



# Ohio Legislative Service Commission

## Synopsis of House Committee Amendments\*

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### Sub. S.B. 165

128th General Assembly

(As Reported by H. Agriculture and Natural Resources)

In addition to the minimum distance, i.e., setback, of a well from an occupied dwelling in an urbanized area and of a well from a property line of land that is not in a drilling unit and that is in an urbanized area when using directional drilling, as established in the Senate-passed version, establishes the following setbacks:

- minimum distance of a tank battery of a well from an occupied dwelling in an urbanized area;
- minimum distance of a well and a tank battery of a well from an occupied dwelling in an urbanized area on land that is a part of the drilling unit pursuant to a mandatory pooling order;
- minimum distance of a well and a tank battery of a well from a property line of a parcel of land in an urbanized area on land that is a part of the drilling unit pursuant to a mandatory pooling order;
- minimum distance of a well from an occupied private dwelling and certain public buildings in an area that is not an urbanized area;
- minimum distance of a well and a tank battery of a well from any other well;
- minimum distance of a well and a tank battery of a well from a railroad track or the traveled portions of a public street, road, or highway;
- minimum distance of a tank battery from an existing inhabited structure in an area that is not an urbanized area;
- minimum distance of an oil tank from another oil tank;
- minimum distance of a mechanical separator from a well, an oil tank, and an existing inhabited structure; and

\* This synopsis does not address amendments that may have been adopted on the House Floor.

- minimum distance of a vessel that is capable of heating its contents from an oil production tank, a well, an existing inhabited structure, and a mechanical separator.

With respect to the above setbacks established regarding land that is a part of a drilling unit pursuant to a mandatory pooling order, establishes procedures for and requirements governing reduction of the setbacks with the written consent of the owner of the land, and specifies methods of providing that written consent.

Due to the establishment of the above setbacks, removes requirements that the Chief of the Division of Mineral Resources Management in the Department of Natural Resources: (1) address the location of surface facilities of a well when attaching terms and conditions to an oil and gas permit, and (2) adopt rules establishing setback requirements for surface facilities of a well that are located near property that is subject to a mandatory pooling order.

Revises the formula for calculating the oil and gas regulatory cost recovery assessment that is established by the bill and required to be paid by an owner of a well, provides for payment by a severer under certain circumstances, exempts existing exempt domestic wells from the assessment and establishes a \$60 annual assessment for new exempt domestic wells, and establishes specific procedures for and requirements governing the collection of the regulatory cost recovery assessment, including authority for the Tax Commissioner to collect amounts due with oil and gas severance taxes.

Restores from the As Introduced version of the bill an annual gas storage well regulatory fee, but reduces the fee from \$225 to \$125 per applicable well, specifies that the fee is to be based on the number of wells owned in the previous year, and removes language in the Senate-passed version of the bill stating that it is the intent of the General Assembly that the gas storage well program will be funded by reasonable fees assessed on owners of gas storage wells.

Excludes the authority of a municipal corporation to regulate the use of streets from the Division of Mineral Resources Management's sole and exclusive authority to regulate oil and gas wells and production operations within the state under the Oil and Gas Law, provided that the authority of the municipal corporation, or of the Director of Transportation or local authorities to issue special permits regarding vehicle size, weight, or load as referenced in the Oil and Gas Law, is not exercised in a manner that discriminates against, unfairly impedes, or obstructs regulated oil and gas activities and operations.

Requires an applicant for an oil and gas permit to provide notice of the submission of the application to the executive authority of the municipal corporation or the board of township trustees of the township in which the well is to be located.

Adds to the requirement in the Senate-passed version of the bill that the subjects to be identified in rules of the Chief that are to be addressed when attaching terms and conditions to a permit must include noise mitigation for purposes of the drilling of a well a requirement that the subjects also include noise mitigation for purposes of the operation of a well, excluding safety and maintenance operations.

Requires a representative of the Division to consider fencing, screening, and landscaping requirements, if any, for similar structures in the community at a site review prior to the issuance of an oil and gas permit, and requires the terms and conditions attached to the permit to include the establishment of fencing, screening, and landscaping requirements for surface facilities of the proposed well, including a tank battery of the well.

Removes "knowingly" from the prohibition against constructing a well, or permitting defective casing or tubing to leak, that may cause damage to other strata, underground sources of drinking water, or the surface of the land or threaten the health and safety of the public, adds damage to the environment to the prohibition, and removes tubing from the prohibition.

Revises the enforcement authority of and procedures to be followed by the Chief in enforcing the Oil and Gas Law as follows:

- replaces the issuance of citation orders in the Senate-passed version of the bill, which may be either compliance orders or administrative orders, with administrative orders only;
- authorizes the Chief to issue an order finding that an owner has committed a material and substantial violation rather than initiate an enforcement action for such a violation as in the Senate-passed version;
- generally replaces the issuance of suspension orders with authority to immediately suspend, by order, drilling, operating, or plugging activities that are related to a material and substantial violation;
- establishes an additional cause for the suspension of activities related to a material and substantial violation or to the suspension or revocation of an unused permit;
- revises requirements concerning an owner's opportunity to present evidence regarding the condition or activity that resulted in an order to immediately suspend activities by also allowing the owner to present evidence that required records, reports, or logs have been filed; and

- specifies that a bond forfeiture order must be for failure to comply with a final nonappealable order issued by or compliance agreement entered into with the Chief.

Removes the authority of the Chief in the Oil and Gas Law to impose a priority lien for unpaid severance taxes by an owner.

Specifies that a priority lien for fees imposed on an owner under that Law or costs incurred by the Chief to correct certain conditions associated with an owner's well is in addition to any lien imposed by the Attorney General for failure to pay the oil and gas cost recovery assessment or oil and gas severance taxes.

Authorizes the Tax Commissioner to request the Chief to impose a priority lien against an owner's interest in an applicable well if the Attorney General cannot collect from a severer or the owner outstanding amounts due from the oil and gas cost recovery assessment or unpaid oil and gas severance taxes.

Revises the standard for an appeal of an order of the Chief to specify that a person be adversely affected by the Chief's order rather than claim to be directly affected by the Chief's order.

Exempts the owner of an exempt domestic well from the oil and gas severance taxes upon the transfer of the well to that owner.

Requires the Chief to obtain a copy of a material data safety sheet for a material that is listed on an invoice regarding certain procedures and methods used on a well if the Division does not have the material safety data sheet and post a copy of it on the Division's web site.

Requires the Chief to maintain a database on the Division's web site that is accessible to the public and that lists each final nonappealable order issued for a material and substantial violation, the violator, the date on which the violation occurred, and the date on which the violation was corrected.

Reorganizes certain provisions of the Oil and Gas Law.

Exempts a natural gas company's investments in gathering lines or storage facilities placed into service on or after January 1, 2010, and related services, from most regulatory laws governing public utilities and their provision of service.