

Marcellus committee passes amendments

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By Steven Allen Adams | West Virginia Watchdog

CHARLESTON — An amendment eliminating the agency that trains natural gas drilling inspectors divided the committee drafting Marcellus Shale rules along chamber lines.

The Joint Select Committee on Marcellus Shale voted 5-4 Monday in favor of an amendment to draft legislation eliminating the West Virginia Oil and Gas Inspectors' Examining Board.

All five delegates on the 10-member committee voted for the amendment, outnumbering the senators. State Sen. Karen Facemyer (R-Jackson), who also announced Monday that she would not seek re-election, was absent.

Lawmakers are adding amendments to a draft bill, using S.B. 424 – a Marcellus Shale regulation bill passed by the State Senate during the 2011 general session, but died in the House of Delegates – as a template.

The five-member board consists of two state Department of Environmental Protection chiefs and two industry representatives, though the final seat, meant for a representative of surface owners, has been vacant for five years.

Supporters of the amendment say it will put the power of choosing drilling inspectors in the hands of the DEP and out of the hands of the industry. Abolishing the board will also save the Office of Oil and Gas money and allow the agency to hire inspectors knowledgeable in Marcellus Shale natural gas drilling.

Opponents of the amendment, such as state Sen. Herb Snyder (D-Jefferson), say that doing away with board would allow unqualified candidates to be hired as inspectors.

"We want to make sure we're not affecting the overall enforcement ability by changing this board," Snyder said. "I think (the amendment) has ramifications beyond simply doing away with this board. What are we trying to accomplish and what effects will it have?"

Natural gas companies have been rushing to the state to tap the vast natural gas reserves trapped in the Marcellus Shale, stretching from New York to Tennessee, which holds pockets of natural gas. The shale is over 100-feet thick in Barbour, Monongalia, and Preston counties. Drilling companies use a combination of horizontal drilling and hydraulic fracturing – using a mixture of water, sand, and chemicals – to break natural gas out of the shale formations.

The committee also adopted amendments setting public comment and public hearing rules. A 30-day public comment period would be advertised. The DEP cabinet secretary could also schedule a public hearing within 30 days of the conclusion of the comment period.

Phillip Reale, a lobbyist for the Independent Oil & Gas Association of West Virginia, raised concerns about the potential for hundreds of public hearings, causing costly drilling delays and taxing the resources of the DEP.

"You're looking at 400 to 500 permit applications a year," Reale said. "If you carried it to its logical conclusion, it might result in 400 to 500 hearings per year. It would be a very cumbersome process obviously. You're looking at a situation which, in my humble opinion, there would be a lot of hearings." The number of hearings that potentially could be had here would effectively cripple the industry."

Del. Barbara Fleischauer (D-Morgantown) pointed out that it would be up to the DEP secretary to decide whether to have a public hearing. The focus of the amendment, Fleischauer said, was allowing public comment.

"We delegate the authority to the secretary to use the resources of their agency," Fleischauer said. "This is not more of a burden than any other decision you have to make. You have to weigh the pros and the cons and make a decision. There are many parts of the code where you must have a public if one person asks for it. This is not one of them."

The Marcellus Shale Committee will meet again on Wednesday.