

# North Carolina's Current Political Economy & the Fracking Debates

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## *Introduction*

The study of political economy is largely concerned with how political choices and forms of government shape economic growth.<sup>1</sup> The choices of the government and the citizens of a particular state have a significant impact on the economic development of that state.<sup>2</sup> Many of these choices are made with a focus on generating income growth for individuals, which in turn, creates a better economy for the state as a whole.<sup>3</sup>

Economic development sometimes seems at odds with environmental protection.<sup>4</sup> This is evidenced by the wealth of heated debates on the subject.<sup>5</sup> North Carolina has recently been at the forefront of an ongoing national debate concerning the use of hydraulic fracturing (fracking) to procure oil and natural gas from underground shale basins.<sup>6</sup> This paper analyzes the North Carolina legislature's decisions about fracking through the lens of political economy in hopes of glean a better understanding of the debate surrounding this issue.

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<sup>1</sup> Christopher Adam & Stefan Dercon, *The Political Economy of Development: An Assessment*, 25 OXFORD REV. OF ECON. POL'Y 173, 174 (2009).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See *Economic Development vs. the Environment*, DEBATEWISE: WHERE GREAT MINDS DIFFER, <http://debatewise.org/debates/2918-economic-development-vs-the-environment/> (last visited Jan 9, 2014).

<sup>5</sup> See *id.*

<sup>6</sup> See Craig Jarvis & Lynn Bonner, *Dome: Poll Shows Opposition to Fracking, Support for Environmental Regs*, CHARLOTTE OBSERVER (Jul. 13, 2013), available at <http://www.charlotteobserver.com/2013/07/13/4163146/dome-poll-shows-opposition-to.html#.UkijOhaE7ww>.

## *NC Political Economy*

Recent elections in North Carolina have significantly changed the political landscape of the state.<sup>7</sup> In 2010, the NC Republican Party gained a majority in both the House of Representatives and the Senate.<sup>8</sup> This was the first time in over 100 years that the Republican Party had control over the entire General Assembly.<sup>9</sup> In 2012, Pat McCrory was elected governor of the state. This election gave the Republican Party additional control over the legislative agenda.<sup>10</sup>

The North Carolina Republican Party Platform for 2013 states that an economy that is not burdened by taxation and regulation drives the free enterprise system, which allows for greater liberty and dignity for all people.<sup>11</sup> The platform also states that the environment is an important resource that should be protected with regulation “only when the benefits warrant the cost.” Finally it gives support to “clean, safe, hydraulic fracturing.”<sup>12</sup>

The legislative agenda for the General Assembly in the past two years has been derived from these goals. In the summer of 2012, the Republican majority and some Democrats were able to override Bev Perdue’s veto of SB 820, which legalized hydraulic fracturing in the state.<sup>13</sup> Wasting no time, the fracturing debate continued in the 2013 General Assembly session with the introduction of SB 76 in early February.<sup>14</sup> This bill authorized the issuance of fracking permits in North Carolina starting in March of 2015, regardless of whether regulations for the industry are

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<sup>7</sup> Michelle Togut, *The Republican Takeover of North Carolina*, ORDINARY TIMES BLOG (Aug. 5, 2013), available at <http://ordinary-gentlemen.com/blog/2013/08/05/the-republican-takeover-of-north-carolina>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> N.C. REPUBLICAN PARTY PLATFORM FOR 2013, N.C. REPUBLICAN PARTY ART. II: THE ECONOMY (Jun. 7, 2013), available at <http://www.ncgop.org/wp-content/uploads/2012/09/2013-Platform-Passed.pdf>.

<sup>12</sup> *Id.* at Art. IX.

<sup>13</sup> *House Overrides Gov Perdue’s Veto Making Fracking Legal in NC*, ECOWATCH (Jul. 3, 2012), available at <http://ecowatch.com/2012/nc-house-overrides/>.

<sup>14</sup> *Fracking*, WRAL.COM, available at [http://www.wral.com/news/state/nccapitol/asset\\_gallery/12009848/](http://www.wral.com/news/state/nccapitol/asset_gallery/12009848/) (last visited Jan. 9, 2014).

finalized.<sup>15</sup> After making its way through the House and Senate, the bill was signed into law in late July of this year.<sup>16</sup>

Using the cost benefit analysis in their platform, Republicans have stated that the economic benefit North Carolina would see from hydraulic fracturing would far outweigh the environmental hazards associated with the practice.<sup>17</sup> Advocates of fracking in North Carolina claim that the energy industry is the “lifeblood of the economy” and that states where fracking has been permitted have had economic growth that has kept people busy and happy.<sup>18</sup>

The legislative session may have ended, but the fracking debate continues. SB 76 provided the new Mining & Energy Commission a list of tasks to complete so that the industry would have the regulations needed for public safety and for optimal economic benefit.<sup>19</sup> The commission currently has thirteen members (there are fifteen seats, two members still need to be appointed), all of which have knowledge of public health, the energy industry, or the environment.<sup>20</sup> The commission has been working for the past two years to create regulations for the new mining industry.<sup>21</sup>

Recently, the commission has prompted debate over the idea of compulsory pooling, which would require that landowners allow drillers to tap into oil supplies under their land.<sup>22</sup> Some say that this is unfair, as each landowner should be allowed to decide whether they want to

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<sup>15</sup> *See id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Senate Passes Fracking Bill, But N.C. May Be Less Rich in Gas*, MCCLATCHY D.C. (Jun. 7, 2012), available at <http://www.mcclatchydc.com/2012/06/07/151501/senate-passes-fracking-bill-but.html>.

<sup>18</sup> *Id.*

<sup>19</sup> Mining and Energy Commission, N.C. DEPT. OF ENV'T & NAT. RESOURCES, available at <http://portal.ncdenr.org/web/mining-and-energy-commission/> (last visited Oct. 6, 2013).

<sup>20</sup> *See id.*

<sup>21</sup> *See id.*

<sup>22</sup> John Murawski, *NC Proposal May Force Fracking on Some Residents*, THE NEWS & OBSERVER (Aug. 27, 2013), available at <http://www.newsobserver.com/2013/08/27/3142165/compulsory-pooling-on-table-for.html>.

participate in fracking on their own land.<sup>23</sup> Others say that without a compulsory pooling regulation one person could potentially keep his neighbors from fracking on their lands because the oil is under several properties.<sup>24</sup>

The commission set up a study group to determine how many property owners must want to lease their land to drilling companies within a drilling area that covers multiple, privately owned properties before compulsory pooling should be instituted in the area.<sup>25</sup> The commission's study group came up with a recommendation that gave a percentage, called a trigger number, of 90% of the acreage in a drilling area that needs to be leased in order for compulsory pooling to be instituted.<sup>26</sup> The study group claims to have used other states policies regarding this issue to determine the trigger number.<sup>27</sup> The group feels that the 90% trigger will protect the rights of landowners while making it worthwhile for drilling companies to bring their business to North Carolina.<sup>28</sup>

### *Fracking Introduction*

Hydraulic fracturing is the method that withdraws oil reserves from shale basins.<sup>29</sup> The oil in these areas was largely unattainable before fracking technology was created.<sup>30</sup> The fracking process starts by drilling vertical and horizontal wells into the basin.<sup>31</sup> After this, water and chemical solutions are pumped into the basin at high pressures, creating cracks, or fractures, in

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See Billy Ball, *This Week In Disappointment: Study Group Supports Forced Fracking in Some Cases*, INDY WK. (Sept. 4, 2013), <http://www.indyweek.com/indyweek/this-week-in-disappointment-study-group-supports-forced-fracking-in-some-cases/Content?oid=3711120>.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Shale Gas*, N.C. DEPT. ENV'T & NAT. RESOURCES, available at <http://portal.ncdenr.org/web/guest/shale-gas> (last visited Oct. 13, 2013).

<sup>30</sup> Shawna Bligh & Chris Wendelbo, *Hydraulic Fracturing: Drilling into the Issue*, 27 WTR NAT. RESOURCES & ENV'T. 7, 7 (2013).

<sup>31</sup> *Id.*

the basin.<sup>32</sup> A chemical propping agent then holds open the cracks, which allow oil that was trapped deep in the basin to rise toward the surface.<sup>33</sup> Once the oil is near the surface it can be procured through the wells drilled at the start of the process.<sup>34</sup>

### *Economic Benefits*

On a national scale, fracking promotes energy security by allowing the United States to reduce its dependency on foreign oil.<sup>35</sup> Advocates of fracking claim that its use could make the United States more energy independent, or at least allow it to be more discerning about where to purchase oil.<sup>36</sup> This new ability could impact United States politics in many ways.<sup>37</sup> Perhaps most apparent, the widespread use of fracking in the United States could provide some protection from volatile price swings that occur in the oil markets when there is political unrest in the Middle East.<sup>38</sup> During the attacks in Syria this August, the United States had enough oil reserves to import nothing for over 260 days. This was a 150-day increase in our reserves from five years ago and has been largely attributed to oil procured from shale basins via fracking.<sup>39</sup>

On a local level, fracking could provide a boost to local economies and deliver much needed jobs.<sup>40</sup> While it is impossible to determine exactly what economic boost fracking will bring to North Carolina, proponents of the industry cite other places that have seen economic upturn due to fracking.<sup>41</sup> One example of this is the Bakken area of North Dakota, which has

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Malcolm Gissen, *Fracking is Misunderstood, It's the Key to Energy Self-Sufficiency*, FORBES (May 21, 2012), available at <http://www.forbes.com/sites/halahtouryalai/2012/05/21/fracking-is-misunderstood-its-the-key-to-energy-self-sufficiency/>.

<sup>36</sup> *See id.*

<sup>37</sup> Loren Steffy, *Benefits of Fracking Will Be Tested in Syria Attacks*, FORBES (Aug. 28, 2013), available at <http://www.forbes.com/sites/lorensteffy/2013/08/28/benefits-of-fracking-will-be-tested-in-syria-attacks/>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *See Senate Passes Fracking Bill*, *supra* note 17.

<sup>41</sup> *See id.*

attained the lowest unemployment rate in the United States since introducing fracking as an industry.<sup>42</sup> Property owners would see economic benefit through royalties on gas removed from their land and jobs would be created in mining related fields.<sup>43</sup> Furthermore, other areas of the local economy could be stimulated by fracking. In south Texas, publishing companies have seen an increase in sales from the influx of people moving to the area to participate in the mining.<sup>44</sup>

Developing the fracking industry in North Carolina could have many of those same benefits in the counties where mining for oil seems most promising.<sup>45</sup> Lee County, which covers a large area of the shale basin in North Carolina, has an unemployment rate that has hovered around eleven percent for most of 2013.<sup>46</sup> That number is much higher than the state and national average.<sup>47</sup> Fracking will provide jobs in the area, but those benefits may only be short term.<sup>48</sup> Estimates of the amount of shale gas in North Carolina have varied, but the N.C. Dept. of Environment and Natural Resources states that there is about 1.66 billion cubic feet of gas available in the shale basin and that this amount is enough to power the state for five years.<sup>49</sup> While 1.66 billion cubic feet may seem like an enormous amount, it is actually less than what the

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<sup>42</sup> Malcolm Gissen, *supra* note 35.

<sup>43</sup> *Fracking Benefits*, ENERGY FROM SHALE, available at <http://www.energyfromshale.org/fracking-benefits> (last visited Oct. 6, 2013).

<sup>44</sup> Loren Steffy, *Fracking's Publishing Boom*, FORBES (Sept. 26, 2013), available at <http://www.forbes.com/sites/lorensteffy/2013/09/26/frackings-publishing-boom/>.

<sup>45</sup> Richard Ziglar, *Fracking in North Carolina: Why Now?*, WUNC 91.5 (Apr. 22, 2013), available at <http://wunc.org/post/fracking-north-carolina-why-now>.

<sup>46</sup> *Unemployment Rate in Lee County, N.C.*, FED. RES. BANK OF ST. LOUIS, available at <http://research.stlouisfed.org/fred2/series/NCLEEC5URN> (last updated Jan. 7, 2014).

<sup>47</sup> *North Carolina's August Employment Figures Released*, N.C. DEPT. OF COM. (Sept. 20, 2013), available at [http://www.ncsc1.com/pmi/rates/PressReleases/State/NR\\_Aug\\_2013\\_StRate\\_M.pdf](http://www.ncsc1.com/pmi/rates/PressReleases/State/NR_Aug_2013_StRate_M.pdf).

<sup>48</sup> Richard Ziglar, *supra* note 45.

<sup>49</sup> *Statement on Release of U.S. Geological Survey Assessment of North Carolina Oil and Gas Resources*, N.C. DEPT. ENV'T & NAT. RESOURCES (June 6, 2012), available at <http://portal.ncdenr.org/web/lr/press-releases> (follow "2012-6-06" hyperlink, fifth down on the list).

Pennsylvania produces from their fracking operations in just one year.<sup>50</sup> This has brought some concern that the boom in jobs and the boost to the local economy will be short lived.<sup>51</sup>

### *Environmental Risks*

Hydraulic fracking has raised many environmental concerns.<sup>52</sup> The foremost of these is water contamination.<sup>53</sup> The fracking process requires large amounts of water in order to create fractures.<sup>54</sup> As stated above, this water is charged with chemicals that help to breakup the shale rock and prop open cracks so oil can be released. This process is exempt from the regulations of the Safe Drinking Water Act, meaning that companies do not have to disclose what chemicals they are adding to the water.<sup>55</sup> This has lead to concerns about what chemicals are being used and if they could be harmful to the drinking water supply.<sup>56</sup> Water scarcity has also become a chief concern due to the billions of gallons needed for each well to produce gas from shale.<sup>57</sup> This use is especially disconcerting in areas where farming is a primary industry and drought is common.<sup>58</sup>

Environmentalists have also raised concern over air pollution.<sup>59</sup> The chemicals used in fracking have been linked to health problems ranging from eye irritation to cancer.<sup>60</sup> Individuals living and working near fracking wells in other states have reported suffering from a long list of

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<sup>50</sup> Richard Ziglar, *supra* note 45.

<sup>51</sup> *Id.*

<sup>52</sup> See Elizabeth Ridlington & John Rumpler, *Fracking By the Numbers: Key Impacts of Dirty Drilling at the State and National Level*, ENV'T N.C. RESEARCH & POL'Y CENTER (Oct. 2013), available at [http://environmentnorthcarolinacenter.org/sites/environment/files/reports/NC\\_FrackingNumbers\\_scrn\\_0.pdf](http://environmentnorthcarolinacenter.org/sites/environment/files/reports/NC_FrackingNumbers_scrn_0.pdf).

<sup>53</sup> *See id.*

<sup>54</sup> *Id.* at 5 (Table ES-2.).

<sup>55</sup> Jeremiah Knupp, *National Forests for Sale*, S. ENVTL. L. CENTER (Sept. 30, 2013), available at <http://www.blueridgeoutdoors.com/go-outside/george-washington-national-forests-fracking-drilling/>.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 11–12.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 12.

<sup>60</sup> *Id.*

issues that are associated with fracking chemicals.<sup>61</sup> Furthermore, in areas where fracking is already begun air quality has been reduced and elevated levels of smog have been reported.<sup>62</sup>

In addition, there is concern that fracking will aggravate global warming through chemical output.<sup>63</sup> The release of methane from fracking wells could have a profound effect on the rate at which global warming occurs.<sup>64</sup> Methane is extremely detrimental to the ozone layer.<sup>65</sup> It is actually worse than carbon dioxide, which is often cited as a leading cause for global warming.<sup>66</sup> Research has shown that fracking is more harmful to the environment than coal when refined and used as a source of energy.<sup>67</sup> Perhaps more importantly, it is in our best interest as a society to move away from fossil fuels and towards renewable energy sources.<sup>68</sup> Funding for fracking is taking valuable resources away from clean, renewable energy technology.<sup>69</sup>

Finally, conservation of wildlife habitat is a related concern.<sup>70</sup> Fracking requires the building of drilling sites and roadways to get to those sites, which can be located in areas where the natural habitat remains intact.<sup>71</sup> Roadways can block migrations of mammals and birds.<sup>72</sup> There is also risk to water ecosystems near fracking well sites.<sup>73</sup> Fish and other aquatic life are in jeopardy of losing their habitats due to water use and contamination.<sup>74</sup>

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 13.

<sup>63</sup> *Id.* at 14.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 16.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

## *Conclusion*

Political economy is a combination of political choices and forms of government.<sup>75</sup> North Carolina's form of government is a representative democracy, meaning that the people of North Carolina elect officials to govern for them and create law and policy that will benefit the state and its citizens.<sup>76</sup> Currently, the majority of the people representing all North Carolinians are from the Republican Party.<sup>77</sup> The choices of this group have and will continue to affect the laws and regulations of the state. Concerning fracking, the North Carolina Republican Party clearly stated in its platform for this year that environmental concerns would be weighed against benefits of economic growth.<sup>78</sup> From the legislation that has been passed, and current debates over fracking, it could be deduced that boosting the economy through the jobs and industry that might be created is more important than environmental protection. The overall assessment of the North Carolina debates on fracking and its relation to the political economy of the state was probably summed up in this sentence by Jim Womack, a commissioner in Lee County and the chairman of the Mining and Energy Commission, "If you want to encourage economic development, you don't do it by making it really easy to shut it down."<sup>79</sup>

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<sup>75</sup> Christopher Adam, *supra* note 1.

<sup>76</sup> See *North Carolina Government History: January*, STATE LIBRARY OF N.C., <http://statelibrary.ncdcr.gov/ghl/themes/january.html> (last update Sept. 4, 2013).

<sup>77</sup> Michelle Togut, *supra* note 7.

<sup>78</sup> N.C. REPUBLICAN PARTY PLATFORM, *supra* note 11.

<sup>79</sup> Ball, *supra* note 25.