



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 162

131st General Assembly  
(As Introduced)

Rep. Cera

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## BILL SUMMARY

- Modifies the rate and base of the severance tax on hydrocarbons, i.e., oil and gas, including condensate and natural gas liquids, produced from horizontal wells.
- Sets the modified tax base as the quantity of each such hydrocarbon severed or separated multiplied by a spot price for each hydrocarbon.
- Repeals a cost recovery assessment imposed on severed oil and gas.
- Adjusts the rate of the severance tax on oil and gas from nonhorizontal wells to the combined rate of the repealed assessment and current law's rate of severance tax on oil and gas.
- Creates a credit against the horizontal well hydrocarbon severance tax equal to the amount a severer pays in commercial activity tax (CAT) on the basis of receipts from the sale of the same oil and gas.
- Modifies the distribution of revenue from hydrocarbon severance taxes for the following purposes:
  - To reimburse local governments for Local Government Fund and Public Library Fund losses resulting from the bill's new tax credits (see below);
  - To provide a fixed annual amount to fund the oil and gas regulatory and orphaned and idle well plugging functions of the Department of Natural Resources (DNR);
  - To fund the general operations of local governments in the shale region;
  - To fund township road repairs and construction in the shale region;

--To fund two grant programs for local governments in the shale region administered by a new Ohio Shale Gas Regional Committee;

--To fund local government infrastructure projects outside the shale region;

--To fund state highway repairs and construction within the shale region;

--To provide grants for firefighting and EMT equipment in the shale region;

--To fund soil and water districts in the shale region;

--To provide grants to local governments and school districts to convert their vehicles to compressed natural gas fuel.

- Creates the Ohio Shale Gas Regional Committee to administer two grant programs for local governments in the shale region.
- Requires the Ohio Public Works Commission to assist that Committee in administering those grant programs.
- Establishes the Gaseous Fuel Vehicle Conversion Program, to be administered by the Director of Environmental Protection.
- Permits the Director to make grants to eligible public entities and nonprofit corporations for the purpose of promoting the use of vehicle fleets that operate on cleaner fuels.
- Creates a new well plugging program in DNR to catalog and prioritize the plugging of idle and orphaned oil and gas wells.
- Creates a new fund solely for funding activities related to the plugging of idle and orphaned oil and gas wells.
- Adjusts the due date of severance tax returns.
- Creates an income tax credit for royalty interest-holding individual landowners based on the hydrocarbon severance tax paid and for which the landowner is contractually responsible.
- Excludes from the base of the CAT gross receipts from the sale of hydrocarbons subject to severance taxes, provided the severer or its pass-through owners are subject to income tax on the income from that sale.

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## CONTENT AND OPERATION

### Hydrocarbon severance taxes

Current law levies a tax on any person that severs either of two hydrocarbons – oil or natural gas – from the ground or water in Ohio. The tax equals 10¢ per barrel of oil and 2½¢ per Mcf (1,000 cubic feet) of natural gas and is generally payable quarterly. A separate "cost recovery assessment" is levied in the additional amount of 10¢ per barrel of oil and ½¢ per Mcf of natural gas for all oil and gas wells, except very low volume wells.

Beginning October 1, 2015, the bill repeals the cost recovery assessment, distinguishes between horizontal and nonhorizontal wells for the purposes of imposing different tax rates and bases for oil and gas produced from each type of well, distinguishes for tax purposes additional types of hydrocarbons, and changes the purposes to which hydrocarbon severance tax revenue is allocated.



## **Horizontal versus nonhorizontal wells**

The bill distinguishes between "horizontal" wells and "nonhorizontal" wells for severance tax purposes. Horizontal wells are wells drilled to produce oil or gas with a wellbore that reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and that is stimulated to produce. (Stimulation is defined as a "process of enhancing well productivity, including hydraulic fracturing operations.")<sup>1</sup>

## **Taxable resources**

The bill defines "oil" and "gas" for the purposes of the severance tax. "Gas" (as compared to the current "natural gas"), is defined as hydrocarbons in a gaseous phase at standard temperature and pressure. "Oil" is defined as hydrocarbons produced in liquid form by ordinary production methods.

The bill also distinguishes two other types of hydrocarbons for purposes of the horizontal well severance tax: condensate – liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by gas processing – and natural gas liquids (NGLs) – hydrocarbons separated from severed gas, such as propane and ethane.<sup>2</sup>

## **Nonhorizontal well tax rates; cost recovery assessment**

The bill increases the tax rate on the severance of oil from nonhorizontal wells from 10¢ per barrel to 20¢ per barrel. The bill also increases the tax on gas extracted from nonhorizontal wells from the current 2½¢ per Mcf rate to 3¢ per Mcf. Despite this increase, however, the total rate of excise on oil and gas remains the same because the bill repeals the cost recovery assessment.<sup>3</sup>

## **Horizontal well severance tax**

Beginning October 1, 2015, the bill levies a new value-based severance tax on oil and gas severed from a horizontal well, and condensate and NGL byproducts thereof, and exempts that oil and gas from continuing law's volume-based tax. The new tax, similar to continuing law's severance tax, is imposed on the person that severs the oil or gas.

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<sup>1</sup> R.C. 5749.01.

<sup>2</sup> R.C. 5749.01.

<sup>3</sup> R.C. 1509.50 and 5749.02(A)(5) and (6).



## Tax base

The table below summarizes the base of the new tax, categorized according to each resource. Gas is taxed at one of two bases depending on whether the gas is placed directly into the natural gas distribution system or processed first to extract condensate or NGLs.

	<b>Tax Base (Quarterly)</b>
<b>Oil</b>	Barrels severed × average oil spot price
<b>Unprocessed Gas</b>	Mcf severed × average gas spot price
<b>Processed Gas</b>	Mcf collected after processing × average gas spot price
<b>Condensate</b>	Barrels separated and collected × average condensate spot price
<b>NGLs</b>	British thermal units separated and collected × average NGL spot price

As the table indicates, the new tax is based on the product of two variables – the "spot price" of severed gas, oil, condensate, or NGLs multiplied by the quantity of each resource severed from, or separated from oil or gas severed from, a horizontal well.<sup>4</sup> The Tax Commissioner calculates the quarterly spot price for each unit of hydrocarbon by averaging each day's closing spot price reported for that hydrocarbon during the quarter beginning six months before the current quarter, as reported by a publicly available source determined by the Commissioner. The spot price for condensate is based on the price of Marcellus-Utica condensate, and the spot price for NGLs is based on the price of natural gas plant liquids composite.<sup>5</sup>

The bill requires the Commissioner to post average quarterly spot prices for oil, gas, condensate, and NGLs applicable to each quarter on the Department of Taxation's website by the last day of the first month of the quarter for which the tax is due.<sup>6</sup> Thus, the average quarterly spot price applicable for a particular quarter is made available to taxpayers several months before the due date of the severance tax return (see "**Return due date**," below).

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<sup>4</sup> R.C. 5749.02(A)(10) to (14).

<sup>5</sup> R.C. 5749.01(M).

<sup>6</sup> R.C. 5749.02(E).

## **Tax rate**

The bill taxes the four forms of hydrocarbon severed from horizontal wells at the same rates, which vary according to the calendar quarter in which the hydrocarbon is severed. The rate is 2% for hydrocarbons severed during the first eight quarters, i.e., two years, of a horizontal well's operation, 3% for the next two years, and 4% for hydrocarbons severed thereafter.<sup>7</sup>

## **Credit for CAT taxes paid**

The bill authorizes a severer to claim a nonrefundable credit against the severance tax on hydrocarbons severed by horizontal wells equal to the commercial activity tax (CAT) the severer paid on the basis of the taxable gross receipts from the first sale of that oil or gas. The credit may be claimed on the basis of CAT paid by the severer in a CAT calendar quarter beginning on or after October 1, 2015. The credit must be claimed for the severance tax quarter in which the severer pays the CAT.

If the severer did not pay any CAT on the basis of those receipts, perhaps because of the CAT exclusion discussed below, then the severer may not claim this credit (see "**CAT exclusion for oil and gas receipts**," below).<sup>8</sup>

## **Revenue distribution of hydrocarbon severance tax**

The bill changes the distribution of hydrocarbon severance tax revenue. Under current law, 90% of oil and natural gas severance tax revenue is credited to the Oil and Gas Well Fund, which is used to fund the regulatory activities of the Department of Natural Resources' (DNR) Division of Oil and Gas Resources Management. The remaining 10% is credited to the Geological Mapping Fund, which funds the activities of DNR's Division of Geological Mapping.

The bill requires the Director of Budget and Management (OBM) to distribute revenue collected from all hydrocarbon severance taxes by June 25th of each year in the following order of priority:

(1) First, to the Local Government Fund (LGF) and Public Library Fund (PLF), an amount that reimburses those funds for revenue forgone as the result of a new income tax credit and CAT exclusion created by the bill and described below (see "**LGF and PLF reimbursement for losses**," below);

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<sup>7</sup> R.C. 5749.02(A)(10) to (14).

<sup>8</sup> R.C. 5749.18.



(2) Second, up to \$21 million to fund the DNR oil and gas regulatory and geological mapping functions. Of this revenue, \$15 million is credited to the Oil and Gas Well Fund, \$3 million to the Geological Mapping Fund, and \$3 million to a new Well Plugging Fund to fund DNR's activities related to plugging orphaned and idle wells and conducting corrective actions related to those wells (see "**Well Plugging Program**," below).

(3) Third, up to 50% of total hydrocarbon severance tax collections to fund two grant programs for local governments in the shale region administered by a new Ohio Shale Gas Regional Committee (75% of the earmark), for general local government purposes distributed via county undivided local government funds (20%), and for township road repairs and construction in the shale region (5%) (see "**Shale region general local government revenue**," "**Shale region township road repairs**," and "**Ohio Shale Gas Regional Committee grants**," below);

(4) The remainder to fund a grant program for local government infrastructure projects outside the shale region (63% of the remainder), state highway repair within the shale region (20%), a grant program for local governments and school districts to use to convert their vehicles to run on compressed natural gas (10%), a grant program for firefighting and EMT equipment in the shale region (6%), and to soil and water districts in the shale region (1%) (see "**Infrastructure projects outside shale region**," "**State highway funding in shale region**," "**Shale region firefighting and EMT equipment program**," "**Shale region soil and water district revenue**," and "**Gaseous Fuel Vehicle Conversion Program**," below).<sup>9</sup>

### "Shale region"

Whether or not a county or another political subdivision 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. The Director of DNR is required to annually calculate the proportion that the number of producing wells during the preceding year in each such county is of such wells located 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 OBM, the Ohio Shale Gas Regional Committee, the Ohio Public Works Commission, the Director of Transportation, and the State Fire Marshal to enable them to distribute the tax revenue.<sup>10</sup>

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<sup>9</sup> R.C. 5747.56 and 5749.02(C)(7).

<sup>10</sup> R.C. 1509.11(C).



## **LGF and PLF reimbursement for losses**

Continuing law requires that a certain percentage of tax revenue credited to the state's General Revenue Fund (GRF) be disbursed to counties, townships, and municipal corporations through the LGF and to public libraries, park districts, and some other subdivisions through the PLF: 1.66% of GRF tax revenue is credited to the LGF and 1.66% is credited to the PLF.<sup>11</sup>

The portion of the new severance tax revenue to be used to reimburse the LGF and PLF for the GRF revenue foregone as a result of the bill's new income tax credit and a commercial activity tax exclusion would be distributed through the LGF and PLF and the corresponding county funds in the same manner, and to the same recipients, as does LGF and PLF money under existing law (see "**Income tax credit for severance tax paid by landowner**," and "**CAT exclusion for oil and gas receipts**," below).<sup>12</sup>

## **Shale region general local government revenue**

Twenty per cent of the Local Government Reimbursement Fund (aside from the LGF/PLF reimbursement from that fund) would be distributed to counties that have been certified by DNR as having proportionate shale activity for the preceding year ("eligible counties"). This revenue is distributed according to each eligible county's proportionate shale activity. The earmark would have to be credited to a special county fund and distributed to the county and each municipal corporation and township in the county in proportion to revenue the subdivision would receive from the county's undivided local government fund according to the formula for allocating that revenue adopted by the county. The bill places no restrictions on the purposes for which a subdivision receiving this revenue may use it.<sup>13</sup>

## **Shale region township road repairs**

Five per cent of Local Government Reimbursement Fund (aside from the LGF/PLF reimbursement) is to be distributed for maintenance and construction of 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. Once deposited in a special county fund – the township road maintenance fund – the money is further distributed to the township road funds of townships in that county according to an order of a committee required to be created in

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<sup>11</sup> R.C. 131.51, not in the bill.

<sup>12</sup> R.C. 5747.56(A), (B)(1), and (C).

<sup>13</sup> R.C. 321.50 and 5747.56(B)(2).





each eligible county – the township road maintenance committee.<sup>14</sup> A township is required to use this revenue to maintain and construct roads and purchase road maintenance equipment.<sup>15</sup>

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. Before determining the portion to be distributed to a township, committee members must consider the number of road miles in the township, the amount of certain other hydrocarbon severance tax money received by the township (see "**Shale region general local government revenue**," above), and the number and locations of producing 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.<sup>16</sup>

### **Ohio Shale Gas Regional Committee grants**

The bill dedicates a portion of hydrocarbon severance tax revenue to two new grant programs administered by a new Ohio Shale Gas Regional Committee, described below. The portion is 75% of the money credited to the Local Government Reimbursement Fund (aside from the LGF/PLF reimbursement). Under both programs, the grants are available only to eligible counties or to municipal corporations, townships, sanitary districts, or regional water and sewer districts located in eligible counties (collectively referred to as "eligible subdivisions").<sup>17</sup>

### **Ohio Shale Gas Infrastructure Development Fund grants**

One of the grant programs – the Ohio Shale Gas Infrastructure Development Fund – receives 85% of the grant program money (63.75% of the 75% earmarked for both programs) to provide funding for eligible subdivisions' local "infrastructure projects," i.e., the improvement or construction of roads, bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and sewer collection,

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<sup>14</sup> R.C. 321.51 and 5747.56(B)(5).

<sup>15</sup> R.C. 505.96(D).

<sup>16</sup> R.C. 505.96.

<sup>17</sup> R.C. 190.01, 190.02, 190.03, 190.04, 190.05, and 5747.56(B)(3) and (4).



storage, and treatment facilities, and rail, water, and air transportation improvement projects.

The bill requires an eligible subdivision to apply to the Committee for an infrastructure project grant. The Committee does not award the grants directly, but instead submits recommendations to the Director of the Ohio Public Works Commission (PWC), who ultimately decides whether to approve a grant application. The Committee must consider the following factors when deciding whether to recommend that an application be approved:

- (1) The infrastructure needs of the eligible subdivision;
- (2) The project's importance to the health and safety of the subdivision's residents;
- (3) The availability of other funding for the project;
- (4) The adequacy of the project's planning;
- (5) The extent to which the project would support oil and gas production activity in the shale region;
- (6) The extent to which oil and gas production activities affect the need for the project.

In addition to funding infrastructure grants, the Ohio Shale Gas Infrastructure Development Fund may also be used to pay expenses the PWC incurs by assisting with the Committee's administration of the grant programs.<sup>18</sup>

#### **Severance Tax Legacy Fund grants**

The second grant program administered by the Ohio Shale Gas Regional Committee – the Severance Tax Legacy Fund – receives 15% of the grant program money (11.25% of the earmark for both grant programs) to provide funding, beginning in state fiscal year 2026, to any subdivision that is or had been an eligible subdivision for the general purpose of fostering the "long-term prosperity and a positive legacy in the subdivision." These subdivisions may apply for grants from this fund by submitting an application with the Committee beginning July 1, 2025. The Committee makes

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<sup>18</sup> R.C. 190.01, 190.03, and 190.05.

recommendations to the Director of PWC, who ultimately decides whether to award a Severance Tax Legacy Fund grant to an applicant.<sup>19</sup>

### **Ohio Shale Gas Regional Committee**

The new permanent body created to administer the two grant programs for eligible subdivisions described above is named the Ohio Shale Gas Regional Committee. The Committee consists of ten members appointed by the Governor – three represent eligible counties; three represent eligible townships; three represent eligible municipal corporations; and one is a county engineer of an eligible county. The Governor is required to select members from a list provided by each statewide organization that represents each subdivision and county engineers, respectively. Members of the Committee serve staggered four-year terms and are not compensated or reimbursed for their expenses for serving on the Committee.

The bill requires the Committee to meet for the first time within one year after the bill's effective date. The Committee is subject to Ohio's Open Meetings and Public Records Law. Members of the Committee are deemed not to have an unlawful interest in a public contract solely because the subdivision that the member represents receives assistance from one of the two funds the Committee helps administer.<sup>20</sup>

### **Infrastructure projects outside shale region**

From any hydrocarbon severance tax revenue remaining after the earmarks for LGF/PLF reimbursement, oil and gas regulatory and geologic mapping, and the Local Government Reimbursement Fund distributions for subdivisions' general fund, township roads, and Shale Gas Regional Committee grants, the bill dedicates 63% for a new funding source for infrastructure projects occurring in counties that are not eligible counties – the Infrastructure Development Fund. A county, municipal corporation, township, sanitary district, or regional water and sewer district that is not located in an eligible county may apply to the subdivision's local district public works integrating committee. (Under continuing law, these committees receive applications and make recommendations for other funding programs administered by the PWC.)

These committees, upon receiving an application, may recommend to the PWC that the applicant receive a grant from this fund to pay the costs of infrastructure projects. To determine whether to recommend an applicant for approval, the committee is required to consider several factors similar to what continuing law requires the committee to consider for other PWC infrastructure funding programs, e.g., the

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<sup>19</sup> R.C. 190.04 and 190.05.

<sup>20</sup> R.C. 190.02.



subdivision's infrastructure needs, other available funding, and the adequacy of planning for the project.

The Director of PWC must approve the recommendation of a district public works integrating committee, provided the project qualifies as an infrastructure project and there is enough money in the Infrastructure Development Fund to cover the grant. The bill empowers the Director to adopt rules as necessary to administer the grant program.<sup>21</sup>

### **State highway funding in shale region**

Twenty per cent of any remaining hydrocarbon severance tax revenue is dedicated for use by the Department of Transportation to construct, improve, or maintain portions of state highways that are located in eligible counties. The bill empowers the Director of Transportation to use that money for those purposes at the Director's sole discretion. However, if the Director uses the money to construct additional highways, the Director must use continuing law's procedures for giving affected communities notice of and receiving those communities' input on the new highways.<sup>22</sup>

### **Shale region firefighting and EMT equipment program**

The bill earmarks 6% of any remaining hydrocarbon severance tax 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;

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<sup>21</sup> R.C. 164.29 and 5749.02(C)(7)(d)(i).

<sup>22</sup> R.C. 5501.37 and 5749.02(C)(7)(d)(ii).

(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.<sup>23</sup>

### **Shale region soil and water district revenue**

The bill earmarks 1% of any remaining hydrocarbon severance tax revenue for soil and water districts of eligible counties. The revenue earmarked for this purpose is to be distributed to each district according to the corresponding eligible county's proportionate shale activity.<sup>24</sup>

### **Gaseous Fuel Vehicle Conversion Program**

Ten per cent of any remaining hydrocarbon severance tax revenue is earmarked to fund grants provided through a new program administered by the Director of Environmental Protection called the Gaseous Fuel Vehicle Conversion Program.<sup>25</sup> The purpose of the program is to promote the conversion of public fleets to operate on cleaner fuels. Under the program, the Director may make grants to eligible public entities and nonprofit corporations for the conversion of a vehicle to operate on gaseous fuel or for the incremental cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel. "Incremental cost" means the excess cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel as compared to the purchase of an equivalent vehicle that operates on gasoline or diesel fuel.<sup>26</sup>

Under the bill, "gaseous fuel" means compressed natural gas, liquefied natural gas, or liquid petroleum gas. "Compressed natural gas" means a clear, odorless, and noncorrosive natural gas that is compressed to a pressure of at least 3,800 pounds per square inch but less than 4,500 per square inch. "Liquefied natural gas" means natural gas that is cooled to minus-260 Fahrenheit and is in a liquefied state. "Liquid petroleum gas" means a material with a vapor pressure not exceeding that of commercial propane

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<sup>23</sup> R.C. 3737.15 and 5749.02(C)(7)(d)(iv).

<sup>24</sup> R.C. 5749.02(C)(7)(d)(v).

<sup>25</sup> R.C. 3745.50(D) and 5749.02(C)(7)(d)(iii).

<sup>26</sup> R.C. 3745.50(A) and (B).

which is composed predominately of the following hydrocarbons or mixtures: propane, propylene, normal butane or isobutane, and butylene.<sup>27</sup>

The Director may make grants to state agencies, political subdivisions, school districts, transit systems, or nonprofit corporations.<sup>28</sup>

### **Rulemaking**

The bill requires the Director to adopt rules that are necessary for the administration of the program.<sup>29</sup>

### **Well plugging program**

Under continuing law, DNR has a duty to plug 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. DNR must dedicate 14% of the Oil and Gas Well Fund to these purposes, and the bill maintains this required earmark.<sup>30</sup>

The bill creates a new program within DNR's Division of Oil and Gas Resources Management called the Well Plugging Program. The purpose of the program is 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 of the Division of Oil and Gas Resources Management 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.<sup>31</sup>

Additionally, the bill requires the Chief to annually report the Division's well plugging activities to the General Assembly.<sup>32</sup>

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<sup>27</sup> R.C. 3745.50(A).

<sup>28</sup> R.C. R.C. 1702.01, not in the bill, and 3745.50(A) and (B).

<sup>29</sup> R.C. 3745.50(C).

<sup>30</sup> R.C. 1509.02 and 1509.071.

<sup>31</sup> R.C. 1509.075(A) and (B); Section 3.

<sup>32</sup> R.C. 1509.071(J).



## **Investigation of suspected idle and orphaned wells**

The bill prescribes circumstances under which the Chief of DNR's Division of Oil and Gas Resources Management must investigate a well to determine whether it is an idle or orphaned well. Under continuing law, the owner of a nonhorizontal well is required to submit annual reports to the Chief detailing the total amount of oil, gas, and brine produced from that well. The owner of a horizontal well must submit such reports four times per year ("production reports").

The bill requires the Chief to investigate a well to determine if it is idle or orphaned if, for nonhorizontal wells, the owner has not filed a production report for two consecutive years or, for horizontal wells, for eight consecutive calendar quarters. No investigation is required if the Chief has placed the well on temporarily inactive status.<sup>33</sup>

## **Return due date**

The bill extends the due date for severance tax returns from 45 days after the end of each quarter or other return period to 60 days after the end of each period.<sup>34</sup> Because of the extended due date for filing returns, the bill also extends the date by which the Tax Commissioner is required to certify to the Director of OBM the total amount in the fund that holds all severance tax revenue – the Severance Tax Receipts Fund – after accounting for amounts set aside for severance tax refunds. The bill requires the Commissioner to make this certification by the first day of the second month following the end of each calendar quarter rather than the fifteenth day of the month following the end of that quarter.<sup>35</sup>

## **Income tax credit for severance tax paid by landowner**

The bill authorizes an individual landowner subject to personal income tax that holds a royalty interest in any oil or gas well (horizontal or otherwise) to claim a nonrefundable credit against the taxpayer's personal income tax. The amount of the credit equals the percentage of oil and gas severance tax paid by the well's severer in a taxable year, up to 12.5%, that the landowner is responsible for – either by paying the tax or by having the landowner's royalty payments reduced. The credit is available for taxable years beginning on or after January 1, 2015.

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<sup>33</sup> R.C. 1509.11(D).

<sup>34</sup> R.C. 5749.06(B)(1).

<sup>35</sup> R.C. 5749.06(H)(3).



For the purpose of allowing a taxpayer to claim the credit, the bill requires the severer of each well to deliver a statement to each individual landowner holding a royalty interest each January listing the amount of oil and gas severance tax the severer paid in the preceding calendar year, unless the severer already made that information available to the royalty interest holder in some other written form. The bill requires a taxpayer to submit those reports or any other documentation necessary for the Tax Commissioner to administer the credit to the Commissioner upon request.<sup>36</sup>

### **CAT exclusion for oil and gas receipts**

The bill excludes from the taxable gross receipts base of the CAT the receipts realized from the sale of oil, gas, condensate, or natural gas liquids by a severer that paid severance tax on the basis of that hydrocarbon, provided the severer is either subject to the personal income tax on the income from that sale or is a pass-through entity one or more owners of which are subject to income tax on income from that sale. A pass-through entity owned by some persons who are subject to the income tax and others who are not may exclude such receipts only to the extent of the distributive or proportionate shares of the entity owned by persons subject to the income tax.<sup>37</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-21-15

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<sup>36</sup> R.C. 5747.63 and 5747.98.

<sup>37</sup> R.C. 5751.01(F)(2)(jj).

