



Talking Points: The Effects of SB1100/HB1950 on Municipal Controls

The “impact fee” bills currently being debated in the Pennsylvania legislature contain provisions that amend the Pennsylvania Oil and Gas Act and address local authority over oil and gas operations, including natural gas drilling and related activities and infrastructure.

The proposed legislation severely limits municipal land use authority and leaves towns without the ability to control gas development within their jurisdiction through currently available tools in the Municipal Planning Code, including zoning. Key aspects of the proposed legislation that could harm municipalities are:

- **The law is being made like sausage today; in other words, it’s behind closed doors and not pretty.** SB1100 and HB1950 are now being considered as one Bill, HB1950; members of the PA Legislature are negotiating a reconciliation of the Senate and House versions of the Bill today in Harrisburg, behind closed doors.
- **Local controls are gutted.** The currently proposed Bill eviscerates municipal control over all meaningful aspects of natural gas development and operations through changes to the PA Oil and Gas Act that establish statewide requirements for local zoning ordinances. This “cookie-cutter” type approach is completely inappropriate when economic and environmental conditions vary so widely among municipalities across the Commonwealth.
- **Fast track for gas.** Reviews by towns of applications would be put on an unreasonable fast track and the municipality would have inadequate time to review PADEP documents.
- **Drilling, fracking and gas-related operations and infrastructure can go everywhere.** Towns will lose their ability to plan and control location of wells and other rights they now are vested with under the Municipalities Planning Code, such as whether a gas well can be drilled next to a school, day care center, or a home, and to determine the most publicly beneficial use of land. Towns will be required to allow **ALL** aspects of broadly defined “oil and gas operations” in **ALL** districts, including residential zones and in areas that contain historic, cultural and important natural and community resources—this includes compressor stations, impoundments that hold chemicals and contaminated flowback fluids, and natural gas processing plants. This is a special favor just for the oil and gas industry; every other business in Pennsylvania would still need to follow zoning requirements designed to protect land values, health, and communities.

- **Towns cannot control harmful local effects to residents.** The municipality will not be able to exert land use authority over specific features that have substantial local impact and are applied routinely to industrial operations through well-established municipal authority. This includes aspects of gas development designed to protect health and safety, like fencing, lighting, setbacks, noise, and hours of operation; even overweight vehicle route controls would be curtailed.
- **The State can sanction a town by withholding impact fees if they don't comply.** The State (represented by the Attorney General) will be able to review and pass judgment on local ordinances related to gas and oil operations and can deny a municipality access to proposed impact fees if the town does not comply with the State's opinion.
- **Towns will face new lawsuits, at taxpayer expense.** Oil and gas operators and those who lease mineral rights would be given the ability to force a state review of a municipality's ordinance and private parties (such as a gas operator) and the Attorney General would be able to sue to overturn an ordinance. Under certain circumstances, they can even collect legal fees from the municipality.
- **Setbacks are weakened.** The definition of a waterway, from which a setback is measured, is weakened, eliminating natural springs, lakes, and any waterbody other than a "solid blue-lined stream" (a definition in U.S. Geological Survey maps). Even these limited setbacks could be waived by the PA Department of Environmental Protection (PADEP) under certain circumstances.
- **Towns are denied the right to fight.** The municipality would have no right to appeal the State's decision about a well permit or other gas development permit that is granted by PADEP.
- **The legal and regulatory waters are muddled.** In several crucial areas of regulation, the process and substance of municipal authority are thrown into uncertainty. For example, municipalities are given an "advisory" role in the permitting process but cannot legally challenge a PADEP permit; how the municipality's advice would be considered is left unclear.

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