



CRAIN'S CLEVELAND BUSINESS

ENERGY GUEST BLOG -- JIM SAMUEL

A wild ride for energy policy issues at the Ohio Statehouse

By [JIM SAMUEL](#)

8:37 am, June 13, 2014

While many anticipated that the energy legislation climax before the summer recess would result in an increase in the severance tax on frac'd shale wells, the political twists and turns at the Ohio Statehouse gave us something quite different.

For those who prefer the CliffsNotes version: The House-passed severance tax increase was stalled in the Senate while a bill that ushers in a two-year freeze on renewable energy development and energy efficiency mandates was swiftly passed. The latter, which incorporates a study of the policy's costs and benefits, currently sits on Gov. John Kasich's desk awaiting either a signature or veto.

Shale development tax remains fractured

House Bill 375, the House-passed, industry-supported severance tax legislation, was sent to the Senate in mid-May. When originally introduced, the bill included a severance tax rate for horizontal shale wells of 1% on gross receipts for the first two years of production, then 2.25% thereafter. Certain horizontal well owners would also be able to deduct what they pay in increased severance taxes from their obligations under the state's commercial activities tax (CAT) and portions of the Ohio personal income tax.

Amended by the House, the version sent to the Senate increased the tax rate to 2.5% and replaced the three-year phased-in rate with an exemption on the first \$10 million of production, allowing companies to recoup their initial capital investments. Tax revenues would provide funding for regulators and create a more robust state-level program to plug orphan wells. Local governments would get 10% of the funds, with any amount remaining dedicated to income tax cuts for Ohioans generally.

HB 375 received several days of testimony in its Senate committee, before legislators in the upper house adjourned for a summer recess. In its current form, it's not a bill that Kasich is inclined to support, as he continues to press for a slightly higher rate and a different methodology that still funds regulatory programs and aide to local governments, but provides a significant cut in the income tax for all Ohioans.

Renewable energy debate is renewed

After months of contentious and inflammatory hearings on renewable energy development and efficiency mandates, efforts to roll back Ohio's standards, embodied in what was then SB 58, bogged down and observers expected the issue

to remain dormant until a likely revival after the November elections.

But a resurgence of pressures brought about the introduction of a new effort in the form of SB 310. Described as a reasonable compromise compared to SB 58, it included an indefinite moratorium on the renewable energy and efficiency standards, during which a study of costs would be conducted and changes recommended. The mantra was "pause and study." It was quickly shown to be a veiled death sentence for the burgeoning renewable energy sector that had invested several hundred million dollars in new Ohio generation in the past three years.

The ensuing flurry of activity included a veto threat, a floor vote taken at 1 a.m., amendments adopted in both chamber committees with no testimony and passage of a bill said to be critical to some utilities without the testimony of a single utility representative. What emerged from this process was a two-year freeze of the renewable energy portfolio and energy efficiency mandates. During that time, a committee of legislators will study the issue and produce recommendations for permanent changes. In addition, the original requirement for half of the renewable energy used to meet the mandates to be generated in Ohio was removed, and the existing requirements can be satisfied by investments made in other states.

Separate from SB 310, an anti-renewable-energy amendment was slipped into a mid-biennium appropriations bill (HB 473) changing the definition of a set-back for wind turbines and creating a roadblock that would assure no more wind development in Ohio, even in areas where it is desired.

Then the feds stepped in

Amidst the state-level activity, the U.S. Environmental Protection Agency shook up the policy debate last week when it released draft rules that would mandate state-level action plans to reign in carbon dioxide emissions to the tune of a 30% reduction by 2030 (compared to CO2 levels in 2005).

If enacted, these rules would require more renewable energy development, greater energy efficiency measures and a likely increased usage of natural gas fired electricity generation at the expense of Ohio's coal-fired fleet, which will be forced to close some plants or initiate costly scrubbing or capture of carbon.

What's next?

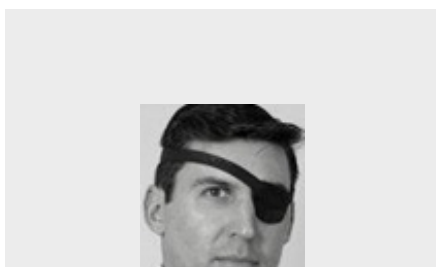
So now we wait until the fall to see if a compromise arises on a severance tax increase and the associated policies of how it will be expended. But with the tax rates being debated still below 3%, there seems to be little impact on the industry, as investments in well permits and pipeline projects continue unabated.

On the renewable front, the current path rests in the hands of the governor. Will he line-item veto the setback amendment to preserve some possible wind development in Ohio? Will he completely rethink the compromise of SB 310 in the face of the coming EPA rules? The federal government's new rules require an administration response by 2016, regardless of what the legislature wants to do. It should be noted that the renewable energy and energy efficiency standards that were assaulted and then given a slight reprieve, were originally adopted in 2008 with a near unanimous, bipartisan vote of the legislature (SB 221).

It's true the energy landscape has dramatically changed with the remarkable surge in shale development creating, among other benefits, a world-leading position for the United States in natural gas production. But as we move forward, every domestic kilowatt will be needed, especially from gas and renewables as we face a carbon constrained regulatory environment. With Ohio's economy improving, let's hope our policy makers can get this latest batch of energy policy right so we can continue to progress forward.

Editor's note: Yes, we are aware that the correct spelling is actually "fracked," but we decided to humor our columnist.

JIM SAMUEL





Jim Samuel is founder and principal of Capitol Integrity Group, a fellow of the Levin College at Cleveland State University and a founding partner of the Ohio Shale Consortium. He has worked extensively in the economic development and public policy arena and as a consultant to the energy industry.

PRINTED FROM: <http://www.crainscleveland.com/article/20140613/BLOGS05/140619885/a-wild-ride-for-energy-policy-issues-at-the-ohio-statehouse?template=printart>

© 2014 Crain Communications Inc.
