



Eric Vendel

Bill Analysis

Legislative Service Commission

S.B. 350

127th General Assembly
(As Introduced)

Sens. Faber, Seitz, Goodman, Mumper, Padgett, Buehrer

BILL SUMMARY

- Vests with the Department of Natural Resources the exclusive authority to enter into leases for the drilling for oil or gas on all land that is owned by the state and administered by a state agency, and repeals the authority of certain state agencies to enter into such leases.
- Requires the Director of Natural Resources to adopt rules governing the oil and gas leasing program, and requires the rules to establish certain procedures, requirements, and standards regarding oil and gas leases, including procedures and standards for establishing the terms and conditions of oil or gas leases.
- Requires persons entering into leases under the bill to comply with all applicable state and federal regulations, including Ohio's Oil and Gas Law.
- Requires the Director of Environmental Protection and the Director of Development to establish a streamlined permitting process for permits issued by the Environmental Protection Agency that are related to the siting or expansion of oil and gas refineries, coal gasification facilities, and other energy resource related facilities.
- Expands the definition of "air quality facility" in the Air Quality Development Authority Law to include facilities or projects that will assist Ohio in achieving energy independence through the utilization of the state's resources, thus making those types of facilities and projects eligible for construction and operation by, or funding from, the Ohio Air Quality Development Authority.

- Creates the Energy Planning Task Force to develop a state energy plan, and requires the Task Force to present the plan to the Governor and the General Assembly not later than 18 months after the bill's effective date.

CONTENT AND OPERATION

Leases for oil and gas drilling on state land

Under current law, various state agencies have authority to enter into leases for the drilling for oil and gas on lands owned or controlled by them. For example, the Director of Mental Health is granted authority to enter into leases for oil and gas on land that is placed under the supervision of the Department of Mental Health (R.C. 5119.40). Similar authority is granted to the Department of Administrative Services (R.C. 123.01), the Department of Rehabilitation and Correction (R.C. 5120.12), the Department of Mental Retardation and Developmental Disabilities (R.C. 5123.23), and the Department of Natural Resources (R.C. 1505.07 and 1531.06 (under the latter statute, authority is granted to the Division of Wildlife)).

The bill declares that the Department of Natural Resources has exclusive authority to lease land that is owned by the state and administered by a state agency¹ for the purpose of the exploration for, development of, and production of oil or natural gas. The extraction of oil or natural gas pursuant to such a lease cannot unreasonably interfere with the primary use of the state land. In addition, the Department is prohibited from entering into a lease for the exploration for, development of, and production of oil or natural gas from under the bed of Lake Erie unless such leases are authorized by federal law. (R.C. 1501.50(B).) Correspondingly, the bill repeals the authority of other state agencies to enter into such leases and the authority of the Department of Natural Resources to do so only under specified laws (R.C. 123.01, 1505.07, 1531.06, 5119.40 (repealed), 5120.12 (repealed), and 5123.23 (repealed)).

Rules

Under the bill, the Director of Natural Resources must adopt rules in accordance with the Administrative Procedure Act that establish all of the following:

¹ The bill defines "state agency" to mean an organized body, office, or agency that is established by the laws of the state for the exercise of any function of state government (R.C. 1501.50(A)).

(1) Procedures for the submission and selection of competitive bids to conduct drilling for the purpose of the exploration for, development of, and production of oil or natural gas under the bill;

(2) Procedures and standards for establishing the terms and conditions of oil or gas leases entered into under the bill;

(3) Requirements applicable to drilling conducted in accordance with a lease entered into under the bill that are necessary to maintain the scenic, aesthetic, and environmental quality of land on which drilling takes place; and

(4) Any other procedures and requirements that the Director determines necessary to implement the bill. (R.C. 1501.50(C).)

Lease conditions regarding state and federal laws and regulations

A lease for the drilling for oil or gas that is entered into under the bill and rules adopted under it is required to be conditioned on the lessee's satisfying all applicable state and federal laws and regulations. The conditions must include a requirement that the lessee comply with Ohio's Oil and Gas Law and rules adopted under it. (R.C. 1501.50(D).)

Assignment of lease

The bill states that a lease that is entered into under the bill may be assigned by the lessee with the approval of the Director of Natural Resources (R.C. 1501.50(E)).

Streamlined permitting process for certain energy related facilities

The bill requires the Director of Environmental Protection together with the Director of Development, for the purpose of promoting the expansion of oil and gas production in this state, the development and production of other energy resources in this state, and the protection of the environment, to establish procedures and policies for the purpose of streamlining the permitting process for permits issued by the Environmental Protection Agency that are related to the siting or expansion of oil and gas refineries, coal gasification facilities, and other energy resource related facilities (R.C. 3745.50).

Definition of "air quality facility"

The Air Quality Development Authority Law defines "air quality facility" to include specified types of facilities, projects, and properties. One of the specified types of facilities is ethanol or other biofuel facilities, including any equipment used at the ethanol or other biofuel facility for the production of

ethanol or other biofuels. Another specified type of project included in the definition is any coal research and development project conducted under the Coal Research and Development Law.² The bill adds to the definition facilities or projects, in addition to the two types of facilities and projects discussed above, that will assist Ohio in achieving energy independence through the utilization of the state's resources such as facilities or projects for the development of solar, wind, natural gas, oil, and other energy resources. (R.C. 3706.01(G)(3), (6), and (9).)

Under the Air Quality Development Authority Law, the Ohio Air Quality Development Authority is authorized to acquire, construct, and operate air quality projects, which by definition are air quality facilities; to cause such air quality projects to be operated under a lease or other agreement with any person or governmental agency; to make loans and grants to governmental agencies and persons for the acquisition or construction of air quality facilities; and to issue air quality revenue bonds to pay the costs of those projects (R.C. 3706.03, not in the bill). Thus, by expanding the definition of "air quality facility," the bill makes the types of facilities and projects that it adds to the definition eligible for construction and operation by, or funding from, the Authority.

Energy Planning Task Force

The bill creates the Energy Planning Task Force that consists of the following members:

- (1) The Director of Natural Resources or the Director's designee;
- (2) The Director of Environmental Protection or the Director's designee;
- (3) The Director of Development or the Director's designee;
- (4) Two members of the Senate appointed by the President of the Senate, one from each party;

³"Coal research and development project" means any coal research and development, or any coal research and development facility, including undivided or other interests, acquired or to be acquired, constructed or to be constructed, or operating or to be operated by a person doing business in this state or by an educational or scientific institution located in this state with all or a part of the cost of the project being paid from a loan or grant from the Ohio Coal Development Office or a loan guaranteed by the Office under [the Coal Research and Development Law], including all buildings and facilities that the Office determines necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project (R.C. 1555.01(C), not in the bill).

(5) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one from each party; and

(6) The following members appointed jointly by the President of the Senate and the Speaker of the House of Representatives:

(a) A representative of Ohio's business community who represents businesses with fewer than 50 employees;

(b) A representative of Ohio's business community who represents businesses with 50 or more employees;

(c) A representative of large commercial energy users;

(d) A representative of a statewide environmental advocacy organization;

(e) A person with knowledge and expertise in the area of alternative energy; and

(f) A person with knowledge and expertise in the area of coal gasification. (Section 3(A).)

All appointments must be made to the Task Force not later than 30 days after the bill's effective date. At the first meeting of the Task Force, the members must select a chairperson and a vice-chairperson. Thereafter, the Task Force must meet on a regular basis as determined by the chairperson. Vacancies must be filled in the manner provided for original appointments. Members of the Task Force cannot receive compensation for serving on it. The bill requires the Department of Natural Resources to provide technical support to the Task Force. (Section 3(B).)

The Task Force must develop a state energy plan with the goal of maximizing access to and utilization of Ohio's energy resources for the purpose of facilitating Ohio's energy independence (Section 3(C)). It must present its state energy plan to the Governor and the General Assembly not later than 18 months after the bill's effective date. Upon submission of the plan, the Task Force ceases to exist. (Section 3(D).)

HISTORY

ACTION

DATE

Introduced
s0350-i-127.doc/kl

07-01-08

