



Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

Reps. Goyal, R. Hagan, Foley, Driehaus, Boyd, O'Brien, Murray, Gerberry, Antonio, Fedor, Heard

BILL SUMMARY

Injection wells

Disposal fees

- Levies on the owner of an oil and gas injection well to whom a permit has been issued an additional fee of 5¢ per barrel of each substance that is delivered to the well to be injected in it, and requires the money to be credited to the Injection Well Ground Water Monitoring Fund created by the bill.
- Eliminates the cap in current law of 500,000 barrels of substance per injection well in a calendar year on which the current injection well disposal fees may be levied.

Background information

- Requires a person applying for an injection well permit to include with the application specified background information concerning the applicant and key employees of the applicant.
- Authorizes the Chief of the Division of Oil and Gas Resources Management to deny the permit if the Chief finds that the applicant or any other person listed on the application has a history of substantial noncompliance with any laws pertaining to oil and gas operations or environmental protection of Ohio, other states, the United States, or another country.

Waste analysis

- Requires a person applying for an injection well permit to include with the application a written waste analysis plan to be used as the basis for analyzing the

contents in each container of brine or other waste substances to be injected in the permitted injection well.

- Establishes the required contents of a waste analysis plan, and requires the Chief to approve or disapprove a waste analysis plan.
- Requires a person to whom an injection well permit has been issued to update an approved waste analysis plan as needed.
- Requires a person to whom an injection well permit has been issued to analyze the contents in each container of brine or other waste substances in accordance with an approved plan before injecting it into an underground formation.

Notice and hearing on application

- Establishes procedures and requirements regarding the provision of notices regarding the submission of an application for an injection well permit application to the Chief.
- Requires the Chief to conduct a public hearing on the permit application in the applicable township or municipal corporation where the proposed well is to be located.
- Authorizes the submission of written comments or objections with respect to an application for an injection well permit.

Local government objection to permit issuance

- Authorizes the board of township trustees of the township or the legislative authority of the municipal corporation, as applicable, in which an injection well is proposed to be located to object to the issuance of a permit for the well.

Reflection seismology

- Requires an applicant for an injection well permit to conduct reflection seismology at the proposed well location in order to identify geologic features under the surface.

Permit denial

- Establishes conditions under which the Chief must deny the issuance of a permit for an injection well, including failure of the applicant to submit a waste analysis plan or conduct reflection seismology and objection to the issuance by a board of township trustees or a municipal legislative authority.

Stable benign chemical tracer

- Requires the Chief to adopt additional rules that require a person to whom an injection well permit has been issued to add a stable benign chemical tracer into the well to determine if brine and other injected waste substances have migrated and if impacts to ground water have occurred from the operation of the well.

Local government authority to sample brine and other wastes prior to injection

- Requires the owner or operator of an injection well to allow the applicable board of township trustees or legislative authority of a municipal corporation to remove a sample for analysis from any container of brine or other waste substances delivered to the well prior to injection.

Ground water monitoring

- Creates the Injection Well Ground Water Monitoring Fund, and requires the Chief to use money in the Fund to conduct ground water monitoring of injection wells.
- Requires the Chief to adopt rules establishing requirements for the installation of ground water monitoring wells and the monitoring of ground water quality and quantity for determining impacts resulting from the operation of an injection well.

Waste water recycling and treatment

- Requires an owner of a well that has been issued a permit under the Oil and Gas Law, on and after the effective date of rules required to be adopted under the bill, to recycle or treat wastewater, including brine and other waste substances, that results from, is obtained from, or is produced in connection with oil or gas drilling, exploration, or production.
- Requires an applicant for an oil and gas drilling permit also to include with the application a plan that complies with the bill's requirements and applicable rules for the recycling and treatment of wastewater from oil and gas drilling, exploration, or production.
- Requires the Chief to adopt rules that establish all of the following:
 - Requirements governing the content and implementation of the required plan;
 - Procedures and requirements in accordance with which the Chief may authorize an owner to dispose of wastewater from drilling, exploration, or production if the owner demonstrates to the Chief that such wastewater cannot be recycled or treated; and

--Any other requirement that the Chief determines is necessary to administer the wastewater recycling and treatment requirements.

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CONTENT AND OPERATION

Injection wells

Disposal fees

The bill levies on the owner of an oil and gas injection well to whom a permit has been issued under the Oil and Gas Law an additional fee of 5¢ per barrel of each substance that is delivered to the well to be injected in it.¹ Money from the fee must be credited to the Injection Well Ground Water Monitoring Fund created by the bill (see "**Ground water monitoring**," below). Through operation of current law, the bill allows the owner of the injection well to retain up to 3% of the amount that is collected.²

Continuing law unchanged by the bill levies on such an owner the following fees: (1) 5¢ per barrel of each substance that is delivered to a well to be injected in the well when the substance is produced within the Division of Oil and Gas Resources Management regulatory district in which the well is located or within an adjoining regulatory district, and (2) 20¢ per barrel of each substance that is delivered to a well to

¹ R.C. 1509.221(B)(2).

² R.C. 1509.221(B)(3).

be injected in the well when the substance is not produced within the Division's regulatory district in which the well is located or within an adjoining regulatory district. Money from the fees must be credited to the Oil and Gas Well Fund.³

The bill eliminates the cap in current law of a maximum of 500,000 barrels of substance per injection well in a calendar year on which those fees may be levied. In addition, the bill eliminates the requirement that the fee be calculated first on all of the barrels of substance that are not produced within the Division's regulatory district in which the well is located or within an adjoining district at the rate established in item (2), above, if in a calendar year the owner of an injection well receives more than 500,000 barrels of substance to be injected in the owner's well and if the owner receives at least one substance that is produced within the Division's regulatory district in which the well is located or within an adjoining regulatory district and at least one substance that is not produced within the Division's regulatory district in which the well is located or within an adjoining regulatory district. The bill also eliminates the requirement that the fee then must be calculated on the barrels of substance that are produced within the Division's regulatory district in which the well is located or within an adjoining district at the rate established in item (1), above, until the maximum of 500,000 barrels has been attained.⁴

Permit application and issuance – overview

The bill revises the requirements for the submission of an application for an injection well permit by requiring the applicant also to include certain background information and a waste analysis plan. It also requires notice of and a hearing on an application. Additionally, a permit applicant must conduct reflection seismology at the proposed well location. Finally, the bill authorizes a board of township trustees or municipal legislative authority to object to the issuance of a permit and precludes the Chief of the Division of Oil and Gas Resources Management from issuing a permit under specified circumstances. Current law, unchanged by the bill, requires an applicant for an injection well permit to submit an application for an injection well permit in accordance with rules and include a \$1,000 permit fee.⁵

³ R.C. 1509.221(B)(1).

⁴ R.C. 1509.221(B)(2).

⁵ R.C. 1509.22(D).

Background information

As indicated above, one of the items that must be included with an application for an injection well permit under the bill is information concerning the background of the applicant. That information must include all of the following:

(1) A listing of all injection wells that the owner of the proposed new injection well or a key employee of the owner has operated or is operating in Ohio.⁶ Under the bill, a key employee is an individual employed by an applicant for a permit for an injection well in a supervisory capacity or who is empowered to make discretionary decisions with respect to the injection well operations of the applicant, but is not an employee who is exclusively engaged in the physical or mechanical transportation or disposal of brine or other waste substances. If the applicant has entered into a contract with another person to operate the injection well that is the subject of the application, a key employee also is an employee of the contractor who acts in a supervisory capacity or is empowered to make discretionary decisions with respect to the well's operation.⁷

(2) A listing of the injection wells that the owner or a key employee of the owner has operated or is operating elsewhere in the United States together with a listing of the injection wells that the owner or a key employee has operated or is operating outside the United States;

(3) A listing of all administrative enforcement orders issued to the owner or a key employee of the owner, all civil actions in which the owner or a key employee was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or a key employee pleaded guilty or was convicted, during the ten years immediately preceding the submission of the application, in connection with any violation by the owner or a key employee of an applicable state or federal law or the laws of another country pertaining to oil and gas operations or environmental protection; and

(4) A listing of all administrative enforcement orders, civil actions, or criminal actions pending at the time of the submission of the application for a permit for an injection well in connection with a violation of any applicable state or federal law pertaining to oil and gas operations or environmental protection that was alleged to have been committed by the owner or a key employee of the owner.⁸

⁶ R.C. 1509.228(A)(1).

⁷ R.C. 1509.228(E)(2).

⁸ R.C. 1509.228(A).

The lists of injection wells operated by the owner or a key employee within or outside Ohio or outside the United States must include all such injection wells operated by the owner or a key employee during the ten-year period immediately preceding the submission of the application.⁹

If the applicant for a permit for an injection well has been involved in any prior activity involving the operation of an injection well, the Chief may deny the application if the Chief finds from the application, the background information submitted under the bill, pertinent information submitted to the Chief, and other pertinent information obtained by the Chief at the Chief's discretion that the applicant or any other person listed on the application, in the operation of injection wells, has a history of substantial noncompliance with state and federal laws or the laws of another country pertaining to oil and gas operations or environmental protection that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new injection well in substantial compliance with the Oil and Gas Law and rules adopted under it.¹⁰

The bill establishes requirements for updating background information. Under the bill, an owner that has submitted the initial background information must submit to the Chief all information that has changed or been added in the immediately preceding year. If, during that period, there have been no changes in or additions to that information, the owner must submit to the Chief an affidavit attesting to that fact. The Chief may revoke the permit for the injection well if the updated information indicates any of the reasons discussed above for the denial of an application for a permit.¹¹

When the owner of an injection well employs a new key employee, the owner must submit or must require the new key employee to submit to the Chief background information regarding the new key employee. The Chief may revoke the permit for the injection well if the information regarding the new key employee indicates any of the reasons discussed above for the denial of an application for a permit.¹²

Waste analysis

As indicated above, another item that must be included with an application for an injection well permit under the bill is a waste analysis plan. The plan must consist of a written document that will be used as the basis for analyzing the contents in each

⁹ R.C. 1509.228(A).

¹⁰ R.C. 1509.228(B).

¹¹ R.C. 1509.228(C).

¹² R.C. 1509.228(D).

container of brine or other waste substances that will be injected in the well. The plan must include all of the following:

- (1) A detailed description of the physical and chemical tests that will be used to identify the contents in each container of brine or other waste substances;
- (2) An explanation of the reasons for the selection of those physical and chemical tests;
- (3) A detailed description of the methods that will be used to obtain a sample of the contents in each container of brine or other waste substances;
- (4) A detailed description of the quality assurance procedures that will be used in the analysis of the contents in each container of brine or other waste substances that will be injected in the well; and
- (5) Any other information that the Chief determines is necessary.¹³

The Chief must review a submitted waste analysis plan and approve or disapprove it. The Chief must notify the applicant of the approval or disapproval. If the Chief disapproves the waste analysis plan, the applicant may correct any deficiencies and resubmit the plan for approval.¹⁴

The bill requires a person who has been issued an injection well permit to revise the waste analysis plan as needed and submit it to the Chief for approval in the same manner as the original plan. If the Chief disapproves the revised plan, the permittee may correct any deficiencies and resubmit the revised plan for approval. During the process of reviewing a revised plan, a permittee may continue to use the waste analysis plan that was approved immediately prior to the submission of a revised plan until the revised plan is approved. The permittee may analyze the contents in each container of brine or other waste substances in accordance with the revised plan.¹⁵

Finally, the bill requires an injection well permittee to analyze the contents in each container of brine or other waste substances in accordance with an approved waste analysis plan prior to injecting the brine or other waste substances into an underground formation.¹⁶

¹³ R.C. 1509.22(D)(2)(a).

¹⁴ R.C. 1509.22(D)(2)(b).

¹⁵ R.C. 1509.22(D)(2)(c).

¹⁶ R.C. 1509.22(D)(2)(d).

Notice and hearing on application

Notice on Division's web site and to applicant

The bill requires the Chief, after determining that an application for an injection well permit is complete, to post on the Division's web site a notification that contains information regarding the application that is the same as the information that is required to be contained in the Division's weekly circular regarding an application for an oil and gas well drilling permit.¹⁷ Under continuing law, the weekly circular must contain the names of all applicants for permits, the location of each well or proposed well, a description of the roads and streets that will be used for access to and egress from the well site, and any additional information the Chief prescribes.¹⁸ The bill also requires the Chief to establish the time, date, and location of the public hearing that is required by the bill (see below) and provide to the applicant information concerning the public hearing, the permit application number, and the location where a copy of the application may be inspected.¹⁹

Applicant's publication of notice

Beginning in the week following the week of receipt of the information provided by the Chief as discussed above, the applicant must publish a notice at least once a week for four consecutive weeks. The notice must be published in a newspaper of general circulation in the county in which the proposed injection well is to be located and, if available, in any local weekly news publication that serves the township or municipal corporation in which the proposed well is to be located. The bill requires the font for the notice to be of a reasonable size. The notice must contain all of the following information: (1) the name of the applicant, (2) a statement that the applicant intends to drill an injection well, (3) a description of the location at which the proposed well will be drilled, (4) the permit application number, (5) the time, date, and location of the public hearing that the Chief is required to hold under the bill (see below), and (6) the location where a copy of the permit application may be inspected.²⁰

Chief's notice to specified persons and entities

The bill requires the Chief to provide a notice that contains all of the information that an applicant is required to provide in the notice discussed above to all of the following, as applicable:

¹⁷ R.C. 1509.22(D)(3)(a).

¹⁸ R.C. 1509.06(B).

¹⁹ R.C. 1509.22(D)(3)(a).

²⁰ R.C. 1509.22(D)(3)(c).

(1) The board of county commissioners of the county in which the proposed injection well is to be located;

(2) The legislative authority of the municipal corporation or the board of township trustees of the township in which the proposed well is to be located;

(3) Each private water company that has a well or a reservoir that is located within a two-mile radius of the proposed location of the well;

(4) The board of directors of each conservancy district with jurisdiction in the area in which the well is proposed to be located, if applicable;

(5) Each planning commission with jurisdiction in the area in which the well is proposed to be located; and

(6) Each state and federal legislator in whose legislative district the well is proposed to be located.²¹

Public hearing

Under the bill, the Chief must hold a public hearing in the applicable township or municipal corporation where the proposed injection well is to be located on the application for an injection well permit. The meeting must be held not later than 60 days after the applicant's fourth publication of the notice as discussed above.²²

Written comments

The bill authorizes any individual or entity that received notice from the Chief to submit written comments to the Chief concerning the application with respect to the effects of the operation of the proposed injection well on the environment that are within the individual's or entity's area of responsibility. The written comments must be submitted not later than 30 days after the individual's or entity's receipt of the Chief's notice. If the Chief receives such a written comment, the Chief immediately must transmit a copy of the comments to the applicant and post a copy of them on the Division's web site.²³

The bill also allows any person to submit a written comment or objection to the Chief with respect to an application for an injection well permit. A comment or

²¹ R.C. 1509.22(D)(3)(d).

²² R.C. 1509.22(D)(3)(b).

²³ R.C. 1509.22(D)(3)(d).

objection must be submitted not later than 90 days after the date of the first publication of the notice by the applicant unless the Chief grants an extension.²⁴

Local government objection to permit issuance

Under the bill, the board of township trustees of the township or the legislative authority of the municipal corporation, as applicable, in which an injection well is proposed to be located for which a permit application was submitted may adopt a resolution or enact an ordinance, as applicable, objecting to the issuance of a permit for the well. The board or legislative authority may submit the resolution or ordinance to the Chief (see "**Permit denial**," below).²⁵

Reflection seismology

The bill requires a person that submits an application for an injection well permit to conduct reflection seismology at the location of the proposed injection well in order to identify geologic features under the surface location of the proposed well. For purposes of the requirement, geologic features are lateral stratigraphic changes, faults, fractures, or other structural irregularities. The person must submit the results of the reflection seismology to the Chief.²⁶

Permit denial

Under the bill, the Chief cannot issue an injection well permit for an application if any of the following applies:

- (1) The applicant has not submitted a waste analysis plan;
- (2) The Chief has not approved the applicant's waste analysis plan;
- (3) The applicant has not conducted and submitted the results of reflection seismology at the location of the proposed injection well; or
- (4) The Chief has received within 30 days after the public hearing conducted by the Chief a resolution or an ordinance objecting to the issuance of a permit for the well from the applicable board of township trustees of the township or the legislative

²⁴ R.C. 1509.22(D)(3)(e).

²⁵ R.C. 1509.22(D)(5).

²⁶ R.C. 1509.22(D)(4).

authority of the municipal corporation in which the proposed injection well is to be located.²⁷

Stable benign chemical tracer

The bill requires the Chief to adopt rules in accordance with the Administrative Procedure Act that require a person who has been issued an injection well permit to add a stable benign chemical tracer into the well in an amount and at a frequency as determined by the Chief. The purpose of the tracer is to determine if brine and other waste substances that are injected into the well have migrated and if impacts to ground water have occurred from the operation of the well. The rules are to be included in the rules that the Chief must adopt under continuing law regarding the injection of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production.²⁸

Local government authority to sample brine and other wastes prior to injection

Under the bill, the owner of an injection well who has been issued a permit and the operator of the well must allow the board of township trustees of the township or the legislative authority of the municipal corporation in which the injection well is located to remove a sample for analysis from any container of brine or other waste substances that is delivered to the well before the brine or other waste substances are injected into the well.²⁹

Ground water monitoring

The bill creates the Injection Well Ground Water Monitoring Fund consisting of money credited to it from the additional fee of 5¢ per barrel of each substance that is delivered to a well to be injected (see above). The Chief must administer the Fund and use the money credited to it solely to conduct ground water monitoring in accordance with rules adopted under the bill as discussed below.³⁰

Under the bill, the Chief must adopt rules in accordance with the Administrative Procedure Act that establish requirements for the installation of ground water monitoring wells and the monitoring of ground water quality and quantity prior to the commencement of the drilling of an injection well and during the injection of brine or

²⁷ R.C. 1509.02 and 1509.22(D)(6).

²⁸ R.C. 1509.22(E).

²⁹ R.C. 1509.22(J).

³⁰ R.C. 1509.227(A).

other waste substances into the well. The rules must require that ground water monitoring be capable of determining impacts resulting from the operation of the injection well. In addition, the rules must establish requirements governing ground water assessment and corrective actions for impacts to ground water. Finally, the rules must require the owner of an injection well to submit to the Chief a monitoring report that has been prepared by a qualified ground water scientist and that includes all of the following:

(1) A determination of any impact to ground water from the migration of contaminants from the injection well;

(2) A list of the contaminants from the injection well that may be causing contamination of ground water; and

(3) Recommendations for actions, if any, that should be taken to investigate or remediate the source of any ground water contamination.³¹

Waste water recycling and treatment

The bill requires the owner of a well who has been issued a drilling permit, on and after the effective date of rules adopted under the bill, to recycle or treat wastewater, including brine and other waste substances, that results from, is obtained from, or is produced in connection with oil or gas drilling, exploration, or production. The owner must do so in accordance with a plan that the bill requires a permit applicant to submit with the permit application.³²

For purposes of the bill's recycling and treatment requirements, the Chief must adopt rules in accordance with the Administrative Procedure Act that establish all of the following:

(1) Requirements governing the content and implementation of the plan that must be submitted with an application for a drilling permit;

(2) Procedures and requirements in accordance with which the Chief may authorize an owner of a well to dispose of wastewater, including brine and other waste substances, that results from, is obtained from, or is produced in connection with oil or gas drilling, exploration, or production in accordance with the statute governing injection wells if the owner demonstrates to the satisfaction of the Chief that such wastewater cannot be recycled or otherwise treated; and

³¹ R.C. 1509.227(B).

³² R.C. 1509.06(A)(12) and 1509.074(A).

(3) Any other requirement that the Chief determines is necessary for purposes of the bill's requirements.³³

HISTORY

ACTION	DATE
Introduced	03-13-12

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³³ R.C. 1509.074(B).

