



Ohio Legislative Service Commission

Bill Analysis

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S.B. 241

128th General Assembly
(As Introduced)

Sens. Faber, Niehaus, Seitz, Jones

BILL SUMMARY

- Vests with the Department of Natural Resources the exclusive authority to enter into leases for the drilling for oil or gas on all land that is owned by the state and administered by a state agency, and repeals the authority of certain state agencies to enter into such leases.
- Creates the Oil and Gas Lease Fund consisting of money from oil and gas leases entered into under the bill, and requires the Director of Natural Resources to use money in the Fund to pay the costs of capital projects for and improvements to state parks.
- Requires the Director of Natural Resources to adopt rules governing the oil and gas leasing program, and requires the rules to establish certain procedures, requirements, and standards regarding oil and gas leases, including procedures and standards for establishing the terms and conditions of oil or gas leases.
- Requires persons entering into leases under the bill to comply with all applicable state and federal regulations, including Ohio's Oil and Gas Law and rules adopted under it.

CONTENT AND OPERATION

Current law governing leases for oil and gas drilling on state land

Under current law, various state agencies have authority to enter into leases for the drilling for oil and gas on lands owned or controlled by them. For example, the Director of Mental Health is granted authority to enter into leases for oil and gas on land that is placed under the supervision of the Department of Mental Health (R.C.

5119.40). Similar authority is granted to the Department of Administrative Services (R.C. 123.01), the Department of Rehabilitation and Correction (R.C. 5120.12), the Department of Developmental Disabilities (R.C. 5123.23), and the Department of Natural Resources (R.C. 1505.07 and 1531.06 (under the latter statute, authority is granted to the Division of Wildlife)).

Authority of the Department of Natural Resources under the bill

The bill declares that the Department of Natural Resources has exclusive authority to lease land that is owned by the state and administered by a state agency¹ for the purpose of the exploration for, development of, and production of oil or natural gas. The extraction of oil or natural gas pursuant to such a lease cannot unreasonably interfere with the primary use of the state land or unreasonably impact the scenic, aesthetic, and environmental quality of land on which drilling takes place as determined by the Director of Natural Resources. In addition, the Department is prohibited from entering into a lease for the exploration for, development of, and production of oil or natural gas from and under the bed of Lake Erie unless such leases are authorized by federal law. The bill also prohibits the Department from entering into a lease if the state or a state agency does not own, control, or have an interest in the mineral rights in the land that is owned or maintained by the state or a state agency. (R.C. 1501.50(B).) Correspondingly, the bill repeals the authority of other state agencies to enter into such leases and the authority of the Department to do so only under specified laws (R.C. 123.01, 1505.07, 1531.06, 5119.40 (repealed), 5120.12 (repealed), and 5123.23 (repealed)).

Oil and Natural Gas Lease Fund

The bill creates in the state treasury the Oil and Natural Gas Lease Fund consisting of money credited to the Fund from oil and gas leases entered into under the bill. Any investment proceeds earned on the money in the Fund must be credited to the Fund. (R.C. 1501.51(A).) The bill requires all money received by the Director in payment for leases to be paid into the state treasury to the credit of the Fund (R.C. 1501.50(F)).

The Director must use money in the Fund to pay the costs of capital projects for and improvements to state parks (R.C. 1501.51(B)).

¹ The bill defines "state agency" to mean an organized body, office, or agency that is established by the laws of the state for the exercise of any function of state government (R.C. 1501.50(A)(1)).

Rules

Under the bill, the Director must adopt rules in accordance with the Administrative Procedure Act that establish all of the following:

(1) Procedures for the submission of a nomination of a parcel of land that is owned or controlled by a state agency for the purpose of the exploration for, development of, and production of oil or natural gas under the bill. In addition, the rules must require the Director, not later than 90 days after the receipt of a nomination, to either approve the nomination by initiating the process for the submission of competitive bids for the development or production of oil or natural gas on the nominated parcel or deny the nomination. The rules also must require that before the Director makes a determination concerning a nomination, the Director consider all feasible drilling methods, including directional drilling, and whether the nominated parcel will comply with the requirements established in rules adopted under the bill. Finally, the rules must require the Director, if the Director denies a nomination, to so notify the person that submitted the nomination and provide a written explanation of the denial.

(2) Procedures for the submission and selection of competitive bids, by drilling locations or acreage, after the Director approves a nomination by initiating the process for submission of such bids to conduct drilling under the bill;

(3) Procedures and standards for establishing the terms and conditions of oil or gas leases entered into under the bill. In addition, the rules must require that the terms and conditions of such leases ensure that the scenic, aesthetic, and environmental quality of land on which drilling takes place is maintained while maximizing revenue to the state. The rules also must establish guidelines for determining the amount of lease annual payments² and lease bonus payments³ under the terms and conditions of a lease.

(4) Requirements applicable to drilling conducted in accordance with a lease entered into under the bill that are necessary to maintain the scenic, aesthetic, and environmental quality of land on which drilling takes place;

(5) Procedures in accordance with which a person may request to be on a notification list for the purpose of receiving notifications of the Director's

² The bill defines "lease annual payments" to mean the state's share of the annual royalties from the annual production of oil or natural gas from a well pursuant to a lease entered into under the bill. (R.C. 1501.50(A)(2).)

³ The bill defines "lease bonus payments" to mean the amount of money paid to the state for the award of an oil or natural gas lease under the bill (R.C. 1501.50(A)(3)).

determinations under the bill and rules adopted under it. In addition, the rules must require the Director to notify all persons on the notification list of the Director's determinations concerning nominations and the submission and selection of competitive bids under the bill and rules adopted under it. The rules must authorize the Director to provide the notice electronically or via other means as determined by the Director.

(6) Procedures and requirements for maximization of revenue to the state; and

(7) Any other procedures and requirements that the Director determines are necessary to implement the bill and are consistent with the purposes of the bill. (R.C. 1501.50(C).)

Lease conditions regarding state and federal laws and regulations

A lease for the drilling for oil or gas that is entered into under the bill is required to be conditioned on the lessee's satisfying all applicable state and federal laws and regulations. The conditions must include a requirement that the lessee comply with Ohio's Oil and Gas Law and rules adopted under it. (R.C. 1501.50(D).)

Assignment of lease

The bill states that a lease that is entered into under the bill may be assigned by the lessee with the approval of the Director of Natural Resources (R.C. 1501.50(E)).

HISTORY

ACTION	DATE
Introduced	03-17-10

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