Legislative Analysis

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ENHANCED ENERGY PRODUCTION

House Bill 4885
Sponsor: Rep. Aric Nesbitt

House Bill 5254
Sponsor: Rep. Rick Outman

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

Committee: Energy and Technology
Complete to 1-27-14

A SUMMARY OF HOUSE BILL 4885 AS INTRODUCED 6-20-13 AND HOUSE BILLS 5254 AND 5255 AS INTRODUCED 1-23-14

House Bill 4885 would reduce the severance tax on oil and gas production achieved through secondary or enhanced production methods.

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 Bills 5254 and 5255 are tie-barred to each other and also to House Bill 4885, which means that neither HB 5254 nor 5255 could take effect unless all three bills are enacted into law, but House Bill 4885 could become law even if the other two bills are not enacted.

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 operations approved after September 30, 2013, a lower severance tax rate would apply to gas or oil extracted using "secondary or enhanced production" methods.

Specifically, the monthly severance tax required to be paid by each producer would be reduced to 3.3 percent of the gross cash market value for oil and 3 percent for gas.

"Secondary or enhanced production" would be defined to mean operations designed to increase the amount of oil or gas recoverable form the reservoir, as compared to ordinary operations, provided the operation had been designated as a secondary or enhanced production operation by and approved by order of the Supervisor of Wells of the Department of Environmental Quality (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, which, in part, ensured that a property owner's land was returned to its original condition, that facilities, and resources were repaired or replaced, and that the property owner was 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 provisions. 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.

FISCAL IMPACT:

As written, the bill would have an indeterminate effect on state revenues. Secondary or enhanced production, using CO_2 or water injection methods, is widely used in the state, with water injection far outpacing CO_2 according to the Department of Environmental Quality. Under the proposed legislation, oil and natural gas recovery projects approved after September 30, 2013, would now be subject to a lower severance tax rate, which would reduce state revenues resulting from this common practice. On the other hand, the lower rates could make additional recovery activities more viable, meaning oil and gas that would have been left in the ground would now be taxed, generating new revenues for the state. The balance between these two effects cannot be determined with available data; therefore, the direction and magnitude of any changes in state revenues cannot be estimated at this time. As a reference, the Oil and Gas Severance tax currently generates approximately $60 million in General Fund revenue per year. Additional research is on-going, and this analysis will be updated as new data becomes available.

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