

CALIFORNIA FRACKING LEGISLATION STALLS IN SENATE APPROPRIATIONS COMMITTEE

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Today, the California Senate Appropriations Committee conducted a further hearing on AB 591 and AB 972, two Assembly bills that seek to regulate hydraulic fracturing, or “fracking,” in the state. Both bills had been placed on the committee’s suspense file in prior votes. But today, the bills stalled in committee and were not referred out to the full Senate, effectively killing both fracking bills for the current legislative session, if not permanently. (For additional information about these bills, please see the extensive coverage on our blog, below.)

In very brief summary, AB 591 would require that oil well operators disclose certain fracking activities and the content of fracking fluid, subject to protection for proprietary and trade secret information. AB 972 would impose a moratorium on all fracking in the state pending adoption of a regulatory scheme governing the practice. Those regulations are currently being developed by the Department of Conservation (DOC) and its Division of Oil, Gas & Geothermal Resources (DOG).

The failure of AB 591 to find greater support in committee is somewhat surprising. Various oil and gas producing states have adopted comparable disclosure schemes, including, most recently, Texas and Colorado, and we expect that California will ultimately adopt a disclosure requirement at some point. AB 972’s failure to receive a favorable vote, on the other hand, is not at all surprising. The proposed moratorium faced strong industry opposition, lacked mainstream support outside the environmental community, and was not supported by the current administration. Senate staff projected the potential for \$9 million in delayed or lost revenues if the moratorium were enacted, and a moratorium on fracking in one of the nation’s most productive oil and gas producing states remains politically unpalatable.

The political and practical reality underlying the failure of both bills is that the legislature simply elected to defer to the DOG as it develops fracking regulations. Rather than take legislative action independent of the DOG — the administrative body entrusted to regulate oil and gas activity in the state — the

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legislature likely determined that it would be more expedient politically to allow the regulatory process to run its course. The legislature and the Brown administration can now apply pressure on the DOG to expedite that process, which makes more sense politically than pushing through legislation that lacks DOG support.

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