



# OHIO LEGISLATIVE SERVICE COMMISSION

## Final Analysis

Amanda George and Helena Volzer

### Sub. H.B. 225

132nd General Assembly  
(As Passed by the General Assembly)

**Reps.** Thompson, Hambley, Householder, Stein, Brenner, Riedel, Dean, Schaffer, Seitz, Keller, Edwards, Greenspan, Patterson, Goodman, Wiggam, Retherford, Ginter, Barnes, Young, Romanchuk, Landis, Kick, Patton, Faber, West, Boccieri, Hagan, O'Brien, Gavarone, Anielski, Antonio, Arndt, Boyd, Carfagna, Craig, Green, Holmes, Hoops, T. Johnson, Kent, Lang, LaTourette, Lepore-Hagan, Manning, Miller, Pelanda, Reineke, Roegner, Rogers, Ryan, Schuring, Sheehy, Slaby, K. Smith, R. Smith, Sprague, Sweeney, Vitale

**Sens.** Gardner, Hoagland, LaRose, Balderson, Burke, Coley, Dolan, Eklund, Hackett, Hottinger, Huffman, Jordan, Kunze, Lehner, Obhof, O'Brien, Oelslager, Peterson, Schiavoni, Tavares, Terhar, Thomas, Williams, Yuko

**Effective date:** September 28, 2018; appropriation effective June 29, 2018

---

## ACT SUMMARY

### Reporting and categorizing idle and orphaned oil and gas wells

- Authorizes a landowner who discovers an idle and orphaned oil or gas well to report its existence to the Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources.
- Requires the Chief to inspect a well reported by a landowner within 30 days after the landowner reports its existence.
- Requires the Chief to do all of the following:
  - Establish a scoring matrix for idle and orphaned wells;
  - Include in the matrix a system that classifies those wells as distressed high priority, moderate medium priority, and maintenance low priority; and

---

\* This version updates the effective date.

-- Use the matrix to prioritize well plugging and land restoration.

### **Oil and Gas Well Fund**

- Increases, from 14% to 30%, the portion of the Oil and Gas Well Fund revenues that must be used for plugging idle and orphaned wells.
- Increases the FY 2019 appropriation from the Oil and Gas Well Fund for oil and gas well plugging by \$9.0 million, to a total of \$15.0 million.

### **Notice requirements**

- Revises notice requirements and procedures that the Chief must follow once the Chief determines that a well is idle and orphaned.
- Reduces, from 60 days to 30 days after receiving notice from the Chief, the time by which the holder of a lien on equipment appurtenant to an idle and orphaned well must act to properly plug the well before the equipment is forfeited to the state.

### **Contracts for plugging**

- Authorizes the Chief to make expenditures to plug an idle and orphaned well pursuant to contracts entered into by other state agencies, and specifies that when another agency contracts for the work, the Chief must prepare the scope of work.
- Eliminates law that required a contractor to provide a bid guaranty, surety bond, or letter of credit when bidding for contracts with the Chief to plug an idle and orphaned well.
- Requires a contractor hired by a landowner to plug an idle and orphaned well to be insured and bonded.
- Exempts a landowner from paying the permit application fee otherwise required to be paid by a person who plugs an idle and orphaned well.
- Authorizes the Chief to reject an application to plug an idle and orphaned well if the Chief determines that plugging other wells takes priority.
- Requires the Chief, once plugging has been properly completed, to pay the contractor for the cost of plugging and restoration, rather than requiring the Chief to reimburse the landowner after the landowner has paid the contractor as in prior law.



## Quarterly and annual reports

- Requires the Chief to fulfill quarterly and annual reporting requirements regarding plugging activities.

---

## CONTENT AND OPERATION

### Background

The Department of Natural Resources, Division of Oil and Gas Resources Management, operates a program to plug idle and orphaned oil and natural gas wells. This is a well for which a bond has been forfeited by the well owner because the owner has failed to plug the well or an abandoned well for which there is no clear owner. The program has been operating since 1977. Under the program, the Division may provide for plugging a well, or a landowner may hire a contractor to plug the well and receive reimbursement of the costs from the Division. The program also provides for the plugging of a well in an emergency situation.<sup>1</sup>

### Reporting and categorizing idle and orphaned wells

The act authorizes a landowner who discovers an idle and orphaned well to report the well's existence to the Chief of the Division of Oil and Gas Resources Management. When the Chief receives a report from the landowner regarding the existence of an idle and orphaned well, the Chief must inspect the well within 30 days after the landowner's report. The Chief also must:

- (1) Establish a scoring matrix for idle and orphaned wells;
- (2) Include in the matrix a system that classifies idle and orphaned wells as distressed high priority, moderate medium priority, and maintenance low priority; and
- (3) Use the matrix to prioritize well plugging and land restoration projects.<sup>2</sup>

### Oil and Gas Well Fund

#### Percentage used for plugging

The act increases the percentage of revenue credited to the Oil and Gas Well Fund (from 14% to 30%) that the Chief must spend to plug idle and orphaned wells, restore associated lands, and respond to imminent health and safety risks caused by

---

<sup>1</sup> See <http://oilandgas.ohiodnr.gov/orphanwellprogram>; R.C. 1509.01(CC), not in the act.

<sup>2</sup> R.C. 1509.071(C).



those wells. The act specifies that the stated purpose of this spending is for the promotion of the competent management and conservation of the state's oil and natural gas resources and the proper and lawful plugging of historic oil and gas wells for which there is no responsible owner.<sup>3</sup>

Under continuing law, in addition to plugging idle and orphaned oil and gas wells, the Division must use money in the Oil and Gas Well Fund to (1) administer the Oil and Gas Law, (2) administer the law governing underground storage of gas, and (3) make expenditures related to oil and gas management and are critical for the protection of human health and safety and the environment. The Fund consists of money derived from various sources, including the state excise tax on oil and gas.<sup>4</sup>

### FY 2019 appropriation for well plugging

The act increases the appropriation in FY 2019 under the Oil and Gas Well Fund for oil and gas well plugging by \$9.0 million to a total of \$15.0 million.<sup>5</sup>

### Notice requirements

The act revises several notice requirements and procedures that the Chief must follow once the Chief has determined that a well is idle and orphaned. The following table illustrates the differences between prior law and the act:

Prior law	The act
<p>Required the Chief to determine from county recorder records the identity of the following persons, and mail notice to them that the well is to be plugged:</p> <p>(1) The owner of the land on which an idle and orphaned well is located;</p> <p>(2) The owner of the oil or gas lease under which the well was drilled;</p> <p>(3) Each person owning an interest in the lease; and</p>	<p>Requires the Chief to make a <b>reasonable attempt</b> to determine from county recorder records the identities of the following persons, and mail notice to them that the well is to be plugged:</p> <p>(1) The <b>current</b> owner of land on which the well is located;</p> <p>(2) Each person owning <b>a right or</b> interest in the oil and gas mineral interests;</p> <p>(3) Each person with a lien (not legal title to as in prior law) on any equipment appurtenant to the well.</p>

<sup>3</sup> R.C. 1509.071(B).

<sup>4</sup> R.C. 1509.02 and 5749.02, not in the act.

<sup>5</sup> Sections 3 and 4. For more information about the Fund and the increased appropriation, see the LSC fiscal note, as enacted, at <https://www.legislature.ohio.gov/download?key=9844&format=pdf>.



Prior law	The act
<p>(4) Each person having <b>legal title to</b>, or a lien on, any of the equipment appurtenant to the well.</p> <p>No provision.</p>	<p>For purposes of reviewing the county recorder records, the Chief is not required to review records older than 40 years, beginning on the date on which the Chief determines the well is idle and orphaned.<sup>6</sup></p>
<p>Required the Chief to include in the notice to each person having legal title to or a lien on any equipment appurtenant to the well a statement that the well is to be plugged and offering the person the opportunity to <b>plug the well and restore the land surface</b> at the person's own expense in order to avoid the equipment's forfeiture to the state.</p>	<p>Requires the Chief to include in the notice to each person having a lien on any equipment appurtenant to the well (not a person having legal title as in prior law) a statement that the well is to be plugged and offering the person the opportunity to <b>remove the equipment</b> at the person's own expense in order to avoid the equipment's forfeiture to the state.<sup>7</sup></p>
<p>No provision.</p>	<p>Requires the Chief to publish notice that the well is to be plugged in a newspaper of general circulation in the county where the well is located.<sup>8</sup></p>
<p>No provision.</p>	<p>Specifies that if the current address of the individuals described above cannot be determined or if the notice provided by mail is returned undeliverable, the Chief may satisfy the above requirements with publication in the newspaper only.<sup>9</sup></p>
<p>Specified that if none of the individuals described above plugged the well within 60 days after the notices were mailed, the equipment was forfeited to the state.</p>	<p>Specifies that if none of the individuals described above removes equipment from the well within <b>30 days</b> after the notice is mailed <b>or publication in the newspaper, whichever is later</b>, the equipment is forfeited to the state.<sup>10</sup></p>

The act also revises notice requirements that apply when the Chief makes expenditures from the Oil and Gas Well Fund for plugging an idle and orphaned well. First, the act eliminates a requirement that the Chief had to provide notice regarding a

<sup>6</sup> R.C. 1509.071(D)(1)(a) and (b).

<sup>7</sup> R.C. 1509.071(D)(1)(c).

<sup>8</sup> R.C. 1509.071(D)(1)(d).

<sup>9</sup> R.C. 1509.071(D)(2).

<sup>10</sup> R.C. 1509.071(D)(3).



plugging project to the owner or agents of adjoining land prior to entering land to begin plugging. Next, it authorizes the Chief to include additional information in a notice regarding a plugging project to the owner or lessee of a mine, such as information regarding the authorization that allows the mine operator to plug the idle and orphaned well under continuing law.<sup>11</sup>

## **Contracts for plugging**

### **Background**

As indicated above, continuing law requires the Chief to notify a landowner when the Division determines that an abandoned or improperly plugged well is located on the landowner's property. Once notified, the landowner may apply for compensation equal to the landowner's reasonable costs to engage a private contractor to properly plug the well and restore affected land surfaces. The Chief must approve the application if the Chief finds that the proposed costs are reasonable and that the project complies with well plugging laws and regulations. The Chief reimburses the landowner's approved expenses after the satisfactory completion of all well plugging activities. The Chief may place an annual limit on the number of plugged wells eligible for reimbursement. In addition, the Chief may enter into a contract for purposes of plugging a well.<sup>12</sup>

### **Contract provisions of the act**

The act revises the law governing contracts for well plugging by:

(1) Authorizing the Chief to make expenditures from the Oil and Gas Well Fund to plug an idle and orphaned well pursuant to contracts entered into by other state agencies (if another agency enters into a contract, the Chief must prepare the scope of work for the restoration or plugging);

(2) Requiring a contractor hired by a landowner to plug an idle and orphaned well to be insured and bonded;

(3) Exempting a landowner from the requirement to pay the permit application fee otherwise required to be paid by a person who plugs a well;

(4) Requiring the Chief to reimburse the contractor for plugging activities, rather than requiring the landowner to pay the contractor and seek reimbursement from the Chief as under prior law;

---

<sup>11</sup> R.C. 1509.071(E)(1) and 1509.151.

<sup>12</sup> R.C. 1509.071(E)(1) and (2).



(5) Authorizing the Chief to reject an application to plug an idle and orphaned well if the Chief determines that plugging other wells takes priority. The act makes clear that for purposes of these contracts, "plug" and "plugging" include installation of a vault and vent and restoration, in addition to plugging the well and restoring the land surface disturbed by the plugging.

(6) Eliminating law that required a contractor to provide to the Chief a surety bond or letter of credit equal to 10% of the plugging contract.<sup>13</sup>

### **Quarterly and annual reports**

The act requires the Chief to fulfill two sets of reporting requirements, including a quarterly report to the Technical Advisory Council on Oil and Gas,<sup>14</sup> and a joint annual report with the Council to various members of the General Assembly.

First, the Chief must submit a written report to the Technical Advisory Council on Oil and Gas by the close of each calendar quarter. It must describe the Division's efforts to plug idle and orphaned wells during the preceding calendar quarter. It must include:

(1) The number of known idle and orphaned wells in Ohio and the number in each county;

(2) The number of newly discovered idle and orphaned wells during the preceding calendar quarter;

(3) The number of wells plugged during the preceding quarter;

(4) The number of idle and orphaned wells plugged and the estimated average and indirect costs of plugging activities prior to the date of the report; and

(5) The number of wells approved for plugging and the estimated average and indirect costs of plugging activities conducted during the preceding quarter.

Second, the Chief and the Council must jointly provide to the following an annual report containing, at a minimum, the information included in the quarterly reports during the previous one-year period:

---

<sup>13</sup> R.C. 1509.071 (E) and (G) and 1509.13.

<sup>14</sup> By law, the Council must approve specified rules proposed by the Chief, approve certain actions of the Chief governing special drilling unit requirements, consult with and advise the Chief, and perform other duties that the Chief may lawfully delegate to it. R.C. 1509.24, 1509.25, and 1509.38, not in the act.



- (1) The Speaker of the House;
- (2) The President of the Senate; and
- (3) The Chairpersons of the House and Senate committees responsible for energy and natural resources issues.

The annual report is due by March 31 each year.<sup>15</sup>

---

## HISTORY

ACTION	DATE
Introduced	05-16-17
Reported, H. Energy & Natural Resources	01-17-18
Passed House (96-0)	01-17-18
Reported, S. Energy & Natural Resources	05-21-18
Passed Senate (32-0)	05-23-18
House concurred in Senate amendments (58-30)	06-07-18

18-HB225-UPDATED-132.docx/ts

---

<sup>15</sup> R.C. 1509.071(J)(2).

