estate titles, a significant problem with abandoned rights has surfaced," the press release from Sen. Yaw states. "It is not unusual to find situations where as long as 100 years ago, gas and mineral rights were reserved by a prior landowner. In some instances, these individuals may have died without exercising the rights and without paying any of the real estate taxes. Therefore, the reservation continues in perpetuity, creating a cloud on the title of the current landowner. In many cases, it is impossible to track down an owner and a lengthy court process known as an "Action to Quiet Title" is required (to obtain a court order that the owner of the property also owns the gas and mineral rights)."

To address the problem, Yaw said he is proposing legislation under which anyone who reserved the gas or mineral rights on a property but did not use them for the next 21 years would be considered to have abandoned those rights.

## Metering

Yaw said he will propose legislation that will require state certification for meters that measure the gas flowing from wells.

Such meters, which are used to determine royalty payments, currently do not have to be certified, he said.

He said the gas companies would pay for the certification.

## Accomplishments

Yaw said he was able to make significant accomplishments in his first two years as a state senator.

"I think in the first two years we were able to accomplish some things (that were) maybe more than I expected," Yaw said.

For example, Gov. Rendell signed into law in 2010 a bill that Yaw had introduced which requires the Department of Environmental Protection to make public the amount of natural gas produced by each well much more quickly than had been the case in the past.

In the past, gas companies were required to report production data for each well to the DEP, but the DEP kept the information confidential for five years, Yaw said.

Under the legislation that was signed into law last year, the period of confidentiality is reduced to six months, he said.

The DEP posts the production information for the wells on its website, he said.

Yaw said that he was also able to get an amendment passed that modifies the Clean and Green Law, which he said benefits landowners enrolled in the Clean and Green program.

In the past, some counties had required property owners to pay rollback taxes on their entire property when a natural gas well was developed on the land, Yaw said.

Based on the Yaw's amendment, which was signed into law in October, rollback taxes are only due on the drill pad site itself, not on the entire property, he said.

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