



# OHIO LEGISLATIVE SERVICE COMMISSION

## Bill Analysis

Amanda George

### Sub. H.B. 225

132nd General Assembly

(As Reported by S. Energy and Natural Resources)

**Reps.** Thompson, Hambley, Householder, Stein, Brenner, Riedel, Dean, Schaffer, Seitz, Keller, Edwards, Greenspan, Patterson, Goodman, Wiggam, Retherford, Ginter, Barnes, Young, Romanchuk, Landis, Kick, Patton, Faber, West, Boccieri, Hagan, O'Brien, Gavarone, Anielski, Antonio, Arndt, Boyd, Carfagna, Craig, Green, Holmes, Hoops, Johnson, Kent, Lang, LaTourette, Lepore-Hagan, Manning, Miller, Pelanda, Reineke, Roegner, Rogers, Ryan, Schuring, Sheehy, Slaby, K. Smith, R. Smith, Sprague, Sweeney, Vitale

**Sens.** Gardner, Hoagland, LaRose

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## BILL SUMMARY

### Idle and orphaned oil and gas wells

#### Reporting and categorization

- Authorizes a landowner who discovers an idle and orphaned well to report the existence of that well to the Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources.
- Requires the Chief to inspect a well reported by a landowner within 30 days after the date the landowner reports the existence of that well.
- Requires the Chief of the Division of Oil and Gas Resources Management to do both of the following:

--Establish a scoring matrix for idle and orphaned wells; and

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\* The prior version incorrectly stated that the Oil and Gas Well Fund for oil and gas well plugging was increased by \$7.0 million, not \$9.0 million. See pages 2 and 4.

--Use the matrix to determine the priority of plugging wells or restoring land surfaces at idle and orphaned well sites that includes a classification system that categorizes those wells as distressed high priority, moderate medium priority, and maintenance low priority.

### **Oil and Gas Well Fund**

- Requires 30% of the revenue credited to the Oil and Gas Well Fund to be used by the Chief for purposes associated with plugging idle and orphaned wells, rather than 14% as under current law.
- Increases appropriations in FY 2019 under the Oil and Gas Well Fund for oil and gas well plugging by \$9.0 million to a total of \$15.0 million.

### **Notice requirements and procedures concerning idle and orphaned wells**

- Revises notice requirements and procedures that the Chief must follow once the Chief has determined that a well is idle and orphaned, and notice requirements applicable when the Chief is authorized to expend money to plug a well.
- Alters the time frame by which the holder of a lien on equipment appurtenant to an idle and orphaned well must act to properly plug the well before the equipment is forfeited to the state from 60 days after receiving notice from the Chief to 30 days after receiving the notice.

### **Contracts for plugging**

- Authorizes the Chief to make expenditures to plug an idle and orphaned well pursuant to contracts entered into by other state agencies, and specifies that if another agency contracts for the work, the Chief must prepare the scope of work for the restoration or plugging.
- Eliminates a requirement that a contractor obtain and provide a bid guaranty, surety bond, or letter of credit when bidding for contracts with the Chief to plug an idle and orphaned well.
- Requires a contractor hired by a landowner to plug an idle and orphaned well to be insured and bonded.
- Specifies that, with regard to an idle and orphaned well, a landowner is not required to pay the permit application fee otherwise required to be paid by a person who plugs a well.

- Authorizes the Chief to reject an application to plug an idle and orphaned well if the Chief determines that plugging of other wells takes priority.
- Requires the Chief, once plugging has been properly completed, to pay the contractor for the cost of plugging and restoration rather than requiring the Chief to reimburse the landowner after the landowner has paid the contractor.

#### **Quarterly and annual reports**

- Requires the Chief to fulfill quarterly and annual reporting requirements regarding plugging activities.

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## **CONTENT AND OPERATION**

### **Plugging idle and orphaned and abandoned oil and gas wells**

#### **Background**

The Ohio Department of Natural Resources, Division of Oil and Gas Resources Management, operates a program to plug improperly abandoned oil and natural gas wells. The program has been in operation since 1977. Under the program, the Division may provide for plugging a well, or a qualified landowner may hire a contractor to plug the well and receive reimbursement of the costs from the Division. The program also provides for the plugging of a well in an emergency situation.<sup>1</sup>

#### **Reporting and categorizing idle and orphaned wells**

The bill authorizes a landowner who discovers an idle and orphaned well to report the existence of that well to the Chief of the Division of Oil and Gas Resources Management. An idle and orphaned well is a well for which a bond has been forfeited or an abandoned well for which no money is available to plug the well. When the Chief receives a report from the landowner regarding the existence of an idle and orphaned well, the Chief must inspect the well within 30 days after the date of the landowner's report.<sup>2</sup>

The bill also requires the Chief to do both of the following:

- (1) Establish a scoring matrix for idle and orphaned wells; and

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<sup>1</sup> See <http://oilandgas.ohiodnr.gov/orphanwellprogram>.

<sup>2</sup> R.C. 1509.071(C)(1) and (2); R.C. 1509.01(CC), not in the bill.



(2) Use the matrix in determining the priority of plugging wells or restoring land surfaces at idle and orphaned well sites that includes a classification system that categorizes those wells as distressed high priority, moderate medium priority, and maintenance low priority.<sup>3</sup>

## **Oil and Gas Well Fund**

### **Percentage of Fund used for plugging**

Under current law, the Chief is required to annually use 14% of the revenue credited to the existing Oil and Gas Well Fund during the previous fiscal year for the following purposes:

(1) To plug idle and orphaned wells or to restore the land surface properly;

(2) To correct conditions the Chief reasonably has determined are causing imminent health or safety risks at an idle or orphaned well for which the owner of the well cannot be contacted to initiate a corrective action within a reasonable period of time, as determined by the Chief.<sup>4</sup>

The bill changes the percentage that the Chief must spend from the Fund for these purposes from 14% to 30%. The bill also specifies that the stated intent of this spending is for the purpose of promoting the competent management and conservation of the state's oil and natural gas resources and the proper and lawful plugging of historic oil and gas wells for which there is no responsible owner.<sup>5</sup>

### **Appropriations for orphan and idle well plugging**

The bill amends Section 343.10 of Am. Sub. H.B. 49 of the 132nd General Assembly to increase appropriations in FY 2019 under Oil and Gas Well Fund (Fund 5180) appropriation item 725677, Oil and Gas Well Plugging, by \$9.0 million to a total of \$15.0 million.<sup>6</sup>

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<sup>3</sup> R.C. 1509.071(C)(3) and (4).

<sup>4</sup> In addition to plugging idle and orphaned oil and gas wells, the Division must use money in the Oil and Gas Well Fund for purposes of administering the Oil and Gas Law and the law governing underground storage of gas and for expenses that are critical and necessary for the protection of human health and safety and the environment related to oil and gas production in Ohio. The Oil and Gas Well Fund consists of money derived from various sources, including money derived from the state excise tax on oil and gas. R.C. 1509.02 and 5749.02, not in the bill.

<sup>5</sup> R.C. 1509.071(B)(1).

<sup>6</sup> Sections 3 and 4.



## Notice requirements and procedures concerning idle and orphaned wells

The bill revises several notice requirements and procedures that the Chief must follow once the Chief has determined that a well is idle and orphaned. The following table illustrates the differences between current law and the bill regarding these notice requirements and procedures:

Current law	The bill
<p>Requires the Chief to determine from county recorder records the identity of the following persons, and mail notice to them that the well is to be plugged:</p> <p>(1) The owner of the land on which an idle and orphaned well is located;</p> <p>(2) The owner of the oil or gas lease under which the well was drilled;</p> <p>(3) Each person owning an interest in the lease; and</p> <p>(4) Each person having <b>legal title to</b>, or a lien upon, any of the equipment appurtenant to the well.</p> <p>No provision.</p>	<p>Requires the Chief to make a <b>reasonable attempt</b> to determine from county recorder records the identities of the following persons, and mail notice to them that the well is to be plugged:</p> <p>(1) The <b>current</b> owner of land on which the well is located;</p> <p>(2) Each person owning <b>a right or</b> interest in the oil and gas mineral interests;</p> <p>(3) Each person with a lien (not legal title to as in current law) on any equipment appurtenant to the well.</p> <p>For purposes of reviewing the county recorder records, the Chief is not required to review records older than 40 years, beginning on the date on which the Chief determines the well is idle and orphaned.<sup>7</sup></p>
<p>Requires the Chief to include in the notice to each person having legal title to or a lien upon any equipment appurtenant to the well a statement informing the person that the well is to be plugged and offering the person the opportunity to <b>plug the well and restore the land surface at the well site</b> at the person's own expense in order to avoid the equipment's forfeiture to the state.</p>	<p>Requires the Chief to include in the notice to each person having a lien upon any equipment appurtenant to the well (not a person having legal title as in current law) a statement informing the person that the well is to be plugged and offering the person the opportunity to <b>remove the equipment</b> at the person's own expense in order to avoid the equipment's forfeiture to the state.<sup>8</sup></p>
<p>No provision.</p>	<p>Requires the Chief to publish notice that the well is to be plugged in a newspaper of</p>

<sup>7</sup> R.C. 1509.071(D)(1)(a) and (b).

<sup>8</sup> R.C. 1509.071(D)(1)(c).



Current law	The bill
	general circulation in the county where the well is located. <sup>9</sup>
No provision.	Specifies that if the current address of the individuals described above cannot be determined or if the notice provided by mail is returned undeliverable, the Chief may satisfy the above requirements with publication in the newspaper only. <sup>10</sup>
Specifies that if none of the individuals described above plugs the well within 60 days after the mailing of the notices, the equipment is forfeited to the state.	Specifies that if none of the individuals described above removes equipment from the well within 30 days after the mailing of the notice or publication in the newspaper, whichever is later, the equipment is forfeited to the state. <sup>11</sup>

The bill also revises notice requirements that apply when the Chief makes expenditures from the Oil and Gas Well Fund for purposes of plugging an idle and orphaned well. First, the bill eliminates a requirement that the Chief provide notice regarding a plugging project to the owner or agents of adjoining land prior to entering land to begin plugging. Next, it authorizes the Chief to include additional information in a notice regarding a plugging project to the owner or lessee of a mine, such as information regarding the authorization that allows the mine operator to plug the idle and orphaned well under current law.<sup>12</sup>

## Contracts for plugging

### Background

As indicated above, current law requires the Chief to notify a landowner when the Division determines that an abandoned or improperly plugged well is located on the landowner's land. Once notified, the landowner may apply to the Chief for compensation equal to the landowner's reasonable costs to engage a private contractor to properly plug the well and restore affected land surfaces. The Chief is required to approve the application if the Chief finds that the proposed costs are reasonable and that the project complies with existing well plugging laws and regulations. The Chief reimburses the landowner's approved well plugging expenses upon the satisfactory

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<sup>9</sup> R.C. 1509.071(D)(1)(d).

<sup>10</sup> R.C. 1509.071(D)(2).

<sup>11</sup> R.C. 1509.071(D)(3).

<sup>12</sup> R.C. 1509.071(E)(1).



completion of all well plugging activities. The Chief may place an annual limit on the number of plugged wells eligible for reimbursement. In addition the Chief may enter into a contract for purposes of plugging a well.<sup>13</sup>

### **Contract provisions of the bill**

The bill revises the law governing contracts for well plugging. First, the bill authorizes the Chief to make expenditures from the Oil and Gas Well Fund to plug an idle and orphaned well pursuant to contracts entered into by other state agencies. If another agency enters into a contract, the Chief must prepare the scope of work for the restoration or plugging.<sup>14</sup> Next, the bill establishes a requirement that a contractor hired by a landowner to plug an idle and orphaned well must be insured and bonded. The bill then specifies that a landowner is not required to pay the permit application fee otherwise required to be paid by a person who plugs a well. Further, the bill requires the Chief to reimburse the contractor for plugging activities rather than requiring the landowner to pay the contractor and seek reimbursement from the Chief as under current law.<sup>15</sup>

The bill authorizes the Chief to reject an application to plug an idle and orphaned well if the Chief determines that plugging of other wells takes priority. The bill makes clear that for purposes of these contracts, "plug" and "plugging" include installation of a vault and vent and restoration, in addition to the plugging of the well and restoration of the land surface disturbed by the plugging.<sup>16</sup> Finally, the bill eliminates a requirement that a contractor obtain and provide to the Chief a surety bond or letter of credit in an amount equal to 10% of the amount of the plugging contract.<sup>17</sup>

### **Quarterly and annual reports**

The bill requires the Chief to fulfill two sets of reporting requirements, including a quarterly report that must be provided to the Technical Advisory Council on Oil and Gas,<sup>18</sup> and a joint annual report with the Council that must be provided to various

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<sup>13</sup> R.C. 1509.071(E)(1) and (2).

<sup>14</sup> R.C. 1509.071(E)(1).

<sup>15</sup> R.C. 1509.071(E)(2).

<sup>16</sup> R.C. 1509.071(E)(2)(d).

<sup>17</sup> R.C. 1509.071(G)(2).

<sup>18</sup> Under current law, the Technical Advisory Council on Oil and Gas is required to approve specified rules adopted by the Chief, approve certain actions of the Chief governing special drilling unit requirements, consult with and advise the Chief, and perform other duties that may be lawfully delegated to it by the Chief. R.C. 1509.24, 1509.25, and 1509.38, not in the bill.

members of the General Assembly. First, the Chief must submit a written report to the Technical Advisory Council on Oil and Gas on or before the close of each calendar quarter. The quarterly report must describe the efforts of the Division of Oil and Gas Resources Management to plug idle and orphaned wells during the immediately preceding calendar quarter. The Chief must include in the quarterly report all of the following:

(1) The total number of known idle and orphaned wells in the state and the total number in each county of the state;

(2) The total number of newly discovered idle and orphaned wells during the immediately preceding calendar quarter;

(3) The total number of wells plugged during the immediately preceding calendar quarter;

(4) The total number of idle and orphaned wells plugged and the estimated average and indirect costs of plugging activities prior to the date of the report; and

(5) The number of wells approved for plugging and the estimated average and indirect costs of plugging activities conducted during the immediately preceding calendar quarter.

Second, the Chief and the Council must jointly provide to all of the following an annual report containing, at a minimum, the information included in the quarterly reports during the previous one-year period:

(1) The Speaker of the House of Representatives;

(2) The Chairperson of the committee of the House of Representatives responsible for energy and natural resources issues;

(3) The President of the Senate; and

(4) The Chairperson of the committee of the Senate responsible for energy and natural resources issues.

The Chief and the Council must deliver the report not later than March 31 of each year.<sup>19</sup>

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<sup>19</sup> R.C. 1509.071(J)(2).



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## HISTORY

ACTION	DATE
Introduced	05-16-17
Reported, H. Energy & Natural Resources	01-17-18
Passed House (96-0)	01-17-18
Reported, S. Energy & Natural Resources	05-21-18

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