

**Substitute Version in House Energy and Natural Resources Committee**

**131st General Assembly**

**Regular Session**

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**Sub. H. B. No. 8**

**Representatives Hagan, Ginter**

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**A BILL**

To amend sections 1509.28 and 5713.051 of the 1  
Revised Code to revise provisions in the Oil and 2  
Gas Law governing unit operation, including 3  
requiring unit operation of public land, and to 4  
specify that the discounted cash flow formula 5  
used to value certain producing oil and gas 6  
reserves for property tax purposes is the only 7  
method for valuing all oil and gas reserves. 8

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

**Section 1.** That sections 1509.28 and 5713.051 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 1509.28.** (A) The chief of the division of oil and gas 11  
resources management, upon the chief's own motion or upon 12  
application by the owners of sixty-five per cent of the land 13  
area overlying the pool, shall hold a hearing not later than 14  
forty-five days after the chief's motion or receipt of an 15  
application to consider the need for the operation as a unit of 16  
an entire pool or part thereof. An application by owners shall 17  
be accompanied by a nonrefundable fee of ten thousand dollars 18  
and by such information as the chief may request. 19

The chief shall make an order providing for the unit operation of a pool or part thereof not later than thirty days after the date of the hearing if the chief finds that such operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and the value of the estimated additional recovery of oil or gas exceeds the estimated 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 financial obligations in connection with the unit, allowing a reasonable interest charge for such service that is not less than two hundred per cent;

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

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

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

(B) No order of the chief providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the chief has been approved in writing by those owners who, under the chief's order, will be required to pay at least sixty-five per cent of the costs of the unit operation, and also by the royalty or, with respect to unleased acreage, fee owners of sixty-five per cent of the acreage to be included in the unit. If the plan for unit operations has not been so approved by owners and royalty owners at the time the

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

An order providing for unit operations may be amended by 88  
an order made by the chief, in the same manner and subject to 89  
the same conditions as an original order providing for unit 90  
operations, provided that: 91

(1) If such an amendment affects only the rights and 92  
interests of the owners, the approval of the amendment by the 93  
royalty owners shall not be required. 94

(2) No such order of amendment shall change the percentage 95  
for allocation of oil and gas as established for any separately 96  
owned tract by the original order, except with the consent of 97  
all persons owning interest in the tract. 98

The chief, by an order, may provide for the unit operation 99  
of a pool or a part thereof that embraces a unit area 100  
established by a previous order of the chief. Such an order, in 101  
providing for the allocation of unit production, shall first 102  
treat the unit area previously established as a single tract, 103  
and the portion of the unit production so allocated thereto 104  
shall then be allocated among the separately owned tracts 105  
included in the previously established unit area in the same 106  
proportions as those specified in the previous order. 107

Oil and gas allocated to a separately owned tract shall be 108  
deemed, for all purposes, to have been actually produced from 109  
the tract, and all operations, including, but not limited to, 110  
the commencement, drilling, operation of, or production from a 111  
well upon any portion of the unit area shall be deemed for all 112  
purposes the conduct of such operations and production from any 113  
lease or contract for lands any portion of which is included in 114  
the unit area. The operations conducted pursuant to the order of 115  
the chief shall constitute a fulfillment of all the express or 116  
implied obligations of each lease or contract covering lands in 117  
the unit area to the extent that compliance with such 118  
obligations cannot be had because of the order of the chief. 119

Oil and gas allocated to any tract, and the proceeds from 120  
the sale thereof, shall be the property and income of the 121  
several persons to whom, or to whose credit, the same are 122  
allocated or payable under the order providing for unit 123  
operations. 124

No order of the chief or other contract relating to the 125  
sale or purchase of production from a separately owned tract 126  
shall be terminated by the order providing for unit operations, 127  
but shall remain in force and apply to oil and gas allocated to 128  
the tract until terminated in accordance with the provisions 129  
thereof. 130

Notwithstanding divisions (A) to (H) of section 1509.73 of 131  
the Revised Code and rules adopted under it, the chief shall 132  
issue an order for the unit operation of a pool or a part of a 133  
pool that encompasses a unit area consisting in whole or in part 134  
of oil or natural resources owned or controlled by the state or 135  
a political subdivision of the state. 136

Except to the extent that the parties affected so agree, 137

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

(C) If the chief adopts rules or establishes guidelines 145  
for the purposes of this section, the rules or guidelines shall 146  
not do either of the following: 147

(1) Establish a prehearing publication notice requirement 148  
of more than three publications in a newspaper of daily general 149  
circulation in the county or counties in which a proposed unit 150  
is to be located; 151

(2) Require the last date of publication of such a 152  
prehearing notice to occur not more than five days prior to the 153  
hearing. 154

Any publication requirement established in rules adopted 155  
or guidelines established under division (C) of this section 156  
shall allow for publication in the newspaper of daily 157  
circulation that is nearest to the proposed area of unit 158  
operation if a newspaper of daily circulation is not available 159  
in the county in which the proposed area of unit operation is 160  
located. 161

**Sec. 5713.051.** (A) As used in this section: 162

(1) "Oil" means all grades of crude oil. 163

(2) "Gas" means all forms of natural gas. 164

(3) "Well" means an oil or gas well or an oil and gas 165

well. 166

(4) "M.C.F." means one thousand cubic feet. 167

(5) "Commonly metered wells" means two or more wells that 168  
share the same meter. 169

(6) "Total production" means the total amount of oil, 170  
measured in barrels, and the total amount of gas, measured in 171  
M.C.F., of all oil and gas actually produced and sold from a 172  
single well that is developed and producing on the tax lien 173  
date. For commonly metered wells, "total production" means the 174  
total amount of oil, measured in barrels, and the total amount 175  
of gas, measured in M.C.F., of all oil and gas actually produced 176  
and sold from the commonly metered wells divided by the number 177  
of the commonly metered wells. 178

(7) "Flush production" means total production from a 179  
single well during the first twelve calendar months during not 180  
more than two consecutive calendar years after a well first 181  
begins to produce. For commonly metered wells, "flush 182  
production" means total production during the first twelve 183  
calendar months during not more than two consecutive calendar 184  
years after a well first begins to produce from all wells with 185  
flush production divided by the number of those wells. 186

(8) "Production through secondary recovery methods" means 187  
total production from a single well where mechanically induced 188  
pressure, such as air, nitrogen, carbon dioxide, or water 189  
pressure, is used to stimulate and maintain production in the 190  
oil and gas reservoir, exclusive of any flush production. For 191  
commonly metered wells, "production through secondary recovery 192  
methods" means total production from all wells with production 193  
through secondary recovery methods divided by the number of ~~the~~ 194

those wells. 195

(9) "Stabilized production" means total production 196  
reduced, if applicable, by the greater of forty-two and one-half 197  
per cent of flush production or fifty per cent of production 198  
through secondary recovery methods. 199

(10) "Average daily production" means stabilized 200  
production divided by three hundred sixty-five, provided the 201  
well was in production at the beginning of the calendar year. If 202  
the well was not in production at the beginning of the calendar 203  
year, "average daily production" means stabilized production 204  
divided by the number of days beginning with the day the well 205  
went into production in the calendar year and ending with the 206  
thirty-first day of December. 207

(11) "Gross price" means the unweighted average price per 208  
barrel of oil or the average price per M.C.F. of gas produced 209  
from Ohio wells and first sold during the five-year period 210  
ending with the calendar year immediately preceding the tax lien 211  
date, as reported by the department of natural resources. 212

(12) "Average annual decline rate" means the amount of 213  
yearly decline in oil and gas production of a well after flush 214  
production has ended. For the purposes of this section, the 215  
average annual decline rate is thirteen per cent. 216

(13) "Gross revenue" means the gross revenue from a well 217  
during a ten-year discount period with production assumed to be 218  
one barrel of oil or one M.C.F. of gas during the first year of 219  
production and declining at the annual average annual decline 220  
rate during the remaining nine years of the ten-year discount 221  
period, as follows: 222

(a) First year: one barrel or one M.C.F. multiplied by 223

gross price;	224
(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied by gross price;	225 226
(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by gross price;	227 228
(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied by gross price;	229 230
(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by gross price;	231 232
(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by gross price;	233 234
(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied by gross price;	235 236
(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied by gross price;	237 238
(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by gross price;	239 240
(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by gross price.	241 242
(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.	243 244 245 246
(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 operating expense is forty per cent of annual gross revenue.	247 248 249 250

(16) "Average capital recovery expense" means the annual 251  
capitalized investment cost of a developed and producing well. 252  
For the purposes of this section, average capital recovery 253  
expense is thirty per cent of annual gross revenue. 254

(17) "Discount rate" means the rate used to determine the 255  
present net worth of one dollar during each year of the ten-year 256  
discount period assuming the net income stream projected for 257  
each year of the ten-year discount period is received at the 258  
half-year point. For the purposes of this section, the discount 259  
rate equals thirteen per cent plus the rate per annum prescribed 260  
by division (B) of section 5703.47 of the Revised Code and 261  
determined by the tax commissioner in October of the calendar 262  
year immediately preceding the tax lien date. 263

(B) The true value in money of oil reserves constituting 264  
real property on tax lien dates January 1, 2007, and thereafter 265  
with respect to a developed and producing well that has not been 266  
the subject of a recent arm's length sale, exclusive of personal 267  
property necessary to recover the oil, shall be determined under 268  
division (B)(1) or (2) of this section. 269

(1) For ~~wells~~ oil reserves for which average daily 270  
production of oil from a well is one barrel or more in the 271  
calendar year preceding the tax lien date, the true value in 272  
money equals the average daily production of oil from the well 273  
multiplied by the net present value of one barrel of oil, where: 274

(a) Net present value of one barrel of oil = 365 x the sum 275  
of [net income for each year of the discount period x discount 276  
rate factor for that year] for all years in the discount period; 277  
and 278

(b) Net income for a year of the discount period = gross 279

revenue for that year minus the sum of the following for that 280  
year: average royalty expense, average operating expense, and 281  
average capital recovery expense. 282

(2) For ~~wells~~ oil reserves for which average daily 283  
production of oil from a well is less than one barrel in the 284  
calendar year preceding the tax lien date, the true value in 285  
money equals the average daily production of the well, if any, 286  
in the calendar year preceding the tax lien date multiplied by 287  
sixty per cent of the net present value of one barrel of oil as 288  
computed under division (B) (1) of this section. 289

(C) The true value in money of gas reserves constituting 290  
real property on tax lien dates January 1, 2007, and thereafter 291  
with respect to a developed and producing well that has not been 292  
the subject of a recent arm's length sale, exclusive of personal 293  
property necessary to recover the gas, shall be determined under 294  
division (C) (1) or (2) of this section. 295

(1) For ~~wells~~ gas reserves for which average daily 296  
production of gas from a well is eight M.C.F. or more in the 297  
calendar year preceding the tax lien date, the true value in 298  
money equals the average daily production of gas from the well 299  
multiplied by the net present value of one M.C.F. of gas, where: 300

(a) Net present value of one M.C.F. of gas = 365 x the sum 301  
of [net income for each year of the discount period x discount 302  
rate factor for that year] for all years in the discount period; 303  
and 304

(b) Net income for a year of the discount period = gross 305  
revenue for that year minus the sum of the following for that 306  
year: average royalty expense, average operating expense, and 307  
average capital recovery expense. 308

(2) For ~~wells~~ gas reserves for which average daily 309  
production of gas from a well is less than eight M.C.F. in the 310  
calendar year preceding the tax lien date, the true value in 311  
money equals the average daily production of the well, if any, 312  
in the calendar year preceding the tax lien date multiplied by 313  
fifty per cent of the net present value of one M.C.F. as 314  
computed under division (C) (1) of this section. 315

(D) No method other than the method described in this 316  
section shall be used to determine the true value in money of 317  
oil or gas reserves for property tax purposes. 318

**Section 2.** That existing sections 1509.28 and 5713.051 of 319  
the Revised Code are hereby repealed. 320

**Section 3.** (A) The amendment by this act of section 321  
5713.051 of the Revised Code clarifies the intent of the General 322  
Assembly that the method described in section 5713.051 of the 323  
Revised Code for determining the true value in money of oil and 324  
gas reserves for property tax purposes continues to represent 325  
the only method for valuing oil and gas reserves for property 326  
tax purposes. 327

(B) The amendment by this act of section 5713.051 of the 328  
Revised Code applies to any addition of oil and gas reserves to 329  
the tax list and duplicate on or after the effective date of 330  
that amendment, including oil and gas reserves added to the tax 331  
list pursuant to section 319.35, 319.36, or 5713.20 of the 332  
Revised Code. The amendment by this act of section 5713.051 of 333  
the Revised Code applies to any taxes for oil and gas reserves 334  
charged by a county auditor or county treasurer, including taxes 335  
for oil and gas reserves charged under section 319.40 or 5713.20 336  
of the Revised Code on or after the effective date of that 337  
amendment. 338

(C) Division (B) of this section applies without regard to	339
the tax year or tax years to which the addition or charged taxes	340
relate.	341