As Introduced

131st General Assembly Regular Session 2015-2016

H. B. No. 8

Representatives Hagan, Ginter

A BILL

То	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 land for which the	4
	Department of Transportation owns the mineral	5
	rights, and to specify that the discounted cash	6
	flow formula used to value certain producing oil	7
	and gas reserves for property tax purposes is	8
	the only method for valuing all oil and gas	9
	reserves.	10

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

Section 1. That sections 1509.28 and 5713.051 of the	11
Revised Code be amended to read as follows:	12
Sec. 1509.28. (A) The chief of the division of oil and gas	13
resources management, upon the chief's own motion or upon	14
application by the owners of sixty-five per cent of the land	15
area overlying the pool, shall hold a hearing not later than	16
forty-five days after the chief's motion or receipt of an	17
application to consider the need for the operation as a unit of	18
an entire pool or part thereof. An application by owners shall	19

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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 29 shall be upon terms and conditions that are just and reasonable 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 35 contemplated; (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 39 conduct of operations on the unit area or not unavoidably lost. 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

Page 2

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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 68 operations shall terminate; 69

(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.
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(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
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by those owners who, under the chief's order, will be required
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to pay at least sixty-five per cent of the costs of the unit
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operation, and also by the royalty or, with respect to unleased
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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
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interests of the owners, the approval of the amendment by the
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royalty owners shall not be required.
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(2) No such order of amendment shall change the percentage
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for allocation of oil and gas as established for any separately
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owned tract by the original order, except with the consent of
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all persons owning interest in the tract.

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 from122the sale thereof, shall be the property and income of the123several persons to whom, or to whose credit, the same are124allocated or payable under the order providing for unit125operations.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 of133the Revised Code and rules adopted under it, the chief shall134issue an order for the unit operation of a pool or a part of a135pool that encompasses a unit area for which all of the mineral136rights are owned by the department of transportation.137

Page 5

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;		
(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.		
Any publication requirement established in rules adopted	156	
or quidelines established under division (C) of this section	157	
shall allow for publication in the newspaper of daily_		
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circulation that is nearest to the proposed area of unit		
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 166 well. 167 (4) "M.C.F." means one thousand cubic feet. 168 (5) "Commonly metered wells" means two or more wells that 169 share the same meter. 170 (6) "Total production" means the total amount of oil, 171 measured in barrels, and the total amount of gas, measured in 172 M.C.F., of all oil and gas actually produced and sold from a 173 single well that is developed and producing on the tax lien 174 date. For commonly metered wells, "total production" means the 175 total amount of oil, measured in barrels, and the total amount 176 of gas, measured in M.C.F., of all oil and gas actually produced 177 and sold from the commonly metered wells divided by the number 178 of the commonly metered wells. 179 (7) "Flush production" means total production from a 180 single well during the first twelve calendar months during not 181 more than two consecutive calendar years after a well first 182

begins to produce. For commonly metered wells, "flush183production" means total production during the first twelve184calendar months during not more than two consecutive calendar185years after a well first begins to produce from all wells with186flush production divided by the number of those wells.187

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

through secondary recovery methods divided by the number of the-195 those wells. 196 (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
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yearly decline in oil and gas production of a well after flush
production has ended. For the purposes of this section, the
average annual decline rate is thirteen per cent.
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(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

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

production. For the purposes of this section, the average

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

(16) "Average capital recovery expense" means the annual
capitalized investment cost of a developed and producing well.
For the purposes of this section, average capital recovery
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expense is thirty per cent of annual gross revenue.
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(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
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(1) For wells <u>oil reserves</u> for which average daily 271 production of oil <u>from a well</u> 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
(a) Net present value of one barrel of oil = 365 x the sum
(b) 276
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Page 10

(b) Net income for a year of the discount period = gross
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(c) 280
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(2) For wells <u>oil reserves</u> 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
of [net income for each year of the discount period x discount
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rate factor for that year] for all years in the discount period;
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(b) Net income for a year of the discount period = gross
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revenue for that year minus the sum of the following for that
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year: average royalty expense, average operating expense, and
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average capital recovery expense.

(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 this317section shall be used to determine the true value in money of318oil or gas reserves for property tax purposes.319

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

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

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of the Revised Code on or after the effective date of that	338
amendment.	
(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.	