



November 16, 2011

To: Members of the House of Representatives
From: Elam M. Herr, Asst. Executive Director
Subject: Baker amendment to House Bill 1950 (PN 2689)

Currently before the House is HB 1950 (PN 2689), which, as originally written, would provide for impact fees on unconventional gas wells and completely preempt the current limited authority of municipalities to enforce any zoning or even general health and safety ordinance provisions on gas wells and the support infrastructure. We support the House's passage of the Baker amendment as a good and reasonable alternative to the original HB 1950 and Senate Bill 1100 as passed by the Senate last night. We would like, however, to continue to work with both chambers and the Governor on some potential improvements after initial passage but before any bill goes to the Governor for signing.

HB 1950, as altered by the Baker amendment, proposes to allow counties to levy an unconventional gas well impact fee to be distributed to the county and the municipalities within the county and the state. The distribution formula for the local share is the result of almost two years of work between the local government associations and we support this portion of the legislation.

We must oppose any attempts to incorporate artificial caps on the amount of revenue that an impacted municipality could derive from the impact fee. To be clear, the language in Senate Bill 1100 as it pertains to the artificial caps is not acceptable to us. We also oppose the reduction in the overall share of impact fees to local governments in Senate Bill 1100 as it passed the Senate last night. The House version is better for townships on these issues.

While local communities would prefer to retain their existing limited authority, the Baker amendment is a good and reasonable alternative to the broad language in the original bill. This amendment will establish statewide consistency in construction of the site while requiring that permanent operations meet the same local standards that all other businesses and individuals must follow.

Again, we support the action taken on the Baker amendment as a good and reasonable alternative to the original HB 1950 and Senate Bill 1100 as passed by the Senate.

Should you desire to discuss this matter further, please contact me.



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TO: Members of the House

SUBJECT: Support Final Passage, HB 1950

DATE: November 17, 2011

We are writing to express our support for House passage of HB 1950, on today's House calendar. Yesterday we sent you a note indicating the amendments adopted to the bill, and specifically the amendment offered by Representative Baker (A06347), represent a positive and reasonable approach that substantially addresses concerns we had with the bill as originally introduced.

In earlier communications, we indicated our belief that the bill represents solid progress toward dealing with the issues raised by development of Marcellus and other shale gases. These are issues about which we have presented testimony and commentary on multiple occasions to House and Senate committees, caucus policy committees, and to the Governor's Marcellus Shale Commission. In particular:

- We support the content and structure of the proposed local impact fee, which permits the county to levy an impact fee to a maximum rate of \$40,000 per well for its first year of production (\$30,000 in the second year, \$20,000 in the third, and \$10,000 per year through the tenth year).
- We support the allocation of seventy-five percent of the proceeds to the impacted county and its municipalities, with the remaining 25 percent forwarded to the commonwealth for allocation among several shale gas-specific funds, all of which are intended to be spent by state agencies for specific purposes in the gas development region.
- We support both the distribution methodology among the host county, host municipalities, and other municipalities in the host county, and we support the allowable uses for the local impact fee. We note that these formulas and uses are the ones that we developed and have advocated in our testimony, representing a consensus among the local government groups. They fully recognize the broad range of impacts, at all levels of local government and with both host communities and their neighbors. Note, however, we join our municipal partners in opposing any discussion of imposing arbitrary caps on local receipts – a municipality receives a high level of funding only if they have a large

number of wells, which in turn means there is a high local impact that demonstrates a need for that funding.

- We support the allocation from the Oil and Gas Lease Fund to increasing the commonwealth payments in lieu of taxes to counties, municipalities and school districts, and to dedicate funding to the conservation districts. The increase in PILT funds recognizes that these commonwealth lands, unavailable for local development or taxation, have an increased value and it compensates local communities accordingly. The allocation to the Conservation District Fund recognizes that conservation districts, particularly with the allowance for them to resume some regulatory involvement with Department of Environmental Protection (DEP) oversight, are uniquely positioned to fulfill an important local role in assuring proper environmental stewardship as this resource is developed.

As noted previously, we understand there is much more work to be done on this legislation as it progresses, and we are committed to working with you, the Senate and the Administration on legislation that meets the needs of our citizens, of industry, and of local government.

Please contact me if you have questions or need additional information.

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To: Members, PA House of Representatives
From: Edward C. Troxell, PSAB Director of Government Affairs
Date: November 17, 2011
Re: PSAB endorses **House Bill 1950** (PN2765)

HB 1950 (PN 2765), currently before the House, provides for impact fees on unconventional gas wells and enables boroughs to maintain certain local decision making powers concerning gas wells and their supporting infrastructure.

We believe that as this narrows the regulatory powers of boroughs, it enables oil and gas construction to occur in a **reasonable and acceptable** fashion in our communities. PSAB is supporting HB1950 (PN2765) as it reverses a total preemption in the original bill and recognizes that certain changes to the current Oil & Gas Act preemption can be done in a reasonable manner.

Therefore, our Association *supports the final passage of House bill 1950 (PN2765)* for the following reasons:

- The language in the bill strips out the total preemption of oil & gas operations in the original bill and inserts an **acceptable** alternative for the **reasonable** development of the minerals.
- The bill allows counties to levy an impact fee whose local share is to be distributed amongst communities according to a **formula** which was the result of agreements between the local government associations.
- The bill as drafted under its current printers number 2765 does not place any **arbitrary limits** on municipal revenues derived from local impact fees.
- It provides uniformity to municipalities regarding construction while providing flexibility for local decisions related to oil & gas infrastructure such as compressor stations, transfer facilities etc. Thereby assuring the same local standards that all other businesses must follow.

PSAB plans to work with both chambers and the Governor on any improvements to language which assists municipalities in addressing impacts experienced from gas development. We reserve the option to oppose any measures which may remove any of the cited benefits of HB1950 (PN2765). This is only what is to be expected from our membership as the process moves forward.

Should you wish to discuss this further please contact me Ed Troxell, PSAB Director of Government Affairs [@boroughs.org](mailto:ed@boroughs.org) or 717-649-6802

Dear Representative,

The impending vote on HB1950 is a difficult one. It is understandable if you are struggling with the many different issues being addressed.

A vote against this bill is a vote against the Growing Greener program.

Allocating 25% of the Oil & Gas Lease Fund to the Environmental Stewardship Fund provides a real opportunity to secure sustainable funding for Growing Greener. Funding that will:

- Help restore and protect local watersheds and drinking water
- Clean up abandoned mines
- Preserve farmland
- Maintain our award-winning state parks system
- Fund heritage conservation and
- Enhance your local and regional economies
- Develop multipurpose trail, greenways and community parks

This is not a perfect bill, and I realize this may be a difficult vote. In my view, it is imperative that the House remains relevant in the conversation as a strong voice to fight for funding distribution that acknowledges environmental, conservation and recreation priorities.

Pennsylvanians want this issue to be resolved. They have expressed overwhelming support for an impact fee or tax and for renewing Growing Greener in many polls. If the debate rages on, no one wins and the people lose. Passing HB1950 is a good starting point for negotiations with the Senate. This is not the end of the road – this is a move forward.

I hope you will come to a similar conclusion as I have, and vote for HB1950. Please call me on my cell to discuss (717) 824.2281.

Sincerely,

Andrew Heath | Executive Director
Renew Growing Greener Coalition

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