

Legislation Text

File #: 120740, **Version:** 0

Supporting the Commonwealth Court decision which found Act 13 unconstitutional because it removes from local governments the ability to meaningfully legislate in a manner that protects the health, safety, and welfare of its citizens by addressing localized concerns to oil and gas development and violates both the Pennsylvania and U.S. Constitutions, creating a zoning scheme that supersedes the protections local officials are sworn to uphold; as well as the health, safety and welfare of its residents that local officials must protect.

WHEREAS, The Commonwealth Court struck down as unconstitutional a key provision of Act 13 which would have forced local jurisdictions to exempt from its zoning regulations any projects undertaken by the Oil and Gas industry including, but not limited to drilling using hydrofracking; and

WHEREAS, The Commonwealth of Pennsylvania has now appealed the court ruling of the case brought by the Townships of Robinson, Nockamixon, South Fayette, Peters, Cecil, Mount Pleasant, the Borough of Yardley and the Delaware Riverkeeper Network and Amici Curiae: The Townships of East Finley, Tinicum, and Wilkins, the Borough of Bell Acres and the Municipalities of Bethlehem; and

WHEREAS, On February 14, 2012, the Pennsylvania General Assembly enacted Act 13 to require municipalities to allow oil and gas operations except for processing plants in all zoning districts, and consequently infringing upon the rights of local governments throughout the Commonwealth to protect the health, safety, and welfare of its citizens; and

WHEREAS, Any local ordinance that regulates oil and gas operations is subject to Act 13's sweeping restrictions, as well as its serious threat of litigation and attorneys' fees; and

WHEREAS, Act 13 removes all meaningful zoning and planning authority from local governments as to the Oil & Gas industry, while all other entities, be they individual, corporate, or institutional, still must abide by local ordinances; and

WHEREAS, Act 13 does not account for the profound differences in the character, landscape, resources, economy, and government of Pennsylvania's municipalities; and

WHEREAS, In May 2007, the voters of Philadelphia overwhelmingly approved the creation of a Zoning Code Commission to reform and modernize Philadelphia's outdated and complex zoning code. The City Council of Philadelphia recently enacted the recommendations of the Commission in order to provide and a more easily understandable code, that improved the City's planning process, promoted positive development yet preserved the character of Philadelphia's neighborhoods; and

WHEREAS, The City Council of Philadelphia filed an Amicus brief in support of another lawsuit concerning the dangers of hydrofracking to the City's water safety; now therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That it hereby supports the Commonwealth Court decision which found Act 13 unconstitutional because it removes from local governments the ability to meaningfully legislate in a manner that protects the health, safety, and welfare of its citizens by addressing localized concerns to oil and gas development and violates both the Pennsylvania and

U.S. Constitutions, creating a zoning scheme that supersedes the protections local officials are sworn to uphold; as well as the health, safety and welfare of its residents that local officials must protect.