



Ohio Legislative Service Commission

Bill Analysis

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Sen. Jones (by request)

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This analysis is arranged by state agency, beginning with the Department of Administrative Services and continuing in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item.

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DEPARTMENT OF ADMINISTRATIVE SERVICES (DAS)

Review of cogeneration in life-cycle cost analysis

- Requires, for state projects with an estimated construction cost exceeding \$50 million, a review of cogeneration as an energy source to be included in the life-cycle cost analysis provided to the Office of Energy Services.
- Defines "cogeneration" within the public works law as the simultaneous production of thermal energy and electricity for use primarily within a building or complex of buildings.



Conservation measures at state buildings

- Modifies the "energy conservation measure" definition under the energy conservation law for state buildings to include:
 - trigeneration systems;
 - systems that harvest solar, wind, water, biomass, bio-gas, or geothermal energy;
 - retro-commissioned or recommissioned energy-related systems; and
 - the consolidation, virtualization, and optimization of computer servers, data storage devices, or other information technology hardware and infrastructure.
- Modifies both the "energy conservation measure" and "water conservation measure" definitions under the energy and water conservation law for state buildings to include any energy or water conservation measure approved by, and implemented in consultation with, the Director of Administrative Services for property owned by state higher education institutions.
- Modifies the "water conservation measure" definition under the energy and water conservation laws for state buildings to include such a measure approved by the Director for property owned by the state.
- Allows the Director to contract with a water services company, architect, professional engineer, contractor, or other person experienced in the design of water conservation measures for a report that provides an analysis and recommendations pertaining to the implementation of water conservation measures at state buildings.
- Permits the Director to advertise by electronic means, in addition to the newspaper, the Director's intent to request proposals for implementing energy or water saving measures.
- Specifies that installment contracts for projects under the energy and water conservation law for state buildings are eligible for financing through the Ohio Air Quality Development Authority.
- Makes conforming changes between the energy and water conservation laws for state buildings and those for state higher education institutions.
- Requires the Department of Administrative Services and the Department of Transportation to analyze their motor vehicle fleets to determine whether it is beneficial to establish standards for vehicle replacement to increase the overall

efficiency of the state motor vehicle fleet and requires the departments to submit a joint report to legislative leaders and the Governor not later than September 1, 2012.

Review of cogeneration in life-cycle cost analysis

(R.C. 123.011)

The bill requires that, for state construction projects with an estimated cost exceeding \$50 million, the life-cycle cost analysis for the project must include a review of cogeneration as an energy source. Under the bill, "cogeneration" means the simultaneous production of thermal energy and electricity for use primarily within a building or complex of buildings. For construction projects at a state-funded facility, current law requires a life-cycle cost analysis computed or prepared by a qualified architect or engineer. Construction on the facility may only proceed upon the disclosure of the project's life-cycle costs to the Office of Energy Services within the Department of Administrative Services. The results of the analysis must be the primary consideration in building design selection.

Conservation measures at state buildings

(R.C. 156.01, 156.02, 156.03, and 156.04; R.C. 3345.62 to 3345.66, 3706.01, and 3706.04 (not in the bill))

Energy conservation measures

The bill modifies the definition of "energy conservation measure" within the conservation law for state buildings to include the following:

- Installation or modification of trigeneration systems that produce heat and cooling, as well as electricity, for use primarily within a building or complex of buildings;
- Installation or modification of systems that harvest renewable energy from solar, wind, water, biomass, bio-gas, or geothermal sources, for use primarily within a building or complex of buildings;
- Retro-commissioning or recommissioning energy-related systems to verify that they are installed and calibrated to optimize energy and operational performance within a building or complex of buildings; and

- Consolidation, virtualization, and optimization of computer servers, data storage devices, or other information technology hardware and infrastructure.

As added by the bill, energy conservation measures also may be any other modification, installation, or remodeling that has been approved as an energy conservation measure by the Director of Administrative Services for one or more buildings owned by a state institution of higher education and implemented in consultation with the Director. Currently, other energy conservation measures within the public building law are limited to any other modification, installation, or remodeling approved by the Director as an energy conservation measure for one or more buildings owned by the state. Under current law, energy conservation measures for all state higher education institutions are addressed within the conservation law for higher education.

Current law specifies that an energy conservation measure means an installation or installation modification in, or a remodeling of, an existing building in order to reduce energy consumption and operating costs.

Water conservation measures

Under the bill, the Director may approve any other modification, installation, or remodeling as a water conservation measure for one or more buildings or the surrounding grounds of the state or a state institution of higher education that implements the water conservation measure in consultation with the Director. Under current law, other water conservation measures are only those approved by a Board of Trustees of a state higher education institution for measures at that institution.

Current law defines "water conservation measure" as an installation or modification of an installation in, or a remodeling of, an existing building or the surrounding grounds in order to reduce water consumption.

Contract for reports of energy and water conservation measures

The bill permits the Director to contract with an energy or water services company, architect, professional engineer, contractor, or other person experienced in the design of energy or water conservation measures for an energy or water conservation measures report. The report must contain an analysis and recommendations pertaining to the implementation of energy or water conservation measures that result in energy, water, or wastewater costs savings, operating cost savings, or avoided capital costs for the institution.

Current law permits the Director to contract with an energy services company, contractor, architect, professional engineer, or other person experienced in energy conservation measure design and implementation for a report regarding only energy conservation. Current law does not permit such person or entity to report on water conservation measures. The report, under current law, also requires "analysis and recommendations pertaining to the implementation of energy conservation measures that would significantly reduce energy consumption and operating costs in any buildings owned by the state."

The bill removes the provision permitting the Director to contract with a water services company, architect, professional engineer, contractor, or other person experienced in water conservation measure design and implementation for an energy or water conservation report only upon the request of a Board of Trustees or managing authority of a state higher education institution. Current higher education law permits, not changed by the bill, a Board of Trustees to request energy and water conservation reports.

Electronic advertising for requests for proposals

The bill permits the Director to advertise, by electronic means, the intent to request proposals for a contract to implement energy or water saving measures. Advertising electronically must be done according to rules adopted by the Director. Under current law, if the Director seeks to enter into a contract to implement energy or water savings measures, the Director is subject to the public improvements law (R.C. Chapter 153.) unless the Director receives an exemption from the law from the Controlling Board. Current law requires that before entering into a contract upon receiving an exemption, the Director must advertise the intent to request proposals for the contract in a newspaper of general circulation in the county where the contract is to be performed.

Installment payment contract financing

The bill specifies that any installment payment contract entered into by the Director for the implementation of energy or water savings measures is eligible for financing through the Ohio Air Quality Development Authority (OAQDA). The OAQDA makes loans and grants to governmental agencies for the acquisition or construction of air quality projects by any such governmental agency, including projects that include any property, device, or equipment that promotes the reduction of emissions of air contaminants into the ambient air through improvements in the efficiency of energy utilization or energy conservation.

Conforming changes

Both the conservation law for state buildings and the conservation law for higher education include provisions for energy and water conservation measure definitions, conservation reports, and installment payment contracts. The bill removes from the conservation law for state buildings certain references to energy and water conservation measures for higher education (other than measures at a higher education institution that are approved by and implemented in consultation with the Director). The bill also makes other conforming changes so that the conservation law for state buildings more closely conforms to the conservation laws for higher education institutions.

Fleet vehicle replacement review

(Section 701.10)

The bill requires the Department of Administrative Services and the Department of Transportation to cooperatively analyze their respective motor vehicle fleets to determine whether it is beneficial to establish standards for vehicle replacement in order to increase the overall efficiency of the state motor vehicle fleet. Not later than September 1, 2012, the departments must produce a joint report with their findings and must deliver the report to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the Governor.

DEPARTMENT OF DEVELOPMENT (DEV)

Alternative Fuel Transportation Program

- Renames the "Alternative Fuel Transportation Grant Program" the "Alternative Fuel Transportation Program," permits loans as well as grants to be made under the Program, and permits the rules adopted to govern the Program to include fees, charges, interest rates, and payment schedules.

Advanced Energy Program

- Requires the Director of Budget and Management, as soon as possible after the effective date of this portion of the bill, to transfer any unexpended and unencumbered amounts in the Advanced Energy Research and Development Taxable Fund and the Advanced Energy Research and Development Fund to the Advanced Energy Fund for purposes of the Advanced Energy Program.

- Specifies that the transferred funds are not required to be distributed to utilities in amounts proportionate to the territorial requirements for advanced energy project or economic development assistance under the Advanced Energy Program.
- Requires that any repayment of loans made from money in the Advanced Energy Research and Development Taxable Fund be credited to the Alternative Fuel Transportation Fund rather than the Facilities Establishment Fund, as is required under current law.
- Requires the Director of Budget and Management, as soon as possible after the effective date of this portion of the bill, to transfer to the Alternative Fuel Transportation Fund any unexpended and unencumbered amounts received from the repayment of those loans that are *not* in the Facilities Establishment Fund.
- Permits the Director of Development to adopt rules prescribing fees, charges, interest rates, payment schedules, and local match requirements of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives awarded under the Advanced Energy Program.

Alternative Fuel Transportation Program

(R.C. 122.075, 125.836, and 3706.27)

The bill renames the "Alternative Fuel Transportation Grant Program," which is administered by the Director of Development, the "Alternative Fuel Transportation Program" and permits loans as well as grants to be made under the Program. In addition, the "Alternative Fuel Transportation Grant Fund" is renamed the "Alternative Fuel Transportation Fund." The bill also permits the rules adopted to govern the Program to include fees, charges, interest rates, and payment schedules.

In addition, the bill provides that an applicant for a grant or loan that sells motor vehicle fuel at retail must agree that if the applicant receives funding, the applicant will report to the Director the gallon or gallon equivalent amounts of alternative fuel the applicant sells at retail in this state for a period of three years after the project is completed, as opposed to three years after the grant is awarded, as provided in existing law.

Advanced Energy Program

Transfer of funds to the Advanced Energy Fund

(R.C. 4928.61 and 4928.62; Section 512.10(B))

The bill requires the Director of Budget and Management, as soon as possible after the effective date of this portion of the bill, to transfer any unexpended and unencumbered amounts in the Advanced Energy Research and Development Taxable Fund and the Advanced Energy Research and Development Fund to the Advanced Energy Fund for purposes of the Advanced Energy Program. The bill also specifies that the transferred funds are not subject to the current law requirement that Advanced Energy Fund money be distributed to electric distribution utilities, municipal electric utilities, and electric cooperatives in amounts proportionate to the territorial requirements for advanced energy project or economic development assistance under the Advanced Energy Program.

Advanced Energy Program rules

(R.C. 4928.62 and 4928.01(A)(25))

The bill permits the Director of Development to adopt rules specifically prescribing fees, charges, interest rates, payment schedules, local match requirements of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives awarded under the existing Advanced Energy Program. Current law permits the Director to adopt rules prescribing general terms and conditions of such grants, contracts, loans, agreements, linked deposits, and incentives.

Background

Current law authorizes the Advanced Energy Research and Development Taxable Fund to provide loans for advanced energy projects and the Advanced Energy Research and Development Fund to provide grants for those projects. The loans and grants are funded by the proceeds of obligations issued by the Treasurer of State upon certification of the Ohio Air Quality Development Authority. The Advanced Energy Program is administered by the Director of Development, who may authorize the use of moneys in the Advanced Energy Fund for financial, technical, and related assistance for advanced energy projects in this state or for economic development assistance. An advanced energy project means any technology, product, activity, or management practice or strategy that facilitates the generation or use of electricity or energy and that reduces or supports the reduction of energy consumption or supports the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users.

Transfer of funds to the Alternative Fuel Transportation Fund

(R.C. 122.075(E) and 3706.27(B)(2); Section 512.10(A))

As mentioned above, money in the Advanced Energy Research and Development Taxable Fund is used to provide loans for advanced energy projects. When these loans are repaid, the money is credited to the Facilities Establishment Fund. Under the bill, the money is instead credited to the Alternative Fuel Transportation Fund (see "**Alternative Fuel Transportation Program**," above). Additionally, as soon as possible after the effective date of this portion of the bill, the Director of Budget and Management must transfer to the Alternative Fuel Transportation Fund any unexpended and unencumbered amounts received from the repayment of those loans that are *not* in the Facilities Establishment Fund.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Water pollution controls: administration of federal Section 404 program

- Authorizes the Director of Environmental Protection to apply for approval from the U.S. Environmental Protection Agency (U.S. EPA) to assume responsibility for administering the Section 404 permitting program for the discharge of dredged or fill material into navigable waters.
- Requires the Director, if granted approval, to administer the program consistent with and in the manner required by the Federal Water Pollution Control Act.
- Requires the Director to adopt rules that are necessary to obtain approval to administer the Section 404 program and to administer the program upon receiving approval to do so.
- Requires the rules to address permit requirements, record keeping and reporting, public notice and hearings, enforcement, and other specified topics.

Evaluation of wastewater treatment technologies; study of power generation regulation

- Requires the Director of Environmental Protection, in coordination with the Department of Natural Resources, the U.S. EPA, and other entities as determined appropriate by the Director, to coordinate the evaluation of emerging wastewater treatment and recycling technologies that may reduce reliance on underground injection wells and assist in the advancement of industry in Ohio, including the exploration and production of oil and gas.

- Authorizes the Director, as part of the evaluation, to initiate, participate in, oversee, or consult on pilot projects regarding wastewater treatment and recycling technologies.
- Requires the Director, in coordination with the Public Utilities Commission of Ohio, the U.S. EPA, and other entities as determined appropriate by the Director, to conduct a study that identifies current and future environmental regulatory requirements and how those requirements may impact current and future power generation and transmission in Ohio.

Water pollution control: administration of federal Section 404 program

(R.C. 6111.32)

The bill authorizes the Director of Environmental Protection to apply for approval from the U.S. Environmental Protection Agency (U.S. EPA), in accordance with the Federal Water Pollution Control Act, for Ohio to assume responsibility for administering the Section 404 permitting program for the discharge of dredged or fill material into navigable waters. The program is established under that Act. Upon approval by the U.S. EPA, the Director must administer the program consistent with and in the manner required by the Act.

Under the bill, the Director may adopt rules in accordance with the Administrative Procedure Act that are necessary to obtain approval to administer the program and to administer the program upon receiving approval. The rules must govern or establish all of the following, without limitation:

(1) The issuance of permits. The rules related to the issuance of permits must do all of the following:

--Require compliance with any applicable requirements of the Federal Water Pollution Control Act, including, but not limited to, applicable guidelines established under that Act;

--Require a permit to be issued for a fixed term not to exceed five years; and

--Specify that a permit may be terminated or modified for cause, including a violation of any condition of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts related to the permit, and a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(2) Requirements that ensure compliance with applicable provisions of the Federal Water Pollution Control Act governing records or reports, including requirements for the inspection of, monitoring of, and right to enter property that is the subject of a Section 404 permit and requirements governing the content and submission of reports;

(3) The provision of notice regarding the receipt of an application for a Section 404 permit to the public, any other state with waters that may be affected by the issuance of the permit, and the Administrator of the U.S. Environmental Protection Agency;

(4) The opportunity for a public hearing regarding an application for a Section 404 permit to be conducted before issuance or denial of the permit;

(5) Requirements that authorize any other state with waters that may be affected by the issuance of a Section 404 permit by the Director to submit written recommendations to the Director and the Administrator with respect to the permit application. The rules must require the Director to notify a state that has submitted recommendations if any or all of the recommendations are not accepted by the Director and the reasons that the recommendations are not accepted. The rules must require the notice to be in writing and a copy of the notice to be provided to the Administrator.

(6) Requirements that the Director ensure that a Section 404 permit will not be issued if anchorage and navigation of any navigable waters would be substantially impaired. The rules must require the Director to do so based on the judgment of the Secretary of the U.S. Army after consultation with the Secretary of the Department of the federal government under which the U.S. Coast Guard is operating at the time that the permit application is submitted.

(7) Enforcement with regard to a violation of the terms of a permit or a violation of the permit program. The rules must establish requirements governing abatements of violations, civil and criminal penalties, and other means of enforcement.

(8) Coordination with federal and state water-related planning and review processes.

The bill declares that the above provisions are intended solely to authorize the Environmental Protection Agency to assume the role of the U.S. Army Corps of Engineers in the regulation of the navigable waters of Ohio. Nothing in the bill is to be construed as a preemption, modification, or amendment of applicable provisions of the Federal Water Pollution Control Act. The bill declares that it is not to be enforced as an expansion of the laws, regulations, rules, or regulatory authority of the federal

government. Any rule, policy, or permit adopted or issued by the Director under the bill must not conflict with existing federal law and must not exceed the limitations placed by Congress on the U.S. Army Corps of Engineers.

Evaluation of wastewater treatment technologies; study of power generation regulation

(Section 737.10)

The bill requires the Director of Environmental Protection, in coordination with the Department of Natural Resources, the U.S. EPA, and other entities as determined appropriate by the Director, to coordinate the evaluation of emerging wastewater treatment and recycling technologies that may reduce reliance on underground injection wells and may assist in the advancement of industry in Ohio, including the exploration and production of oil and gas. As part of the evaluation, the Director may initiate, participate in, oversee, or consult on pilot projects regarding wastewater treatment and recycling technologies.

In addition, the bill requires the Director, in coordination with the Public Utilities Commission of Ohio, the U.S. EPA, and other entities as determined appropriate by the Director, to conduct a study that identifies current and future environmental regulatory requirements and how those requirements may impact current and future power generation and transmission in Ohio.

DEPARTMENT OF NATURAL RESOURCES (DNR)

Oil and gas injection well disposal fees

- Increases the oil and gas injection well disposal fees as follows:
 - 10¢, rather than 5¢ as in current law, per barrel of each substance that is to be injected in a well when the substance is produced within the Division of Oil and Gas Resources Management regulatory district in which the well is located or within an adjoining district; and
 - \$1, rather than 20¢ as in current law, per barrel of each substance that is to be injected in a well when the substance is not produced within such a regulatory district in which the well is located or within an adjoining district.
- Requires 10% of the money collected from the fees to be credited to the Geological Mapping Fund and 90% to be credited to the Oil and Gas Well Fund rather than all of the money credited to the Oil and Gas Well Fund as in current law.

- Relocates to the statute governing injection wells the levying of those fees from the statute governing wells for the exploration for or extraction of minerals or energy other than oil or natural gas as in current law.

Oil and gas regulatory cost recovery assessment

- Revises the methodology for the calculation of the existing oil and gas regulatory cost recovery assessment by imposing the assessment solely on the basis of the amount of the severance tax levied on each severer for all of the owner's wells under the Severance Tax Law rather than on a formula established in current law.
- Applies the oil and gas regulatory cost recovery assessment only if the amount of the severance tax levied on a severer for all of the owner's wells under the Severance Tax Law is less than the sum of \$15 for each well owned by the owner.
- Retains the \$60 assessment for an exempt domestic well.

Application requirements for oil and gas drilling permit

- Requires an applicant for an oil and gas drilling permit to include with the submission of the application an additional nonrefundable fee of \$15,000 if the application is for a permit that requires unit operation of a pool, which by operation of law is credited to the Oil and Gas Well Fund.
- Revises the application requirements for an oil and gas drilling permit by requiring an applicant to include with the application the following additional pieces of information:

--For an application for a permit for a horizontal well, a copy of an agreement between the applicant and the legislative authority of each applicable local government concerning maintenance of the roads, streets, and highways in the political subdivision that will be used for access to and egress from a well site or, if an agreement cannot be executed, an affidavit attesting that the applicant attempted to enter such an agreement in good faith;

--An identification of each source of ground water and surface water that will be used in the production operations of the well and of the applicable watershed and the estimated rate and volume of the water withdrawal for the production operations;

--For an application to drill a new well that is not a horizontal well within an urbanized area, the results of sampling of all water wells within 300 feet of the

proposed well prior to commencement of drilling, which distance may be revised by the Chief of the Division of Oil and Gas Resources Management; and

--For an application to drill a new horizontal well, the results of sampling of all water wells within 1,500 feet of the proposed well prior to commencement of drilling, which distance may be revised by the Chief.

- Defines "horizontal well" for purposes of the Oil and Gas Law.

Site review prior to permit issuance

- Requires the Division of Oil and Gas Resources Management to conduct a site review prior to issuance of a permit to drill a proposed horizontal well.

Notification prior to well pad construction

- Requires a permittee to notify an inspector from the Division within a specified time period prior to the commencement of well pad construction.
- Defines "well pad" for purposes of the Oil and Gas Law.

Insurance coverage for horizontal wells

- Requires an owner of a horizontal well to obtain liability insurance coverage of at least \$5 million to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in Ohio.
- Requires the insurance policy to include a reasonable level of coverage available for an environmental endorsement to cover any pollution and contamination occurring as a result of the drilling, operation, or plugging of the owner's wells.

Rules governing horizontal wells

- Requires rules adopted by the Chief to include an identification of the subjects that the Chief must address when attaching terms and conditions to a permit with respect to a horizontal well and production facilities associated with such a well, and requires the subjects to include protection of the amount of water used and the source or sources of the water.

Horizontal well statement of production

- Requires the owner of a horizontal well to file with the Division a statement of production of oil, dry gas, wet gas, condensate, and brine on or before the 15th day of the month following the close of each calendar quarter for the preceding calendar quarter.

- Revises the definitions of "condensate" and "gas," and defines "dry gas" and "wet gas" for purposes of the Oil and Gas Law.

Listing of fluids used in wells

- Requires the owner of a well to file with the Chief a list of each chemical compound and its corresponding amount, not including cement and its constituents, that was used during the preceding year in the servicing, operating, and plugging, as applicable, of the well.
- Requires the well owner to identify the chemical class of each proprietary component that was so used and provide the proportion of the component to the amount of the fluid that was used.
- Requires the Chief to post on the Division's web site each such list of chemical compounds that the Chief receives.
- Authorizes the Chief to inspect at any time the records concerning any chemical compound that is used in the production operations of a well.

Well completion record

- Requires a well completion record to include, if applicable, the type and volume of the fluid, not including cement and its constituents, used to drill the well.
- Requires an owner to identify in the well completion record the chemical class of each proprietary component in the fluid used for the drilling or stimulation of the well and provide the proportion of the component to the amount of the fluid that was used.

Provision of fluid lists to emergency responders

- Requires the owner of a well, upon request, to provide to emergency responders the exact chemical composition, including the identification of each proprietary component, of each fluid used in the drilling, stimulation, servicing, operating, and plugging of the well.

Rules governing oil and gas injection wells

- Authorizes the Chief to adopt rules in accordance with the Administrative Procedure Act that do both of the following:

--Establish the total depth of an injection well; and

--Establish procedures and requirements in accordance with which the Chief may address threats to public health and safety.

- Authorizes the Chief to require, by order, a person to whom an injection well permit has been issued prior to the bill's effective date to comply with any or all of the rules that apply to an applicant for or holder of an injection well permit.

Requirements prior to disposal of brine and other wastes

- Prohibits generally a person to whom an injection well permit has been issued from injecting waste substances in the well unless the person first receives from the registered brine transporter that is transporting the waste substances a list of each chemical compound that was used in the drilling, stimulating, servicing, operating, or plugging of the well from which the brine or other waste substances originated.
- Requires the owner of an injection well to maintain the lists provided by brine transporters and make them available for inspection by the Chief and to submit them annually to the Chief, and requires registered transporters to provide the lists to the Chief.
- Allows such an injection well owner to inject waste substances without such a list from the registered brine transporter if the owner of the well from which the waste substances originated has submitted the well completion record and the annual list of chemical compounds used as required by current law and the bill.

Registration requirements for brine transporters

- Revises the information that must be included with an application submitted by a brine transporter for a registration certificate by requiring the application to include a list that identifies each vehicle and each trailer or container that will be used in the transportation of brine.

Electronic transponders on vehicles used to transport brine

- Prohibits the issuance or renewal of a registration certificate to a brine transporter unless the business entity applying for the registration or renewal installs an electronic transponder on each vehicle that will be used to transport brine.
- Requires an electronic transponder to allow the Chief to electronically verify the registration status of the transporter and the origin and disposition of the fluid being transported for disposal.

- Allows the Chief to waive the transponder requirements if the same business entity owns and operates the facility that will receive the brine for disposal and the well that produced it.

Authority to establish procedures for submitting brine transporter daily log information

- Allows the Chief, by rule, to establish procedures for the submission to the Chief of the information that is required to be included in the daily log that each registered transporter must keep on each vehicle used to transport brine.

Nonapplicability of Administrative Procedure Act regarding drilling permits

- States that an order to issue, deny, or modify a permit to drill a new well, drill an existing well deeper, reopen a well, or convert a well is not subject to the Administrative Procedure Act.

Cooperative agreements

- Authorizes the Chief to enter into cooperative agreements with other state agencies to assist in the enforcement of the Oil and Gas Law and to ensure public health and safety.

Fresh water impoundments

- Authorizes the Chief to specify requirements in rules governing the location and construction of fresh water impoundments that are part of an oil and gas production operation.

Material and substantial violation

- Revises the definition of "material and substantial violation" for purposes of the Oil and Gas Law.

Renewal of surface or in-stream mining permit

- Requires the submission of a notice of intent to renew in order to initiate the surface or in-stream mining permit renewal process under the Industrial Minerals Mining Law rather than requiring the submission of a complete application to initiate the process.
- Requires the submission of a complete renewal application package subsequent to the submission of a notice of intent to renew, and requires the package to include the information required to be submitted in applications for renewal under current law.

- Establishes new time periods for submitting a complete renewal application package and for correcting deficiencies in a renewal application package.
- Allows the Chief of the Division of Mineral Resources Management to authorize a permit holder instead to file updated information through a surface mining permit modification process for a renewal requiring minor or minimal updates.

In-stream mining permit requirements

- With respect to an application for an in-stream mining permit, specifies that a hydraulic evaluation must be submitted only if required by the Division of Mineral Resources Management.
- Authorizes the Chief of the Division of Mineral Resources Management to allow an applicant for an in-stream mining permit to deviate from the statutory requirements pertaining to hydraulic evaluations.
- Extends from two years to five years the period of validity of an in-stream mining permit.
- With respect to the annual report that is required regarding an in-stream mining operation, requires the applicable permittee to update the map included with the report only if there have been specified changes since the submission of the most recent approved map.

Exemption for conservancy districts

- Exempts from the Industrial Minerals Mining Law certain flood control activities conducted by or on behalf of a conservancy district that are exempt from permitting requirements under section 10 of the federal Rivers and Harbors Act.

Oil and gas injection well disposal fees

(R.C. 1509.22, 1505.09, 1509.02, and 1509.221; Section 715.10)

The bill increases the injection well disposal fees that are levied under continuing law on the owner of an oil and gas injection well as follows:

(1) 10¢, rather than 5¢ as in current law, per barrel of each substance that is to be injected in a well when the substance is produced within the Division of Oil and Gas Resources Management regulatory district in which the well is located or within an adjoining district; and

(2) \$1, rather than 20¢ as in current law, per barrel of each substance that is to be injected in a well when the substance is not produced within such a regulatory district in which the well is located or within an adjoining district.

The bill then requires 10% of the money collected from the fees to be credited to the Geological Mapping Fund and 90% to be credited to the Oil and Gas Well Fund. Under current law, all of the money derived from fees for the injection of brine and other wastes must be credited to the Oil and Gas Well Fund.

Under continuing law, the Chief of the Division of Geological Survey in the Department of Natural Resources oversees the Geological Mapping Fund. The Fund is used for the purposes of performing the necessary field, laboratory, and administrative tasks to map and make public reports on the geology, geologic hazards, and energy and mineral resources of Ohio. The Oil and Gas Well Fund is generally used by the Division of Oil and Gas Resources Management for purposes of administering the Oil and Gas Law and for other stated purposes.

The bill also relocates the levying of those fees from the statute governing wells for the exploration for or extraction of minerals or energy other than oil or natural gas as in current law to the statute governing injection wells.

Oil and gas regulatory cost recovery assessment

(R.C. 1509.50)

The bill revises the methodology for the calculation of the existing oil and gas regulatory cost recovery assessment by stating that, except for an exempt domestic well, the oil and gas regulatory cost recovery assessment applies if the amount of the severance tax levied on each severer for all of the owner's wells is less than the sum of \$15 for each well owned by the owner. If the assessment applies, the amount of the assessment is the sum of \$15 for each well owned by the owner less the amount of the tax levied on each severer for all of the owner's wells. The bill requires the assessment to be calculated on a quarterly basis.

Current law also requires the oil and gas regulatory cost recovery assessment to be calculated on a quarterly basis, but requires the assessment to be one of the following:

(1) If the sum of 10¢ per barrel of oil for all of the owner's wells, ½¢ per 1,000 cubic feet of natural gas for all of the owner's wells, and the amount of the severance tax levied on each severer for all of the owner's wells is greater than the sum of \$15 for each well owned by the owner, the amount of the assessment is the sum of 10¢ per barrel of

oil for all of the owner's wells and ½¢ per 1,000 cubic feet of natural gas for all of the owner's wells; or

(2) If the sum of 10¢ per barrel of oil for all of the owner's wells, ½¢ per 1,000 cubic feet of natural gas for all of the owner's wells, and the amount of the severance tax levied on each severer for all of the owner's wells is less than the sum of \$15 for each well owned by the owner, the amount of the assessment is the sum of \$15 for each well owned by the owner less the amount of the severance tax levied on each severer.

The bill retains the annual \$60 oil and gas regulatory cost recovery assessment for a well that becomes an exempt domestic well on and after June 30, 2010.

Application requirements for oil and gas drilling permit

(R.C. 1509.06, 1509.01, and 1509.02)

Nonrefundable application fee

The bill requires an applicant for an oil and gas drilling permit to include with the submission of the application an additional nonrefundable fee of \$15,000 if the application is for a permit that requires unit operation of a pool. Through the operation of law, the fee is credited to the Oil and Gas Well Fund, which is generally used by the Division of Oil and Gas Resources Management in the Department of Natural Resources for purposes of administering the Oil and Gas Law. Current law requires an applicant for such a permit to include with the application the following nonrefundable fees:

(1) \$500 for a permit to conduct activities in a township with a population less than 10,000;

(2) \$750 for a permit to conduct activities in a township with a population between 10,000 and 14,999;

(3) \$1,000 for a permit to conduct activities in a township with a population of 15,000 or more or in a municipal corporation; and

(4) An additional \$5,000 if the application is for a permit that requires mandatory pooling.

Under current law, all nonrefundable permit application fees must be credited to the Oil and Gas Well Fund.

Additional information required with application

The bill requires an applicant for an oil and gas drilling permit to include with the application the following additional information:

(1) For an application for a permit for a horizontal well, a copy of an agreement that contains reasonable terms regarding the maintenance of the roads, streets, and highways that will be used for access to and egress from the well site between the applicant and the board of county commissioners of each county, and the board of township trustees of each township and the legislative authority of each municipal corporation, as applicable, in which any such road, street, or highway is located. Under the bill, a horizontal well is a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position and the well is stimulated. The bill states that if an agreement cannot be executed, the applicant may include with the application an affidavit on a form prescribed by the Chief of the Division of Oil and Gas Resources Management attesting that the applicant is willing and attempted in good faith to enter into such an agreement with the applicable board of county commissioners, board of township trustees, or legislative authority of the municipal corporation, but that no agreement was executed. Current law does not require such an agreement or affidavit, but does require a permit application to include a description by name or number of the county, township, and municipal corporation roads, streets, and highways that the applicant anticipates will be used for access to and egress from the well site.

(2) An identification of each source of ground water and surface water that will be used in the production operations of the well. The bill requires the identification of each source of water to indicate if the water will be withdrawn from the Lake Erie watershed or the Ohio River watershed. In addition, the applicant must provide the estimated rate and volume of the water withdrawal for the production operations. The bill requires an applicant or a permittee, as applicable, to submit to the Chief an update if any of the information changes.

(3) Except as discussed in item (4), below, for an application for a permit to drill a new well within an urbanized area, the results of sampling of all water wells within 300 feet of the proposed well prior to commencement of drilling. Under current law, an urbanized area is an area where a well or production facilities of a well are located within a municipal corporation or within a township that has an unincorporated population of more than 5,000 in the most recent federal decennial census prior to the issuance of the permit for the well or production facilities. The bill requires the sampling to be conducted in accordance with the guidelines established in "Best Management Practices For Pre-drilling Water Sampling," April 30, 2005. The Division must furnish those guidelines upon request and must make them available on the



Division's web site. The Chief may revise the distance of 300 feet for purposes of pre-drilling water sampling if the Chief determines that such a revision is necessary to protect a water supply or if the Chief determines that conditions at the proposed well site warrant such a revision.

(4) For an application for a permit to drill a new horizontal well, the results of sampling of all water wells within 1,500 feet of the proposed horizontal well prior to commencement of drilling. The sampling must be conducted in accordance with the guidelines established in "Best Management Practices For Pre-drilling Water Sampling," April 30, 2005. The Division must furnish those guidelines upon request and must make them available on the Division's web site. The Chief may revise the distance of 1,500 feet for purposes of pre-drilling water sampling if the Chief determines that such a revision is necessary to protect a water supply or if the Chief determines that conditions at the proposed well site warrant such a revision.

Under continuing law, an application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply must contain specified information, including: (1) the name and address of the owner (the applicant), (2) the geological formation to be used and the proposed total depth of the well, (3) the type of drilling equipment to be used, (4) a plan for restoration of the land disturbed by drilling operations, and (5) other relevant information that the Chief prescribes by rule.

Site review prior to permit issuance

(R.C. 1509.06)

The bill requires the Division to conduct a site review prior to the issuance of a permit to drill a proposed horizontal well. Current law requires a site review prior to the issuance of permit to drill a proposed well that is to be located in an urbanized area. The purpose of the site review is to identify and evaluate any site-specific terms and conditions that may be attached to the permit. The terms and conditions that are attached to the permit must include the establishment of fencing, screening, and landscaping requirements for the surface facilities of the proposed well, including a tank battery of the well.

Notification prior to well pad construction

(R.C. 1509.06 and 1509.01)

The bill requires a permittee or a permittee's authorized representative to notify an inspector from the Division at least 24 hours, or another time period agreed to by the Chief's authorized representative, prior to the commencement of well pad construction.

Under the bill, a well pad is the area that is cleared or prepared for the drilling of a well. Current law requires such notice to be provided at least 24 hours prior to the commencement of drilling, reopening, converting, well stimulation, or plugback operations.

Insurance coverage for horizontal wells

(R.C. 1509.07)

The bill revises requirements in current law governing insurance coverage for oil and gas well owners by requiring the owner of a horizontal well to obtain liability insurance coverage from a company authorized to do business in Ohio in an amount of not less than \$5 million bodily injury coverage and property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in Ohio. The insurance policy must include a reasonable level of coverage available for an environmental endorsement covering any pollution and contamination occurring as a result of the drilling, operation, or plugging of the owner's wells. Additionally, an owner must maintain the coverage until all the owner's wells are plugged and abandoned or are transferred to an owner who has obtained the insurance coverage required by the bill and who is not under a notice of material and substantial violation or under a suspension order.

Under the bill, existing law continues to apply to other well owners. Currently, an owner of any well, except an exempt Mississippian well or an exempt domestic well, must obtain liability insurance coverage from a company authorized to do business in Ohio in an amount of not less than \$1 million bodily injury coverage and property damage coverage to pay damages for injury to persons or damage to property caused by the drilling, operation, or plugging of all the owner's wells in Ohio. However, if any well is located within an urbanized area, the owner must obtain liability insurance coverage in an amount of not less than \$3 million for such coverage. An owner must maintain the coverage as discussed above.

Rules governing horizontal wells

(R.C. 1509.03)

The bill requires rules adopted by the Chief under the Oil and Gas Law to include an identification of the subjects that the Chief must address when attaching terms and conditions to a permit with respect to a horizontal well and production facilities associated with a horizontal well. The bill then applies to such a permit the subjects established in continuing law that the Chief must address when attaching terms and conditions to a permit for a well and production facilities of a well that are located in an urbanized area. Those subjects include all of the following: (1) safety

concerning the drilling or operation of a well, (2) protection of the public and private water supply, (3) fencing and screening of surface facilities of a well, (4) containment and disposal of drilling and production wastes, (5) construction of access roads for purposes of the drilling and operation of a well, and (6) noise mitigation for purposes of the drilling of a well and the operation of a well, not including safety and maintenance operations. In addition, the bill requires item (2), above, to include protection of the amount of water used and the source or sources of the water.

Horizontal well statement of production

(R.C. 1509.11 and 1509.01)

The bill requires the owner of a horizontal well that is producing or capable of producing to file with the Chief a statement of production of oil, dry gas, wet gas, condensate, and brine on or before the 15th day of the month following the close of each calendar quarter for the preceding calendar quarter. The bill defines "dry gas" to mean all natural gas that contains no appreciable quantity of dissolved liquid hydrocarbon. In addition, the bill defines "wet gas" to mean natural gas that contains ethane, propane, butane, or other hydrocarbons or any combination of them. Finally, the bill revises the definition of "condensate" to mean liquid hydrocarbons recovered at the surface that were originally in the gaseous phase in the reservoir rather than liquid hydrocarbons that were originally in the gaseous phase in the reservoir as in current law. An owner that has more than 100 horizontal wells must submit the statement of production electronically in a format that is approved by the Chief. The Chief must include on the form, at a minimum, a request for the submittal of the information that a person who is regulated under the Oil and Gas Law is required to submit under the federal Emergency Planning and Community Right-To-Know Act and regulations adopted under it and that the Division does not obtain through other reporting mechanisms.

The bill exempts horizontal wells from the statement of production requirements in current law. Under those requirements, the owner of any well producing or capable of producing oil or gas must file with the Chief a statement of production of oil, gas, and brine on or before March 31 for the preceding calendar year in a form that the Chief prescribes. The bill revises the definition of "gas" to mean wet gas and dry gas, rather than all natural gas and all other fluid hydrocarbons that are not oil, including condensate as in current law. The remainder of the requirements are identical to those established by the bill for horizontal wells.

Listing of fluids used in wells

(R.C. 1509.10)

The bill requires the owner of a well to file with the Chief a list of each chemical compound and its corresponding amount, not including cement and its constituents, that was used during the preceding year in the servicing, operating, and plugging of the well in a form that the Chief prescribes. For each proprietary component that was so used, the owner must identify the chemical class to which the component belongs and provide the proportion of the component to the amount of the fluid in which it was used. The list must be submitted on or before June 30 each year. The bill requires an owner that has more than 100 wells to submit the lists electronically in a format that is approved by the Chief. The Chief must post on the Division's web site each list received. The bill authorizes the Chief to inspect at any time the records concerning any chemical compound that is used in the production operations of a well.

Finally, the bill requires the Chief to obtain a copy of the material safety data sheet for each material that is required to be so listed if the Division does not have a material safety data sheet for that material.

Well completion record

(R.C. 1509.10)

The bill requires a well completion record to include, if applicable, the type and volume of fluid, not including cement and its constituents, used to drill the well. For each proprietary component in the fluid, the owner must identify the chemical class to which the component belongs and provide the proportion of the component to the amount of the fluid in which it was used.

The bill also requires the owner to identify in the well completion record the chemical class of each proprietary component used in the well stimulation fluids that are required to be listed on the well completion under current law. The owner must provide the proportion of the component to the amount of the fluid in which it was used. Finally, the bill excludes cement and its constituents from the required designation in the well completion record of the fluids used in the stimulation of the well.

Current law requires any person drilling in the state, within 60 days after the completion of drilling operations to the proposed total depth or after a determination that a well is a dry or lost hole, to file with the Division all wireline electric logs and an accurate well completion record. The well completion record must designate information such as the following: (1) the purpose for which the well was drilled, (2)

the character, depth, and thickness of geological units encountered, (3) the dates that drilling was commenced and completed, (4) the lengths and sizes of casing and tubing used and recovered and data related to cementing, (5) the number of casing perforations and intervals of perforations, and (6) if applicable, the type and volume of fluid used to stimulate the well.

The bill requires the Chief to obtain a copy of the material safety data sheet for each material that is required to be designated in the well completion record regarding drilling of the well if the Division does not have a material safety data sheet for that material. In addition, the bill retains current law that requires the Chief to obtain such sheets for each material that is listed for the stimulation of a well. Finally, the bill requires the Chief to post the material safety data sheets pertaining to drilling fluids on the Division's web site in addition to the material safety data sheets pertaining to stimulation fluids that are required under continuing law.

Provision of fluid lists to emergency responders

(R.C. 1509.10)

The bill requires the owner of a well, upon request, to provide to emergency responders the exact chemical composition, including the identification of each proprietary component, of each fluid used in the drilling, stimulation, servicing, operating and plugging of the well.

Rules governing oil and gas injection wells

(R.C. 1509.22)

The bill authorizes the Chief to adopt rules in accordance with the Administrative Procedure Act that do both of the following: (1) establish the total depth of a well for which an oil and gas injection well permit has been applied for or issued, and (2) establish requirements and procedures in accordance with which the Chief may address threats to public health and safety. Current law requires the Chief to adopt rules regarding the injection into wells of brine and other waste substances associated with oil or gas drilling, exploration, or production. The rules must include provisions regarding all of the following: (1) applications for oil and gas injection well permits, (2) entry to conduct inspections and to examine and copy records to ascertain compliance with statutes, rules, orders, and terms and conditions of permits concerning oil and gas injection wells, (3) the provision and maintenance of information through monitoring, recordkeeping, and reporting, and (4) any other provisions in furtherance of the goals of the statute concerning oil and gas injection wells and the federal Safe Drinking Water Act. In addition, continuing law permits the Chief to adopt rules

authorizing tests to evaluate if fluids and carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure.

The bill authorizes the Chief to require, by order, a person to whom an injection well permit has been issued prior to the bill's effective date to comply with any or all of the rules discussed above that apply to an applicant for or holder of an injection well permit.

Requirements prior to disposal of brine and other wastes

(R.C. 1509.22 and 1509.222)

Except as discussed below, the bill prohibits the owner of an injection well who has been issued an oil and gas injection well permit from injecting brine or other waste substances into the well unless the owner first receives from the registered transporter of the brine or other waste substances a list of each chemical compound that was used in the drilling, stimulating, servicing, operating, or plugging of the well from which the brine or other waste substances originated. The owner of the well must maintain the list and make it available for inspection by the Chief at all times. In addition, the owner annually must submit to the Chief all lists received in a form prescribed by the Chief. Finally, the bill requires a transporter to provide to the Chief the lists that the transporter must provide to the owner of the injection well.

The bill states that if the owner of the well from which the brine or other waste substances originated has submitted to the Division the well completion record and the annual list of chemical compounds used (see above) and has so notified the owner of the injection well into which the brine or other waste substances will be injected, the owner of the injection well may inject in the injection well brine or other waste substances from that well without first receiving from the transporter of the brine or other waste substances the information that is required by the bill as discussed above.

Registration requirements for brine transporters

(R.C. 1509.222; R.C. 1509.225 (not in the bill))

The bill revises the information that must be included with an application submitted by a brine transporter for a registration certificate by requiring the application to include both of the following: (1) a list that identifies each vehicle that will be used in the transportation of brine, and (2) a list that identifies each trailer or container that will be used in the transportation of brine. Continuing law establishes the minimum information that must be included in the application for a registration certificate, which includes all of the following: (1) a plan for disposal that provides for compliance with the Oil and Gas Law and rules adopted under it, (2) a \$15,000 surety

bond to provide compensation for damage and injury resulting from transporters' violations of that Law, rules adopted under it, and terms and conditions of the registration certificate, and (3) a certificate certifying that the applicant has a liability insurance policy of not less than \$300,000 bodily injury coverage and \$300,000 property damage coverage for injury to persons or property caused by the collecting, handling, transportation, or disposal of brine.

Electronic transponders on vehicles used to transport brine

(R.C. 1509.223)

The bill prohibits the issuance of a registration certificate or renewal of a registration certificate to a brine transporter unless the business entity applying for the registration certification or renewal installs an electronic transponder on each vehicle that will be used to transport brine. The electronic transponder must be of a type that is approved by the Chief and must allow the Chief to electronically verify the registration status of the transporter and the origin and disposition of the fluid being transported for disposal. However, the bill authorizes the Chief to waive those requirements if the same business entity owns and operates both the facility that will receive the brine for disposal and the well that produced it and the business entity is not in the business of transporting brine for disposal for any other person.

Authority to establish procedures for submitting brine transporter daily log information

(R.C. 1509.223)

The bill allows the Chief, by rule, to establish procedures for the submission to the Chief of the information that is required to be included in the daily log that must be maintained by a registered transporter. Continuing law requires the daily log to contain, at a minimum, all of the following: (1) the name of the owner or owners of the well or wells producing the brine to be transported, (2) the date and time the brine is loaded, (3) the name of the driver, (4) the amount of brine loaded at each collection point, (5) the disposal location, and (6) the date and time the brine is disposed of and the amount of brine disposed of at each location. Each registered transporter must keep a daily log on each vehicle used to transport brine. In addition, the transporter must have the log available on request of the Chief, an authorized representative of the Chief, or a peace officer.

Nonapplicability of Administrative Procedure Act regarding drilling permits

(R.C. 1509.03)

The bill states that an order of the Chief to issue, deny, or modify a permit to drill a new well, drill an existing well deeper, reopen a well, or convert a well is not subject to the Administrative Procedure Act. Current law instead states that orders issuing, denying, or modifying a permit or notices required to be made by the Chief pursuant to the Oil and Gas Law must be made in compliance with the Administrative Procedure Act. In addition, every order issuing, denying, or modifying a permit under that Law and described as such is considered an adjudication order for purposes of that Act.

Cooperative agreements

(R.C. 1509.02)

The bill authorizes the Chief to enter into cooperative agreements with other state agencies, as the Chief determines necessary, to assist in the enforcement of the Oil and Gas Law, rules adopted under it, and other pertinent provisions of Ohio law and to ensure public health and safety.

Fresh water impoundments

(R.C. 1509.23)

The bill adds requirements governing the location and construction of fresh water impoundments that are part of an oil and gas production operation to the list of topics for which the Chief may specify, in rules, practices to be followed for protection of public health or safety or to prevent damage to natural resources of the Division of Oil and Gas Resources Management.

Material and substantial violation

(R.C. 1509.01)

The bill revises the definition of "material and substantial violation" for purposes of the Oil and Gas Law by including failure to submit a report, test result, fee, or document that is required in that Law or rules adopted under it. Continuing law defines "material and substantial violation" to mean any of the following:

(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under that Law;

(2) Failure to obtain or maintain insurance coverage that is required under that Law;

(3) Failure to obtain or maintain a surety bond that is required under that Law;

(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive well status or the Chief has approved another option concerning the well;

(5) Failure to restore a disturbed land surface;

(6) Failure to reimburse the Oil and Gas Well Fund pursuant to a final order of the Chief; or

(7) Failure to comply with a final nonappealable order issued by the Chief.

Renewal of surface or in-stream mining permit

(R.C. 1514.021)

New procedures

The bill alters the procedures for renewing a surface or in-stream mining permit as discussed below.

Notice of intent to renew

Under the bill, a permit holder who wishes to continue surface or in-stream mining operations after the expiration date of the existing permit or renewal permit must file with the Chief of the Division of Mineral Resources Management a notice of intent to renew. The notice of intent to renew must be on a form the Chief prescribes and provides and must be accompanied by the existing permit renewal fee, which is \$1,000 for surface mining and \$500 for in-stream mining.

Renewal application package

Upon receipt of a notice of intent to renew form and the permit renewal fee, the Chief must notify the permit holder to submit a renewal application package. The permit holder must submit a complete renewal package to the Chief at least 30 days prior to the expiration of the existing surface or in-stream mining permit or renewal permit. The renewal application package must include all of the following items that are required for permit renewal applications under current law:

(1) A map that is a composite of the information required to be contained in the most recent annual report map and of all surface or in-stream mining and reclamation activities conducted under the existing permit or renewal permit;

(2) The annual report required under current law;

(3) In the case of an applicant proposing a significant change to the plan of mining and reclamation, as "significant" is defined by rule, a copy of the advertisement that the applicant is required to have published in accordance with current law; and

(4) Additional maps, plans, and revised or updated information that the Chief determines to be necessary for permit renewal.

For a renewal permit requiring minor or minimal updates to the existing permit, renewal permit, or accompanying information, the Chief may authorize a permit holder to file updated information through a surface mining permit modification process using a surface mining permit modification form. However, the Chief may require such a permit holder to submit a complete renewal application package.

Reasons for denial

The bill applies the reasons for denial of a renewal application under current law to denial of a renewal application package under the bill. Thus, a renewal application package may be denied for any of the following:

--The permit holder's operation is not in substantial or material compliance with the Industrial Minerals Mining Law, or rules adopted and orders issued under it, and the plan of mining and reclamation under the existing permit or renewal permit.

--The permit holder has not provided evidence that a performance bond applicable to lands affected under the existing permit or renewal permit will remain effective until released.

--The permit holder, any partner if the permit holder is a partnership, any officer or director if the permit holder is a corporation, or any other person who has a right to control or in fact controls the management of the permit holder or the selection of officers, directors, or managers of the permit holder has failed substantially or materially to comply or continues to fail to comply with the Industrial Minerals Mining Law.

Procedures for issuing or denying renewal

Under the bill, the Chief must do one of the following after receiving a complete renewal application package and permit renewal fees:

--Approve the application for renewal and issue an order granting a renewal permit;

--Issue an order denying a renewal permit; or

--Notify the applicant that there are deficiencies in the renewal application package and that an extension of the time limit for issuing an order approving or disapproving the renewal permit has been granted.

In making a decision regarding a renewal application package, the Chief must review the package for compliance with the Industrial Minerals Mining Law and rules adopted under it. The Chief must notify a permit holder and, if applicable, the permit holder's consultant, surveyor, or engineer of deficiencies or errors in a renewal application package and must include in the notification a discussion of the deficiencies or errors.

A permit holder has up to 180 days after the expiration of the permit holder's permit or renewal permit to submit a revised renewal application package. A permit holder may request, in writing, an extension of the 180-day period for revisions to the renewal application package. The Chief may approve a 60-day extension. The Chief must notify the permit holder of the Chief's decision to either grant or deny the extension.

Upon the submission of a revised renewal application package that is determined to be complete by the Chief, the Chief must proceed to approve or deny the application. If the revised renewal application package is not submitted within 180 days after the permit expiration date or, if an extension has been granted, within 240 days after the permit expiration date, the Chief must issue an order denying the renewal permit.

Other requirements

If an applicant for a renewal permit has complied with the requirements to submit a notice of intent to renew, the applicant may continue surface or in-stream mining operations under an existing permit or renewal permit after its expiration date until the 60-day time period for filing a complete renewal application package has expired or until the Chief issues an order denying the renewal permit. A permit holder who fails to submit a timely notice of intent to renew form, required permit renewal fees, and a renewal application package must cease surface or in-stream mining operations on the expiration date of the existing permit or renewal permit. If such a permit holder then submits a notice of intent to renew form and the permit renewal fees on or before the thirtieth day after the expiration date of the expired permit or renewal permit and provides the information required by the Chief (see above) within 60 days

after the permit expiration date, the permit holder need not submit the final map and report required under current law until the later of 30 days after the Chief issues an order denying the application for renewal or 30 days after the Chief's order is affirmed upon appeal.

Existing procedures

Current law does not require the submission of a notice of intent to renew or a renewal application package. Rather, a permit holder who wishes to continue surface or in-stream mining operations must submit a renewal application along with the applicable fee and all applicable information required by the Chief (see above). Upon receipt of the information, the Chief must approve the application for renewal and issue an order granting a renewal permit unless the Chief finds that the applicant does not meet the criteria for renewal (see above). Within 60 days after receiving the information and permit renewal fees, the Chief must approve the application for renewal and issue an order granting a renewal permit, issue an order denying the application, or notify the applicant that the time limit for issuing such an order has been extended. The extension of time cannot exceed 60 days. Generally, the procedures discussed above under "**Other requirements**" also apply to applications for renewal under current law.

In-stream mining permit requirements

(R.C. 1514.02, 1514.021, 1514.03, and 1514.05)

Period of validity

The bill extends the period of validity of an in-stream mining permit or renewal permit from two to five years.

Hydraulic evaluation

With regard to an application for an in-stream mining permit, the bill requires an applicant to submit a hydraulic evaluation of the applicable watercourse prepared by a registered professional engineer only if required by the Division of Mineral Resources Management after review of the applicant's proposed in-stream mining plans. The bill also authorizes the Chief of the Division of Mineral Resources Management to allow an applicant to deviate from the required elements of the hydraulic evaluation if the Chief determines that such a deviation is appropriate.

Current law does not require the Division to make a determination of the necessity of a hydraulic evaluation. Rather, such an evaluation is always required. The required elements of a hydraulic evaluation under current law include:

(1) Soundings that depict the cross-sectional views of the channel bottom of the watercourse and water elevations for the watercourse;

(2) A profile of the channel bottom;

(3) An analysis of design flows and water surface profiles for the watercourse prior to in-stream mining and the proposed final mining condition; and

(4) An analysis of the expected changes in the roughness coefficient, resistance to water flow velocity, and hydraulic gradient in the channel bottom due to the proposed mining.

Current law also specifies that a hydraulic evaluation may include any additional information that the Chief requires in order to evaluate the potential impact of in-stream mining on the watercourse and to determine if any additional performance standards are required to protect the environment and property outside the limits of the operation as established in the permit.

Map, soundings, and water elevation

The bill requires the submission of a map of an in-stream mining operation with the annual report required to be submitted by an in-stream mining permittee only if the in-stream mining for the year addressed by the report occurred beyond the area identified in the most recent approved map. Further, the bill requires soundings to be included with the annual report only if the soundings depict a cross-sectional view of the channel bottom that is different from the most recent approved map. Finally, the bill requires water elevations to be included with the annual report only if water elevations are different from those indicated on the most recent approved map. Under current law, the submission of a map, soundings, and water elevations are always required with an annual report.

Exemption for conservancy districts

(R.C. 1514.01)

The bill exempts from the Industrial Minerals Mining Law certain flood control activities conducted by or on behalf of a conservancy district that are exempt from permitting requirements under section 10 of the federal Rivers and Harbors Act.

PUBLIC UTILITIES COMMISSION (PUC)

Power Siting Board certification

- Changes the Power Siting Board (PSB) certification requirements regarding gas transmission and distribution lines to require certification for a gas pipeline, including its associated facilities, that is:
 - more than nine inches in outside diameter and designed for, or capable of, transporting gas at pressures in excess of 125 pounds per square inch; or
 - designed for, or capable of, transporting gas at pressures in excess of 300 pounds per square inch.
- Exempts from PSB certification requirements gas gathering pipelines and processing plant gas stub pipelines, any gas processing plant natural gas liquids finished product pipelines, pipelines from a natural gas liquids processing plant to an interstate or intrastate gas pipeline, and any natural gas liquids fractionation plant.
- Permits the PSB to adopt rules for an accelerated review of an application for a construction certificate for any of the following:
 - An electric transmission line that is not more than two miles in length;
 - An electric generating facility that uses waste heat and is primarily within the current boundary of an existing industrial facility; and
 - A gas pipeline that is not more than five miles in length.
- Requires the PSB to adopt rules for the automatic certification of those entities subject to the accelerated review when an application is not suspended by the PSB, an administrative law judge, or the chairperson or executive director of the PSB.
- Requires an application for a PSB certificate to be filed not more than five years prior to the planned date of commencement of construction instead of requiring filing not less than one year nor more than five years prior to that date.
- Requires the PSB to grant, deny, or modify an economically significant wind farm's application and certification under rules that use the same process applicable to certification of major utility facilities.
- Specifies that any of the following may be fined not more than \$100,000 for each day of each violation:

- Anyone who constructs a major utility facility or economically significant wind farm without a PSB certificate;
 - Any person who constructs, operates, or maintains a facility or such wind farm other than in compliance with the issued certificate; or
 - Any person or such wind farm who fails to comply with an order or suspension by the PSB.
- Subjects operators of low pressure gas gathering pipelines, low pressure processing plant gas stub pipelines, high pressure gas gathering pipelines, and high pressure processing plant gas stub pipelines to various pipeline safety standards.

Aggregate forfeiture for pipe-line safety violation or noncompliance

- Increases, from \$500,000 to \$1 million, the maximum aggregate forfeiture that the Public Utilities Commission (PUCO) may assess upon certain pipe-line operators for violations of or noncompliance with the Pipe-line Safety Code.

Waste energy recovery systems

- Permits a waste energy recovery system to qualify either as energy efficiency, for the requirement that electric distribution utilities (EDUs) achieve 22% efficiency savings by 2025, or as a renewable energy resource, for the renewable energy requirements on EDUs and electric services companies (ESCs).
- Prohibits a waste energy recovery system that is used to meet the energy efficiency requirement from being used also to meet the advanced energy requirement.
- Adds to existing state policy the encouragement and market access for waste energy recovery systems.

Smart grid programs

- Adds, within the state's policy for competitive retail electric service, the provision that the state encourage innovation and market access for cost-effective smart grid programs.
- Defines "smart grid" within the competitive retail electric service law.
- Adds cost-beneficial smart grid investment programs to those programs that a utility may include to meet energy efficiency and peak demand reduction requirements.

Distribution and transmission infrastructure review and upgrades

- Requires the PUCO to review the distribution and transmission infrastructure in this state.
- Requires the PUCO to evaluate the distribution and transmission infrastructure and to take necessary actions to ensure adequate and reliable service, enable new electric generation, and promote new industry in this state.

Green pricing program review

- Permits the PUCO to periodically review any green pricing program offered in Ohio as part of retail electric service and make recommendations for improving or expanding the program.

PUCO study of opportunities for customer choice

- Requires the PUCO to study whether certain aspects of electric service provide increased opportunities for customer choice, prepare a report of its findings, and make the report available on its web site.

Compressed natural gas

- Permits the PUCO, in cooperation with the Department of Transportation (ODOT), to work with other states to develop a multi-state study on the development of compressed natural gas (CNG) infrastructures for transportation.
- Requires ODOT and PUCO to cooperatively analyze the cost effectiveness of purchasing vehicles that operate on CNG and the conversion of certain state motor vehicles to operate on CNG.
- Requires ODOT and PUCO to submit a joint report regarding CNG vehicle purchases or a conversion to legislative leaders and the Governor not later than January 30, 2013.

Long-term forecast report

- Requires a description of the "resource planning projections," rather than the "resource plan," within the long-term forecast reports that each major utility facility must furnish to the PUCO.

Electric security plan surcharges

- Modifies the electric security plan law to prohibit the PUCO from authorizing nonbypassable surcharges for facilities regarding construction work in progress or

other costs unless the PUCO determines, based on the long-term forecast report and any hearing record produced under the forecasting law, that there is a need for the facility.

Power Siting Board certification

(R.C. 303.213, 4906.01, 4906.03, 4906.05, 4906.06, 4906.07, 4906.10, 4906.20, and 4906.99; R.C. 4906.04 (not in the bill))

The bill changes Power Siting Board (PSB) certification requirements. Current law requires major utility facilities to apply for and obtain a certificate from the PSB prior to commencement of construction of the facility. Certificates are not granted by the PSB unless it finds and determines from the facility's application the basis of the need for the facility, the nature of the probable environmental impact, and other standards.

Current law requires a major utility facility, including a gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of 125 pounds per square inch, to be certified by the PSB prior to construction. The bill alters the current law requirement by requiring PSB certification only for a "gas" (see definition below) pipeline (and not a "gas or natural gas transmission line"), including its associated facilities, that meets either of the following requirements:

- It is more than nine inches in outside diameter and is designed for, or capable of, transporting gas at pressures in excess of 125 pounds per square inch;
- It is designed for, or capable of, transporting gas at pressures in excess of 300 pounds per square inch.

Under current law, certain facilities are exempt from the definition of major utility facility, and, therefore, are exempt from the requirement that those facilities be PSB-certified prior to construction. Those facilities include gas or natural gas distributing lines and gas or natural gas gathering lines and associated facilities, as defined by the PSB. The bill, instead, exempts the following from the definition of major utility facility and the certification requirements:

- Gas gathering pipelines and processing plant gas stub pipelines (see "**New pipeline safety standard definitions**" for definitions);

- Any gas processing plant (see "**New pipeline safety standard definitions**" for definition);
- Natural gas liquids finished product pipelines (see definition below);
- Pipelines from a natural gas liquids processing plant to an interstate or intrastate gas pipeline;
- Any natural gas liquids fractionation plant (see definition below).

Accelerated review of application

The bill permits the PSB to adopt rules to provide for an accelerated review of an application for a construction certificate for any of the following:

- An electric transmission line that is not more than two miles in length;
- An electric generating facility that uses waste heat and is primarily within the current boundary of an existing industrial facility;
- A gas pipeline that is not more than five miles in length.

Automatic certification

The bill requires the PSB to adopt rules that provide for the automatic certification to any of the entities described above when an application by any such entity is not suspended, for good cause shown within 90 days of submission of the application, by any of the following:

- The PSB;
- An administrative law judge;
- The chairperson of the PSB;
- The executive director of the PSB.

If an application is suspended, the PSB must approve, disapprove, or modify and approve the application not later than 90 days after the date of the suspension.

Timeline for filing application

The bill changes the current law requirement that a major utility facility application must be filed not less than one year nor more than five years prior to the planned date of commencement of construction to specify that an application must be filed not more than five years prior to that date.

Authority over applications

The bill expands PSB authority over certificate applications by permitting the PSB to "modify, approve, or modify and approve" applications instead of just "modify or approve" them as provided in current law.

Economically significant wind farm certification process

The bill requires the PSB to grant, deny, or modify an economically significant wind farm's certification under rules that use the same process applicable to certification of a major utility facility under current law. The bill also removes a provision of existing law that requires the PSB to approve, or modify and approve, an application for economically significant wind farm certification if the PSB determines the wind farm's construction, operation, and maintenance will comply with the certification rules for such wind farms.

Current law defines an economically significant wind farm as wind turbines and associated facilities with a single interconnection to the electrical grid that are designed for, or capable of, operation at an aggregate capacity of five or more megawatts but less than 50 megawatts. Current law requires the PSB to adopt rules for an economically significant wind farm that are the same as a major utility facility's application process requirements regarding application information and filing requirements, hearing schedule and investigation, parties to the proceeding, issuance of PSB opinion stating reasons for its action, and PSB procedures.

Fine for violation

Current law specifies that whoever does any of the following may be fined not less than \$1,000 nor more than \$10,000 for each day of violation, or imprisoned for not more than one year, or both:

- Constructs a major utility facility or economically significant wind farm without first obtaining a certificate from the PSB;
- Constructs, operates, or maintains a major utility facility or economically significant wind farm other than in compliance with the certificate the person has obtained;
- Fails to comply with any order issued under the PSB law or with a suspension of activity required by the PSB during its investigation of a complaint.

The bill specifies that anyone who willfully does any of the above, in addition to the possibility of imprisonment under current law, may be fined not more than \$100,000

(instead of \$10,000) for each day of each violation. The bill eliminates the minimum fine of \$1,000.

Definitions under the PSB law

The bill defines the following terms for purposes of the PSB law:

Term	Definition
Gas	Natural gas, flammable gas, or gas that is toxic and corrosive.
Natural gas liquids finished product pipeline	A pipeline that carries finished product natural gas liquids to the inlet of an interstate or intrastate finished product natural gas liquid transmission pipeline, rail loading facility, or other petrochemical or refinery facility.
Natural gas liquids fractionation plant	A facility that takes a feed of raw natural gas liquids and produces finished product natural gas liquids.
Raw natural gas	Hydrocarbons that are produced in a gaseous state from gas wells and that generally include methane, ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, nonanes, and decanes, plus other naturally occurring impurities like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, and helium.
Raw natural gas liquids	Naturally occurring hydrocarbons contained in raw natural gas that are extracted in a gas processing plant and liquefied and generally include mixtures of ethane, propane, butanes, and natural gasoline.
Finished product natural gas liquids	An individual finished product produced by a natural gas liquids fractionation plant as a liquid that meets the specifications for commercial products as defined by the Gas Processors Association. Those products include ethane, propane, iso-butane, normal butane, and natural gasoline.



Pipeline safety standards for gas gathering pipelines

(R.C. 4905.90, 4905.91, and 4905.911; R.C. 4905.92 (not in the bill))

The bill

The bill changes current law governing pipeline safety standards for gathering lines and their operators by making the law apply specifically to operators of low pressure gas gathering pipelines, low pressure processing plant gas stub pipelines, high pressure gas gathering pipelines, and high pressure processing plant gas stub pipelines (see definitions of these terms below). The bill also replaces gas gathering lines with gas gathering pipelines and plant gas stub pipelines regarding pipeline safety standards.

Operators of low pressure gas gathering pipelines and low pressure processing plant gas stub pipelines

Under the bill, the PUCO must require an operator of a low pressure gas gathering pipeline or low pressure processing plant gas stub pipeline (instead of an operator of gas gathering lines) to comply with the safety requirements under the minimum federal safety standards for the transportation of natural and other gas by pipeline. Operators must also do all of the following regarding the pipeline:

- Design, install, construct, initially inspect, and initially test the pipeline in accordance with the minimum federal safety standards applicable to transmission lines if the pipeline is new, replaced, relocated, or otherwise changed;
- Control corrosion according to requirements of the minimum federal safety standards applicable to transmission lines if the pipeline is metallic;
- Establish and carry out a damage prevention program and a public education program under the minimum federal safety standards;
- Establish the maximum allowable operating pressure of the pipeline under the minimum federal safety standards;
- Install and maintain pipeline markers according to the requirements for transmission lines under the minimum federal safety standards;
- Perform leakage surveys according to requirements in the minimum federal safety standards;
- Retain a record of each required leakage survey for five years or until the next leakage survey is completed, whichever time period is longer.

Operators of high pressure gas gathering pipelines and high pressure processing plant gas stub pipelines

Under the bill, the PUCO must also require an operator of a high pressure gas gathering pipeline or high pressure processing plant gas stub pipeline (instead of an operator of gas gathering lines) to comply with the safety requirements under the minimum federal safety standards applicable to transmission lines, except for the federal requirements regarding (1) the design and construction of transmission lines for accommodation of the passage of instrumented internal inspection devices and (2) a transmission pipeline integrity management program. Additionally, the PUCO must require the operator to do all of the following regarding that pipeline:

- Install safety tape at a depth of two feet below grade to warn excavators of imminent danger while excavating;
- Ensure the pipeline has inlet and outlet automated shutdown valves;
- Ensure the pipeline has a minimum setback of 200 feet from any occupied structure, which may be waived by the owner or occupant of the structure;
- Implement and document a protective remote supervisory control and data acquisition system, which the bill defines as a computer-based system or systems used by a controller in a control room that collects and displays information about a pipeline facility and may have the ability to send commands back to the pipeline facility.

Operators of gas gathering pipelines and processing plant gas stub pipelines

The bill also subjects operators of low pressure gas gathering pipelines, low pressure processing plant gas stub pipelines, high pressure gas gathering pipelines, and high pressure processing plant gas stub pipelines to various pipeline safety standards. The PUCO must require the operators to comply with all of the following PUCO rules:

- The procedural rules regarding gas pipeline safety;
- The federal gas pipeline safety regulations (adopted by the PUCO);
- The rules requiring the provision of a 24-hour contact report for emergency contacts for the operator;
- The rules governing the provision of intrastate pipeline construction reports;

- The rules governing registration of the location of all underground utility facilities with a protection service that serves the area where the facilities are located;
- The rules requiring maintenance of records and information and providing the PUCO with accessibility to records, information, and premises for inspection.

New pipeline safety standard definitions

The bill defines the following terms:

Term	Definition
Condensate	Liquid hydrocarbons recovered at the ground surface that result from condensation due to reduced pressure or temperature of petroleum hydrocarbons that were originally in the gaseous phase in the underground reservoir.
Gas gathering pipeline	A pipeline used to collect and transport wet natural gas from a well facility to the inlet of a gas processing plant. It may be upstream or downstream from a wet natural gas compressor station. (This term appears to be narrower than the term "gathering line" applicable under current law because gathering line involves the transportation of natural gas, flammable gas, or toxic or corrosive gas.)
Gas processing plant	A plant that processes wet natural gas into merchantable products, including transmission quality gas or natural gas liquids.
High pressure gas gathering pipeline	<p>A gas gathering pipeline that includes either of the following:</p> <p>(1) A metallic gas gathering pipeline in which the maximum allowable operating pressure produces a hoop stress of 20% or more of specified minimum yield strength.</p> <p>(2) A nonmetallic gas gathering pipeline in which the maximum allowable operating pressure is more than 125 pounds per square inch.</p>
High pressure processing plant gas stub pipeline	<p>A processing plant gas stub pipeline that includes either of the following:</p> <p>(1) A metallic processing plant gas stub pipeline in which the maximum allowable operating pressure produces a hoop stress of</p>

Term	Definition
	<p>20% or more of specified minimum yield strength.</p> <p>(2) A nonmetallic processing plant gas stub pipeline in which the maximum allowable operating pressure is more than 125 pounds per square inch.</p>
Low pressure gas gathering pipeline	<p>A gas gathering pipeline that includes either of the following:</p> <p>(1) A metallic gas gathering pipeline in which the maximum allowable operating pressure produces a hoop stress of less than 20% of specified minimum yield strength.</p> <p>(2) A nonmetallic gas gathering pipeline in which the maximum allowable operating pressure is 125 pounds per square inch or less.</p>
Low pressure processing plant gas stub pipeline	<p>A processing plant gas stub pipeline that includes either of the following:</p> <p>(1) A metallic processing plant gas stub pipeline in which the maximum allowable operating pressure produces a hoop stress of less than 20% of specified minimum yield strength.</p> <p>(2) A nonmetallic processing plant gas stub pipeline in which the maximum allowable operating pressure is 125 pounds per square inch or less.</p>
Processing plant gas stub pipeline	<p>A gas pipeline that transports transmission quality gas from the tailgate of a gas processing plant to the inlet of an interstate or intrastate transmission line and that is considered an extension of the gas processing plant and is not for public use.</p>
Transmission quality gas	<p>Gas consisting predominantly of methane that meets all downstream specifications for transportation in an intrastate or interstate transmission pipeline and that is suitable for use by public consumers.</p>
Well facility	<p>A facility located at or near a natural gas well that separates raw natural gas, condensate, and water.</p>
Wet natural gas	<p>Natural gas with a mixture of natural gas liquids that normally include ethane, propane, butane, and other condensates that are liquid if the temperature is reduced below the</p>

Term	Definition
	hydrocarbon dew point temperature of the natural gas and which may be processed to remove any or all of the natural gas liquids.
Wet natural gas compressor station	A facility that contains one or more compressors and that is used to increase the pressure of raw natural gas for further transport by pipeline.

Changes to "gathering lines" and "operator" definitions

The bill repeals the current law definition of "gathering lines." The bill also alters the definition of "operator" to include any person that owns, operates, manages, controls, or leases gas gathering lines in the state.

Under current law, gathering lines are pipelines that transport gas from a current production facility to a transmission line or main. They transport natural gas, flammable gas, or toxic or corrosive gas. "Operator" under current law includes any person that oversees gas gathering lines in the state that "are not exempted by the Natural Gas Pipeline Safety Act." The bill removes the quoted language from the operator definition.

Note on "operator" definition

Because the bill repeals the definition of gathering lines, it is not clear what an operator oversees regarding "gas gathering lines in the state." As a result, the definition of operator may need to be altered to address this ambiguity.

Under other provisions of current law, operators are assessed an amount that is collected and placed into the Pipe-line Safety Fund, which money is then used to pay for administration and enforcement of pipeline safety regulations in the state.

Pipeline safety regulation under current law

Certification to Secretary of Transportation

In order for a state authority (in Ohio's case the PUCO) to regulate safety standards and practices of intrastate gas pipeline facilities or intrastate gas pipeline transportation, federal law requires the state authority to annually certify to the Secretary of Transportation (1) that the state authority has regulatory jurisdiction over the standards and practices to which the certification applies, (2) that the authority has adopted, by the date of certification, each applicable standard prescribed under the federal Natural Gas Pipeline Safety Act of 1968, and (3) the state has met various other

requirements.¹ According to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, Ohio has been certified under the federal Natural Gas Program.²

Adoption of federal and other standards

Accordingly, current Ohio law requires the PUCO's regulation of gathering lines to conform to the regulation of gathering lines in the federal minimum gas pipeline transportation safety standards, federal drug and alcohol testing requirements for pipeline operators, and the PUCO's annual certification agreements with the U.S. Department of Transportation. Additionally, current law specifies that PUCO rules regarding all of the following also apply to gathering lines or their operators:

- The federal gas pipeline safety standards (adopted by the PUCO);
- The rules requiring the provision of a 24-hour contact report for emergency contacts for the operator;
- The rules governing the provision of intrastate pipeline construction reports;
- The procedural rules regarding gas pipeline safety.

Aggregate forfeiture for pipe-line safety violation or noncompliance

(R.C. 4905.90 and 4905.95)

The bill increases to \$1 million the maximum aggregate amount of forfeitures that the Public Utilities Commission (PUCO) may assess on an operator for each violation of or noncompliance with the state natural gas pipe-line safety standards law or the Pipe-line Safety Code established by PUCO rule.³ Current law, unchanged by the bill, permits the PUCO to issue an order assessing upon operators forfeitures of up to \$100,000 for each day of violation or noncompliance. An "operator" is a gas company or natural gas company, a pipe-line company engaged in the business of transporting gas by pipeline, a customer-owned public utility engaged in supplying or transporting gas by pipeline, or any person that owns, operates, manages, controls, or leases in Ohio

¹ 49 U.S.C. 60105.

² State Pipeline Safety Programs, U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration <<http://phmsa.dot.gov/>> go to pipeline safety – state programs – State Pipeline Safety – CY2011 (last visited March 22, 2012).

³ O.A.C. Chapter 4901:1-16.

intrastate pipe-line transportation facilities, gas gathering lines, or a master-meter system.

The maximum aggregate of forfeitures, to be increased by the bill, currently is \$500,000 for any related series of violations or noncompliances. The maximum civil penalty allowed for related violations of current federal pipeline safety standards was recently increased from \$1 million to \$2 million.⁴

Waste energy recovery systems

Definition

(R.C. 4928.01(A)(36))

The bill defines a waste energy recovery system, for purposes of the energy efficiency requirement, the renewable energy requirements, and state electric service policy, as a facility that generates electricity through the conversion of energy from either of the following:

- Exhaust heat from engines or manufacturing, industrial, commercial, or institutional sites, except for exhaust heat from a facility whose primary purpose is the generation of electricity;
- Reduction of pressure in gas pipelines before gas is distributed through the pipeline, if the conversion of energy to electricity is achieved without using additional fossil fuels.

Renewable energy requirements

(R.C. 4928.01; R.C. 4928.64 (not in the bill))

The bill allows a waste energy recovery system that was placed into service or retrofitted in 1998 or later to be used to meet the following renewable energy requirements:

- Electric distribution utilities (EDUs) and electric services companies (ESCs) must provide at least 12.5% of their electricity supply from eligible renewable energy resources by 2025;
- EDUs and ESCs must meet annual renewable energy benchmarks before 2025 – 1.5% by 2013, 2% by 2014, 2.5% by 2015, and increasing by 1% for each subsequent year until 2025.

⁴ 49 U.S.C. 60122(a).

Other eligible renewable energy resources under continuing law include solar, wind, biomass, hydropower, and certain fuel cells.

Energy efficiency requirement

(R.C. 4928.66)

The bill allows a waste energy recovery system that was placed into service or retrofitted in 2006 or later to be used to meet the energy efficiency requirement of 22% energy savings by 2025. This requirement applies to EDUs.

Prohibition against double counting

(R.C. 4928.01(A)(34) and (35); R.C. 4928.64 (not in the bill))

The bill prohibits a waste energy recovery system that is or was used to meet the energy efficiency requirement from being used also to meet the renewable energy requirements. Consequently, a waste energy recovery system used to meet the renewable energy requirements may not be used simultaneously to meet the energy efficiency requirement. But the system, if no longer being used to meet the renewable energy requirements, could be used later to meet the energy efficiency requirement.

The bill also prohibits a waste energy recovery system that is or was used to meet the energy efficiency requirement from being used also to meet the advanced energy requirement. This requirement permits EDUs and ESCs to provide 12.5% of their electricity supply from advanced energy resources (clean coal, distributed generation, advanced nuclear, and others), although they may satisfy some or this entire requirement with renewable energy resources. Consequently, a waste energy recovery system used to meet the advanced energy requirement may not be used simultaneously to meet the energy efficiency requirement. But the system, if no longer being used to meet the advanced energy requirement, could be used later to meet the energy efficiency requirement.

Under continuing law, advanced and renewable energy resources make up the alternative energy resources used to meet the alternative energy requirements. As a result, although a waste energy recovery system could probably qualify as either type of resource under the bill, it could not be counted as both at the same time.

Note on pending S.B. 289 and H.B. 443

(R.C. 4928.01, as amended by S.B. 289 (As Passed by the Senate), H.B. 443 (As Introduced), and this bill; R.C. 4928.66)

The provisions of this bill regarding waste energy recovery systems are in part similar to provisions in pending S.B. 289, As Passed by the Senate, and H.B. 443, As Introduced (companion bills). The companion bills permit certain cogeneration, where energy input is from a waste or byproduct gas from an air contaminant source, to be used to meet the renewable energy requirements. Unlike this bill, the companion bills do not permit cogeneration to be used to meet the energy efficiency requirement. Cogeneration, as defined by the companion bills, and a waste energy recovery system, as defined by this bill, are probably not mutually exclusive. Therefore, a system that qualifies as cogeneration *and* a waste energy recovery system probably could be used to meet either the energy efficiency requirement or the renewable energy requirements. Or, the system could be used to meet the renewable energy requirements and, when the system is no longer being used to meet those requirements, it could be used to meet the energy efficiency requirement. But a system that qualifies only as cogeneration could be used to meet only the renewable energy requirements.

Therefore, this bill and either of the two companion bills could both take effect without conflict, and it is likely that the double counting prohibited by the bill would not be permitted. To further explain, a waste energy recovery system could be used to meet the energy efficiency requirement, but this bill would prohibit it from being used, simultaneously or after no longer being used to meet the energy efficiency requirement, even as cogeneration, to meet the renewable energy requirements.

State policy

(R.C. 4928.02)

The bill adds to existing state policy the encouragement of market access for waste energy recovery systems.

Smart grid programs

(R.C. 4928.01, 4928.02, and 4928.66)

The bill modifies the state's competitive retail electric service policy by adding the provision that the state encourage innovation and market access for cost-effective smart grid programs. The policy under current law is to encourage innovation and market access for cost-effective supply- and demand-side retail electric service,

including but not limited to, demand-side management, time-differentiated pricing, and implementation of advanced metering infrastructure.

Under the bill, "smart grid" means capital improvements to an EDU's distribution infrastructure, including but not limited to, advanced metering and automation of system functions. According to the U.S. Department of Energy (U.S. DOE) web site, Smartgrid.gov, advanced metering is a system of smart meters, two-way communications networks, and data management systems implemented to enable metering and other information exchange between utilities and their customers. A smart meter is one that records a customer's electricity usage and can transmit that information electronically to the utility without sending a meter reader. Smart meters may also notify the utility of a power outage, provide pricing or other information to the customer, or allow the utility to remotely switch electricity service on or off, depending on the features set.⁵

Energy efficiency and peak demand programs

The bill adds smart grid investment programs that are demonstrated to be cost-beneficial to those programs that may be implemented to meet the requirements for energy efficiency and peak demand reduction under the competitive retail electric service law. Current law requires EDUs to implement energy efficiency programs according to specific benchmarks so that cumulative, annual energy savings total more than 22% by 2025. In addition, EDUs must achieve specific peak demand reduction targets beginning with a 1% reduction in peak demand in 2009 and an additional .75% reduction in peak demand each year through 2018. To meet these requirements, EDUs are permitted, under current law, to implement programs including demand-response programs, customer-sited programs, and transmission and distribution infrastructure improvements that reduce line losses.

Distribution and transmission infrastructure review and upgrades

(R.C. 4928.111)

The bill requires the PUCO to consult with electric distribution utilities to review the distribution infrastructure in this state and to consult with regional transmission organizations and entities that own or control transmission facilities to review the transmission infrastructure in this state. Additionally, the bill requires the PUCO to evaluate the distribution and transmission infrastructure and to order any necessary

⁵ Smart Grid Glossary posted on the U.S. DOE's Smart Grid web site, visited March 23, 2012, and available at: <http://www.smartgrid.gov/glossary/6/lettera>.

upgrades, additions, or improvements to ensure adequate and reliable service, enable new electric generation, and promote new industry in this state.

Green pricing program review

(R.C. 4928.70)

The bill permits the PUCO to periodically review any green pricing program offered in Ohio as part of retail electric service. At the conclusion of a review, the bill permits the PUCO to make recommendations to improve or expand the program subject of the review. The bill requires the PUCO to adopt rules necessary to carry out purposes of the review.

What is green pricing?

Neither the bill nor current law defines "green pricing." However, the U.S. DOE's Green Power Network defines "green pricing" as "... an optional utility service that allows customers an opportunity to support a greater level of utility company investment in renewable energy technologies. Participating customers pay a premium on their electric bills to cover the incremental cost of the additional renewable energy."⁶

PUCO study of opportunities for customer choice

(R.C. 4928.71)

The bill requires the PUCO to study whether increased energy efficiency, demand response, generation, and transmission provide increased opportunities for customer choice. The PUCO must include in the study an evaluation of emerging technologies.

The study must commence not later than 18 months after the effective date of this provision. At the conclusion of the study, the PUCO must prepare a report of its findings and make the report available on its web site.

⁶ U.S. DOE's Green Power Network web site, visited March 5, 2012, and available at: <http://apps3.eere.energy.gov/greenpower/markets/index.shtml>.

Compressed natural gas

Multi-state study on compressed natural gas infrastructure

(R.C. 4928.72)

The bill permits the PUCO, in cooperation with the Department of Transportation (ODOT), to work with other states to develop a multi-state study on the development of compressed natural gas (CNG) infrastructures for transportation.

Analysis of operating state vehicles on compressed natural gas

(Section 755.10)

The bill requires ODOT and PUCO to cooperatively analyze the cost effectiveness of purchasing vehicles that operate on CNG and the conversion of certain state motor vehicles to operate on CNG. The bill requires ODOT and PUCO to produce a joint report with their findings and deliver it to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the Governor not later than January 30, 2013.

Long-term forecast report

(R.C. 4935.04)

The bill changes a requirement for the long-term forecast report that each person owning or operating a major utility facility or each person furnishing gas, natural gas, or electricity directly to more than 15,000 Ohio customers is required to submit to the PUCO. Under the bill, the report must contain a year-by-year ten-year forecast of energy demand, peak load, reserves, and a general description of the "resource planning projections." This differs from current law which requires that the ten-year forecast within the report include a general description of the "resource plan." All other requirements of the long-term forecast report remain unchanged.

Under current law, the definition of "major utility facility" includes an electric transmission line and associated facilities of a design capacity of 125 kilovolts or more and a gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of 125 pounds per square inch.

Electric security plan surcharges

(R.C. 4928.143)

The bill modifies the provisions in the competitive retail electric service law regarding electric security plans (ESPs) that specify the PUCO is prohibited from authorizing a nonbypassable surcharge for facilities regarding the following:

- A reasonable allowance for costs of construction work in progress for an EDU's construction of an electric generating facility or environmental expenditure for any electric generating facility, provided the cost is incurred or the expenditure occurs on or after January 1, 2009, there is a need for the facility, and the construction was sourced through a competitive bid process; or
- Costs specified in the EDU's application for an ESP that are established for the life of an electric generating facility that is needed as well as owned or operated by an EDU, sourced through a competitive bid process, and newly used and useful on or after January 1, 2009.

Under the bill, the PUCO may not authorize a nonbypassable surcharge for such facility costs unless the PUCO first determines that there is a need for the specific facility based on both the long-term forecast report that an EDU must submit to the PUCO and any hearing record produced concerning the report. The bill also removes the phrase "in the proceeding" from the provision that specifies when the PUCO is to determine that there is a need for the facility.

Current law prohibits the authorization of these nonbypassable surcharges unless the PUCO determines that there is a need for the specific facility. However, under current law, determinations are based on "resource planning projections." Although the bill deletes the phrase, "resource planning projections," there will be no effective change in the law, because the bill incorporates the same phrase within the requirements for the long-term forecast report. Under the bill, the long-term forecast report, on which surcharge determinations are based, requires a general description of the "resource planning projections."

SCHOOL FACILITIES COMMISSION (SFC)

- Reduces, from the preceding five years to the preceding three years, the period of actual energy consumption data for the baseline analysis included in a school district-requested report pertaining to installations or remodeling that would reduce energy consumption in district-owned buildings.

School district energy consumption report

(R.C. 133.06)

The bill reduces, from the preceding five years to the preceding three years, the period of actual energy consumption data included in a report requested by a school district that analyzes installations, modifications of installations, or remodeling that would significantly reduce energy consumption in buildings owned by the district. Under current law, the board of education of a school district may contract with an architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures to perform this analysis and make recommendations. After receiving the report, if the board finds that the total cost of energy conservation measures likely would not exceed the amount of money the district would save over the next 15 years, the board may submit a request to the School Facilities Commission to incur indebtedness to finance the installations or remodeling of district buildings in order to significantly reduce energy consumption.

EFFECTIVE DATES

(Section 812.20)

The effective date of most of the amendments and enactments of law in this bill are subject to the referendum and therefore become effective on the 91st day after the bill, if enacted, is filed with the Secretary of State, in the absence of a referendum. The following provisions of the bill are declared not to be subject to the referendum, and they take effect immediately if they become law:

- R.C. 133.06, regarding school district energy consumption reports;
- Section 701.10, regarding the Department of Administrative Services and Department of Transportation fleet vehicle replacement review.

Under the Ohio Constitution, Article II, Section 1d, the following laws are not subject to the referendum and take immediate effect: (1) laws providing for tax levies, (2) appropriations for current expenses of the state government and state institutions, and (3) emergency laws. The bill does not levy a tax, appropriate money for current expenses, or declare an emergency.

HISTORY

ACTION	DATE
Introduced	03-22-12

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