

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 8

Representatives Hagan, Ginter

A BILL

To amend sections 1509.28 and 5713.051 of the
Revised Code to revise provisions in the Oil and
Gas Law governing unit operation, including
requiring unit operation of land for which the
Department of Transportation owns the mineral
rights, and to specify that the discounted cash
flow formula used to value certain producing oil
and gas reserves for property tax purposes is
the only method for valuing all oil and gas
reserves.

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

Section 1. That sections 1509.28 and 5713.051 of the
Revised Code be amended to read as follows:

Sec. 1509.28. (A) The chief of the division of oil and gas
resources management, upon the chief's own motion or upon
application by the owners of sixty-five per cent of the land
area overlying the pool, shall hold a hearing not later than
forty-five days after the chief's motion or receipt of an
application to consider the need for the operation as a unit of
an entire pool or part thereof. An application by owners shall

be accompanied by a nonrefundable fee of ten thousand dollars 20
and by such information as the chief may request. 21

The chief shall make an order providing for the unit 22
operation of a pool or part thereof not later than thirty days 23
after the date of the hearing if the chief finds that such 24
operation is reasonably necessary to increase substantially the 25
ultimate recovery of oil and gas, and the value of the estimated 26
additional recovery of oil or gas exceeds the estimated 27
additional cost incident to conducting the operation. The order 28
shall be upon terms and conditions that are just and reasonable 29
and shall prescribe a plan for unit operations that shall 30
include: 31

(1) A description of the unitized area, termed the unit 32
area; 33

(2) A statement of the nature of the operations 34
contemplated; 35

(3) An allocation to the separately owned tracts in the 36
unit area of all the oil and gas that is produced from the unit 37
area and is saved, being the production that is not used in the 38
conduct of operations on the unit area or not unavoidably lost. 39
The allocation shall be in accord with the agreement, if any, of 40
the interested parties. If there is no such agreement, the chief 41
shall determine the value, from the evidence introduced at the 42
hearing, of each separately owned tract in the unit area, 43
exclusive of physical equipment, for development of oil and gas 44
by unit operations, and the production allocated to each tract 45
shall be the proportion that the value of each tract so 46
determined bears to the value of all tracts in the unit area. 47

(4) A provision for the credits and charges to be made in 48

the adjustment among the owners in the unit area for their 49
respective investments in wells, tanks, pumps, machinery, 50
materials, and equipment contributed to the unit operations; 51

(5) A provision providing how the expenses of unit 52
operations, including capital investment, shall be determined 53
and charged to the separately owned tracts and how the expenses 54
shall be paid; 55

(6) A provision, if necessary, for carrying or otherwise 56
financing any person who is unable to meet the person's 57
financial obligations in connection with the unit, allowing a 58
reasonable interest charge for such service that is not less 59
than two hundred per cent; 60

(7) A provision for the supervision and conduct of the 61
unit operations, in respect to which each person shall have a 62
vote with a value corresponding to the percentage of the 63
expenses of unit operations chargeable against the interest of 64
that person; 65

(8) The time when the unit operations shall commence, and 66
the manner in which, and the circumstances under which, the unit 67
operations shall terminate; 68

(9) Such additional provisions as are found to be 69
appropriate for carrying on the unit operations, and for the 70
protection or adjustment of correlative rights. 71

(B) No order of the chief providing for unit operations 72
shall become effective unless and until the plan for unit 73
operations prescribed by the chief has been approved in writing 74
by those owners who, under the chief's order, will be required 75
to pay at least sixty-five per cent of the costs of the unit 76
operation, and also by the royalty or, with respect to unleased 77

acreage, fee owners of sixty-five per cent of the acreage to be 78
included in the unit. If the plan for unit operations has not 79
been so approved by owners and royalty owners at the time the 80
order providing for unit operations is made, the chief shall 81
upon application and notice hold such supplemental hearings as 82
may be required to determine if and when the plan for unit 83
operations has been so approved. If the owners and royalty 84
owners, or either, owning the required percentage of interest in 85
the unit area do not approve the plan for unit operations within 86
a period of six months from the date on which the order 87
providing for unit operations is made, the order shall cease to 88
be of force and shall be revoked by the chief. 89

An order providing for unit operations may be amended by 90
an order made by the chief, in the same manner and subject to 91
the same conditions as an original order providing for unit 92
operations, provided that: 93

(1) If such an amendment affects only the rights and 94
interests of the owners, the approval of the amendment by the 95
royalty owners shall not be required. 96

(2) No such order of amendment shall change the percentage 97
for allocation of oil and gas as established for any separately 98
owned tract by the original order, except with the consent of 99
all persons owning interest in the tract. 100

The chief, by an order, may provide for the unit operation 101
of a pool or a part thereof that embraces a unit area 102
established by a previous order of the chief. Such an order, in 103
providing for the allocation of unit production, shall first 104
treat the unit area previously established as a single tract, 105
and the portion of the unit production so allocated thereto 106
shall then be allocated among the separately owned tracts 107

included in the previously established unit area in the same 108
proportions as those specified in the previous order. 109

Oil and gas allocated to a separately owned tract shall be 110
deemed, for all purposes, to have been actually produced from 111
the tract, and all operations, including, but not limited to, 112
the commencement, drilling, operation of, or production from a 113
well upon any portion of the unit area shall be deemed for all 114
purposes the conduct of such operations and production from any 115
lease or contract for lands any portion of which is included in 116
the unit area. The operations conducted pursuant to the order of 117
the chief shall constitute a fulfillment of all the express or 118
implied obligations of each lease or contract covering lands in 119
the unit area to the extent that compliance with such 120
obligations cannot be had because of the order of the chief. 121

Oil and gas allocated to any tract, and the proceeds from 122
the sale thereof, shall be the property and income of the 123
several persons to whom, or to whose credit, the same are 124
allocated or payable under the order providing for unit 125
operations. 126

No order of the chief or other contract relating to the 127
sale or purchase of production from a separately owned tract 128
shall be terminated by the order providing for unit operations, 129
but shall remain in force and apply to oil and gas allocated to 130
the tract until terminated in accordance with the provisions 131
thereof. 132

Notwithstanding divisions (A) to (H) of section 1509.73 of 133
the Revised Code and rules adopted under it, the chief shall 134
issue an order for the unit operation of a pool or a part of a 135
pool that encompasses a unit area for which all of the mineral 136
rights are owned by the department of transportation. 137

Except to the extent that the parties affected so agree, 138
no order providing for unit operations shall be construed to 139
result in a transfer of all or any part of the title of any 140
person to the oil and gas rights in any tract in the unit area. 141
All property, whether real or personal, that may be acquired for 142
the account of the owners within the unit area shall be the 143
property of such owners in the proportion that the expenses of 144
unit operations are charged. 145

(C) If the chief adopts rules or establishes guidelines 146
for the purposes of this section, the rules or guidelines shall 147
not do either of the following: 148

(1) Establish a prehearing publication notice requirement 149
of more than three publications in a newspaper of daily general 150
circulation in the county or counties in which a proposed unit 151
is to be located; 152

(2) Require the last date of publication of such a 153
prehearing notice to occur not more than five days prior to the 154
hearing. 155

Any publication requirement established in rules adopted 156
or guidelines established under division (C) of this section 157
shall allow for publication in the newspaper of daily 158
circulation that is nearest to the proposed area of unit 159
operation if a newspaper of daily circulation is not available 160
in the county in which the proposed area of unit operation is 161
located. 162

Sec. 5713.051. (A) As used in this section: 163

(1) "Oil" means all grades of crude oil. 164

(2) "Gas" means all forms of natural gas. 165

- (3) "Well" means an oil or gas well or an oil and gas well. 166
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- (4) "M.C.F." means one thousand cubic feet. 168
- (5) "Commonly metered wells" means two or more wells that share the same meter. 169
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- (6) "Total production" means the total amount of oil, measured in barrels, and the total amount of gas, measured in M.C.F., of all oil and gas actually produced and sold from a single well that is developed and producing on the tax lien date. For commonly metered wells, "total production" means the total amount of oil, measured in barrels, and the total amount of gas, measured in M.C.F., of all oil and gas actually produced and sold from the commonly metered wells divided by the number of the commonly metered wells. 171
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- (7) "Flush production" means total production from a single well during the first twelve calendar months during not more than two consecutive calendar years after a well first begins to produce. For commonly metered wells, "flush production" means total production during the first twelve calendar months during not more than two consecutive calendar years after a well first begins to produce from all wells with flush production divided by the number of those wells. 180
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- (8) "Production through secondary recovery methods" means total production from a single well where mechanically induced pressure, such as air, nitrogen, carbon dioxide, or water pressure, is used to stimulate and maintain production in the oil and gas reservoir, exclusive of any flush production. For commonly metered wells, "production through secondary recovery methods" means total production from all wells with production 188
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through secondary recovery methods divided by the number of ~~the~~ those wells. 195
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(9) "Stabilized production" means total production 197
reduced, if applicable, by the greater of forty-two and one-half 198
per cent of flush production or fifty per cent of production 199
through secondary recovery methods. 200

(10) "Average daily production" means stabilized 201
production divided by three hundred sixty-five, provided the 202
well was in production at the beginning of the calendar year. If 203
the well was not in production at the beginning of the calendar 204
year, "average daily production" means stabilized production 205
divided by the number of days beginning with the day the well 206
went into production in the calendar year and ending with the 207
thirty-first day of December. 208

(11) "Gross price" means the unweighted average price per 209
barrel of oil or the average price per M.C.F. of gas produced 210
from Ohio wells and first sold during the five-year period 211
ending with the calendar year immediately preceding the tax lien 212
date, as reported by the department of natural resources. 213

(12) "Average annual decline rate" means the amount of 214
yearly decline in oil and gas production of a well after flush 215
production has ended. For the purposes of this section, the 216
average annual decline rate is thirteen per cent. 217

(13) "Gross revenue" means the gross revenue from a well 218
during a ten-year discount period with production assumed to be 219
one barrel of oil or one M.C.F. of gas during the first year of 220
production and declining at the annual average annual decline 221
rate during the remaining nine years of the ten-year discount 222
period, as follows: 223

(a) First year: one barrel or one M.C.F. multiplied by gross price;	224 225
(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied by gross price;	226 227
(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by gross price;	228 229
(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied by gross price;	230 231
(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by gross price;	232 233
(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by gross price;	234 235
(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied by gross price;	236 237
(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied by gross price;	238 239
(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by gross price;	240 241
(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by gross price.	242 243
(14) "Average royalty expense" means the annual cost of royalties paid by all working interest owners in a well. For the purposes of this section, the average royalty expense is fifteen per cent of annual gross revenue.	244 245 246 247
(15) "Average operating expense" means the annual cost of operating and maintaining a producing well after it first begins production. For the purposes of this section, the average	248 249 250

operating expense is forty per cent of annual gross revenue. 251

(16) "Average capital recovery expense" means the annual 252
capitalized investment cost of a developed and producing well. 253
For the purposes of this section, average capital recovery 254
expense is thirty per cent of annual gross revenue. 255

(17) "Discount rate" means the rate used to determine the 256
present net worth of one dollar during each year of the ten-year 257
discount period assuming the net income stream projected for 258
each year of the ten-year discount period is received at the 259
half-year point. For the purposes of this section, the discount 260
rate equals thirteen per cent plus the rate per annum prescribed 261
by division (B) of section 5703.47 of the Revised Code and 262
determined by the tax commissioner in October of the calendar 263
year immediately preceding the tax lien date. 264

(B) The true value in money of oil reserves constituting 265
real property on tax lien dates January 1, 2007, and thereafter 266
with respect to a developed and producing well that has not been 267
the subject of a recent arm's length sale, exclusive of personal 268
property necessary to recover the oil, shall be determined under 269
division (B)(1) or (2) of this section. 270

(1) For ~~wells~~ oil reserves for which average daily 271
production of oil from a well is one barrel or more in the 272
calendar year preceding the tax lien date, the true value in 273
money equals the average daily production of oil from the well 274
multiplied by the net present value of one barrel of oil, where: 275

(a) Net present value of one barrel of oil = 365 x the sum 276
of [net income for each year of the discount period x discount 277
rate factor for that year] for all years in the discount period; 278
and 279

(b) Net income for a year of the discount period = gross 280
revenue for that year minus the sum of the following for that 281
year: average royalty expense, average operating expense, and 282
average capital recovery expense. 283

(2) For ~~wells~~oil reserves for which average daily 284
production of oil from a well is less than one barrel in the 285
calendar year preceding the tax lien date, the true value in 286
money equals the average daily production of the well, if any, 287
in the calendar year preceding the tax lien date multiplied by 288
sixty per cent of the net present value of one barrel of oil as 289
computed under division (B)(1) of this section. 290

(C) The true value in money of gas reserves constituting 291
real property on tax lien dates January 1, 2007, and thereafter 292
with respect to a developed and producing well that has not been 293
the subject of a recent arm's length sale, exclusive of personal 294
property necessary to recover the gas, shall be determined under 295
division (C)(1) or (2) of this section. 296

(1) For ~~wells~~gas reserves for which average daily 297
production of gas from a well is eight M.C.F. or more in the 298
calendar year preceding the tax lien date, the true value in 299
money equals the average daily production of gas from the well 300
multiplied by the net present value of one M.C.F. of gas, where: 301

(a) Net present value of one M.C.F. of gas = 365 x the sum 302
of [net income for each year of the discount period x discount 303
rate factor for that year] for all years in the discount period; 304
and 305

(b) Net income for a year of the discount period = gross 306
revenue for that year minus the sum of the following for that 307
year: average royalty expense, average operating expense, and 308

average capital recovery expense. 309

(2) For ~~wells~~ gas reserves for which average daily 310
production of gas from a well is less than eight M.C.F. in the 311
calendar year preceding the tax lien date, the true value in 312
money equals the average daily production of the well, if any, 313
in the calendar year preceding the tax lien date multiplied by 314
fifty per cent of the net present value of one M.C.F. as 315
computed under division (C) (1) of this section. 316

(D) No method other than the method described in this 317
section shall be used to determine the true value in money of 318
oil or gas reserves for property tax purposes. 319

Section 2. That existing sections 1509.28 and 5713.051 of 320
the Revised Code are hereby repealed. 321

Section 3. (A) The amendment by this act of section 322
5713.051 of the Revised Code clarifies the intent of the General 323
Assembly that the method described in section 5713.051 of the 324
Revised Code for determining the true value in money of oil and 325
gas reserves for property tax purposes continues to represent 326
the only method for valuing oil and gas reserves for property 327
tax purposes. 328

(B) The amendment by this act of section 5713.051 of the 329
Revised Code applies to any addition of oil and gas reserves to 330
the tax list and duplicate on or after the effective date of 331
that amendment, including oil and gas reserves added to the tax 332
list pursuant to section 319.35, 319.36, or 5713.20 of the 333
Revised Code. The amendment by this act of section 5713.051 of 334
the Revised Code applies to any taxes for oil and gas reserves 335
charged by a county auditor or county treasurer, including taxes 336
for oil and gas reserves charged under section 319.40 or 5713.20 337

of the Revised Code on or after the effective date of that	338
amendment.	339
(C) Division (B) of this section applies without regard to	340
the tax year or tax years to which the addition or charged taxes	341
relate.	342