STATE OF MARYLAND
MARYLAND DEPARTMENT OF THE ENVIRONMENT
Robert M. Summers, Ph. D., Secretary

BILL NO: **Senate Bill 535**

COMMITTEE: **Budget and Taxation**

POSITION: **Support**

TITLE: **Natural Gas Severance Tax and Impact Account**

BILL ANALYSIS: This bill would impose a State-level natural gas severance tax of 2.5% on the fair market value of gas produced in Maryland. Wells that supply gas for domestic or agricultural purposes on the property from which the gas is produced, storage wells, and wells with very low yield are exempt from the tax. Revenue from the tax, minus administrative costs, would be deposited in a Natural Gas Impact Account within the existing Oil and Gas Fund. The Maryland Department of the Environment administers the Oil and Gas Fund, and it would administer the Natural Gas Impact Account. Any money in this account can be used by the Department (1) to monitor for, mitigate, and remediate adverse impacts of natural gas exploration and production that are associated with gas development but not attributable to any specific person, and (2) to remediate or mitigate adverse impacts that require immediate action to protect public health or safety, that are attributable to a specific person, but have not been corrected by that person in a timely manner. If the Department expends money for (2), it may bring a civil action for cost recovery against the person responsible. In addition to these uses of the fund, if and when the balance in the fund exceeds $10 million, that excess can be spent by the Department, not only for the purposes listed above, but also for other projects that benefit the areas of the State where the natural gas is produced.

POSITION AND RATIONALE: The Department supports Senate Bill 535. The tax rate of 2.5% is reasonable and, coupled with the new financial assurance authority of Environment Article, § 14-111 (Laws of 2013, Chapter 568) and presumptive impact area law of Environment Article § 14-110.1 (Laws of 2012, Chapter 703), will protect the citizens of Maryland from potential adverse impacts of natural gas production.

According to the National Conference of State Legislatures, at least 36 states impose some sort of severance tax, and 31 states specifically levy taxes on the extraction of oil and gas. Maryland and Pennsylvania are the only gas-producing states in the Mid-Atlantic area that do not have some form of state-level gas severance tax. Pennsylvania recently imposed a significant per well impact fee in lieu of a severance tax.

Pursuant to Governor O'Malley's Executive Order 01.01.11.2011, The Marcellus Shale Safe Drilling Initiative, the Department, along with the Department of Natural Resources and an Advisory Commission, are making findings and developing recommendations on a variety of subjects. In a December 2011 Report on the Initiative, the following recommendations were made: "The General Assembly should enact an appropriate State-level severance tax. The severance tax revenue should be deposited into a Shale Gas Impact Fund to be used for continuing regional monitoring and to address impacts of gas exploration and production that cannot be attributed to a specific operator, or for which there is no solvent responsible entity." Senate Bill 535 implements this recommendation.

The Department believes a severance tax is fair and equitable because:

- It is directly proportional to the level of gas production and therefore roughly proportional to risks of damage presented by gas production;

- It is levied on those who profit from the activities presenting the risks of damage; and

- It would be used to monitor and remedy adverse impacts that are caused by gas exploration and production, but not directly traceable to a party who could be held liable, and thus it is appropriate to impose the cost on the industry generally.

Assuring that only money in excess of $10 million can be used for projects other than addressing the adverse impacts of gas production to benefit the areas of the State where gas is extracted is reasonable. A serious pollution incident could cost $10 million to address. *Marcellus Shale Safe Drilling Initiative Study: Part I* (December 2011), Appendix D. An incident of such a magnitude is unlikely.

The State tax would be in addition to any local severance tax. Under Public Local Laws of Garrett County, Sections 51.01 through 51.07, Garrett County levies a tax of 5.5 % on the wholesale market value of gas produced from wells in Garrett County. Ten-elevenths of the money received is distributed to the County, and one-eleventh to the municipalities in the County, on a per capita basis. There are no restrictions on the use of the money.

Under Chapter 394 of the Allegany County Code, Allegany County levies a 7% tax on the wholesale market value of natural gas produced in Allegany County.

FOR MORE INFORMATION,
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