

Support House Bill 3383: Local Consent

Empower Counties to Exercise Local Control Over Fracking Permits, and Create a Fair Permit Process

Overview: The Hydraulic Fracturing Regulatory Act (HFRA) gave municipalities in Illinois the authority to deny fracking permits but did not give counties the same authority. This omission is undemocratic, as it relegates residents of unincorporated areas to being second-class citizens. H.B. 3383 would amend the HFRA by giving county governments the same authority to decide for themselves whether they wish to accept the risks, costs and adverse impacts of fracking. It provides a process for counties to follow, to ensure adequate public input and adequate consideration of those risks, costs and adverse impacts. It requires local government permission for all “horizontal drilling with fracturing,” and not simply “high volume” horizontal fracturing, thus addressing another problematic omission in the HFRA. Finally, when a permit application is submitted to the Illinois Department of Natural Resources for approval, H.B. 3383 would provide more reasonable time for public comment, both before and after a public hearing.

The problem: Inadequate local control and public input in the fracking permitting process

- The HFRA created a two-tiered system of unequal representation pertaining to permits for fracturing operations in Illinois. If an oil or gas company seeks a permit to begin fracking within the jurisdiction of a municipality, it cannot obtain one without certified consent from the particular city, village, or incorporated town where the well site is proposed to be located. However, if it seeks such a permit in an unincorporated area, it does not need to obtain consent from the responsible local government -- the county. Thus, it denies counties the same right as municipalities to decide whether to allow fracking at a proposed site.
- However, if oil and gas companies seek to begin fracking in Illinois, the vast majority of permits will be sought **outside** of municipalities, in unincorporated areas under county government control.
- Counties and municipalities alike must employ law enforcement, provide social services and infrastructure, maintain roads, provide for and protect public health and safety, and levy taxes to perform these essential functions. Yet the HFRA requires counties to deal with the adverse consequences and incur the many costs associated with fracking and its impacts, without giving counties and their residents any say in the decision.
- The HFRA currently only regulates “high volume horizontal hydraulic fracturing operations,” limited to operations utilizing more than 80,000 gallons of fluid per

stage or more than 300,000 gallons of fluid altogether. 225 ILCS 732/1-5. This means that fracking may be undertaken in Illinois without adequate regulatory oversight if drillers are able to stay below the “high volume” limit.

- The 30 days allowed in the HFRA for public comment and requests for a public hearing is not long enough for residents, businesses and governing bodies to become aware of fracturing permit applications, consult with experts, weigh costs and benefits, and, if necessary, secure expert witnesses to testify before the Illinois Department of Natural Resources.

The solution: H.B. 3383

- H.B. 3383 would require the consent of county governments before a fracking permit could be issued by the IDNR, just as cities, villages and incorporated towns must currently provide such consent under the HFRA.
- H.B. 3383 would help ensure a fair permitting process by requiring county governments to consult appropriate regulatory agencies, take adequate account of all public health, safety and environmental consequences of fracking at the proposed well site, and provide adequate public notice and public input into the decision on whether to grant a permit.
- It requires local government permission for all “horizontal drilling with fracturing,” not just “high volume horizontal hydraulic fracturing operations.”
- After an application goes to the IDNR, H.B. 3383 would lengthen the public comment period from 30 to 60 days, with an additional 20 days allowed to respond to evidence or testimony presented at a public hearing. .

H.B. 3383 is pro-democracy legislation in the purest sense of the term, as it gives local communities more power to decide for themselves whether they wish to accept the grave risks of fracking in exchange for the perceived benefits.

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