

## S786 ignores the most important risks fracking poses to North Carolina

### S786 does not address the risks that matter most

Fracking threatens public health, communities, and the environment. Yet, the S786 does NOT address:

- **Compulsory pooling.** The bill punts on the question of whether North Carolina should allow drillers to extract gas from unwilling landowners [§25]. It should explicitly prohibit this.
- **Wastewater disposal.** There is no safe way to dispose of the millions of gallons of toxic fracking wastewater, but the bill does not prohibit surface discharge, or even require new standards.
- **Air emissions.** SL2012-143(S820) instructed state regulators to develop rules to control air toxic emissions from fracking. They haven't. This has been a major problem in other states.
- **Long term contamination.** Nothing in state law, the bill, or proposed state rules provides a remedy for people whose health or property are destroyed by long-term contamination that comes to light well after a drilling operation has finished.
- **Oversight of gathering lines.** The lines that move gas from wells to processing facilities are poorly regulated, and their construction may threaten property rights. The bill punts on this issue, requesting further study without putting in place protections for landowners or the environment [§26].

Other missing safeguards include: presumptive liability for damage to private property from seismic testing [§14 leaves the burden on the injured landowner]; requirements for state regulators to be onsite during the riskiest phases of drilling; authority for state regulators to levy bonds that will cover the full costs of well closure; and certification criteria for gas well contractors and cementers.

### S786 has good and bad provisions

These provisions are (mostly) positive:

- *Trade secrets.* S786 requires the Department of Environment & Natural Resources (DENR) to keep 'trade secret' information (such as: what is in fracking fluid) so it will be available to emergency responders [§7]. That's good, but doesn't address the need to hold the information long-term. Existing law also allows too much information about local geology to be treated as a trade secret. Finally, citizens of North Carolina would like to know the complete list of chemicals contained in fracking fluid used in their neighborhoods, and the bill does not go that far.
- *Bad actor screen.* S786 tells DENR to examine the compliance history of fracking permit applicants, and allows the agency to deny a permit on that basis [§14].
- *Prohibition on injection of fracking wastewater.* S786 reiterates the prohibition already in state law on the injection of fracking wastewater into the ground [§14].

These provisions take a step backwards:

- *Weakened protection for groundwater wells.* S786 slashes the zone in which drillers are presumed to be liable for drinking well contamination from 5,000 feet to 2,640 feet (1/2 mile), even though drillers routinely drill much further out than that [§12].
- *Constraints on local governments.* S786 places even tighter constraints on local efforts to protect residents than the original legislation in 2012 [§13]. That includes assigning the pro-fracking MEC, rather than a neutral state court, to decide when a local ordinance goes too far.
- *Exemptions from rulemaking.* S786 monkey with the normal rulemaking process to shorten the time legislators will have to introduce a bill contesting the final package of fracking rules [§2]. Since House leaders have promised to review the fracking rules before voting in 2015 whether to allow fracking permits, this may not matter – but it is not good policy.

### **S786 includes a lot of pie in the sky**

Most notably, the bill includes a lot of wishful thinking, wasting time and money.

In addition to complicated and speculative severance tax provisions, the bill calls for studies of whether to site a liquid natural gas export terminal on the coast [§22] and whether to launch a curriculum to train drilling industry workers at Central Carolina Community College[§24]. Neither of these proposals makes much economic sense, given the small scale of North Carolina's resource and the lack of industry interest.

The state has already spent significant resources in pursuit of fracking, with no jobs to show for it (beyond state government staff hired to write the new rules). If the legislature had spent a fraction of these resources renewable energy and efficiency, we would already be seeing the payoff in jobs and income for North Carolinians. It is not too late to redirect future resources to policies and programs that will actually offer a return to the state economy.

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