Legislative Analysis

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ENHANCED ENERGY PRODUCTION

House Bill 4885 (Proposed H-2 substitute)
Sponsor: Rep. Aric Nesbitt

House Bill 5254
Sponsor: Rep. Rick Outman

House Bill 5255
Sponsor: Rep. Thomas F. Stallworth III

House Bill 5274
Sponsor: Rep. Peter Pettalia

Committee: Energy and Technology
Complete to 2-3-14

A SUMMARY OF HOUSE BILL 4885 (PROPOSED SUBSTITUTE H-2), HOUSE BILLS 5254 AND 5255 AS INTRODUCED 1-23-14, AND HOUSE BILL 5274 AS INTRODUCED 1-30-14

House Bill 4885 would reduce the severance tax on oil and gas production achieved through carbon dioxide secondary or enhanced recovery projects.

House Bill 5254 would include a pipeline used to transport CO_2 intended for use in secondary or enhanced recovery operations in provisions relating to the transport and sale of crude oil or petroleum.

House Bill 5255 would allow authorized entities to acquire rights-of-way for transport, installation, and maintenance of CO_2 pipelines by eminent domain for CO_2 that is intended for use in secondary or enhanced recovery operations.

House Bill 5274 would amend the title and various provisions of Public Act 16 of 1929 that currently apply to crude or petroleum so that they would also apply to certain gaseous or liquid substances consisting primarily of carbon dioxide.

Tie-bars: House Bills 5254, 5255 and 4885 are tie-barred to each other. House Bill 5274 is tie-barred to House Bills 5254 and 5255. A tie-bar means that a bill cannot take effect unless each bill it is tie-barred to also is enacted into law.

The bills are described in more detail below.

House Bill 4885 would amend the Michigan Severance Tax Act (MCL 483.2a), which levies a severance tax on gas and oil production. Under the act, producers or purchasers must report monthly on the oil and gas severed from the soil and pay a tax based on the value of the gas or oil extracted. Regardless of the extraction method used, producers currently pay a severance tax of 6.6 percent of the gross cash market value for oil (4 percent if from a stripper oil well) and 5 percent of the gross cash market value for natural gas.

Under the bill, for CO_2 secondary or enhanced recovery projects approved after March 30, 2014, a lower severance tax rate would apply to natural gas or oil extracted from a "carbon dioxide secondary or enhanced recovery project."

Specifically, the monthly severance tax required to be paid by each producer would be reduced to 4 percent of the gross cash market value for either oil or natural gas.

"Carbon dioxide secondary or enhanced recovery project" would be defined to mean operations designed to increase the amount of oil or natural gas recoverable from a reservoir, as by injection of CO_2, either alone or as a primary component of a mixture with other substances, as long as the project had been approved as a secondary or enhanced recovery project by order of the Supervisor of Wells under the authority of Part 615 or 617 of the Natural Resources and Environmental Protection Act.

House Bill 5254 would amend Section 2a of Public Act 16 of 1929 (MCL 483.2a), which regulates the transportation and sale of crude oil and petroleum through pipelines. Section 2a was added in 1997 to establish certain requirements for persons constructing a crude oil or petroleum pipeline or facility. That act ensures, in part, that a property owner's land is returned to its original condition, that facilities, and resources are repaired or replaced, and that the property owner is compensated for lost productivity of the land.

Currently, the definition of "pipeline" contained in Section 2a means a pipeline used or to be used to transport crude oil or petroleum. The bill would add to this definition transporting *gaseous or liquid substances, consisting primarily of carbon dioxide, that will be put in storage or that have been or will be used to produce hydrocarbons in secondary or enhanced recovery operations*.

The bill would also specifically apply current regulations regulating the repairs or compensation to landowners whose land was impacted by the construction or maintenance of pipelines to *an owner of agricultural property* as well as include compensation for property damage related to *laying pipelines*.

House Bill 5255 also amends Public Act 16 of 1929 (MCL 483.2). Currently, the act authorizes a corporation, association, or person to acquire necessary rights-of-way for transporting petroleum by pipeline via eminent domain. The bill would instead allow the authorized entities to condemn by eminent domain and use the state highways for any of the following purposes:

- To transport petroleum by pipelines.
- After receiving approval under the act as required for crude oil or petroleum, to transport by pipeline gaseous or liquid substances, consisting primarily of CO_2, that will be put in storage or that have been or will be used to produce hydrocarbons in secondary or enhanced recovery operations.
- To locate, lay, construct, maintain, and operate pipelines under the above.

In addition, the act currently requires the condemnation (eminent domain) proceedings to be conducted *in accordance with the same procedure and in the same manner as is provided by the laws of this state for the condemnation of right of ways by railroad companies*. The highlighted portion would be eliminated and proceeding would instead be required to be conducted as provided in the Uniform Condemnation Procedures Act.

House Bill 5274 also amends Public Act 16 of 1929 (MCL 483.1 et.al) to include certain gaseous or liquid substances consisting primarily of carbon dioxide within the act's purview. The bill would amend the title to specify that the act would also regulate the business of certain gaseous or liquid substances consisting primarily of carbon dioxide through pipelines, as well as regulate its purchase and storage.

The bill would also revise the following sections that currently apply to crude oil and petroleum to apply also to *gaseous or liquid substances, consisting primarily of carbon dioxide that will be put in storage or that have been or will be used to produce hydrocarbons in secondary or enhanced recovery operations, by or through pipe lines*:

****** Section 1: Specifies that the right of an entity to transport or to buy or sell these substances (crude oil, petroleum, or CO_2), to engage in the business or operations of the substances, or to locate the necessary pipelines along or under any present or future highway in the state, or have or possess the right of eminent domain, is authorized by and subject to the provisions of the act.

****** Section 3: Authorizes the MPSC to control, investigate, and regulate entities carrying or transporting the substances through pipelines; exercising or claiming the right to engage in the business of piping, transporting, or storing the substances; or engaging in the business of buying, selling, or dealing in the substances within the state. Producers and refiners of crude oil and petroleum are exempted from regulation under this provision; the bill would extend the exemption to refiners or producers of CO_2 substances.

****** Section 4: Defines "common purchaser" and requires a common purchaser to purchase substances without discrimination.

****** Section 5: Defines "common carrier" and requires a common carrier engaged in the business of carrying or transporting the substances to do so without discrimination, directly or indirectly.

FISCAL IMPACT:

House Bill 4885

As written, House Bill 4885 has an unknown impact on state revenues. Because the severance tax is based on the market prices and production of oil and natural gas, none of which is known in advance, a precise fiscal impact cannot be determined. The extent to which the severance tax rate cut makes CO2 injection recovery methods financially viable determines whether the proposed legislation has a positive or negative effect on state revenues. As an example, if 100,000 barrels of oil are produced using this method each year, and the price of oil is $100 per barrel, the tax revenue under current law would be $660,000; under the proposed legislation the severance tax revenue would be $400,000. If this oil would have been produced regardless of the tax rate, then state revenues would have declined $240,000. Conversely, if none of this oil would be produced under the current tax rate, then revenues would have increased. As a reference, the oil and gas severance tax currently generates approximately $60 million in General Fund revenue per year.

House Bills 5254 & 5255
House Bills 5254 and 5255 would have no significant fiscal impact on the Department of Environmental Quality.

House Bills 5254, 5255, and 5274 would likely have a neutral fiscal impact on the Michigan Public Service Commission (PSC); PSC costs of reviewing applications and ruling on whether to approve construction and operation of pipelines to transport crude oil, petroleum, and (if HBs 5254, 5255, and 5274 are enacted) CO_2 are (would be) supported with revenue generated by Public Utility Assessments collected under the Costs of Regulating Public Utilities Act of 1972, which authorizes the PSC to prescribe fees to fund its regulatory responsibilities.

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