

SENATE BILL NO. 2576

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2576 with my recommendations for reconsideration.

This bill would permanently prohibit a drilling technique known as hydraulic fracturing (commonly referred to as "fracking"), which is used for the exploration or production of natural gas. I share many of the concerns expressed by the legislators that sponsored this bill and the environmental advocates seeking a permanent moratorium on fracking. We must ensure that our environment is protected and our drinking water is safe.

While I do share the sponsors' concerns about protecting our drinking water, I do not believe that the case has been made to justify a complete, permanent, statutory prohibition on fracking. The legislative process revealed a substantial disagreement between those who favored a ban on fracking and those who opposed it. Significantly, the bill was pushed through the legislature at the very same time that two federal agencies - the Environmental Protection Agency (USEPA) and the Department of Energy (USDOE) - were studying the environmental impact of this drilling technique. While the USDOE issued preliminary recommendations over the past two weeks on the immediate steps that can be taken to improve the safety and environmental performance of shale gas development, including the development of best practices, a final report by the USDOE is not expected until November 2011 and the preliminary findings of USEPA's study are not expected to be released until 2012.

Based on my review of the legislative record, there is no clear consensus on the merits of this drilling technique and

whether it can be conducted in a manner that adequately protects our environment. On the other hand, while the legislature voted to ban this process, there is no dispute that we are unaware of any natural gas deposits in New Jersey that are under formal consideration for exploration or extraction using this process. In addition, I believe it would be premature and ill-advised to impose a permanent ban while the USDOE and USEPA are studying this issue and without the benefit of the views of the New Jersey Department of Environmental Protection (NJDEP). Accordingly, based on all of these circumstances, I believe that the better approach to this issue is to impose a one-year moratorium on fracking in New Jersey while the USDOE and USEPA continue to study fracking, and the NJDEP conducts an independent evaluation of the issue and reports its findings.

The issues around fracking have come to the forefront because of improvements in technology that have made it possible to locate and reach natural gas deposits in shale formations that could not have been accessed economically even five or ten years ago. To date, the natural gas deposits that have been identified as accessible by fracking are located outside of New Jersey. For example, one of the most significant natural gas deposits is in the Marcellus Shale which is located primarily in Pennsylvania, New York, Ohio, and West Virginia. Some experts predict that the nation's shale resources could provide the nation with a 100-year supply of natural gas.

Such a significant supply of natural gas located in the region provides significant potential benefits for New Jersey that must be weighed in the policy decision on whether we should ban or regulate fracking. Many businesses in New Jersey provide goods or services that are utilized by the natural gas industry. These businesses have the potential to grow as the natural gas

fields located within shale layers are developed or, if in the future, productive natural gas deposits are found within this State. We also cannot ignore the fact that New Jersey has the fourth highest energy costs in the nation. Our residents - both individuals and businesses - rely on natural gas and, if this resource can be located and produced closer to home, it can be provided to New Jersey residents more cheaply.

In addition to the potential economic benefits to our citizens, the use of natural gas as an energy source is consistent with good environmental policy. Natural gas is a much cleaner form of energy than coal or oil, emitting much less sulfur dioxide, fine particulates, volatile organic compounds (VOCs), and greenhouse gases than those energy sources. Accordingly, our draft Energy Master Plan seeks to encourage the development of in-state, natural gas-fired electrical power not only to reduce our energy costs, but also to protect our environment by eliminating our need for power from coal states and by accelerating the decommissioning of older, dirtier, and less efficient coal and oil-fired electrical generation plants in this State.

On the other hand, there are environmental concerns related to hydraulic fracturing that need to be considered and balanced against these other benefits. For example, while the shale gas formations are well below drinking water aquifers and separated by impervious rock formations, environmental advocates have expressed concern that the chemicals used to fracture the shale formation may rise through fissures in the impervious layers and expose drinking water aquifers to contamination. In addition, environmental advocates have also expressed concern that the vertical wells used in the fracking process may expose potable

water aquifers to contamination if well shafts are not cased properly or if such casings deteriorate or suffer damage.

In sum, the potential environmental concerns with fracking must be studied and weighed carefully against the potential benefits of increasing access to natural gas in New Jersey and in the surrounding region. The decision on whether to ban fracking outright or regulate it for environmental protection must be developed on the basis of sound policy and legitimate science and not by a desire to gain a short-term political advantage one way or the other. Therefore, while I do not question the good intentions of those who support this legislation, I do not believe that the scientific grounds needed to justify an outright, permanent, statutory ban were established during the legislative process. Instead, I believe that a one-year moratorium on fracking in New Jersey while the issue is studied by the USDOE, USEPA, and NJDEP is the most prudent, responsible, and balanced course of action.

Accordingly, I herewith return Senate Bill No. 2576 and recommend that it be amended as follows:

Page 2, Section 1, Lines 7-24:

Delete in their entirety and insert "1. The Legislature finds and declares that the process of hydraulic fracturing for natural gas exploration and production has been found to use and release a variety of chemicals and materials that, if introduced into the air, surface waters, or ground water of the state, raise concerns about potential contamination and pollution.

Hydraulic fracturing is not occurring and is unlikely to occur in New Jersey in the foreseeable future. Nevertheless, the Legislature determines that it is prudent and in the best interest of the people of the State of New Jersey to declare a moratorium on hydraulic fracturing in New Jersey in

order to conduct an investigation into whether hydraulic fracturing could have or is likely to have an adverse impact on air and water quality in this state."

Page 2, Section 2, Line 28:

After "production" insert " for a period of twelve months from the effective date of this act"

Page 2, Section 2, Line 29:

After "b." insert " The Department of Environmental Protection shall conduct an investigation into whether hydraulic fracturing could have or is likely to have an adverse impact on air and water quality in this State and report its findings to the Governor and the Legislature.
c."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attested:

/s/ Kevin M. O'Dowd

Deputy Chief Counsel to the Governor