



Ohio Legislative Service Commission

Bill Analysis

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H.B. 522

131st General Assembly
(As Introduced)

Reps. Phillips, Rogers, K. Smith

BILL SUMMARY

Permit application process for oil or gas wells

- Authorizes a municipal corporation or township (local authority) to approve or disapprove a permit application to drill an oil or gas well.
- Stipulates that if a local authority disapproves an application within a specified timeframe, the Chief of the Division of Oil and Gas Resources Management must deny the application.
- Stipulates that if the local authority approves the application or fails to act within the specified timeframe, the Chief may proceed to issue or deny the permit without further approval from the local authority.
- Extends the timeframe for permit application review to afford a local authority time to consider the approval or disapproval of the permit application.
- Requires the Chief to notify a local authority of a request for expedited permit application review.
- Authorizes the local authority to approve or disapprove the request for expedited review.
- Extends the timeframes of review for an expedited permit application review to afford the local authority time to consider approval or disapproval of the expedited review request.

Disposal of brine and other waste substances from oil and gas wells

- Specifies that only surface application or injection into Class I injection wells in accordance with a Class I permit issued by the Director of Environmental Protection are authorized methods of brine and other waste substance disposal.
- Prohibits all other currently permissible methods of brine and other waste substance disposal, including injection into a Class II injection well.
- Requires the Director of Environmental Protection, in consultation with the Director of Natural Resources, to adopt rules governing the injection of brine and other waste substances into Class I injection wells.
- Eliminates the authority of the Chief to adopt rules regarding the disposal of brine and other waste substances.
- Prohibits the conversion of conventional oil and gas wells into Class II injection wells for disposal.
- Beginning one year after the bill's effective date, prohibits the use of pits, dikes, or impoundments for temporary brine and waste storage or for spill prevention and control.
- Applies existing civil and criminal penalties to the new prohibitions created by the bill.
- Eliminates all of the existing fees on the disposal of brine and other waste substances into Class II injection wells.
- Levies a one cent per barrel fee on the disposal of each barrel of brine and other waste substances associated with oil and gas activities that is delivered to a Class I injection well to be injected, and requires the fees to be deposited in the existing Underground Injection Control Fund.
- Requires the Director of Environmental Protection to adopt rules regarding the collection of the one cent per barrel fee.

CONTENT AND OPERATION

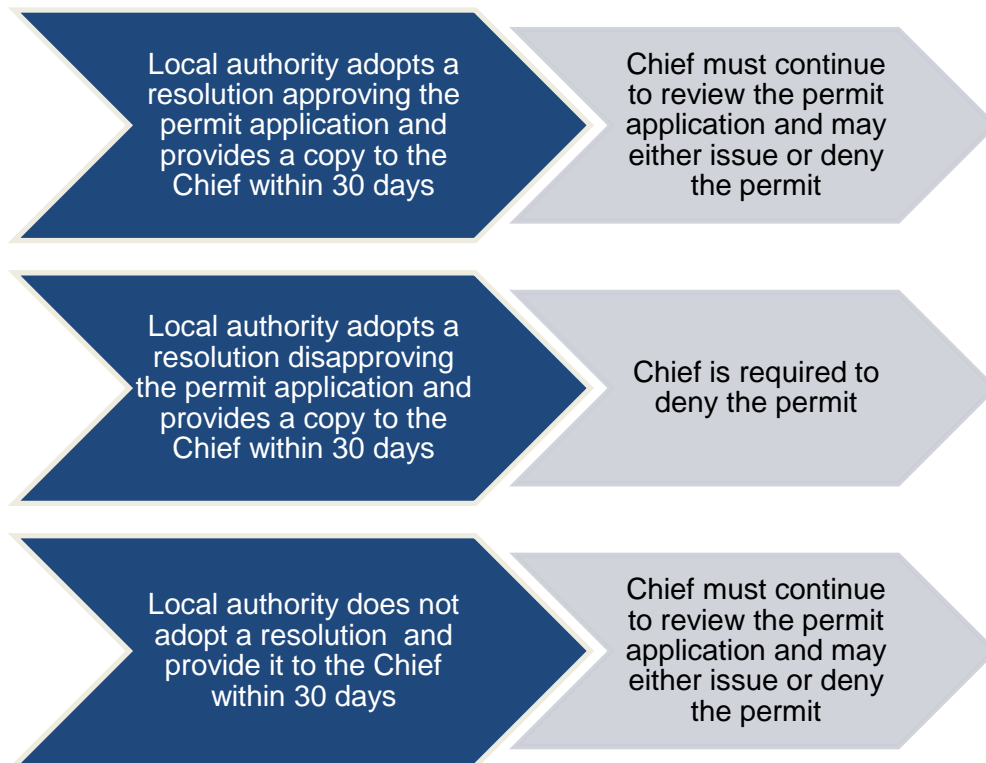
Permit application process for oil or gas well

Under current law, the regulation of oil and gas activities is a matter of general statewide interest requiring uniform regulation. Thus, the Division of Oil and Gas Resources Management in the Department of Natural Resources maintains the sole and



exclusive authority to regulate the permitting, location, and spacing of oil and gas wells. The bill eliminates this provision of law and authorizes the legislative authority of a municipal corporation or township (local authority) to approve or disapprove a permit application for a well prior to the approval or disapproval by the Chief of the Division.

The bill requires the Chief to transfer a copy of the permit application to the local authority within ten days of the Division's receipt of the application, rather than at the request of the local authority, as in current law. Within 30 days of receiving the permit application, the local authority is required to either approve or disapprove the permit by resolution, and provide a copy of that resolution to the Chief. The following chart illustrates the process of permit approval established by the bill.¹



¹ R.C. 1509.02 and 1509.06(B)(1) and (2). See also, *State ex rel. Morrison v. Beck Energy Corp.*, 143 Ohio St.3d 271 (2015).

To allow the local authority the necessary time to adopt a resolution under the above process, the bill extends the timeframes by which the Chief must issue or deny a permit as follows:²

Timeframe under current law	Timeframe under the bill
The Chief must issue or deny a permit not earlier than 10 days but within 21 days of the date of application (the Chief may waive the minimum period or may accept a request for expedited review).	The Chief must issue or deny a permit not earlier than 40 days but within 51 days of the date of application (the Chief may waive the minimum period or may accept a request for expedited review).
If the proposed location of a well is in an urbanized area, the Chief must issue or deny a permit not earlier than 18 days but within 30 days of the date of application (the Chief may waive the minimum period or may accept a request for expedited review).	If the proposed location of a well is in an urbanized area, the Chief must issue or deny a permit not earlier than 48 days but within 60 days of the date of application (the Chief may waive the minimum period or may accept a request for expedited review).

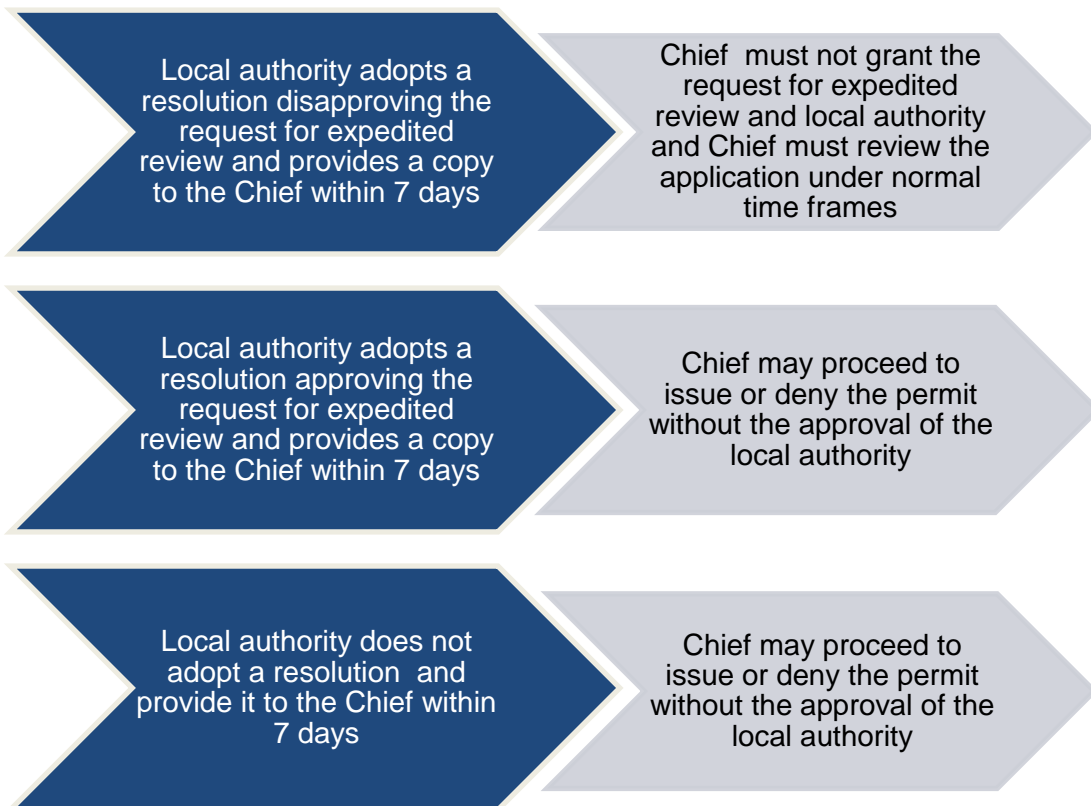
Expedited permit application review

As indicated in the table above, under current law, an applicant for a permit to drill a well may submit a request for expedited review. The applicant must submit an additional nonrefundable fee of \$250. When the Chief receives the request, the Chief must notify the county engineer of the county in which the well is or will be located, either by phone or other timely means. The bill also requires the Chief to notify the local authority. The bill then requires the local authority to approve or disapprove the request for expedited review by resolution within seven days of receiving notice from the Chief. The following chart illustrates the process of expedited review approval established by the bill:³

² R.C. 1509.06(C)(1) and (2).

³ R.C. 1509.06(D)(2).





To allow the local authority the necessary time to adopt a resolution under the above process, the bill also extends the timeframe by which the Chief must approve or deny an expedited permit application as follows:⁴

Timeframe under current law for expedited review	Timeframe under the bill for expedited review
The Chief must issue or deny the permit within 7 days after the request for expedited review.	The Chief must issue or deny the permit within 14 days after the request for expedited review.
The Chief may refuse to accept requests for expedited review if, in the Chief's judgment, the acceptance of that request would prevent the issuance of other permits applications currently pending within 21 days of their filing.	The Chief may refuse to accept requests for expedited review if, in the Chief's judgment, the acceptance of that request would prevent the issuance of other permits applications currently pending within 51 days of their filing.

⁴ R.C. 1509.06(D)(2)(d).

Disposal and storage of brine and other waste substances

Background: Class I and Class II injection wells

Under current law, the disposal of brine and other waste substances used in hydraulic fracturing may be disposed of in injection wells known as Class II injection wells. Class II injection wells are regulated by the Division of Oil and Gas Resources Management and are typically about 4,000 feet deep.⁵ Class I injection wells are regulated by the Ohio Environmental Protection Agency (OEPA) and are used for the disposal of hazardous and nonhazardous wastes other than wastes from hydraulic fracturing. Class I wells typically range from 1,700 to more than 10,000 feet in depth, depending on the type of wastes injected and other siting requirements. Siting and permitting requirements are generally more stringent for Class I injection wells.⁶

Methods of disposal

The bill eliminates the authority of an oil and gas permittee to dispose of brine and other waste substances by injection into a Class II injection well and, instead, requires such disposal to be conducted by either of the following methods:

- (1) Injection into a Class I injection well in accordance with a Class I permit issued by the Director of Environmental Protection; or
- (2) Surface application conducted in accordance with current law.

The bill also eliminates provisions of law that authorize an oil and gas permittee to dispose of brine and other waste substances as follows:

- (1) In association with a method of enhanced recovery;
- (2) In a manner that is approved by a permit or an order issued by the Chief of the Division of Oil and Gas Resources Management; or
- (3) In any other manner approved by the Chief.⁷

⁵ See *Injection Wells*, Ohio Department of Natural Resources, available at: <https://oilandgas.ohiodnr.gov/portals/oilgas/pdf/deep-well-disposal.pdf>.

⁶ Conversation with a representative from the Ohio Environmental Protection Agency. See *Class I Industrial and Municipal Waste Disposal Well*, USEPA, available at: <https://www.epa.gov/uic/class-i-industrial-and-municipal-waste-disposal-wells>.

⁷ R.C. 1509.22(D)(1), 1509.21(B), 1509.227, and 1509.074(A)(2)(b).



Rules

The Director of Environmental Protection, in consultation with the Director of Natural Resources, must adopt rules governing the injection of these wastes into Class I injection wells, including a requirement that an applicant for a Class I injection well permit submit a general description of the contents of the waste to be injected to the Director of Environmental Protection, owners and operators of local public water systems, and local emergency responders.⁸ The bill eliminates the authority of the Chief to adopt rules regarding the disposal of brine and other waste substances.⁹

Other prohibitions

In accordance with the prohibition against the disposal of brine and other waste substances into Class II injection wells, the bill prohibits the conversion of conventional oil and gas wells into Class II injection wells for disposal.¹⁰ The bill also prohibits the use of open pits, dikes, or impoundments for temporary brine and waste storage or for spill prevention and control. The bill affords the user of pits and dikes one year from the bill's effective date to come into compliance with this prohibition.¹¹ Finally, the bill prohibits the disposal of brine or other waste substances in association with secondary or additional recovery operations.¹²

Penalties

The following table illustrates each prohibition created by the bill, the mental state required for each criminal penalty, and the applicable civil and criminal penalties that apply to each violation:¹³

⁸ R.C. 6111.043(B), and 6111.044, not in the bill.

⁹ R.C. 1509.22(C)(1) and (D).

¹⁰ R.C. 1509.01(EE), 1509.05, 1509.051, 1509.06(A), (G), and (K), and 1509.08.

¹¹ R.C. 1509.072(A) and 1509.22(C)(1)(d) and (e), and (C)(2).

¹² R.C. 1509.21(B).

¹³ R.C. 1509.33 and 1509.99.



Prohibition	Mental state required for criminal penalty	Criminal penalty (each day of violation is a separate offense)	Civil penalty (each day of violation is a separate offense)
Prohibition against disposal of brine or other waste by any method other than surface application or injection into a Class I injection well	Reckless	At least \$100 and up to \$1,000 for a first offense; for each subsequent offense, at least \$200 and up to \$2,000.	Up to \$10,000
Prohibition against disposal of brine or other waste substances in association with secondary or additional recovery operations	Negligent	At least \$100 and up to \$1,000 for a first offense; for each subsequent offense, at least \$200 and up to \$2,000.	Up to \$10,000
Prohibition against converting a well to a use other than its original purpose	Negligent	At least \$100 and up to \$1,000 for a first offense; for each subsequent offense, at least \$200 and up to \$2,000.	Up to \$10,000
Prohibition against the use of dikes, pits, or impoundments for the storage of brine or other waste substances	Reckless	At least \$100 and up to \$1,000 for a first offense; for each subsequent offense, at least \$200 and up to \$2,000.	Up to \$10,000

Fees

The bill eliminates all existing fees on the disposal of brine and other wastes into Class II injection wells.¹⁴ Instead, the bill levies a one cent fee on each barrel of brine or other waste substances that is delivered to a Class I injection well for disposal. The fees must be deposited in the existing Underground Injection Control Fund, which is generally used by OEPA to administer the Class I injection well program. The Director of Environmental Protection is required to adopt rules establishing requirements and procedures for the collection of the fee.¹⁵

¹⁴ R.C. 1509.22(H).

¹⁵ R.C. 6111.046.



HISTORY

ACTION

DATE

Introduced

04-14-16

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