

**As Reported by the Senate State and Local Government and
Veterans Affairs Committee**

125th General Assembly

Regular Session

2003-2004

Sub. H. B. No. 299

**Representatives Gibbs, Calvert, Seitz, Gilb, Raussen, Fessler, D. Evans,
Faber, Collier, Kearns, Schmidt, Hartnett, Barrett, Wolpert, Wagner, Daniels,
McGregor, Domenick, C. Evans, Price, Sferra, Martin, Aslanides, Book,
Carano, Carmichael, Cates, Chandler, Clancy, DeBose, Distel, Flowers,
Grendell, Hagan, Hollister, Hughes, Niehaus, T. Patton, Peterson, Reinhard,
Schneider, Setzer, J. Stewart, Taylor, Walcher, Webster, Willamowski
Senators Zurz, Roberts, Schuler, Goodman**

A B I L L

To amend sections 309.09, 5543.01, 5553.04, 5553.042,	1
5553.043, 5555.02, 5571.02, 5571.08, and 5571.12,	2
to contingently amend sections 1509.03 and	3
1509.06, and to enact sections 5541.05, 5553.045,	4
and 5571.20 of the Revised Code to authorize a	5
township to vacate upon petition certain township	6
roads that are not used by and maintained for the	7
public, to permit a board of county commissioners	8
and a board of township trustees to place a	9
graveled or unimproved county or township road on	10
nonmaintained status, to preserve certain utility	11
rights of way in vacated roads, to revise the	12
notification requirements governing the drilling	13
of oil and gas wells, to create the Oil and Gas	14
Advisory Council to advise the Chief of the	15
Division of Mineral Resources Management in the	16
Department of Natural Resources regarding the	17

adoption of certain rules governing oil and gas 18
wells, to permit the prosecuting attorney to be 19
the legal adviser to a joint fire district, and to 20
declare an emergency. 21

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 309.09, 5543.01, 5553.04, 5553.042, 22
5553.043, 5555.02, 5571.02, 5571.08, and 5571.12 be amended and 23
sections 5541.05, 5553.045, and 5571.20 of the Revised Code be 24
enacted to read as follows: 25

Sec. 309.09. (A) The prosecuting attorney shall be the legal 26
adviser of the board of county commissioners, board of elections, 27
and all other county officers and boards, including all 28
tax-supported public libraries, and any of them may require 29
written opinions or instructions from the prosecuting attorney in 30
matters connected with their official duties. The prosecuting 31
attorney shall prosecute and defend all suits and actions which 32
any such officer or board directs or to which it is a party, and 33
no county officer may employ any other counsel or attorney at the 34
expense of the county, except as provided in section 305.14 of the 35
Revised Code. 36

(B) The prosecuting attorney shall be the legal adviser for 37
all township officers, boards, and commissions, unless the 38
township has adopted a limited home rule government pursuant to 39
Chapter 504. of the Revised Code and has not entered into a 40
contract to have the prosecuting attorney serve as the township 41
law director, in which case the township law director, whether 42
serving full-time or part-time, shall be the legal adviser for all 43
township officers, boards, and commissions. When the board of 44
township trustees finds it advisable or necessary to have 45

additional legal counsel, it may employ an attorney other than the township law director or the prosecuting attorney of the county, either for a particular matter or on an annual basis, to represent the township and its officers, boards, and commissions in their official capacities and to advise them on legal matters. No such legal counsel ~~or attorney~~ may be employed, except on the order of the board of township trustees, duly entered upon its journal, in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the township fund.

Nothing in this division confers any of the powers or duties of a prosecuting attorney under section 309.08 of the Revised Code upon a township law director.

(C) Whenever the board of county commissioners employs an attorney other than the prosecuting attorney of the county, without the authorization of the court of common pleas as provided in section 305.14 of the Revised Code, either for a particular matter or on an annual basis, to represent the board ~~of county commissioners~~ in its official capacity and to advise it on legal matters, the board ~~of county commissioners~~ shall enter upon its journal an order of the board in which the compensation to be paid for the legal services shall be fixed. The compensation shall be paid from the county general fund. The total compensation paid, in any year, by the board ~~of county commissioners~~ for legal services under this division shall not exceed the total annual compensation of the prosecuting attorney for that county.

(D) The prosecuting attorney and the board of county commissioners jointly may contract with a board of park commissioners under section 1545.07 of the Revised Code for the prosecuting attorney to provide legal services to the park district the board of park commissioners operates. All moneys received pursuant to the contract shall be deposited into the prosecuting attorney's legal services fund, which shall be

established in the county treasury of each county in which the 78
contract exists. Moneys in that fund may be appropriated only to 79
the prosecuting attorney for the purpose of providing legal 80
services under a contract entered into under this division. 81

(E) The prosecuting attorney may be, in the prosecuting 82
attorney's discretion, the legal adviser of a joint fire district 83
created under section 505.371 of the Revised Code, at no cost to 84
the district. 85

Sec. 5541.05. (A) Except as otherwise provided in division 86
(D) of this section, a board of county commissioners by resolution 87
may place a graveled or unimproved county road under its 88
jurisdiction or any portion of such a road on nonmaintained 89
status. Upon adoption of such a resolution, the board is not 90
required to cause the road to be dragged at any time, or to cut, 91
destroy, or remove any brush, weeds, briars, bushes, or thistles 92
upon or along the road, or to remove snow from the road, or to 93
maintain or repair the road in any manner. The board, in its 94
discretion, may cause any of these actions to be performed on or 95
to a road that it has placed on nonmaintained status. 96

(B) A board may adopt a resolution under this section only if 97
the board finds that placing the road on nonmaintained status will 98
not unduly adversely affect the flow of motor vehicle traffic on 99
that road or on any other road located in the immediate vicinity 100
of that road as determined by the overall use of the road during 101
the preceding twenty-one years. 102

(C) A board may terminate the nonmaintained status of a 103
county road by adopting a resolution to that effect. If the owner 104
of land adjoining a road that has been placed on nonmaintained 105
status requests the board to terminate the nonmaintained status of 106
the road, the board, in its resolution that terminates that 107
nonmaintained status, may require the owner to pay the costs of 108

<u>upgrading the road to locally adopted county standards.</u>	109
<u>(D) A graveled road may not be placed on nonmaintained status</u>	110
<u>if any person resides in a residence adjacent to the road, the</u>	111
<u>road is the exclusive means for obtaining access to the residence,</u>	112
<u>and the residence is the person's primary place of residence.</u>	113
Sec. 5543.01. (A) Except as provided in division (B) of this	114
section, the county engineer shall have general charge of the	115
following:	116
(1) Construction, reconstruction, improvement, maintenance,	117
and repair of all bridges and highways within the engineer's	118
county, under the jurisdiction of the board of county	119
commissioners, <u>except for those county roads the board places on</u>	120
<u>nonmaintained status pursuant to section 5541.05 of the Revised</u>	121
<u>Code;</u>	122
(2) Construction, reconstruction, resurfacing, or improvement	123
of roads by boards of township trustees under sections 5571.01,	124
5571.06, 5571.07, 5571.15, 5573.01 to 5573.15, and 5575.02 to	125
5575.09 of the Revised Code;	126
(3) Construction, reconstruction, resurfacing, or improvement	127
of the roads of a road district under section 5573.21 of the	128
Revised Code.	129
(B) For any particular project, after notifying the county	130
engineer, the board of township trustees of a township that has	131
adopted a limited home rule government under Chapter 504. of the	132
Revised Code may hire an independent professional engineer to be	133
in charge of those activities listed in division (A)(2) of this	134
section. The county engineer shall review all of the independent	135
professional engineer's plans for improvements and provide the	136
board of township trustees with comments on those plans within ten	137
working days after receiving them. The county engineer shall	138

monitor all plans for improvements in order to maintain compliance 139
with existing construction standards and thoroughfare plans, and 140
coordinate construction timelines within the county. 141

(C) The county engineer may not perform any duties in 142
connection with the repair, maintenance, or dragging of roads by 143
boards of township trustees, except that, upon the request of any 144
board of township trustees, the county engineer shall inspect any 145
road designated by it and advise as to the best methods of 146
repairing, maintaining, or dragging that road. 147

Sec. 5553.04. When the board of county commissioners is of 148
the opinion that it will be for the public convenience or welfare 149
to locate, establish, alter, widen, straighten, vacate, or change 150
the direction of a public road, it shall so declare by resolution, 151
which resolution shall set forth the general route and termini of 152
the road, or part ~~thereof~~ of the road, to be located, established, 153
or vacated, or the general manner in which ~~such~~ the road is to be 154
altered, widened, or straightened, or the direction ~~thereof~~ of the 155
road is to be changed. 156

When a petition, signed by at least twelve freeholders of the 157
county residing in the vicinity of the proposed improvement, or 158
signed by the owner of the right to mine coal lying under or 159
adjacent to the proposed improvement, is presented to the board 160
requesting the board to locate, establish, alter, widen, 161
straighten, vacate, or change the direction of a public road, ~~such~~ 162
the board shall view the location of the proposed improvement, 163
and, if it is of the opinion that it will be for the public 164
convenience or welfare to make ~~such~~ the improvement, it may 165
proceed to make ~~such~~ the improvement as provided in sections 166
5553.04 to 5553.16, ~~inclusive~~, of the Revised Code. ~~Such~~ The 167
petition shall set forth the general route and termini of the 168
road, or part ~~thereof~~ of the road, to be located, established, or 169

vacated, or the general manner in which ~~such~~ the road is to be 170
altered, widened, or straightened, or the direction ~~thereof~~ of the 171
road is to be changed. When the board declares by resolution its 172
intention to proceed with the improvement, it ~~may~~ also may provide 173
in ~~such~~ the resolution for the establishment of an appropriate 174
detour route or for the temporary closing of the road to be 175
improved. When the petition presented to the board for a proposed 176
improvement as provided in this section, is a petition signed by 177
the owner of the right to mine coal lying under or adjacent to the 178
proposed improvement, ~~such~~ that petitioner shall pay the costs and 179
expenses incurred by ~~such~~ the board in connection with the 180
proceedings initiated by ~~such~~ the petition, and the costs and 181
expenses of making ~~such~~ the improvement including compensation and 182
damages, and including the cost of relocation of any conduits, 183
cables, wires, towers, poles, or other equipment or appliances of 184
any public utility or electric cooperative as defined in section 185
4928.01 of the Revised Code, located on, over, or under the 186
portion of the road affected by ~~such~~ the improvement, and, on 187
demand by the board, shall give bond to the satisfaction of the 188
board in ~~such~~ the amount ~~as~~ the board determines, to secure the 189
payment of all ~~such~~ of those costs and expenses. 190

Sec. 5553.042. A (A) As used in this section: 191

(1) "Electric cooperative" has the same meaning as in section 192
4928.01 of the Revised Code. 193

(2) "Service facilities" includes any conduit, cable, wire, 194
tower, pole, or other equipment or appliance of a public utility 195
or electric cooperative. 196

(B) A township shall lose all rights in and to any public 197
road, highway, street, or alley which has been abandoned and not 198
used for a period of twenty-one years, after formal proceedings 199
for vacation as provided in sections 5553.04 to 5553.11 of the 200

Revised Code have been taken; ~~and upon.~~ Upon petition for vacation 201
of such a public road, highway, street, or alley filed with the 202
board of county commissioners by any abutting landowner, if the 203
board finds that ~~said~~ the public road, highway, street, or alley 204
has been abandoned and not used for a period of twenty-one years 205
as alleged in ~~such~~ the petition, the board ~~of county commissioners~~ 206
~~may~~, by resolution, may order the road, highway, street, or alley 207
vacated, and ~~such~~ the road, highway, street, or alley shall pass, 208
in fee, to the abutting landowners ~~thereof~~, as provided by law, 209
and subject to ~~the preservation of any~~ all of the following: 210

(1) Any existing right of way in, over, or under ~~such roadway~~ 211
by the road, highway, street, or alley for the service facilities 212
of any public utility or rural electric co-operative service 213
facilities, including any conduit, cable, wires, towers, poles, or 214
other equipment or appliances of any public utility or rural 215
electric co-operative located on, over, or under such roadway and 216
cooperative for such period of time as long as such the public 217
utility or rural electric co-operative service facilities continue 218
to be used cooperative continues to render service to the public 219
and also subject to the; 220

(2) The right of ingress and egress for the purpose of 221
servicing and maintaining the same, and subject to the 222
preservation of a for a public utility or electric cooperative to 223
service and maintain its service facilities as provided under 224
section 5553.043 of the Revised Code; 225

(3) The right to trim or remove any trees, shrubs, brush, or 226
other obstacles growing in or encroaching onto the right of way 227
that may affect the operation, use, or access to service 228
facilities; 229

(4) Any right of way for public nonmotorized vehicular 230
recreational use as provided under section 5553.044 of the Revised 231
Code. 232

Sec. 5553.043. When any street, highway, or road, or a 233
portion thereof of any street, highway, or road, is vacated 234
pursuant to ~~the provisions of any section of Chapters 5553. this~~ 235
chapter or Chapter 5571. of the Revised Code, and the relocation 236
of any conduits, cables, wires, towers, poles, sewer lines, steam 237
lines, pipelines, gas and water lines, tracks, or other equipment 238
or appliances of any electric cooperative, railroad, or public 239
utility, whether owned privately or by any governmental authority, 240
located on, over, or under the portion of the street, highway, or 241
road affected by ~~any such~~ the vacation, ~~is~~ are not required for 242
purposes of the vacating authority, any affected electric 243
cooperative, railroad, or public utility company shall be deemed 244
to have a permanent easement in ~~such the~~ the vacated portion of ~~such~~ 245
the street, highway, or road for the purpose of accessing, 246
maintaining, operating, renewing, reconstructing, and removing 247
~~said those~~ those utility facilities ~~and for purpose of access to said~~ 248
~~facilities. Nothing~~ The permanent easement also confers a right of 249
ingress and egress to service and maintain those utility 250
facilities and a right to trim or remove any trees, shrubs, brush, 251
or other obstacles growing in or encroaching onto the permanent 252
easement that may affect the operation, use, or access to those 253
utility facilities. 254

Nothing in this section shall be construed to relieve an 255
owner of the right to mine coal who petitions for a proposed 256
improvement from the obligation to pay the relocation costs and 257
expenses of public utility or electric cooperative facilities as 258
provided in ~~Chapter 5553. this chapter~~ or Chapter 5571. of the 259
Revised Code. 260

As used in this section, "electric cooperative" has the same 261
meaning as in section 4928.01 of the Revised Code. 262

Sec. 5553.045. (A) As used in this section, "road" means a road, or portion of a road, which is not used to calculate distributions of the auto registration distribution fund under division (E) of section 4501.04 of the Revised Code and, thus, is not a road or portion of a road certified by the board of township trustees to the director of transportation in accordance with that division as mileage in the township used by and maintained for the public.

(B) A board of township trustees may petition the board of county commissioners to vacate a township road or a portion of a township road by passing a resolution that requests the vacation of the road or portion and includes a description of the general route and termini of the road or portion. The township clerk shall file a copy of the resolution with the board of county commissioners and certify another copy to the county engineer. Within thirty days after receipt of that copy of the resolution, the engineer shall issue to the board of county commissioners a written report similar in content to reports required under section 5553.06 of the Revised Code. The failure of the engineer to provide this report does not affect the actions required under this section and does not invalidate the vacation of a road or portion of a road under this section.

(C) Upon receipt of the copy of the township's resolution, the board of county commissioners shall set a date for a public hearing on the vacation of the road or portion of the road that is not more than forty-five days after the date that the resolution is filed with the board. The clerk of the board shall notify by regular mail the landowners abutting the road or portion of the road proposed to be vacated. That notice shall be sent at least twenty days before the board's public hearing, shall state that the board of township trustees has filed a resolution requesting

the vacation of the specified road or portion of the road under 294
this section, and shall inform the landowners of the time and 295
place of the public hearing on this issue. The notice shall be 296
mailed to the addresses of the abutting landowners as they appear 297
on the county auditor's current tax list or the county treasurer's 298
mailing list. Failure of the delivery of this notice to any 299
abutting landowner does not invalidate the vacation of a road or a 300
portion of a road under this section. 301

(D) After the public hearing, if the board of county 302
commissioners determines that the vacation of the road or portion 303
of the road would be for the public convenience or welfare, it 304
shall adopt a resolution by a majority vote declaring the road or 305
portion to be vacated and file a certified copy of the resolution 306
with the petitioner board of township trustees, the county 307
recorder, and the county engineer. 308

If the board of county commissioners fails to vote on the 309
issue of vacating the road or portion of the board within sixty 310
days after the township's resolution is filed with it, the road or 311
portion of the road specified in the resolution shall be deemed to 312
be vacated, and the petitioner board of township trustees shall 313
adopt another resolution describing the road or portion of the 314
road that has been vacated and explaining this vacation is by 315
action of this section. The board of township trustees shall file 316
a certified copy of that resolution with the board of county 317
commissioners, the county recorder, and the county engineer. 318

(E) Once the certified copies of the resolution declaring a 319
road or portion of a road vacated are filed as provided in 320
division (D) of this section, the board of township trustees, by 321
resolution, shall order the road or portion of the road vacated. 322
The vacated road or portion of the road shall pass, in fee, to the 323
abutting landowners subject to all of the following: 324

(1) A permanent easement as provided in section 5553.043 of 325
the Revised Code in, over, or under the road for the service 326
facilities, as defined in section 5553.042 of the Revised Code, of 327
a public utility or electric cooperative as defined in section 328
4928.01 of the Revised Code; 329

(2) The right of ingress or egress to service and maintain 330
those service facilities; 331

(3) The right to trim or remove any trees, shrubs, brush, or 332
other obstacles growing in or encroaching onto the permanent 333
easement that may affect the operation, use, or access to those 334
service facilities. 335

Sec. 5555.02. The board of county commissioners may construct 336
a public road by laying out and building a new road, or by 337
improving, reconstructing, or repairing any existing public road 338
or part ~~thereof~~ of an existing public road by grading, paving, 339
widening, altering, straightening, vacating, changing the 340
direction, draining, dragging, graveling, macadamizing, 341
resurfacing, applying dust preventives, or ~~by~~ otherwise improving 342
the same, and, where an established road has been relocated, the 343
board may construct and maintain ~~such~~ connecting roads between the 344
old and new locations as will provide reasonable access thereto. 345
The board also may place a county road on nonmaintained status 346
pursuant to section 5541.05 of the Revised Code. The board may 347
purchase or lease, erect, and maintain automatic traffic signals 348
at ~~such~~ intersections of public highways outside municipal 349
corporations as ~~are~~ necessary for the protection of the public 350
traveling upon ~~such~~ those highways. Automatic traffic signals 351
shall not be placed at intersections of public highways on the 352
state highway system unless the board first obtains the approval 353
of the director of transportation. 354

This section does not apply to roads or highways on the state 355

highway system, except such portions as the board constructs under 356
plans and specifications approved by the director and under ~~his~~ 357
the director's supervision and inspection. 358

Sec. 5571.02. The board of township trustees shall have 359
control of the township roads of its township and, except for 360
those township roads the board places on nonmaintained status 361
pursuant to section 5571.20 of the Revised Code, shall keep them 362
in good repair. The board of township trustees ~~may~~, with the 363
approval of the board of county commissioners or the director of 364
transportation, may maintain or repair a county road, or 365
intercounty highway, or state highway within the limits of its 366
township. 367

In the maintenance and repair of roads, the board of township 368
trustees may proceed in any of the following methods: 369

(A) It may designate one of its number to have charge of the 370
maintenance and repair of roads within the township. 371

(B) It may divide the township into three road districts, in 372
which event each trustee shall have charge of the maintenance and 373
repair of roads within one of ~~such~~ those districts. 374

(C) It may appoint some competent person, not a member of the 375
board of township trustees, to have charge of maintenance and 376
repair of roads within the township, who shall be known as 377
"township highway superintendent" and shall serve at the pleasure 378
of the board ~~of township trustees~~. 379

The method to be followed in each township shall be 380
determined by the board of township trustees by resolution entered 381
on its records. 382

Sec. 5571.08. ~~The~~ Except as provided in section 5571.20 of 383
the Revised Code, the board of township trustees shall cause all 384
the township roads within the township to be kept free from 385

obstruction by snow. The cost and expense thereof shall be paid 386
from the road funds of the township or from the funds allocated to 387
the township by section 5735.27 of the Revised Code. 388

Sec. 5571.12. ~~The~~ Except as provided in section 5571.20 of 389
the Revised Code, the board of township trustees shall cause the 390
graveled and unimproved public roads of the township to be 391
dragged. At the beginning of each fiscal half year, the board, 392
before making any other appropriations from the township road 393
fund, shall appropriate and set aside a sum sufficient to meet the 394
expense of dragging the graveled and unimproved public roads of 395
the township during the ensuing six months. ~~Such~~ That sum shall 396
not be used for any purpose other than that for which it was 397
appropriated. 398

The board ~~shall~~ from time to time shall designate the roads 399
to be dragged and furnish suitable road drags, hones, scrapers, or 400
other tools, which shall be paid for out of the road fund. The 401
work of dragging the graveled and unimproved public roads of the 402
township, or of any road district ~~thereof~~ of the township, shall 403
be done under the supervision of one of the township trustees or 404
the township highway superintendent designated to have charge of 405
the maintenance and repair of roads as provided in section 5571.02 406
of the Revised Code. ~~Such~~ That trustee or superintendent shall 407
employ the necessary labor and teams at a price to be fixed by the 408
board. Bills for dragging shall be paid from the dragging fund 409
upon the order of the board. 410

Sec. 5571.20. (A) Except as otherwise provided in division 411
(D) of this section, a board of township trustees by resolution 412
may place a graveled or unimproved township road under its 413
jurisdiction or any portion of such a road on nonmaintained 414
status. Upon adoption of such a resolution, the board is not 415

required to cause the road to be dragged at any time, or to cut, 416
destroy, or remove any brush, weeds, briars, bushes, or thistles 417
upon or along the road, or to remove snow from the road, or to 418
maintain or repair the road in any manner. The board, in its 419
discretion, may cause any of these actions to be performed on or 420
to a road that it has placed on nonmaintained status. 421

(B) A board may adopt a resolution under this section only if 422
the board finds that placing the road on nonmaintained status will 423
not unduly adversely affect the flow of motor vehicle traffic on 424
that road or on any other road located in the immediate vicinity 425
of that road as determined by the overall use of the road during 426
the preceding twenty-one years. 427

(C) A board may terminate the nonmaintained status of a 428
township road by adopting a resolution to that effect. If the 429
owner of land adjoining a road that has been placed on 430
nonmaintained status requests the board to terminate the 431
nonmaintained status of the road, the board, in its resolution 432
that terminates that nonmaintained status, may require the owner 433
to pay the costs of upgrading the road to locally adopted township 434
standards. 435

(D) A graveled road may not be placed on nonmaintained status 436
if any person resides in a residence adjacent to the road, the 437
road is the exclusive means for obtaining access to the residence, 438
and the residence is the person's primary place of residence. 439

Section 2. That existing sections 309.09, 5543.01, 5553.04, 440
5553.042, 5553.043, 5555.02, 5571.02, 5571.08, and 5571.12 of the 441
Revised Code are hereby repealed. 442

Section 3. That sections 1509.03 and 1509.06 of the Revised 443
Code as they result from Sub. H.B. 278 of the 125th General 444

Assembly contingently be amended to read as follows: 445

Sec. 1509.03. The chief of the division of mineral resources 446
management shall adopt, rescind, and amend, in accordance with 447
Chapter 119. of the Revised Code, rules for the administration, 448
implementation, and enforcement of this chapter. The rules shall 449
include an identification of the subjects that the chief shall 450
address when attaching terms and conditions to a permit with 451
respect to a well and production facilities of a well that are 452
located within a ~~municipal corporation or within a township that~~ 453
~~has a population of more than fifteen thousand in the most recent~~ 454
~~federal decennial census prior to the issuance of the permit an~~ 455
urbanized area. The subjects shall include all of the following: 456

(A) Safety concerning the drilling or operation of a well; 457

(B) Protection of the public and private water supply; 458

(C) Location of surface facilities of a well; 459

(D) Fencing and screening of surface facilities of a well; 460

(E) Containment and disposal of drilling and production 461
wastes; 462

(F) Construction of access roads for purposes of the drilling 463
and operation of a well. 464

No person shall violate any rule of the chief adopted under 465
this chapter. 466

Any order issuing, denying, or modifying a permit or notices 467
required to be made by the chief pursuant to this chapter shall be 468
made in compliance with Chapter 119. of the Revised Code, except 469
that personal service may be used in lieu of service by mail. 470
Every order issuing, denying, or modifying a permit under this 471
chapter and described as such shall be considered an adjudication 472
order for purposes of Chapter 119. of the Revised Code. 473

Where notice to the owners is required by this chapter, the 474
notice shall be given as prescribed by a rule adopted by the chief 475
to govern the giving of notices. Such rule shall provide for 476
notice by publication except in those cases where other types of 477
notice are necessary in order to meet the requirements of the law. 478

The chief or the chief's authorized representative may at any 479
time enter upon lands, public or private, for the purpose of 480
administration or enforcement of this chapter, the rules adopted 481
or orders made thereunder, or terms or conditions of permits or 482
registration certificates issued thereunder and may examine and 483
copy records pertaining to the drilling, conversion, or operation 484
of a well for injection of fluids and logs required by division 485
(C) of section 1509.223 of the Revised Code. No person shall 486
prevent or hinder the chief or the chief's authorized 487
representative in the performance of official duties. If entry is 488
prevented or hindered, the chief or the chief's authorized 489
representative may apply for, and the court of common pleas may 490
issue, an appropriate inspection warrant necessary to achieve the 491
purposes of this chapter within the court's territorial 492
jurisdiction. 493

The chief may issue orders to enforce this chapter, rules 494
adopted thereunder, and terms or conditions of permits issued 495
thereunder. Any such order shall be considered an adjudication 496
order for the purposes of Chapter 119. of the Revised Code. No 497
person shall violate any order of the chief issued under this 498
chapter. No person shall violate a term or condition of a permit 499
or registration certificate issued under this chapter. 500

Orders of the chief denying, suspending, or revoking a 501
registration certificate; approving or denying approval of an 502
application for revision of a registered transporter's plan for 503
disposal; or to implement, administer, or enforce division (A) of 504
section 1509.224 and sections 1509.22, 1509.222, 1509.223, 505

1509.225, and 1509.226 of the Revised Code pertaining to the 506
transportation of brine by vehicle and the disposal of brine so 507
transported are not adjudication orders for purposes of Chapter 508
119. of the Revised Code. The chief shall issue such orders under 509
division (A) or (B) of section 1509.224 of the Revised Code, as 510
appropriate. 511

As used in this section, "urbanized area" means an area where 512
a well or production facilities of a well are located within a 513
municipal corporation or within a township that has an 514
unincorporated population of more than five thousand in the most 515
recent federal decennial census prior to the issuance of the 516
permit for the well or production facilities. 517

Sec. 1509.06. An application for a permit to drill a new 518
well, drill an existing well deeper, reopen a well, convert a well 519
to any use other than its original purpose, or plug back a well to 520
a different source of supply shall be filed with the chief of the 521
division of mineral resources management upon such form as the 522
chief prescribes and shall contain each of the following that is 523
applicable: 524

(A) The name and address of the owner and, if a corporation, 525
the name and address of the statutory agent; 526

(B) The signature of the owner or the owner's authorized 527
agent. When an authorized agent signs an application, it shall be 528
accompanied by a certified copy of the appointment as such agent. 529

(C) The names and addresses of all persons holding the 530
royalty interest in the tract upon which the well is located or is 531
to be drilled or within a proposed drilling unit; 532

(D) The location of the tract or drilling unit on which the 533
well is located or is to be drilled identified by section or lot 534
number, city, village, township, and county; 535

(E) Designation of the well by name and number;	536
(F) The geological formation to be tested or used and the proposed total depth of the well;	537 538
(G) The type of drilling equipment to be used;	539
(H) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;	540 541 542
(I) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of occupied dwelling units shall be determined using the tax records of the municipal corporation or county in which the dwelling unit is located as of the date of the notice.	543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561
(J) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.	562 563 564 565 566

(K) A description by name or number of the county, township, 567
and municipal corporation roads, streets, and highways that the 568
applicant anticipates will be used for access to and egress from 569
the well site; 570

(L) Such other relevant information as the chief prescribes 571
by rule. 572

Each application shall be accompanied by a map, on a scale 573
not smaller than four hundred feet to the inch, prepared by an 574
Ohio registered surveyor, showing the location of the well and 575
containing such other data as may be prescribed by the chief. If 576
the well is or is to be located within the excavations and 577
workings of a mine, the map also shall include the location of the 578
mine, the name of the mine, and the name of the person operating 579
the mine. 580

The chief shall cause a copy of the weekly circular prepared 581
by the division to be provided to the county engineer of each 582
county that contains active or proposed drilling activity. The 583
weekly circular shall contain, in the manner prescribed by the 584
chief, the names of all applicants for permits, the location of 585
each well or proposed well, the information required by division 586
(K) of this section, and any additional information the chief 587
prescribes. In addition, the chief promptly shall transfer an 588
electronic copy or facsimile, or if those methods are not 589
available to a municipal corporation or township, a copy via 590
regular mail, of a drilling permit application to the clerk of the 591
legislative authority of the municipal corporation or to the clerk 592
of the township in which the well or proposed well is or is to be 593
located if the ~~municipal corporation or township has a population~~ 594
~~of more than fifteen thousand in the most recent federal decennial~~ 595
~~census prior to the submission of the application, the legislative~~ 596
authority of the municipal corporation or the board of township 597
trustees has asked to receive copies of such applications, and the 598

appropriate clerk has provided the chief an accurate, current 599
electronic mailing address or facsimile number, as applicable. 600

The chief shall not issue a permit for at least ten days 601
after the date of filing of the application for the permit unless, 602
upon reasonable cause shown, the chief waives that period or a 603
request for expedited review is filed under this section. However, 604
the chief shall issue a permit within twenty-one days of the 605
filing of the application unless the chief denies the application 606
by order. 607

An applicant may file a request with the chief for expedited 608
review of a permit application if the well is not or is not to be 609
located in a gas storage reservoir or reservoir protective area, 610
as "reservoir protective area" is defined in section 1571.01 of 611
the Revised Code. If the well is or is to be located in a coal 612
bearing township, the application shall be accompanied by the 613
affidavit of the landowner prescribed in section 1509.08 of the 614
Revised Code. 615

In addition to a complete application for a permit that meets 616
the requirements of this section and the permit fee prescribed by 617
this section, a request for expedited review shall be accompanied 618
by a separate nonrefundable filing fee of five hundred dollars. 619
Upon the filing of a request for expedited review, the chief shall 620
cause the county engineer of the county in which the well is or is 621
to be located to be notified of the filing of the permit 622
application and the request for expedited review by telephone or 623
other means that in the judgment of the chief will provide timely 624
notice of the application and request. The chief shall issue a 625
permit within seven days of the filing of the request unless the 626
chief denies the application by order. Notwithstanding the 627
provisions of this section governing expedited review of permit 628
applications, the chief may refuse to accept requests for 629
expedited review if, in the chief's judgment, the acceptance of 630

the requests would prevent the issuance, within twenty-one days of 631
their filing, of permits for which applications are pending. 632

A well shall be drilled and operated in accordance with the 633
plans, sworn statements, and other information submitted in the 634
approved application. 635

The chief shall issue an order denying a permit if the chief 636
finds that there is a substantial risk that the operation will 637
result in violations of this chapter or rules adopted under it 638
that will present an imminent danger to public health or safety or 639
damage to the environment, provided that where the chief finds 640
that terms or conditions to the permit can reasonably be expected 641
to prevent such violations, the chief shall issue the permit 642
subject to those terms or conditions, including, if applicable, 643
terms and conditions regarding subjects identified in rules 644
adopted under section 1509.03 of the Revised Code. 645

Each application for a permit required by section 1509.05 of 646
the Revised Code, except an application for a well drilled or 647
reopened for purposes of section 1509.22 of the Revised Code, also 648
shall be accompanied by a nonrefundable fee of two hundred fifty 649
dollars. 650

The chief may order the immediate suspension of drilling, 651
operating, or plugging activities after finding that any person is 652
causing, engaging in, or maintaining a condition or activity that 653
in the chief's judgment presents an imminent danger to public 654
health or safety or results in or is likely to result in immediate 655
substantial damage to natural resources or for nonpayment of the 656
fee required by this section. The chief may order the immediate 657
suspension of the drilling or reopening of a well in a coal 658
bearing township after determining that the drilling or reopening 659
activities present an imminent and substantial threat to public 660
health or safety or to miners' health or safety. Before issuing 661
any such order, the chief shall notify the owner in such manner as 662

in the chief's judgment would provide reasonable notification that 663
the chief intends to issue a suspension order. The chief may issue 664
such an order without prior notification if reasonable attempts to 665
notify the owner have failed, but in such an event notification 666
shall be given as soon thereafter as practical. Within five 667
calendar days after the issuance of the order, the chief shall 668
provide the owner an opportunity to be heard and to present 669
evidence that the condition or activity is not likely to result in 670
immediate substantial damage to natural resources or does not 671
present an imminent danger to public health or safety or to 672
miners' health or safety, if applicable. In the case of activities 673
in a coal bearing township, if the chief, after considering 674
evidence presented by the owner, determines that the activities do 675
not present such a threat, the chief shall revoke the suspension 676
order. Notwithstanding any provision of this chapter, the owner 677
may appeal a suspension order directly to the court of common 678
pleas of the county in which the activity is located or, if in a 679
coal bearing township, to the reclamation commission under section 680
1513.13 of the Revised Code. 681

Section 4. That existing sections 1509.03 and 1509.06 of the 682
Revised Code as they result from Sub. H.B. 278 of the 125th 683
General Assembly are hereby contingently repealed. 684

Section 5. The amendment by this act of sections 1509.03 and 685
1509.06 of the Revised Code as they result from Sub. H.B. 278 of 686
the 125th General Assembly is contingent upon those sections 687
becoming law in the same form as they were passed by the Senate on 688
April 27, 2004, 150 Senate Journal 1769. 689

Section 6. If the amendment of sections 1509.03 and 1509.06 690
of the Revised Code by Sections 3, 4, and 5 of this act occurs, 691
those sections as amended by this act take effect on the effective 692

date of Sub. H.B. 278 of the 125th General Assembly or the 693
earliest date permitted by law, whichever is later. 694

Section 7. If any provision of section 1509.03 or 1509.06 of 695
the Revised Code, as those sections have been amended by this act, 696
or the application of those sections to any person or circumstance 697
is held invalid, the invalidity does not affect other provisions 698
or applications of those sections that can be given effect without 699
the invalid provision or application, and to this end the 700
provisions of those sections are severable. 701

Section 8. (A) There is hereby created the Oil and Gas 702
Advisory Council consisting of the Director of Natural Resources 703
and the Chief of the Division of Mineral Resources Management, or 704
their designees, as members ex officio and seven members to be 705
appointed by the Director. Of the appointed members, one shall 706
represent the interests of counties, one shall represent the 707
interests of municipal corporations, one shall represent the 708
interests of townships, one shall represent the interests of 709
owners of natural gas wells, one shall represent the owners of oil 710
wells, one shall represent the interests of contractors engaged in 711
drilling, fracturing, producing, or servicing oil and gas wells, 712
and one shall represent a statewide environmental advocacy 713
organization. 714

Not later than ninety days after the effective date of this 715
act, the Director shall make appointments to the Council. 716
Vacancies shall be filled in the manner provided for original 717
appointments. 718

The Director, or the Director's designee, shall serve as 719
chairperson of the Council. The Council shall select from among 720
its members a vice-chairperson and a secretary who shall make a 721
record of its proceedings. The Council shall meet at times that 722

the chairperson considers appropriate. A majority vote of the 723
members of the Council is necessary to take action on any matter. 724

Serving as a member of the Council does not constitute 725
holding a public office or position of employment under the laws 726
of this state and does not constitute grounds for removal of 727
public officers or employees from their offices or positions of 728
employment. Appointed members of the Council shall serve without 729
compensation for attending Council meetings. 730

The Council shall advise and assist the Chief in adopting 731
rules under section 1509.03 of the Revised Code identifying the 732
subjects to be addressed by the Chief when attaching terms and 733
conditions to permits for wells and production facilities of wells 734
that are located in specified areas. The Council shall cease to 735
exist when the rules are adopted. 736

(B) The enactment of this section is contingent on the 737
amendments to section 1509.03 of the Revised Code made by Sub. 738
H.B. 278 of the 125th General Assembly becoming law in the same 739
form as they were passed by the Senate on April 27, 2004, 150 740
Senate Journal 1769. 741

Section 9. This act is hereby declared to be an emergency 742
measure necessary for the immediate preservation of the public 743
peace, health, and safety. The reason for the necessity is that 744
immediate action is necessary to avoid the undue financial burden 745
on local governments to maintain roads that are no longer in 746
general use. Therefore, this act shall go into immediate effect. 747