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Pennsylvania Senate Breaks with No Agreement on Natural-Gas Tax

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Pennsylvania Gov. Ed Rendell and state senate Republicans reached no agreement on an extraction tax on natural gas before the senate broke for the November 2, 2010, general elections. Senate leaders left the door open a crack, saying that if the governor and state house Democrats agreed on a tax before the elections, they might schedule another session day. Barring that, the senate has scheduled only one additional session day to hold caucus elections—November 18—before the end of the 2009–2010 legislative session on November 30.

After an October 14 meeting on the tax where senate leaders and Governor Rendell agreed to a shallow-well exclusion, the governor said he was cautiously optimistic that a final agreement could be reached before the end of the 2009–2010 session.

Senate Republicans were less optimistic. They are still holding firm on a first-year tax rate of 1.5 percent. Governor Rendell is seeking a 3-percent rate the first year, 4-percent the second year and 5-percent the third year. Disagreements also remain over the portion of the receipts that go to the Pennsylvania's General Fund, local governments and environmental programs within the Department of Environmental Protection.

In July, lawmakers and the governor set an October 1 deadline for a natural-gas tax as part of the 2010–2011 budget agreement. Governor Rendell said that senate Republicans have failed to honor that agreement. But Senate President Pro Tempore Joe Scarnati (R-Jefferson) said the caucus has "lived up to their intent" in the fiscal code to work on a severance tax bill.

On September 29, the Democratically-controlled house approved an extraction tax that both Republicans and Democrats said would end up being little more than a starting point for further negotiations.

At the time, senate Republican leaders said the tax had no chance of approval there, but Scarnati added that they "were not slamming the door on negotiations." After the floor vote on the tax, house Democratic leaders said they hoped for a compromise agreeable to the senate and the industry.

The tax approved by the house would impose a 39-cent per thousand cubic-feet levy on extracted natural gas, with an exception for low-producing wells. The tax is projected to produce $120 million in revenue during the six months that it would be in effect this fiscal year, with $88.1 million of that going to the general fund.

Industry favors a tiered tax, with lower rates for new wells.

"We have to get a return on our capital costs," one industry representative said. "If you tax all wells at the same rate, it will discourage exploration and drilling."

The natural gas industry is also looking for a package of bills in exchange for an extraction tax. The senate Republican caucus is drafting the language in the proposals, which includes content that restricts local governments from using zoning laws to block drilling. Another proposal—pooling of land—would allow drilling under land without a lease agreement if it is contiguous to land with lease agreements. The owner without the agreement would be paid at the market rate. Industry officials say they support the intent of the bills, but oppose the current language in the proposals.

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