



**House
Legislative
Analysis
Section**

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REGULATE GAS & OIL DRILLING

House Bill 4119

Sponsor: Rep. Jan Dolan

House Bill 4521

Sponsor: Rep. Susan Grimes Munsell

House Bill 4527

Sponsor: Rep. Jerry Vorva

**Committee: Conservation,
Environment and Great Lakes Affairs**

Complete to 3-26-93

**A SUMMARY OF HOUSE BILL 4119 AS INTRODUCED 2-2-93
AND HOUSE BILLS 4521 & 4527 AS INTRODUCED 3-23-93**

Under current law, jurisdiction over oil and gas wells is vested exclusively in the state supervisor of wells. House Bills 4119 and 4521 would grant local units of government control over certain aspects of gas and oil drilling in their areas. House Bill 4527 would provide for further regulation of gas and oil drilling by the state supervisor of wells. The bills are tie-barred to each other.

Currently, the county and township rural zoning acts specify that oil and gas wells are under the exclusive jurisdiction of the state supervisor of wells, and may not be regulated by counties and townships. House Bills 4521 and 4527 would amend the County Rural Zoning Enabling Act (MCL 125.201) and the Township Rural Zoning Act (MCL 125.271), respectively, to allow counties and townships to adopt ordinances regulating oil and gas wells, and to require that an appeal from a county or township ordinance regulating oil or gas wells be filed with the supervisor.

Under the bills, a county or a township could adopt an ordinance to regulate or provide for:

* The hours during which oil, gas, brine, or any other substance or material could be transported to, or removed from, the site of a well, not including the period of time during which an oil or gas well was actually being drilled, nor an emergency situation that required transport to, or removal from, a site, provided that the owner or producer filed an explanation of the emergency and the need for extended hours of operation with the sheriff.

* The access routes to and from an oil or gas well.

* The appearance of the site of an oil or gas well.

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* The filing of a manifest within a designated period of time with the local health department, indicating that brine or any other substance had been disposed of in an injection well. The manifest would list the nature and amount of the disposed substance, and the location and time of disposal.

House Bill 4119 would amend Public Act 61 of 1939 (MCL 319.6 et al.), which prescribes the powers and duties of the state's supervisor of wells, to require that the transporters of brine or other substances comply with the provisions of House Bills 4521 and 4527 within the time period designated in an ordinance. The bill would also require the following:

Surety, Security, or Cash Bonds. Under the bill, the bond required of oil and gas well operators would have to be in an amount equal to at least \$5,000 for a single well, or not less than \$50,000 for a bond that covered all an operator's wells.

Permits. Beginning on the effective date of the bill, a well could not be drilled within 1,000 feet of a residence or within 1,000 feet of the boundary of a lot in a recorded subdivision plot, unless the owner of the residence or property consented in writing.

Permit Applications. Applications would have to contain a listing of the zoning category for the location of the proposed well, and a blank requiring verification of the zoning category by a zoning official of the governmental unit where the well was to be located.

Mineral Rights; Drilling Operations Agreement. If the mineral rights to a parcel of property had been severed from the surface rights, a permit would not be granted unless the owner of the mineral rights entered into a drilling operations agreement with the owner of the surface rights, and a copy of the agreement, or other proof, had been filed with the supervisor. The agreement would have to contain all of the following:

- a) Location of all proposed wells.
- b) Location of all surface areas that would be affected by drilling operations.
- c) Location of access roads to the drilling site.
- d) Type of drilling equipment to be used.
- e) A plan of action in the event of an emergency.
- f) For a well that was to be drilled within 1,500 feet of a residential structure, provisions for housing, fencing, or screening the pumping equipment; for reducing noise; and for hours of operations.
- g) Provisions for surface restoration to be done after completion of drilling operations and after completion of all extraction activities.

h) Provisions for the cleanup of contamination or damages to natural resources, including groundwater and subsurface soils, caused by drilling operations.

i) The compensation to be paid to the surface owner for damages to the surface property.

Under the bill, the surface owner (defined under the bill to mean one or more persons who held record title to the surface of the land, or the purchaser under a recorded land contract or memorandum of land contract) would be compensated for all damages or losses, including the loss of the use of all or part of the surface property caused by oil or gas operations.

Mineral Rights; Arbitration. If the mineral rights owner and the surface owner were unable to agree to the provisions of a drilling agreement, either party could submit the matter to arbitration by notifying the supervisor of wells, who, within seven days after receiving notice, would be required to randomly select an individual from a prepared list of persons qualified to arbitrate disputes between mineral rights owners and surface owners. Should the supervisor determine that the individual had a conflict of interest in the dispute, then he or she could select an alternate at random, rejecting as many individuals as were necessary to appoint one that had no conflict of interest. Alternatively, should the mineral rights owner and the surface owner jointly agree to any arbitrator on the list, then the person jointly selected would arbitrate the dispute. At the arbitration hearing, each party would be required to submit a proposed drilling operations agreement. The arbitrator could rule in favor of one of the agreements, or could establish the terms of an agreement that was not advocated by either party. The arbitrator's decision would be forwarded to the parties and to the supervisor, and could be appealed to the circuit court. The supervisor could issue a permit upon receipt of the arbitrator's decision.

Currently, Public Act 61 of 1939 specifies that its provisions control in case of conflict with other laws on the subject matter, except for the authority given the Public Service Commission. House Bill 4119 specifies that the provisions of House Bills 4521 and 4527 would control in case of conflict between Public Act 61 and the appropriate sections of the County Rural Zoning Enabling Act and the Township Rural Zoning Act.