OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 105

132nd General Assembly
(As Introduced)

Reps. Cera and Hill, Rogers, O'Brien, Antonio, Fedor, Brenner, K. Smith, Sheehy, Lepore-Hagan, Craig, Miller

BILL SUMMARY

- Limits the amount of revenue credited to the Oil and Gas Well Fund that may be used to fund the oil and gas regulatory and well plugging activities of the Department of Natural Resources (DNR) in a fiscal year to no more than $18 million.

- Requires revenue in the Oil and Gas Well Fund in excess of that limit to be used for the following purposes:

  --To fund local capital improvements in the shale region (50% of such revenue);

  --To fund township road repairs and construction in the shale region (15%);

  --To provide grants for firefighting and EMT equipment in the shale region (5%);

  --To fund local capital improvements in counties where injection wells are located (10%);

  --To provide general revenue for municipal corporations and townships where injection wells are located (10%);

  --To provide grants to local governments and school districts to convert their vehicles to alternative fuels (10%).

- Requires an amount equal to the balance of the Oil and Gas Well Fund as of the end of FY 2017 to be distributed and used for the purposes and programs described above.

- Creates a new Well Plugging Program in DNR to catalog and prioritize the plugging of idle and orphaned oil and gas wells.

- Requires DNR to investigate oil and gas wells to determine whether they are idle or orphaned if production reports are not filed.

CONTENT AND OPERATION

Oil and Gas Well Fund revenue

The bill limits the amount of revenue credited to the Oil and Gas Well Fund that that may be used to fund the regulatory and administrative activities of DNR's Division of Oil and Natural Gas Resources and the Division's idle or orphaned well plugging activities (see "**Well plugging program**," below) to $18 million per fiscal year. Under current law, all revenue credited to the Oil and Gas Well Fund – primarily from oil and gas severance taxes and oil and gas administrative and permitting fees – must be used for those purposes. Under the bill, revenue credited to the Oil and Gas Well Fund in excess of $18 million in a fiscal year (hereafter in this analysis, "excess Oil and Gas Well Fund revenue") is transferred or distributed by the end of each fiscal year, beginning with FY 2018, for each of the purposes and programs described below (see "**Distributions to shale region**" and "**Other distributions**," below).[1]

In FY 2016, about $40.7 million was credited to the Oil and Gas Well Fund. About $14.4 million was appropriated for oil and gas regulation and administration and well plugging (well plugging being appropriated 8% of the total sum, or $1.14 million).

Distributions to shale region

"Shale region"

Under the bill, 70% of excess Oil and Gas Well Fund revenue is distributed to or otherwise benefits local governments located in the shale region of the state. Whether a local government is in the "shale region" for revenue distribution purposes depends on whether the subdivision is located in a county where one or more wells are producing oil or gas in the Utica or Marcellus formation. Each year, the Director of DNR must calculate the number of producing wells in each such county as a proportion of the total number of such wells in all such counties (hereafter in this analysis, "proportionate shale activity"). The bill requires the Director to certify each county's proportionate shale activity by June 15 of each year to the Office of Budget and Management (OBM) and the State Fire Marshal to enable them to distribute excess Oil and Gas Well Fund revenue.2

[1] R.C. 1509.02(B) and 5749.02.

[2] R.C. 1509.11(C).

Shale region capital improvements revenue

The bill distributes 50% of excess Oil and Gas Well Fund revenue to counties included in DNR's proportionate shale activity calculation for the preceding year ("eligible counties") according to each eligible county's proportionate shale activity. The earmark would be paid to a special county fund and distributed to the county and each municipal corporation and township in the county in the same proportions as Local Government Fund money is allocated through the county's undivided local government fund. Revenue received by a subdivision must be used to pay the costs of constructing or improving roads, bridges, waste water and water supply systems, and waste disposal and treatment facilities ("capital improvements").[3]

Shale region township roads

The bill earmarks 15% of excess Oil and Gas Well Fund revenue for township roads in areas with shale drilling activity. The revenue earmarked for this purpose is first distributed among eligible counties according to each county's proportionate shale activity.[4] Once deposited in a special county fund, the money is further distributed to the township road funds of townships in that county according to an order of a committee to be created in each eligible county – the township road maintenance committee.[5] A township must use this revenue to maintain and construct roads and purchase road maintenance equipment.[6]

Each township road maintenance committee is composed of one trustee of each township in the eligible county, appointed by each board of trustees. Annually, each committee must issue an order directing the county treasurer to distribute money in the township road maintenance fund to the township according to a proportion prescribed by the committee. In determining each township's share, committee members must consider the number of road miles in the township, the amount of money received by the township for capital improvements under the bill's new revenue distribution system, and the number and locations of producing oil and gas wells in the township.

Committee members are not compensated, serve one-year terms, and may be reappointed. Each committee is subject to the Open Meetings and Public Records Laws.[7]

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[3] R.C. 321.50 and 1509.02(B)(1).

[4] R.C. 1509.02(B)(2).

[5] R.C. 321.51.

[6] R.C. 505.96(D).

[7] R.C. 505.96.

Shale region firefighting and EMT equipment program

The bill transfers 5% of excess Oil and Gas Well Fund revenue to a new fund – the Shale Region Firefighting Equipment Fund – from which the State Fire Marshal may provide grants to fire departments with a service area that includes territory in an eligible county to purchase firefighting and EMT vehicles and equipment. A single fire department, or a county emergency management agency on behalf of multiple fire departments, may file a grant application with the Fire Marshal. In deciding whether or not to approve an application for such a grant, the Fire Marshal is required to consider all of the following:

(1) The regional distribution of similar firefighting and EMT vehicles and equipment;

(2) The importance of the equipment to the health and safety of firefighters and residents in the department's or departments' service area;

(3) The availability of other funding for the purchase;

(4) The extent to which the vehicles or equipment are necessary to prepare and respond to emergencies related to oil and gas wells.

The bill empowers the Fire Marshal to adopt rules as necessary to administer the grant program.[8]

Other distributions

Injection well subdivision capital improvements

The bill distributes 10% of excess Oil and Gas Well Fund revenue to counties that have been certified by DNR as having a permitted well that stores brine and oil and gas drilling waste ("injection well") during the preceding year, in proportion to the number of injection wells located in the county compared to the number of all injection wells in the state.[9] Under continuing law, an injection well may not operate in Ohio unless its owner holds a permit from DNR.[10]

The earmark is paid to a special county fund and distributed to the county and each municipal corporation and township in the county in the same proportions as

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[8] R.C. 1509.02(B)(6) and 3737.15.

[9] R.C. 1509.02(B)(3) and 1509.11(D)(1).

[10] R.C. 1509.22(D), not in the bill.

Local Government Fund money is allocated through the county's undivided local government fund. Revenue received by a subdivision must be used to pay the costs of capital improvements.[11]

Injection well township and municipal general revenue

The bill distributes 10% of excess Oil and Gas Well Fund revenue to each municipal corporation or township in which an injection well is located. Such revenue may be used for operating expenses or any other purpose.[12] The amount to be distributed to each municipal corporation or township is proportionate to the volume of brine and other waste injected into each such well located in the municipal corporation or unincorporated area of the township during the preceding year compared to the volume of such substances injected into each well in the state during that year. This proportion is to be annually calculated by DNR and certified to OBM by June 15.[13]

Gaseous Fuel Vehicle Conversion Program

The bill transfers 10% of excess Oil and Gas Well Fund revenue to a new state fund to provide grants to state agencies, political subdivisions, school districts, transit systems, and nonprofit corporations for the conversion of vehicles to operate on compressed or liquefied natural gas or liquefied petroleum gas ("gaseous fuel") or the purchase of a gaseous fuel vehicle.[14] Under the program, the Director of Environmental Protection may make grants to such entities to subsidize the costs of conversion or for the excess costs associated with the purchase of gaseous fuel vehicles compared to an equivalent vehicle that operates on gasoline or diesel fuel.[15]

Fiscal year 2017 fund balance transfer

In addition to requiring the annual transfer of excess Oil and Gas Well Fund revenue, the bill also requires an amount equal to the balance of the Oil and Gas Well Fund as of the end of fiscal year 2017 to be transferred from the Fund and, similar to excess Oil and Gas Well Fund revenue, used for the purposes and programs described

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[11] R.C. 321.52.

[12] R.C. 1509.02(B)(4).

[13] R.C. 1509.11(D)(2).

[14] R.C. 1509.02(B)(5).

[15] R.C. 3745.60.

above. This one-time transfer must occur by the end of fiscal year 2018 – the same date by which the first transfer of excess Oil and Gas Well Fund revenue must be made.[16]

Well plugging program

Under continuing law, DNR has a duty to plug oil and gas wells that have been abandoned or for which the bond has been forfeited ("idle and orphaned wells"), restore land affected by drilling or extraction, and take corrective actions to avoid imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted. Current law requires the Chief of DNR's Division of Oil and Gas Resources Management to annually spend at least 14% of the Oil and Gas Well Fund's revenue to pay costs associated with those purposes.

The bill removes the requirement for the Chief to use 14% of the Fund's revenue for these purposes, but gives the Chief permissive authority to do so.[17] Instead, the bill annually credits 14% of the revenue in the Oil and Gas Well Fund, up to the $18 million limit, to the new Well Plugging Fund.[18] (A maximum of $2.52 million – 14% of $18 million – could be credited to the Well Plugging Fund in a fiscal year via this required transfer mechanism.) The Chief is required to use all revenue in the Well Plugging Fund to pay costs associated with plugging idle and orphaned oil and gas wells and corrective actions related to such wells.[19]

Funded by this dedicated revenue source, the bill creates a new program within DNR's Division of Oil and Gas Resources Management called the Well Plugging Program, which is required to develop and maintain an inventory of all known and suspected idle and orphaned wells and prioritize the plugging of those wells based on each well's risk to public health and safety. The Chief must provide staff assistance to the Program and prepare a report for the General Assembly detailing the resources needed to develop a statewide inventory of idle and orphaned wells.[20]

Additionally, the bill requires the Chief to annually report the Division's well plugging activities to the General Assembly.[21]

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[16] Section 4.

[17] R.C. 1509.071.

[18] R.C. 1509.02(C).

[19] R.C. 1509.071 and 1509.075(C).

[20] R.C. 1509.075(A) and (B); Section 3.

[21] R.C. 1509.071(J).

Investigation of suspected idle and orphaned wells

The bill prescribes circumstances under which the Chief must investigate a well to determine whether it is an idle or orphaned well. Under continuing law, the owner of a horizontal well, i.e., a stimulated oil or gas well in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus shale formation, must submit quarterly reports to the Chief detailing the total amount of oil, gas, and brine produced from that well. The owner of a nonhorizontal well is required to submit such reports to the Chief annually ("production reports").

The bill requires the Chief to investigate a well to determine if it is idle or orphaned if, for horizontal wells, the owner has not filed a production report for eight consecutive calendar quarters or, for nonhorizontal wells, for two consecutive years. No investigation is required if the Chief has placed the well on temporarily inactive status.[22]

HISTORY

ACTION	DATE
Introduced	03-02-17

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[22] R.C. 1509.11(E).