

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 327

Senator Balderson

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 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 to consider the need
for the operation as a unit of an entire pool or part thereof.
~~An~~

In addition, an applicant that has obtained consent from
the owners of at least sixty-five per cent of the land area
overlying a pool may submit an application for the operation as

a unit of the entire pool or part of the pool. An application by 20
owners shall be accompanied by a all of the following: 21

(1) A nonrefundable fee of ten thousand dollars and by 22
such; 23

(2) The name, address, and telephone number of the 24
applicant; 25

(3) An affidavit attesting that at least sixty-five per 26
cent of the owners of the mineral rights in the proposed unit 27
consent to be included in the unit; 28

(4) An identification of all owners of mineral rights to 29
be included in the unit, including a list specifying which 30
owners are consenting or nonconsenting; 31

(5) Maps illustrating the location of the proposed unit, 32
its boundaries, and the planned development of the proposed unit 33
and identifying each county and township in which the proposed 34
unit is to be located; 35

(6) Such information as the chief may request. 36

Not later than five business days after receipt of an 37
application for unit operation, the chief or the chief's 38
designee shall review the application and determine whether the 39
application is complete. If the application is determined to be 40
incomplete, the chief or the chief's designee shall provide to 41
the applicant a notice explaining the deficiency and the 42
additional information needed to eliminate the deficiency. The 43
applicant may submit such additional information needed to 44
eliminate the deficiency. Not later than five business days 45
after additional information is received from an applicant for 46
purposes of remedying a deficiency, the chief shall review the 47
additional information, determine if the additional information 48

eliminates the deficiency in the application, and provide notice 49
to the applicant if any deficiency remains. 50

If notice is not provided by the chief or chief's designee 51
to the applicants within five business days after receipt of the 52
application or, if applicable, within five business days after 53
the chief receives additional information for purposes of 54
remedying a deficiency, the application shall be determined to 55
be complete. The chief shall hold a hearing on a complete 56
application not later than forty-five days after the application 57
is determined to be complete. However, the chief may grant a 58
continuance of the hearing of not more than fourteen calendar 59
days upon a request by a person owning an interest in the 60
proposed unit not later than ten calendar days prior to the 61
scheduled hearing. 62

The applicant shall notify all unleased mineral rights 63
owners, all nonconsenting owners, and all working interest 64
owners proposed to be included in the unit of the hearing by 65
certified mail at least fourteen calendar days prior to the 66
scheduled hearing date. At the scheduled hearing, the applicant 67
shall provide to the chief proof of certified mailing to each 68
owner that was notified. The applicant also shall publish notice 69
of the hearing in a newspaper of general circulation in the 70
county or counties, as applicable, in which the proposed unit is 71
to be located. If such a newspaper is not available in the 72
applicable county or counties, the applicant shall publish the 73
notice in the newspaper of general circulation that is nearest 74
to the proposed unit. At the hearing, the chief shall consider 75
the need for the operation as a unit of an entire pool or part 76
of a pool. 77

(B) The chief shall make an order providing for the unit 78

operation of a pool or part thereof not later than thirty days 79
after the date of the hearing if the chief finds that such 80
operation is reasonably necessary to increase substantially the 81
ultimate recovery of oil and gas, and the value of the estimated 82
additional recovery of oil or gas exceeds the estimated 83
additional cost incident to conducting the operation. ~~The~~ 84
However, if the chief does not receive either a transcript of 85
the hearing or substantive information regarding an application 86
that was requested by the chief at the hearing within thirty 87
days of the date of the hearing, the chief may delay issuing the 88
order. However, the chief shall issue the order not later than 89
five business days after receiving either the transcript or the 90
substantive information. 91

If, after the chief holds a hearing on the complete 92
application, the chief does not make such a finding, the chief 93
may request additional substantive information from the 94
applicant that would aid the chief in determining whether to 95
grant the application or issue an order denying the application. 96

(C) An order providing for the unit operation of a pool or 97
part thereof shall be upon terms and conditions that are just 98
and reasonable and shall prescribe a plan for unit operations 99
that shall include: 100

(1) A description of the unitized area, termed the unit 101
area; 102

(2) A statement of the nature of the operations 103
contemplated; 104

(3) An allocation to the separately owned tracts in the 105
unit area of all the oil and gas that is produced from the unit 106
area and is saved, being the production that is not used in the 107

conduct of operations on the unit area or not unavoidably lost. 108
The allocation shall be in accord with the agreement, if any, of 109
the interested parties. If there is no such agreement, the chief 110
shall determine the value, from the evidence introduced at the 111
hearing, of each separately owned tract in the unit area, 112
exclusive of physical equipment, for development of oil and gas 113
by unit operations, and the production allocated to each tract 114
shall be the proportion that the value of each tract so 115
determined bears to the value of all tracts in the unit area. 116

(4) A provision for the credits and charges to be made in 117
the adjustment among the owners in the unit area for their 118
respective investments in wells, tanks, pumps, machinery, 119
materials, and equipment contributed to the unit operations; 120

(5) A provision providing how the expenses of unit 121
operations, including capital investment, shall be determined 122
and charged to the separately owned tracts and how the expenses 123
shall be paid; 124

(6) A provision, if necessary, for carrying or otherwise 125
financing any person who is unable to meet the person's 126
financial obligations in connection with the unit, allowing a 127
reasonable interest charge for such service that, for an owner 128
of unleased land, is two hundred per cent; 129

(7) A provision for the supervision and conduct of the 130
unit operations, in respect to which each person shall have a 131
vote with a value corresponding to the percentage of the 132
expenses of unit operations chargeable against the interest of 133
that person; 134

(8) The time when the unit operations shall commence, and 135
the manner in which, and the circumstances under which, the unit 136

operations shall terminate; 137

(9) A provision that if the plan for unit operation 138
includes unleased mineral interests, each unleased mineral 139
rights owner shall receive a one-eighth royalty on production 140
that is allocated to each tract, or portions of each tract, 141
included in the unit area in which the unleased mineral rights 142
owner has an interest. However, in the event that an unleased 143
mineral rights owner owns less than the entire undivided mineral 144
interest in a tract, the royalty on production allocated to such 145
tract, or portions thereof, shall be paid only in the proportion 146
that the unleased mineral rights owner's interest bears to the 147
entire undivided mineral interest in such tract; 148

(10) Such additional provisions as are found to be 149
appropriate for carrying on the unit operations, and for the 150
protection or adjustment of correlative rights. 151

~~(B)~~ (D) No order of the chief providing for unit 152
operations shall become effective unless and until the plan for 153
unit operations prescribed by the chief has been approved in 154
writing by those owners who, under the chief's order, will be 155
required to pay at least sixty-five per cent of the costs of the 156
unit operation, and also by the royalty or, with respect to 157
unleased acreage, fee owners of sixty-five per cent of the 158
acreage to be included in the unit. If the plan for unit 159
operations has not been so approved by owners and royalty owners 160
at the time the order providing for unit operations is made, the 161
chief shall upon application and notice hold such supplemental 162
hearings as may be required to determine if and when the plan 163
for unit operations has been so approved. If the owners and 164
royalty owners, or either, owning the required percentage of 165
interest in the unit area do not approve the plan for unit 166

operations within a period of six months from the date on which 167
the order providing for unit operations is made, the order shall 168
cease to be of force and shall be revoked by the chief. 169

An order providing for unit operations may be amended by 170
an order made by the chief, in the same manner and subject to 171
the same conditions as an original order providing for unit 172
operations, provided that: 173

(1) If such an amendment affects only the rights and 174
interests of the owners, the approval of the amendment by the 175
royalty owners shall not be required. 176

(2) No such order of amendment shall change the percentage 177
for allocation of oil and gas as established for any separately 178
owned tract by the original order, except with the consent of 179
all persons owning interest in the tract. 180

The chief, by an order, may provide for the unit operation 181
of a pool or a part thereof that embraces a unit area 182
established by a previous order of the chief. Such an order, in 183
providing for the allocation of unit production, shall first 184
treat the unit area previously established as a single tract, 185
and the portion of the unit production so allocated thereto 186
shall then be allocated among the separately owned tracts 187
included in the previously established unit area in the same 188
proportions as those specified in the previous order. 189

Oil and gas allocated to a separately owned tract shall be 190
deemed, for all purposes, to have been actually produced from 191
the tract, and all operations, including, but not limited to, 192
the commencement, drilling, operation of, or production from a 193
well upon any portion of the unit area shall be deemed for all 194
purposes the conduct of such operations and production from any 195

lease or contract for lands any portion of which is included in 196
the unit area. The operations conducted pursuant to the order of 197
the chief shall constitute a fulfillment of all the express or 198
implied obligations of each lease or contract covering lands in 199
the unit area to the extent that compliance with such 200
obligations cannot be had because of the order of the chief. 201

Oil and gas allocated to any tract, and the proceeds from 202
the sale thereof, shall be the property and income of the 203
several persons to whom, or to whose credit, the same are 204
allocated or payable under the order providing for unit 205
operations. 206

No order of the chief or other contract relating to the 207
sale or purchase of production from a separately owned tract 208
shall be terminated by the order providing for unit operations, 209
but shall remain in force and apply to oil and gas allocated to 210
the tract until terminated in accordance with the provisions 211
thereof. 212

Notwithstanding divisions (A) to (H) of section 1509.73 of 213
the Revised Code and rules adopted under it, the chief shall 214
issue an order for the unit operation of a pool or a part of a 215
pool that encompasses a unit area for which all or a portion of 216
the mineral rights are owned by the department of 217
transportation. 218

Except to the extent that the parties affected so agree, 219
no order providing for unit operations shall be construed to 220
result in a transfer of all or any part of the title of any 221
person to the oil and gas rights in any tract in the unit area. 222
All property, whether real or personal, that may be acquired for 223
the account of the owners within the unit area shall be the 224
property of such owners in the proportion that the expenses of 225

unit operations are charged. 226

(E) An order of the chief providing for unit operation 227
under this section does not authorize an owner to use the 228
surface of unleased land unless that use is consistent with a 229
separate agreement between the surface rights owner of that land 230
and the owner. 231

(F) An unleased mineral rights owner of any tract included 232
in a unit by an order of the chief issued under this section 233
shall not incur liability for any personal or property damage 234
associated with any drilling, testing, completing, producing, 235
operating, or plugging activities related to a well within the 236
unit unless the damage arises from a purposeful or grossly 237
negligent act of the unleased mineral rights owner. 238

(G) As used in this section, "unleased mineral rights 239
owner" means an owner that has not leased the owner's mineral 240
rights for oil or gas, unless the chief separately defines that 241
class of owner in an order for unit operation. 242

Sec. 5713.051. (A) As used in this section: 243

(1) "Oil" means all grades of crude oil. 244

(2) "Gas" means all forms of natural gas. 245

(3) "Well" means an oil or gas well or an oil and gas 246
well. 247

(4) "M.C.F." means one thousand cubic feet. 248

(5) "Commonly metered wells" means two or more wells that 249
share the same meter. 250

(6) "Total production" means the total amount of oil, 251
measured in barrels, and the total amount of gas, measured in 252

M.C.F., of all oil and gas actually produced and sold from a 253
single well that is developed and producing on the tax lien 254
date. For commonly metered wells, "total production" means the 255
total amount of oil, measured in barrels, and the total amount 256
of gas, measured in M.C.F., of all oil and gas actually produced 257
and sold from the commonly metered wells divided by the number 258
of the commonly metered wells. 259

(7) "Flush production" means total production from a 260
single well during the first twelve calendar months during not 261
more than two consecutive calendar years after a well first 262
begins to produce. For commonly metered wells, "flush 263
production" means total production during the first twelve 264
calendar months during not more than two consecutive calendar 265
years after a well first begins to produce from all wells with 266
flush production divided by the number of those wells. 267

(8) "Production through secondary recovery methods" means 268
total production from a single well where mechanically induced 269
pressure, such as air, nitrogen, carbon dioxide, or water 270
pressure, is used to stimulate and maintain production in the 271
oil and gas reservoir, exclusive of any flush production. For 272
commonly metered wells, "production through secondary recovery 273
methods" means total production from all wells with production 274
through secondary recovery methods divided by the number of ~~the~~ 275
those wells. 276

(9) "Stabilized production" means total production 277
reduced, if applicable, by the greater of forty-two and one-half 278
per cent of flush production or fifty per cent of production 279
through secondary recovery methods. 280

(10) "Average daily production" means stabilized 281
production divided by three hundred sixty-five, provided the 282

well was in production at the beginning of the calendar year. If 283
the well was not in production at the beginning of the calendar 284
year, "average daily production" means stabilized production 285
divided by the number of days beginning with the day the well 286
went into production in the calendar year and ending with the 287
thirty-first day of December. 288

(11) "Gross price" means the unweighted average price per 289
barrel of oil or the average price per M.C.F. of gas produced 290
from Ohio wells and first sold during the five-year period 291
ending with the calendar year immediately preceding the tax lien 292
date, as reported by the department of natural resources. 293

(12) "Average annual decline rate" means the amount of 294
yearly decline in oil and gas production of a well after flush 295
production has ended. For the purposes of this section, the 296
average annual decline rate is thirteen per cent. 297

(13) "Gross revenue" means the gross revenue from a well 298
during a ten-year discount period with production assumed to be 299
one barrel of oil or one M.C.F. of gas during the first year of 300
production and declining at the annual average annual decline 301
rate during the remaining nine years of the ten-year discount 302
period, as follows: 303

(a) First year: one barrel or one M.C.F. multiplied by 304
gross price; 305

(b) Second year: 0.870 barrel or 0.870 M.C.F. multiplied 306
by gross price; 307

(c) Third year: 0.757 barrel or 0.757 M.C.F. multiplied by 308
gross price; 309

(d) Fourth year: 0.659 barrel or 0.659 M.C.F. multiplied 310
by gross price; 311

(e) Fifth year: 0.573 barrel or 0.573 M.C.F. multiplied by	312
gross price;	313
(f) Sixth year: 0.498 barrel or 0.498 M.C.F. multiplied by	314
gross price;	315
(g) Seventh year: 0.434 barrel or 0.434 M.C.F. multiplied	316
by gross price;	317
(h) Eighth year: 0.377 barrel or 0.377 M.C.F. multiplied	318
by gross price;	319
(i) Ninth year: 0.328 barrel or 0.328 M.C.F. multiplied by	320
gross price;	321
(j) Tenth year: 0.286 barrel or 0.286 M.C.F. multiplied by	322
gross price.	323
(14) "Average royalty expense" means the annual cost of	324
royalties paid by all working interest owners in a well. For the	325
purposes of this section, the average royalty expense is fifteen	326
per cent of annual gross revenue.	327
(15) "Average operating expense" means the annual cost of	328
operating and maintaining a producing well after it first begins	329
production. For the purposes of this section, the average	330
operating expense is forty per cent of annual gross revenue.	331
(16) "Average capital recovery expense" means the annual	332
capitalized investment cost of a developed and producing well.	333
For the purposes of this section, average capital recovery	334
expense is thirty per cent of annual gross revenue.	335
(17) "Discount rate" means the rate used to determine the	336
present net worth of one dollar during each year of the ten-year	337
discount period assuming the net income stream projected for	338
each year of the ten-year discount period is received at the	339

half-year point. For the purposes of this section, the discount 340
rate equals thirteen per cent plus the rate per annum prescribed 341
by division (B) of section 5703.47 of the Revised Code and 342
determined by the tax commissioner in October of the calendar 343
year immediately preceding the tax lien date. 344

(B) The true value in money of oil reserves constituting 345
real property on tax lien dates January 1, 2007, and thereafter 346
with respect to a developed and producing well that has not been 347
the subject of a recent arm's length sale, exclusive of personal 348
property necessary to recover the oil, shall be determined under 349
division (B) (1) or (2) of this section. 350

(1) For ~~wells~~ oil reserves for which average daily 351
production of oil from a well is one barrel or more in the 352
calendar year preceding the tax lien date, the true value in 353
money equals the average daily production of oil from the well 354
multiplied by the net present value of one barrel of oil, where: 355

(a) Net present value of one barrel of oil = $365 \times$ the sum 356
of [net income for each year of the discount period \times discount 357
rate factor for that year] for all years in the discount period; 358
and 359

(b) Net income for a year of the discount period = gross 360
revenue for that year minus the sum of the following for that 361
year: average royalty expense, average operating expense, and 362
average capital recovery expense. 363

(2) For ~~wells~~ oil reserves for which average daily 364
production of oil from a well is less than one barrel in the 365
calendar year preceding the tax lien date, the true value in 366
money equals the average daily production of the well, if any, 367
in the calendar year preceding the tax lien date multiplied by 368

sixty per cent of the net present value of one barrel of oil as 369
computed under division (B) (1) of this section. 370

(C) The true value in money of gas reserves constituting 371
real property on tax lien dates January 1, 2007, and thereafter 372
with respect to a developed and producing well that has not been 373
the subject of a recent arm's length sale, exclusive of personal 374
property necessary to recover the gas, shall be determined under 375
division (C) (1) or (2) of this section. 376

(1) For ~~wells~~ gas reserves for which average daily 377
production of gas from a well is eight M.C.F. or more in the 378
calendar year preceding the tax lien date, the true value in 379
money equals the average daily production of gas from the well 380
multiplied by the net present value of one M.C.F. of gas, where: 381

(a) Net present value of one M.C.F. of gas = 365 x the sum 382
of [net income for each year of the discount period x discount 383
rate factor for that year] for all years in the discount period; 384
and 385

(b) Net income for a year of the discount period = gross 386
revenue for that year minus the sum of the following for that 387
year: average royalty expense, average operating expense, and 388
average capital recovery expense. 389

(2) For ~~wells~~ gas reserves for which average daily 390
production of gas from a well is less than eight M.C.F. in the 391
calendar year preceding the tax lien date, the true value in 392
money equals the average daily production of the well, if any, 393
in the calendar year preceding the tax lien date multiplied by 394
fifty per cent of the net present value of one M.C.F. as 395
computed under division (C) (1) of this section. 396

(D) No method other than the method described in this 397

section shall be used to determine the true value in money of 398
oil or gas reserves for property tax purposes. 399

Section 2. That existing sections 1509.28 and 5713.051 of 400
the Revised Code are hereby repealed. 401

Section 3. (A) The amendment by this act of section 402
5713.051 of the Revised Code clarifies the intent of the General 403
Assembly that the method described in section 5713.051 of the 404
Revised Code for determining the true value in money of oil and 405
gas reserves for property tax purposes continues to represent 406
the only method for valuing oil and gas reserves for property 407
tax purposes. 408

(B) The amendment by this act of section 5713.051 of the 409
Revised Code applies to any addition of oil and gas reserves to 410
the tax list and duplicate on or after the effective date of 411
that amendment, including oil and gas reserves added to the tax 412
list pursuant to section 319.35, 319.36, or 5713.20 of the 413
Revised Code. The amendment by this act of section 5713.051 of 414
the Revised Code applies to any taxes for oil and gas reserves 415
charged by a county auditor or county treasurer, including taxes 416
for oil and gas reserves charged under section 319.40 or 5713.20 417
of the Revised Code on or after the effective date of that 418
amendment. 419

(C) Division (B) of this section applies without regard to 420
the tax year or tax years to which the addition or charged taxes 421
relate. 422

Section 4. For all applications for which a hearing has 423
been held under section 1509.28 of the Revised Code prior to 424
January 1, 2016, and for which the chief of the division of oil 425
and gas resources management issues an order providing for the 426

unit operation of a pool or part thereof, the applicant shall	427
not be required to commence any unit operations sooner than	428
twenty-four months from the effective date of such order.	429