



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 351

129th General Assembly  
(As Introduced)

**Reps.** Antonio and Fedor, Foley, Driehaus, Reece, R. Hagan, Phillips, Heard

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## BILL SUMMARY

- Requires a person who has been issued a permit for an oil or gas well to pay a 7% overriding royalty to the Director of Environmental Protection if well stimulation is used in the well.
- Creates the Clean Water Restoration Fund to which money from the royalties must be credited, and requires that money in the Fund be used for specified purposes related to water quantity and quality and the stimulation, drilling, and operation of oil and gas wells.
- Requires the Director to conduct baseline testing of surface water and ground water for quality and quantity, including annual flow measurements, for proposed wells and proposed stimulation of existing wells.
- Requires a well owner to submit to the Environmental Protection Agency (EPA) and to the applicable board of health a complete listing of all of the chemicals and other substances that will be used to stimulate the well.
- Requires a person that is conducting operations or activities at a well site to recycle, capture, or treat all liquids and solids used in the operations or activities.
- Requires the Director to adopt rules that require a person that is conducting operations or activities at a well site to document the quantity of water used in the operations or activities and to submit quarterly reports to the EPA and to the Division of Oil and Gas Resources Management.
- Requires the owner of a well to submit to the Director of Environmental Protection, the Chief of the Division of Oil and Gas Resources Management, and the applicable health commissioner documentation identifying where and how the owner will

handle, dispose of, or recycle brine or other waste substances resulting, obtained, or produced from oil and gas production at the well.

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## CONTENT AND OPERATION

### Royalty for well stimulation

The bill requires that on and after its effective date, if well stimulation is used in a well, the person who has been issued a permit for the well under the Oil and Gas Law must pay a 7% overriding royalty to the Director of Environmental Protection. The Director must deposit the money from the royalty in the state treasury to the credit of the Clean Water Restoration Fund created by the bill. Additionally, the Director must adopt rules in accordance with the Administrative Procedure Act establishing procedures and requirements that are necessary for the implementation of the royalty requirement.<sup>1</sup>

The bill then creates in the state treasury the Clean Water Restoration Fund consisting of money credited to it from the royalties. The Director must use money in the Fund to perform baseline testing of surface water and ground water for quantity and quality (see "**Baseline testing**," below) and to sample and analyze fluids used to stimulate a well (see "**Sampling and analysis of fluids used to stimulate a well**"). The bill also requires that money in the Fund be used to remediate and repair any water well or ground water adversely affected by the drilling or operation of an oil or natural gas well.<sup>2</sup>

### Baseline testing

#### Proposed well

The bill requires that after the issuance of a permit for a new well under the Oil and Gas Law, the Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources must notify the Director of Environmental Protection of the issuance. The notice must contain all of the information that is necessary for the Director to conduct the baseline testing required by the bill, including the identification of the owner and the location of the proposed well. After receiving notice of the issuance of a permit and prior to the commencement of any activity at the site of the proposed well, the Director must conduct baseline testing of surface water and ground water for quality and quantity, including annual flow measurements. After completion of the testing, the Director must notify the Chief and the owner. The owner may

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<sup>1</sup> R.C. 1509.192.

<sup>2</sup> R.C. 6111.70.

commence drilling or other operations at the site of the proposed well after receipt of the notification.<sup>3</sup>

### **Existing well**

The bill also requires that prior to the stimulation of an existing well, an owner must notify the Director, in a manner that is prescribed by the Director, of the owner's intent to stimulate the well. After receipt of the notice, the Director must conduct baseline testing of surface water and ground water for quality and quantity, including annual flow measurements. After completion of the testing, the Director must notify the Chief and the owner. The owner may stimulate the well after receipt of the notification.<sup>4</sup>

### **List of chemicals and substances used in stimulating a well**

Under the bill, prior to the commencement of any activity at the proposed site of a well, the owner must submit to the Environmental Protection Agency (EPA) and to the board of health of the health district in which the well is or is to be located a complete listing of all of the chemicals and other substances that will be used to stimulate the well. The list must be submitted on a form or in a manner prescribed by the Director. Not later than five days after receipt of the list, the Director must post the list on the EPA's publicly accessible web site.<sup>5</sup>

### **Operations at a well site**

The bill requires a person that is conducting operations or activities at a well site to recycle, capture, or treat all liquids and solids used in the operations or activities.<sup>6</sup>

Additionally, under the bill, the Director must adopt rules in accordance with the Administrative Procedure Act that require a person that is conducting operations or activities at a well site to document the quantity of water used in the operations or activities. The rules must require the person to submit quarterly reports to the EPA and to the Division of Oil and Gas Resources Management that identify all methods of handling the liquids and solids used in the stimulation of the well. The quarterly

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<sup>3</sup> R.C. 1509.063(A).

<sup>4</sup> R.C. 1509.063(B).

<sup>5</sup> R.C. 1509.191.

<sup>6</sup> R.C. 1509.064(A).

reports also must identify all methods of disposal and recycling of all liquids and solids used in the stimulation of the well.<sup>7</sup>

The EPA and the Division must post in their entirety the quarterly reports received under the bill on their publicly accessible web sites. Each web site must enable a person to request automatic notification that a quarterly report has been posted. The EPA and the Division jointly must establish procedures and requirements that are necessary for the implementation of the posting requirement.<sup>8</sup>

### **Sampling and analysis of fluids used to stimulate a well**

Under the bill, the Director or the Director's designee and the health commissioner of the health district in which a well is located or the commissioner's designee may enter at any time on public or private lands to sample and analyze fluids used to stimulate a well.<sup>9</sup>

### **Management of brine**

Under the bill, prior to commencing the drilling of a well, the owner must submit to the Director of Environmental Protection, the Chief of the Division of Oil and Gas Resources Management, and the health commissioner of the health district in which the well is to be located documentation identifying where and how the owner will handle brine or other waste substances resulting, obtained, or produced from oil and gas production at the well. In addition, the documentation must identify where and how the owner will dispose of or recycle brine or other waste substances resulting, obtained, or produced from oil and gas production at the well. The Director must establish appropriate procedures for the purpose of implementing the requirement.<sup>10</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	10-21-11

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<sup>7</sup> R.C. 1509.064(B).

<sup>8</sup> R.C. 1509.064(C).

<sup>9</sup> R.C. 1509.031.

<sup>10</sup> R.C. 1509.227.