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GAS INSPECTORS

Bill will give DEP full hiring power

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CHARLESTON — Delegates added more teeth to a Marcellus shale regulatory bill Wednesday, handing the Department of Environmental Protection the power to hire inspectors.

What's more, the House version came after a potential conflict between the coal industry and natural gas operators appeared to be resolved.

After a brief discussion, the House Judiciary Committee voted to remove the hiring of inspectors for the fledgling industry from the state Oil and Gas Examining Board and turn this critical task over to the DEP secretary.

The amendment by Delegate Mike Manypenny, D-Taylor, came after a lengthy side-by-side explanation of how the House version differs from the Senate bill.

Strongly backing Manypenny's amendment, Delegate Barbara Fleischauer, D-Monongalia, said the hiring of gas inspectors by the board bypasses the normal process in force in state government.

Right now, she told fellow delegates, the state has but 15 inspectors responsible for some 59,000 operations across West Virginia.

One requirement is that inspectors have three years of relevant experience, although this doesn't hold true for other DEP inspectors. Fleischauer said this creates a potential conflict and eliminates a number of people who otherwise would be qualified.

Another objection she raised over the existing policy is that inspectors must be residents of West Virginia.

"This is just plain stupid," she said.

"When we only have 15 inspectors, we would eliminate people that live on our borders. It is also unconstitutional."

The delegate pointed to a court ruling that knocked down an Alaskan policy requiring all work on a pipeline be performed by residents of that state.

Fleischauer said the current process provides for a board that meets infrequently and has space for a citizen member who hasn't been appointed for at least five years.

“This whole process is flawed,” she said. “We should put in a normal civil service process for all employees.”

Another difference in the two chambers’ bills is that the Senate would impose a \$5,000 permit fee per well, while the House would leave this to the rulemaking process.

An attorney said the coal and gas industries came to terms in extended talks leading up to the committee meeting over the notification process.

The impasse appeared to be broken with the insertion of a simple paragraph that says any coal seam owner may file a notice with the Office of Oil and Gas on a county-by-county basis, entitling any such interest to get a permit application, a committee attorney explained.

“We’re trying to connect the two dots, allowing coal interests to be able to file notice of their interest in that county,” the lawyer said.

“When a permit application is coming forth, they get a copy of it. Hopefully, this will be a less expensive and onerous approach for folks to be able to know what each other is doing and allow the coal industry to have some notice they need to be able to protect their concerns.”

A horizontal well is defined as one that uses 210,000 gallons of water in the drilling process.

Industry leaders pointed out some smaller horizontal wells don’t use water, but rely on air instead.

Marcellus shale has been a dominant issue in this legislative session, given its massive economic potential. While the gas is concentrated in a handful of north-central counties, and the Northern Panhandle, the economic bonanza could impact the entire state, some lawmakers have maintained.

The House bill also insists on a clause that mandates the drug testing of workers, and this also would apply to those hauling water on back roads, rather than those assigned to the drilling itself.

A committee attorney said this was inserted into the bill since the lawmakers feel this type of operation is “a dangerous activity” for residents and workers alike.

Under this provision, 10 percent of the workers must be tested for drugs on an annual basis.

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