

Senator Seward: State should respect "Home Rule" on drilling

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By Press Release from Senator Seward's Office

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ALBANY, N.Y. - State Senator James L. Seward (R/C/I – Oneonta) today announced he is co-sponsoring legislation that would give local governments veto power over natural gas drilling through zoning authority.

“The topic of drilling in the Marcellus Shale has elicited an overwhelming response with varied opinions on all sides of the issue. One thing that cannot be discounted moving forward is the desire of local residents,” said Senator Seward. “That is why I am co-sponsoring legislation (S.3472) that would empower local governments and allow them to regulate natural gas drilling through local planning and zoning.”

Under the legislation, local governments would be given clear authority to enact and enforce local zoning ordinances or laws governing oil, gas, and other solution mining development.

Several local governments have already approved or are considering local drilling prohibitions. The state legislation would clarify the law regarding local zoning ordinances, avoiding potentially costly and time-consuming litigation, Seward noted.

Along with co-sponsoring S.3472, Senator Seward is also calling on New York State Department of Environmental Conservation (DEC) Commissioner Martens to address the need for home rule authority within regulations currently being crafted by the DEC to govern natural gas drilling.

“As the DEC finalizes regulations aimed at providing us with a thorough blueprint of how to drill for natural gas, they should take into account the home rule ethic the state accords to local governments,” said Seward.

In a letter to Commissioner Martens, Seward states:

“It seems to me that one basic issue that the state should address in the sGEIS, if not legislatively, is the self-determination of local governments; that is, allowing people to decide for their communities whether gas drilling should be permitted, through the

voice of duly elected municipal officials.”

“From the time the topic of natural gas drilling was first raised, I have been closely monitoring the very nuanced issue. I have taken part in public hearings, reviewed scientific reports, traveled to Pennsylvania to view drilling sites first hand, and advocated for a complete and thorough review of our state’s regulations. Most importantly though, I have met with local residents and government officials on a regular basis – their wishes must be respected and a home rule authority law is what is needed to accomplish this objective,” Seward concluded.

The complete letter to Commissioner Martens is below:

Dear Commissioner Martens:

As you know, the issue of natural gas drilling has prompted concerns relative to its safety and its environmental side effects. The department is in the process of completing revisions to the supplemental generic environmental impact statement (sGEIS), and I understand the complexity of issues that must be considered.

Several towns within my district have already acted to rule out natural gas drilling under their home rule authority through zoning and land use regulation.

It seems to me that one basic issue that the state should address in the sGEIS, if not legislatively, is the self-determination of local governments; that is, allowing people to decide for their communities whether gas drilling should be permitted, through the voice of duly elected municipal officials. The state certainly has an interest in the proper recovery of mineral, oil and gas resources, but it has also accorded to local governments the right to determine, through zoning and planning mechanisms, the appropriate places and conditions of economic activity, from farming to retail to manufacturing.

While the legislature reviews its role in permitting home rule decisions in the arena of gas exploration, I take this opportunity to urge the department as well to recognize the prerogatives of local governments, the varied opinions on the merits and drawbacks of natural gas exploration, and provide for local ‘opt-out’ provisions in the new regulations. This could be as simple as the department not considering applications where local law prohibits drilling. Doing so empowers local governments to establish their own timetables, rules, criteria – or to decide that an industry is not compatible with their master plans – and to continuously evaluate the experiences of other communities within the state that may choose to approve drilling under enacted local laws.

I would urge you to include a ‘home rule’ provision within the new regulations.

Please do not hesitate to contact me if I can address this concern further.

With best wishes, I remain

Sincerely yours,

JAMES L. SEWARD

State Senator