



Ohio Legislative Service Commission

Bill Analysis

Nicholas A. Keller

S.B. 12

130th General Assembly
(As Introduced)

Sens. Cafaro, Brown, Gentile, Kearney, Sawyer, Schiavoni, Skindell, Smith, Tavares, Turner

BILL SUMMARY

- Requires the owner of an oil and gas well who hires an individual who is a graduate of an oil and gas training program and an Ohio resident at the time of hiring to employ the individual for not less than three years beginning on the date on which the individual is hired.
- Qualifies an owner that trains employees of the owner for grants from the Casino Operator Settlement Fund if the owner certifies to the Chief of the Division of Oil and Gas Resources Management that each such employee will be retained for at least three years from the date on which the employee is hired and at least 25% of the employees who are trained by the owner are Ohio residents.
- Appropriates \$10 million in fiscal year 2013 to be used to support oil and gas training programs at community or technical colleges and to provide employee training grants to oil or gas well owners pursuant to the bill.

CONTENT AND OPERATION

Oil and gas training program

The bill requires the owner of an oil or gas well who hires an individual who is a graduate of an oil and gas training program and an Ohio resident at the time of the hiring to employ the individual for at least three years beginning on the date on which the individual is hired by the owner. Under the bill, an oil and gas training program is a program that provides training in production operations and that is developed by a

community or technical college in Ohio in collaboration with an association that represents the oil and gas industry.¹

Under the bill, an owner that trains employees of the owner regarding production operations qualifies for grants from the Casino Operator Settlement Fund if both of the following apply:

(1) The owner certifies to the Chief of the Division of Oil and Gas Resources Management that each such employee will be retained for not less than three years beginning on the date on which the employee is hired by the owner;

(2) At least 25% of the employees who are trained by the owner are Ohio residents.² (See **COMMENT**.)

The bill appropriates \$10 million in fiscal year 2013 to be used to support oil and gas training programs at community or technical colleges and to provide employee training grants to oil or gas well owners pursuant to the bill.³

The bill requires the Chief to adopt rules in accordance with the Administrative Procedure Act to administer and enforce the bill's provisions concerning oil and gas training programs.⁴

The existing Casino Operator Settlement Fund consists of any money paid to the state by casino operators in excess of any licenses or fees provided by the Casino Law or by the Ohio Constitution and in excess of any taxes levied by Ohio law. Moneys in the Fund may be used for activities related to workforce development, economic development, job creation, training, education, food banks, and expenses.⁵

COMMENT

The Privileges and Immunities Clause of the United States Constitution requires that "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."⁶ This clause is intended to create a national economic

¹ R.C. 1509.80(A)(1) and (2).

² R.C. 1509.80(B).

³ Section 2.

⁴ R.C. 1509.80(C).

⁵ R.C. 3772.34, not in the bill.

⁶ U.S. Const. Art. IV, Sec. 2, cl. 1.



union, and "one of the privileges which the clause guarantees to citizens of State A is that of doing business in State B on terms of substantial equality with the citizens of that State."⁷ The Privileges and Immunities Clause does not require absolute equality, but a state may only discriminate against nonresidents if the state's reasons are substantial and the difference in treatment bears a close or substantial relationship to those reasons.⁸ The Supreme Court has consistently upheld the right to travel to seek employment as a right protected by the Clause.⁹

For example, in *Hicklin v. Orbeck*, the U.S. Supreme Court held that an Alaska statute requiring all oil and gas leases, easements, or right-of-way permits for oil and gas pipelines and unitization agreements that contained a requirement that qualified residents of Alaska be hired in preference to nonresidents was unconstitutional and violated the Privileges and Immunities Clause. The Supreme Court found that despite Alaska's stated unemployment problem, discrimination against nonresidents did not bear a substantial relationship to the "evil" that nonresidents were said to present.¹⁰

Because the bill requires well owners who hire graduates of oil and gas training programs who are residents of Ohio at the time of hiring to employ those individuals for at least three years, the bill confers a benefit of assured three year employment on Ohio residents that is unavailable to nonresidents. As such, the bill may raise a question under the Privileges and Immunities Clause.

Similarly, the bill offers a grant from the Casino Operator Fund to a well owner who trains employees in production. Because the bill conditions a well owner's receipt of grant funds on the preferential hiring of Ohio residents, this provision could be perceived as discriminating against nonresidents' fundamental right to work and raise a question under the Privileges and Immunities Clause.

HISTORY

ACTION	DATE
Introduced	02-12-13

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⁷ *Toomer v. Witsell*, 334 U.S. 385, 396 (1948).

⁸ *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274, 284 (1985).

⁹ *Hicklin v. Orbeck*, 437 U.S. 518, 525 (1978); *Piper*, 470 U.S. at 280–281.

¹⁰ *Hicklin*, 437 U.S. at 526-527.

