Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Sub. S.B. 46**

DATE: **June 12, 1997**

STATUS: **As Reported by Senate Energy, Natural Resources and Environment**

SPONSOR: **Sen. Carnes**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost in the introduced version**

CONTENTS: **Provides for establishment of an oil and natural gas marketing program**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
State Special Revenue (Division of Oil and Gas)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Less than $10,000 increase	- 0 -
Oil and Gas Marketing Program Fund			
Revenues	- 0 -	Potential $200,000 gain	Potential $200,000 gain
Expenditures	- 0 -	Up to $200,000 increase	Up to $200,000 increase

- If assessments of 1 cent per barrel of oil and 1/10th of 1 cent per thousand cubic feet of natural gas are levied on the first producer, it would yield revenues of approximately $83,000 from oil and $120,000 from natural gas.
- There would be an expenditure increase of approximately $1,400 to cover actual and necessary expenses for members of the operating committee if they meet 4 times a year. It is projected that the technical advisory committee chairman could authorize expenditures of up to the amount of revenues (estimated at $200,000) in order to carry out the activities of the marketing program.
- It might be necessary for the Division of Oil and Gas to incur the start-up expenditures related to the publication of notice, mailing, printing, and administration of the referendum or amendment. These costs are estimated at less than $10,000.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase
Municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase

- Potential increase in expenditures to counties and municipalities for adjudication, and to counties for prosecution and possible incarceration, of independent producers who fail to pay the assessment.

- Potential revenue gain to counties for fine revenue.

Detailed Fiscal Analysis

The bill would allow for the creation of a marketing program for the oil and gas industry. If a marketing program is established, then the Technical Advisory Committee will appoint an operating committee consisting of seven members. The Technical Advisory Committee will monitor the actions of the operating committee.

Levy of an assessment

After the Technical Advisory Committee has ordered a marketing program to be established, the bill would allow the operating committee to levy assessments on the production of oil and natural gas for the purposes of a marketing program. Those assessments can not exceed 1 cent for every gross barrel of oil and 1/10th of 1 cent per thousand cubic feet of natural gas produced. The operating committee cannot levy an assessment against in independent producer who is not eligible to vote in the referendum. The Technical Advisory Council can require a first purchaser to withhold assessments from any amounts that the first purchaser owes to independent producers and turn them in to the chairperson of the council. These monies will be deposited into a fund for any marketing program that is established by the Technical Advisory Council. The chairperson of the council will disburse monies from the fund for the marketing program to defray the costs of the administration of the marketing program. An operating committee can deposit funds with a bank or a savings and loan association instead of with the Treasurer of State, but the bill does not designate how these monies will be disbursed.

According to DNR's Divisision of Oil and Gas, under these definitions, there were 8.3 million barrels of oil and 120.4 billion cubic feet of natural gas produced in the state for 1996. A 1 cent assessment fee per barrel of oil would amount to approximately $83,000 in revenues. A 1/10th of 1 cent assessment fee per thousand cubic feet of natural gas would amount to $120,400 in revenues. There are between 1500 and 1800 independent producers of oil and gas in the state.

Refund of assessment

The Technical Advisory Committee will refund assessments to an independent producer provided that the request is submitted on a form furnished by the council and it is submitted within the allotted time frame.

Organization of operating committee

The Technical Advisory Committee would appoint the members of the operating committee. There would be seven members of the operating committee, six of whom must be independent producers. The seventh member would be a member of the Ohio Farm Bureau Federation. Members would be reimbursed for actual and necessary expenses while attending meetings or while engaged in the performance of official responsibilities delegated to the committee. Costs per meeting per member are estimated at $50. If the operating committee meets 4 times per year, then the annual expenses for meetings would be approximately $1,400. Each additional meeting would cost approximately $350 for member expenses.

The operating committee is responsible for publishing an activity and financial report within sixty days of the end of each fiscal year. This report must be made available to each independent producer who has paid the assessment or otherwise contributes to the marketing program. If an operating committee deposits funds with a bank or a savings and loan association (as opposed to the Treasurer of State), then the operating committee must also submit an annual financial statement prepared by a CPA and a monthly unaudited financial statement to the Technical Advisory Council. The costs associated with these requirements are unknown at this time.

Role of the Technical Advisory Council

The Technical Advisory Council already exists under current law. There are eight members appointed by the Governor. Membership of the council consists of the following: three members are independent oil or gas producers/operators who operate and produce primarily in this state; three member are oil or gas producers/operators who have substantial oil and gas producing operations in this state and one other state; one member represents the public; and one member represents persons having landowners' royalty interests in oil and gas production. The council currently receives per diem expenses and administrative support (1 secretary position) from the Division of Oil and Gas. The council meets at least once each quarter.

According to the bill, the Technical Advisory Council will publish in at least two periodicals a notice that a program or amendment has been proposed. The council will make copies of the program or amendment available to interested persons. The council will publish a ballot request form in at least two periodicals. The council will distribute mail-in ballots as requested. The Division of Oil and Gas may need to incur the costs of printing, mailing, distributing, and administering the referendum since another source for these start-up costs has not been designated. These costs are estimated at less than $10,000.

Once every five years or upon petition by the required number of independent producers, the Technical Advisory Council will hold a hearing according to Chapt. 119 to consider the continuation of the marketing program. The council must notify each independent producer of the recommendation from the hearing. If the council recommends to terminate a program, a referendum must be held. If the independent producers favor the termination, then the council will return any remaining unobligated moneys to the independent producers who paid the assessments levied and prorate the monies. Costs associated with the hearings, notification of independent producers, and referendum are unknown at this time.

Violation

A new offense is created for any person who knowingly fails or refuses to withhold or remit any assessment levied against an independent producer or first purchaser of oil or natural gas. Any person who violates this prohibition would be guilty of a misdemeanor of the fourth degree (maximum jail term of 30 days and maximum fine of $250). The council will give violators an opportunity to present their views before proceeding with criminal charges. Counties and municipalities could experience a minimal increase in expenditures for potential court hearings, and counties could experience a minimal increase in costs for prosecution and incarceration. Counties could gain fine revenues.

Background information

The current rate of severance tax on natural gas is 2.5 cents per 1,000 cubic feet. For oil, it is 10.0 cents per barrel. Tax collections from 1996 were $2,991,816 and $747,142 respectively. Twenty per cent of the natural gas and oil severance tax is allocated to the Oil and Gas Well Plugging fund. Seventy per cent of this tax collection is allocated to the Oil and Gas

Permit Fee Fund. The other ten per cent is allocated to Geological Mapping. Based on these collections, the amount of natural gas that is reported as being sold[1] in 1996 is 119.6 billion cubic feet. The amount of oil that is reported as being sold in 1996 is 7.4 million barrels.

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[1] This information is being provided to illustrate the amount of severance tax currently being levied on oil and gas. In addition, this information illustrates that the method of assessment in the bill differs from the method used for tax purposes. The severance tax is based on the amounts of oil and natural gas that are reported as being sold. The bill would assess the first purchaser. For this reason, if one compares the number of barrels of oil and the cubic feet of natural gas for FY1996 as reported by the Department of Taxation to the figures as determined by the Division of Oil and Gas, the figures will not be the same.