PSATS

TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

BEFORE THE
HOUSE FINANCE COMMITTEE

ON

HB 10 *(PN 904)*

PRESENTED BY

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Chairman Levdansky and members of the House Finance Committee:

Good afternoon. My name is Elam M. Herr, and I am the Assistant Executive Director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,455 townships in Pennsylvania represented by the Association. We appreciate this opportunity to comment on House Bill 10.

Townships comprise 95 percent of the commonwealth's land area and are home to more than 5.4 million Pennsylvanians — nearly 42 percent of the state's population. These townships are very diverse, ranging from rural communities with fewer than 200 residents to more populated communities with populations approaching 70,000 residents.

Prior to 2002, local property taxes were levied on natural gas and methane in Pennsylvania. However, the Pennsylvania Supreme Court in *Independent Oil and Gas Association of Pennsylvania v. the Board of Assessment Appeals of Fayette County* held that assessing and levying property taxes on oil and gas wells was not explicitly authorized under the law. House Bill 10 *(PN 904)* would correct the inequity caused by this decision by specifically authorizing the assessment of these mineral rights and would allow municipalities, school districts, and counties to levy property taxes on this assessed valuation, thereby restoring some fairness to our property tax system.

Specifically, HB 10 would authorize fourth to eighth class counties to assess the oil, natural gas, and coal bed methane extraction rights held pursuant to a lease or other agreement under Pennsylvania law as taxable real estate. These rights would be assessed and taxed separately from the surface property assessment and the assessment would be in the name of the leaseholder, not the surface property owner where the wells are located.

In addition, this legislation contains a provision that would require political subdivisions to adjust their property tax rates downward in the first year after the county assesses oil, natural gas, and coal bed methane gas rights so that the total amount of property tax revenue does not exceed 110 percent of the real estate tax revenues from the previous year. This provision mirrors similar requirements for the year after a reassessment.

HB 10 would not create a new tax or tax liability, but would restore the ability of counties to assess these rights and for local governments to levy property taxes on these assessments. This bill would require gas drillers that directly benefit from the commonwealth's natural resources pay their fair share of local property taxes.

Local governments must raise needed revenues each year and if one entity is not paying its fair share, then other taxpayers, including residents and local businesses, must foot a larger proportion of the collective tax bill. In this case, HB 10 would positively impact many areas of the commonwealth, particularly those that are home to a wealth of natural resources.

Because this legislation deals only with fourth to eighth class counties, we request that the legislature extend similar provisions to those counties with gas and oil resources that are not covered under this legislation.

The fact is that gas well drillers pay virtually no local taxes in Pennsylvania, while creating both positive and negative impacts on the communities affected by gas well operations. Other than the local services tax for employees primarily employed in a particular municipality and property taxes on any physical facilities, the industry pays next to nothing to the host communities. In fact, many industry employees are out-of-state residents and would not be subject to the local earned income tax.

While the industry may argue that the financial impact of *Independent Oil and Gas* is minimal, we must disagree. In 2002, valuations of natural gas and coal bed methane reserves were far less than today, certainly before the latest technological development made harvesting these deposits a reality. As well, energy prices have increased, making previously marginal mining activities profitable.

The Marcellus Shale formation covers two-thirds of the commonwealth, from Greene County in the southwest to Wayne County in the northeast, and is estimated to hold hundreds of trillions of cubic feet of natural gas. In fact, estimated evaluations of the value of Pennsylvania's resources have increased from $10 to $20 billion several years ago to closer to $1 trillion today. Recent technological advances have made it possible and profitable to extract reserves that were never before accessible.

Communities across the commonwealth are seeing successful wells drilled, including many that exceed the driller's expectations. According to the state Department of Environmental Protection, only 4 natural gas drilling permits issued in 2005 were for the Marcellus formation. In 2009, more than 2,000 permits were issued for wells in the Marcellus Shale region and DEP now estimates that permit applications for this region will increase to more than 5,000 in 2010. These numbers clearly document a rapidly growing industry.

As a result, townships across the commonwealth are facing the impacts of oil and gas well drilling like never before. While oil and gas has the potential to economically benefit many communities, drilling is not without an impact on townships and their residents, including the following issues:

Damage to roads/road bonding – By far, the number one concern of townships is damage to their roads from Marcellus Shale drillers. Gas well drilling requires transporting very heavy equipment and materials, including hundreds of tanker trucks filled with water. Most of the drilling is taking place in rural areas with roads that were simply not built to withstand the punishment from these vehicles.

PSATS encourages its members to post and bond its roads. Doing so ensures that the entity damaging the roads pays for the damage. The problem is that the maximum bonding rates have not increased in 30 years and the cost of repairing damaged roads far exceeds the bond. When these roads are damaged, it is not simply surface damage. Instead, the very foundations of the road are destroyed and total reconstruction is often required. While the maximum bond for a paved road is $12,000 per mile, the cost to reconstruct a road can easily exceed $100,000 per mile. While many haulers are more generous and repair the damage done, residents are left to foot a significant part of the cost to repair the damage when the township is forced to pull the bond.

While many haulers are now working with their communities to voluntarily provide additional funding for road repair, we urge the state Department of Transportation to increase the bonding amounts now to bring these figures into line with current costs for road and bridge repair and reconstruction.

Water well contamination/environmental damage – Township officials are concerned with the possible environmental damage from gas well drilling. In most rural areas, water is supplied through private wells. Residents are concerned about contamination from drilling and township officials are concerned about what happens if these private wells are destroyed. We applaud DEP's recent efforts to improve its regulations in this regard to ensure safe drinking water for our residents.

In addition, on-lot sewage disposal systems could face contamination from gas well drilling and result in the need for hundreds of millions of dollars worth of public sewer and water infrastructure.

Treatment of wastewater – Modern drilling techniques use very large quantities of water. Currently, wastewater treatment capacity for this waste product is insufficient. It is our understanding that few wastewater treatment plants hold the necessary permits to process this material. Capacity needs to be provided and other beneficial uses for gas well brine should be explored.

Emergency management – We know of one well fire that occurred in Clinton County. Clearly, counties and municipalities need to plan for this type of incident. However, most volunteer fire departments do not have the capacity or expertise to fight well fires. While the industry does not expect local fire companies to put out these types of fires, the volunteer fire companies will need to provide related services, such as protecting outbuildings, chemical cleanup of HAZMAT incidents, and crowd control.

In closing, authorizing counties to once again assess oil and gas rights as taxable real estate will allow municipalities, counties, and school districts to once again levy property taxes on this valuable asset, as with other mineral rights, and will restore some tax fairness while alleviating the need to raise property taxes on the rest of the taxpayers of the community.

Thank you for this opportunity today to speak about an issue that is affecting many of our members across the commonwealth. I would be happy to attempt to answer any questions that you may have at this time.