



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Amanda George

S.B. 236

132nd General Assembly
(As Introduced)

Sens. Huffman, Uecker, Hottinger, O'Brien, Balderson

BILL SUMMARY

- Transfers the responsibility to hear an appeal from the owner of a coal mining operation who objects to the location of an oil and gas well from the existing Reclamation Commission to the Affected Mine Commission, which is created by the bill.
- Requires the Affected Mine Commission to make a determination as to whether the coal mining operation that is the subject of the appeal is an affected mine and defines affected mine for purposes of the bill.

CONTENT AND OPERATION

Introduction

When a person submits a permit application to drill, reopen, convert, plug, or abandon an oil or gas well and the well is located in a coal bearing township, the Chief of the Division of Oil and Gas Resources Management notifies the Chief of the Division of Mineral Resources Management.¹ The Chief of the Division of Mineral Resources Management then determines if the proposed well location may affect a coal mining operation. If the Chief makes a determination that the proposed well location affects a coal mining operation, the Chief notifies the owner or lessee of any affected mine (affected mine owner) that the application has been filed and sends the affected mine

¹ R.C. 1509.08(D).

owner two copies of the submitted paperwork, which includes the location of the well.² What constitutes an "affected mine" is **not** defined under current law and the determination of affected mine status is left to the discretion of the Chief.

If the affected mine owner objects to the location of the well or objects to any location within 50 feet of the original location as a possible site for relocation of the well, the affected mine owner must notify the Chief of the objection and give the reasons for the objection. If the Chief receives an objection, but it is the opinion of the Chief that the objections offered by the affected mine owner are not sufficiently well founded, the Chief must immediately notify the affected mine owner of those findings. The affected mine owner may then appeal the decision of the Chief to the Reclamation Commission within 15 days of receiving the notice. If an appeal is not filed with the Commission within that time, the Chief of the Division of Mineral Resources Management must approve the permit application and notify the Chief of the Division of Oil and Gas Resources Management of the approval. If an appeal is filed, the Commission must issue a decision within 30 days of the filing of the appeal.³

Under current law, the Reclamation Commission generally hears appeals of any person claiming to be aggrieved or adversely affected by an administrative decision of the Chief of the Division of Mineral Resources Management relating to mining and reclamation issues.⁴

Affected Mine Commission

The bill creates the Affected Mine Commission to hear appeals related to coal mines affected by a proposed oil and gas operation and eliminates the role of the Reclamation Commission with regard to those matters.⁵ The Reclamation Commission retains all of its other powers and duties under current law.

Under the bill, the Affected Mine Commission generally must follow the same procedures that apply to the Reclamation Commission under current law. However, in hearing an appeal, the Commission must first make a determination as to whether the coal mining operation that is the subject of the appeal is an affected mine.⁶ The bill

² R.C. 1509.08(E).

³ R.C. 1509.08(E).

⁴ R.C. 1513.05, not in the bill.

⁵ R.C. 1509.08.

⁶ R.C. 1509.083(A).

specifies that an "affected mine" is a coal mining operation, whether surface or underground, to which all of the following apply:

(1) The Chief of the Division of Mineral Resources Management has issued a coal mining operation permit;

(2) An application for a well permit has been filed and the well's proposed location is within the permitted limits of the coal mining operation;

(3) The operator of the coal mining operation has acquired the right to mine coal at the proposed well location from 100% of the coal owners; and

(4) Active mining is occurring at the coal mining operation within 2,500 feet of, and progressing towards, the proposed well location.⁷ The bill does not define the term "progressing towards." Thus, it appears that the Commission must determine whether an active mine is "progressing towards" a proposed well location.

After the Affected Mine Commission issues a decision order, any party adversely affected by the order may appeal the decision to the Court of Common Pleas of Franklin County.⁸ The Commission, within 180 days after the effective date of the bill, must adopt rules that govern its procedures.⁹

Commission makeup

Initial appointments to the Affected Mine Commission must be made within 30 days after the bill's effective date. Each member serves a five-year term. The following chart sets forth the makeup of the Affected Mine Commission under the bill and compares it to the makeup of the Reclamation Commission under current law:¹⁰

⁷ R.C. 1509.01(II).

⁸ R.C. 1509.083(B).

⁹ R.C. 1509.082(H).

¹⁰ R.C. 1509.082(A) to (D) and R.C. 1513.05, not in the bill.

Reclamation Commission	Affected Mines Commission
Seven members on the Reclamation Commission, <i>four members constitute a quorum and no action of the Commission is valid unless it has the concurrence of at least four members</i>	Five members on the Affected Mines Commission, <i>four members constitute a quorum and no action of the Commission is valid unless it has the concurrence of at least a majority of the members voting on that action</i>
Membership:	Membership:
2 members who own and operate a farm or who are retired farmers	2 members of the Reclamation Commission appointed by the Reclamation Commission's chairperson (who may appoint themselves)
1 member who is a representative of an operator of a coal mine	2 members who are members of the Oil and Gas Commission appointed by the Oil and Gas Commission's chairperson (who may appoint themselves)
1 member who is a representative of the public	1 member who owns and operates a farm or who is a retired farmer appointed by the Governor
1 member who is learned and experienced in modern forestry practices	
1 member who is learned and experienced in agronomy	
1 member who is capable and experienced in earth-grading problems or a civil engineer	
Other specifications:	No other specifications
At least one of the above seven members must be a licensed Ohio attorney and familiar with mining issues.	
Up to four members can be from the same political party	

Leadership and compensation

The Commission must select from among its members a chairperson, a vice-chairperson, and a secretary to serve one year terms. Each member of the Commission is paid a fixed amount per diem in accordance with Ohio law when actually engaged in the performance of work as a member and when engaged in travel necessary in connection with that work. In addition to that compensation, each member is reimbursed for all traveling, hotel, and other expenses necessarily incurred in the performance of work as a member. The Commission must keep a record of its proceedings.¹¹

Vacancy and removal

A vacancy on the Commission is filled in the same manner as the original appointment within 60 days after the vacancy occurs. Any member appointed to fill a vacancy prior to the expiration of the term for which the member's predecessor was appointed will hold office for the remainder of that term. A member must continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 60 days has elapsed, whichever occurs first. The Governor may remove any member of the Commission from office for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance.¹²

HISTORY

ACTION	DATE
Introduced	11-27-17

S0236-I-132.docx/emr

¹¹ R.C. 1509.082(D) to (F).

¹² R.C. 1509.082(C) and (G).

