



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 8 of the 131st G.A. **Date:** March 18, 2015
Status: As Reported by House Energy and Natural Resources **Sponsor:** Reps. Hagan and Ginter

Local Impact Statement Procedure Required: Yes

Contents: Modifies the Oil and Gas Law governing unit operation of a pool and specifies the method to value oil and gas reserves for property tax purposes

State Fiscal Highlights

- **Department of Natural Resources – Time limits for unit operation determinations.** The bill sets a time limit of five business days for the Chief of the Division of Oil and Gas Resources to review applications for the unit operation of a pool for the extraction of oil and gas. The bill also requires the Chief to hold a hearing to consider the need for unitization within 45 days of receipt of an application or the Chief's own motion to establish a unit operation. Subsequent to a hearing, the bill establishes a 30-day deadline by which the Chief must issue an order requiring unit operation. These deadlines may result in minimal increase in administrative costs for the Division. Administrative costs of the Division are paid from the Oil and Gas Well Fund (Fund 5180).
- **State lands.** If land owned or controlled by the state would become part of a unit operation, the state would be subject to the costs and enjoy the benefits, including royalties, of participating in the unit operation. .

Local Fiscal Highlights

- **Lands owned by political subdivisions.** If land owned or controlled by a political subdivision would become part of a unit operation, the political subdivision would be subject to the costs and enjoy the benefits, including royalties, of participating in the unit operation.

Detailed Fiscal Analysis

Department of Natural Resources – Division of Oil and Gas Resources

Unit operation of a pool for the extraction of oil and gas

The bill establishes timeframes under which the Chief of the Division of Oil and Gas Resources must review applications for the unit operation of oil and gas pools, conduct hearings concerning unit operations, and determine the need to unitize tracts for oil and gas development. Under the bill the Chief must hold a hearing not later than 45 days after the Chief's own motion to establish a unit or the receipt of a completed application for the operation as a unit from the owners of 65% of the land area overlying the pool. Applications received by the Chief but determined to be incomplete must be reviewed and the applicants notified of any deficiency. Under the bill applications are considered complete if the applicants have not been notified of deficiencies within five business days. The bill also requires the Chief, if the Chief finds that unit operation is reasonably necessary, to make an order providing for unit operation not later than 30-days after the date of the hearing. As a result, the Division could incur new administrative costs to execute the required duties within the required timeframes. Any increased costs, however, would likely be minimal. Administrative costs of the Division are paid from the Oil and Gas Well Fund (Fund 5180).

Impact on public lands

The bill also requires the Chief to issue an order for the unit operation of a pool or a part of a pool that encompasses a unit area consisting in whole or in part of oil or natural gas resources owned or controlled by the state or a political subdivision. The exception to this would be nature preserves and state parks, which are not subject to unitization. If public land would become part of a unit operation, the state agency or political subdivision which owns or controls the acreage would have the rights and responsibilities of any other member of the pool and be subject to the costs and enjoy the benefits, including royalties, of participating in the pool. Royalties under unitization arrangements are credited to the members of the unit in proportions equal to their percentage of land in the resource pool.

Surface use of lands subject to unitization

Under the bill, land in state forests could be subject to a unitization order issued by the Chief. The bill, however, prohibits disruption of the surface area in state forest lands subject to unitization. Additionally, the bill includes a provision specifying that a unitization order does not authorize an oil and gas rights owner to use the surface of unleased land unless the use is consistent with a separate agreement between the surface rights owner of that land and the owner of oil and gas rights. This suggests generally that land owned by the state or a political subdivision included in a unitization order may not suffer surface area disruption unless use of the land has been

specifically permitted, and then only when abiding by terms of an agreement allowing surface use. While these provisions are noteworthy, they do not appear to have any fiscal effect.

Notice publication requirements

In addition, the bill limits the Chief's rule-making authority concerning notice publication requirements that apply to the unitization process. This includes prohibiting the establishment of a prehearing publication notice requirement of more than three publications in a newspaper of daily general circulation in the county or counties in which a proposed unit is to be located. The provision also prohibits rules from requiring the last date of publication of such a prehearing notice to occur not more than five days prior to the hearing. Finally, the bill requires that any public notice rules or guidelines concerning unit operation be published in the newspaper of daily circulation that is nearest to the proposed area of unit operation if a newspaper of daily circulation is not available in the county in which the proposed area of unit operation is located. Altogether, these provisions do not appear to have any fiscal effect.

Property tax valuation of oil and gas reserves

The bill specifies that county auditors may employ no method other than the discounted cash flow formula to determine the tax value of all oil or gas reserves, even in the absence of a developing and producing well. Under current law, the formula appears to apply only for the purposes of calculating the tax value of oil and gas reserves that are exploited by an active well that was not the subject of a recent arm's length sale.

As explained in the LSC Bill Analysis, methods that county auditors are required or allowed to use to value undeveloped oil and gas reserves are not explicitly stated in existing law. Currently, county auditors are required to increase the value of land or mineral rights if the auditor determines that their value has increased because of the discovery of oil or gas, construction of production facilities, commencement of drilling, or other factors. The bill states that it "clarifies the intent of the General Assembly" that the discounted cash flow formula "continues to represent the only method for valuing oil and gas reserves for property tax purposes," but it is not clear how the bill changes the property tax valuation methods of oil and gas reserves that exist under current law, if it changes them at all. This provision of the bill has an indeterminate fiscal effect.