

Publication: The Dominion Post; Date: Sep 13, 2011; Section: Local; Page: 7-A



Oil, gas board on thin ice

Panel amends draft legislation

BY DAVID BEARD

The Dominion Post

CHARLESTON — The Joint Select Committee on Marcellus Shale amended its draft bill Monday to do away with the Oil and Gas Inspectors' Examining Board.

It also passed two amendments dealing with public notice and public hearings. That makes for a total of 10 amendments passed, with 11 left to handle in the remaining two-hour session, according to co-chairs Sen. Doug Facemire, D-Braxton, and Delegate Tim Manchin, D-Marion.

After 45 minutes of debate — on top of the two hours spent on it

at a previous interim — the inspectors' board amendment squeaked by in a 5-4 vote reflecting the pro-con House-Senate split on the issue. Early in the meeting, it appeared the amendment might go down in a 4-4 tie, but Delegate Tom Campbell, D-Greenbrier, arrived late with the swing vote. Sen. Karen Facemyer, R-Jackson, was absent.

The Department of Environmental Protection (DEP) requested the amendment. DEP General Counsel Kristin Boggs explained again Monday that the Division of Personnel is equipped to, and is supposed to, hire inspectors; the inspectors' board is redundant and a waste of money. "It doesn't add any value to the services of state government."

The board wastes about \$6,800 a year, she previously said. While that doesn't seem like a lot, for the Oil and Gas Office, it is, she said Monday. "They're nickel and dimed down there."

Sen. Herb Snyder, D-Jefferson, apologized for prolonging the debate. "I've tried to get my arms around this for a while."

He said there seems to be a lot of misinformation about the board — such as whether it blocks the firing of bad inspectors. "I know there's heartburn, and rightfully so."

The five-member board meets several times a year. It recruits applicants for oil- and gas-well inspectors, reviews applications, helps test qualified applicants, helps score the tests and maintains a roster of potential hires for open positions.

The board has five seats specified in code: The chief of DEP's Office of Oil and Gas, currently Jim Martin; a member of DEP's Division of Water and Waste Management; two industry reps, one from a major

firm, one from an independent firm; and a resident qualified to represent surface owners or environmental organizations. The surface owner seat has gone unfilled for at least four years.

Delegate Wood Ireland, R-Ritchie, said the money and the unfilled seat are two good reasons to abolish the board. "A charge we have as legislators is to eliminate bureaucracy

SEE **THIN ICE**, 9-A

THIN ICE

FROM PAGE 7-A

where it's not value added." And the pro-industry make-up of the board makes it a "fox in the henhouse" issue.

Referring to his chemical industry background, he said, "I'm sure the chemical industry would be tickled to death if they had a hand in selecting inspectors."

Assured by Martin that the current 15 inspectors are good inspectors, Facemire said, "When we eliminate this board, we don't know what we're going to have."

Boggs concluded her points by saying that the DEP wants to expand not only the number of inspectors, but the types of inspectors.

The board's six-year experience rule for inspectors is geared toward conventional vertical wells. New horizontal wells, with their 5-acre pads, require additional environmental skills — air quality, water quality, impoundment ponds and so on. The DEP would like to hire two sets of inspectors — one with drilling knowledge and one with environmental knowledge.

Public notice amendments

Staff counsel said the two public notice amendments are intended to dovetail, and will also complement other amendments awaiting action.

ing. The hearing must be publicly advertised in the appropriate newspaper.

The second amendment expands the list of those who must receive direct notice of a permit application to include owners of tracts adjacent to the well work area, and a surface owner or water purveyor known by the operator to have a water source within 2500 feet of the center of the well pad.

Phillip Real, representing the Independent Oil and Gas Association of West Virginia, voiced concerns about the public hearings. With 400 to 500 permit applications per year, he said, that could become cumbersome. "The number of hearings would effectively cripple the industry."

Delegate Barbara Evans Fleischauer, D-Monongalia, countered that the amendment doesn't require hearings, it merely allows the DEP to call them — very limited — given that there are more than 300 instances in code, in other fields and industries, that mandate hearings.

"The sense of this amendment is to allow the public to comment," she said.

Boggs also opposed it, for other reasons. "I'm against the [resource] burden this would place on the DEP." She said she's not against public comment per se.

Regarding the second amendment. Facemire

The first amendment requires the well applicant to file a public notice, and grants affected property owners and lessees, and water purveyors a 30-day public comment period. The DEP must then notify the well operator of any objections within 15 days.

The DEP secretary is granted discretion to set a public hearing within 30 days of the comment period and designate parties, beyond those just named, allowed intervenor status in the hear-

asked where the 2,500 foot figure came from.

Staff counsel gave two answers. One, Pennsylvania's blue ribbon Marcellus panel is recommending expanding its public notice boundary from 1,000 feet to 2,500. Two, the extra distance will provide more baseline data for those concerned about drilling contaminating water supplies.

Both amendments passed unanimously.

The committee meets again at 2 p.m. Wednesday.