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Representatives Hagan, Ginter

Cosponsors: Representatives Thompson, Maag, Amstutz, Antonio, Baker, Barnes, Blessing, Boose, Brown, Buchy, Burkley, Celebrezze, Conditt, Derickson, Dever, Dovilla, Duffey, Fedor, Gerberry, Green, Grossman, Hackett, Hambley, Hayes, Hill, Johnson, T., Koehler, Kraus, Landis, McClain, McColley, O'Brien, M., O'Brien, S., Pelanda, Retherford, Ruhl, Ryan, Schaffer, Scherer, Schuring, Slaby, Smith, R., Sprague, Terhar, Young, Speaker Rosenberger

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 16
forty-five days after the chief's motion to consider the need 17
for the operation as a unit of an entire pool or part thereof. 18
~~An~~ 19~~

In addition, the owners of sixty-five per cent of the land 20
area overlying a pool may submit an application for the 21
operation as a unit of the entire pool or part of the pool. An 22
application by owners shall be accompanied by a nonrefundable 23
fee of ten thousand dollars and by such information as the chief 24
may request. 25

Not later than five business days after receipt of an 26
application by owners, the chief or the chief's designee shall 27
review the application and determine whether the application is 28
complete. If the application is determined to be incomplete, the 29
chief or the chief's designee shall provide the applicants a 30
notice explaining the deficiency, and the applicants may submit 31
additional information needed to eliminate the deficiency. If 32
notice is not provided by the chief or chief's designee to the 33
applicants within five business days after receipt of the 34
application, the application shall be determined to be complete. 35
The chief shall hold a hearing on a complete application to 36
consider the need for the operation as a unit of an entire pool 37
or part of a pool not later than forty-five days after receipt 38
of the application. 39

The chief shall make an order providing for the unit 40
operation of a pool or part thereof not later than thirty days 41
after the date of the hearing if the chief finds that such 42
operation is reasonably necessary to increase substantially the 43
ultimate recovery of oil and gas, and the value of the estimated 44
additional recovery of oil or gas exceeds the estimated 45

additional cost incident to conducting the operation. The order shall be upon terms and conditions that are just and reasonable and shall prescribe a plan for unit operations that shall include:

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

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

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

(4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;

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

(6) A provision, if necessary, for carrying or otherwise

financing any person who is unable to meet the person's 75
financial obligations in connection with the unit, allowing a 76
reasonable interest charge for such service that is not less 77
than two hundred per cent; 78

(7) A provision for the supervision and conduct of the 79
unit operations, in respect to which each person shall have a 80
vote with a value corresponding to the percentage of the 81
expenses of unit operations chargeable against the interest of 82
that person; 83

(8) The time when the unit operations shall commence, and 84
the manner in which, and the circumstances under which, the unit 85
operations shall terminate; 86

(9) Such additional provisions as are found to be 87
appropriate for carrying on the unit operations, and for the 88
protection or adjustment of correlative rights. 89

(B) No order of the chief providing for unit operations 90
shall become effective unless and until the plan for unit 91
operations prescribed by the chief has been approved in writing 92
by those owners who, under the chief's order, will be required 93
to pay at least sixty-five per cent of the costs of the unit 94
operation, and also by the royalty or, with respect to unleased 95
acreage, fee owners of sixty-five per cent of the acreage to be 96
included in the unit. If the plan for unit operations has not 97
been so approved by owners and royalty owners at the time the 98
order providing for unit operations is made, the chief shall 99
upon application and notice hold such supplemental hearings as 100
may be required to determine if and when the plan for unit 101
operations has been so approved. If the owners and royalty 102
owners, or either, owning the required percentage of interest in 103
the unit area do not approve the plan for unit operations within 104

a period of six months from the date on which the order 105
providing for unit operations is made, the order shall cease to 106
be of force and shall be revoked by the chief. 107

An order providing for unit operations may be amended by 108
an order made by the chief, in the same manner and subject to 109
the same conditions as an original order providing for unit 110
operations, provided that: 111

(1) If such an amendment affects only the rights and 112
interests of the owners, the approval of the amendment by the 113
royalty owners shall not be required. 114

(2) No such order of amendment shall change the percentage 115
for allocation of oil and gas as established for any separately 116
owned tract by the original order, except with the consent of 117
all persons owning interest in the tract. 118

The chief, by an order, may provide for the unit operation 119
of a pool or a part thereof that embraces a unit area 120
established by a previous order of the chief. Such an order, in 121
providing for the allocation of unit production, shall first 122
treat the unit area previously established as a single tract, 123
and the portion of the unit production so allocated thereto 124
shall then be allocated among the separately owned tracts 125
included in the previously established unit area in the same 126
proportions as those specified in the previous order. 127

Oil and gas allocated to a separately owned tract shall be 128
deemed, for all purposes, to have been actually produced from 129
the tract, and all operations, including, but not limited to, 130
the commencement, drilling, operation of, or production from a 131
well upon any portion of the unit area shall be deemed for all 132
purposes the conduct of such operations and production from any 133

lease or contract for lands any portion of which is included in 134
the unit area. The operations conducted pursuant to the order of 135
the chief shall constitute a fulfillment of all the express or 136
implied obligations of each lease or contract covering lands in 137
the unit area to the extent that compliance with such 138
obligations cannot be had because of the order of the chief. 139

Oil and gas allocated to any tract, and the proceeds from 140
the sale thereof, shall be the property and income of the 141
several persons to whom, or to whose credit, the same are 142
allocated or payable under the order providing for unit 143
operations. 144

No order of the chief or other contract relating to the 145
sale or purchase of production from a separately owned tract 146
shall be terminated by the order providing for unit operations, 147
but shall remain in force and apply to oil and gas allocated to 148
the tract until terminated in accordance with the provisions 149
thereof. 150

Notwithstanding divisions (A) to (H) of section 1509.73 of 151
the Revised Code and rules adopted under it, the chief shall 152
issue an order for the unit operation of a pool or a part of a 153
pool that encompasses a unit area consisting in whole or in part 154
of oil or natural gas resources owned or controlled by the state 155
or a political subdivision of the state other than a state park 156
operated under Chapter 1541. of the Revised Code as of January 157
1, 2015. However, no disruption of the surface of the land in a 158
state forest operated under Chapter 1503. of the Revised Code 159
shall occur as a result of an order issued under this section. 160

Except to the extent that the parties affected so agree, 161
no order providing for unit operations shall be construed to 162
result in a transfer of all or any part of the title of any 163

person to the oil and gas rights in any tract in the unit area. 164
All property, whether real or personal, that may be acquired for 165
the account of the owners within the unit area shall be the 166
property of such owners in the proportion that the expenses of 167
unit operations are charged. 168

(C) An order of the chief providing for unit operation 169
under this section does not authorize an owner to use the 170
surface of unleased land unless that use is consistent with a 171
separate agreement between the surface rights owner of that land 172
and the owner. 173

(D) If the chief adopts rules or establishes guidelines 174
for the purposes of this section, the rules or guidelines shall 175
not do either of the following: 176

(1) Establish a prehearing publication notice requirement 177
of more than three publications in a newspaper of daily general 178
circulation in the county or counties in which a proposed unit 179
is to be located; 180

(2) Require the last date of publication of such a 181
prehearing notice to occur not more than five days prior to the 182
hearing. 183

Any publication requirement established in rules adopted 184
or guidelines established under division (D) of this section 185
shall allow for publication in the newspaper of daily 186
circulation that is nearest to the proposed area of unit 187
operation if a newspaper of daily circulation is not available 188
in the county in which the proposed area of unit operation is 189
located. 190

Sec. 5713.051. (A) As used in this section: 191

(1) "Oil" means all grades of crude oil. 192

(2) "Gas" means all forms of natural gas.	193
(3) "Well" means an oil or gas well or an oil and gas well.	194 195
(4) "M.C.F." means one thousand cubic feet.	196
(5) "Commonly metered wells" means two or more wells that share the same meter.	197 198
(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.	199 200 201 202 203 204 205 206 207
(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.	208 209 210 211 212 213 214 215
(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	216 217 218 219 220 221

methods" means total production from all wells with production 222
through secondary recovery methods divided by the number of ~~the~~ 223
those wells. 224

(9) "Stabilized production" means total production 225
reduced, if applicable, by the greater of forty-two and one-half 226
per cent of flush production or fifty per cent of production 227
through secondary recovery methods. 228

(10) "Average daily production" means stabilized 229
production divided by three hundred sixty-five, provided the 230
well was in production at the beginning of the calendar year. If 231
the well was not in production at the beginning of the calendar 232
year, "average daily production" means stabilized production 233
divided by the number of days beginning with the day the well 234
went into production in the calendar year and ending with the 235
thirty-first day of December. 236

(11) "Gross price" means the unweighted average price per 237
barrel of oil or the average price per M.C.F. of gas produced 238
from Ohio wells and first sold during the five-year period 239
ending with the calendar year immediately preceding the tax lien 240
date, as reported by the department of natural resources. 241

(12) "Average annual decline rate" means the amount of 242
yearly decline in oil and gas production of a well after flush 243
production has ended. For the purposes of this section, the 244
average annual decline rate is thirteen per cent. 245

(13) "Gross revenue" means the gross revenue from a well 246
during a ten-year discount period with production assumed to be 247
one barrel of oil or one M.C.F. of gas during the first year of 248
production and declining at the annual average annual decline 249
rate during the remaining nine years of the ten-year discount 250

period, as follows:	251
(a) First year: one barrel or one M.C.F. multiplied by gross price;	252 253
(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied by gross price;	254 255
(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by gross price;	256 257
(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied by gross price;	258 259
(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by gross price;	260 261
(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by gross price;	262 263
(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied by gross price;	264 265
(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied by gross price;	266 267
(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by gross price;	268 269
(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by gross price.	270 271
(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.	272 273 274 275
(15) "Average operating expense" means the annual cost of operating and maintaining a producing well after it first begins	276 277

production. For the purposes of this section, the average 278
operating expense is forty per cent of annual gross revenue. 279

(16) "Average capital recovery expense" means the annual 280
capitalized investment cost of a developed and producing well. 281
For the purposes of this section, average capital recovery 282
expense is thirty per cent of annual gross revenue. 283

(17) "Discount rate" means the rate used to determine the 284
present net worth of one dollar during each year of the ten-year 285
discount period assuming the net income stream projected for 286
each year of the ten-year discount period is received at the 287
half-year point. For the purposes of this section, the discount 288
rate equals thirteen per cent plus the rate per annum prescribed 289
by division (B) of section 5703.47 of the Revised Code and 290
determined by the tax commissioner in October of the calendar 291
year immediately preceding the tax lien date. 292

(B) The true value in money of oil reserves constituting 293
real property on tax lien dates January 1, 2007, and thereafter 294
with respect to a developed and producing well that has not been 295
the subject of a recent arm's length sale, exclusive of personal 296
property necessary to recover the oil, shall be determined under 297
division (B)(1) or (2) of this section. 298

(1) For ~~wells~~ oil reserves for which average daily 299
production of oil from a well is one barrel or more in the 300
calendar year preceding the tax lien date, the true value in 301
money equals the average daily production of oil from the well 302
multiplied by the net present value of one barrel of oil, where: 303

(a) Net present value of one barrel of oil = 365 x the sum 304
of [net income for each year of the discount period x discount 305
rate factor for that year] for all years in the discount period; 306

and 307

(b) Net income for a year of the discount period = gross 308
revenue for that year minus the sum of the following for that 309
year: average royalty expense, average operating expense, and 310
average capital recovery expense. 311

(2) For ~~wells~~ oil reserves for which average daily 312
production of oil from a well is less than one barrel in the 313
calendar year preceding the tax lien date, the true value in 314
money equals the average daily production of the well, if any, 315
in the calendar year preceding the tax lien date multiplied by 316
sixty per cent of the net present value of one barrel of oil as 317
computed under division (B) (1) of this section. 318

(C) The true value in money of gas reserves constituting 319
real property on tax lien dates January 1, 2007, and thereafter 320
with respect to a developed and producing well that has not been 321
the subject of a recent arm's length sale, exclusive of personal 322
property necessary to recover the gas, shall be determined under 323
division (C) (1) or (2) of this section. 324

(1) For ~~wells~~ gas reserves for which average daily 325
production of gas from a well is eight M.C.F. or more in the 326
calendar year preceding the tax lien date, the true value in 327
money equals the average daily production of gas from the well 328
multiplied by the net present value of one M.C.F. of gas, where: 329

(a) Net present value of one M.C.F. of gas = 365 x the sum 330
of [net income for each year of the discount period x discount 331
rate factor for that year] for all years in the discount period; 332
and 333

(b) Net income for a year of the discount period = gross 334
revenue for that year minus the sum of the following for that 335

year: average royalty expense, average operating expense, and 336
average capital recovery expense. 337

(2) For ~~wells~~ gas reserves for which average daily 338
production of gas from a well is less than eight M.C.F. in the 339
calendar year preceding the tax lien date, the true value in 340
money equals the average daily production of the well, if any, 341
in the calendar year preceding the tax lien date multiplied by 342
fifty per cent of the net present value of one M.C.F. as 343
computed under division (C) (1) of this section. 344

(D) No method other than the method described in this 345
section shall be used to determine the true value in money of 346
oil or gas reserves for property tax purposes. 347

Section 2. That existing sections 1509.28 and 5713.051 of 348
the Revised Code are hereby repealed. 349

Section 3. (A) The amendment by this act of section 350
5713.051 of the Revised Code clarifies the intent of the General 351
Assembly that the method described in section 5713.051 of the 352
Revised Code for determining the true value in money of oil and 353
gas reserves for property tax purposes continues to represent 354
the only method for valuing oil and gas reserves for property 355
tax purposes. 356

(B) The amendment by this act of section 5713.051 of the 357
Revised Code applies to any addition of oil and gas reserves to 358
the tax list and duplicate on or after the effective date of 359
that amendment, including oil and gas reserves added to the tax 360
list pursuant to section 319.35, 319.36, or 5713.20 of the 361
Revised Code. The amendment by this act of section 5713.051 of 362
the Revised Code applies to any taxes for oil and gas reserves 363
charged by a county auditor or county treasurer, including taxes 364

for oil and gas reserves charged under section 319.40 or 5713.20 365
of the Revised Code on or after the effective date of that 366
amendment. 367

(C) Division (B) of this section applies without regard to 368
the tax year or tax years to which the addition or charged taxes 369
relate. 370