Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4885 (Substitute H-2 as passed by the House)
House Bill 5254 (Substitute H-2 as passed by the House)
House Bill 5255 (Substitute H-1 as passed by the House)
House Bill 5274 (Substitute H-1 as passed by the House)
Sponsor: Representative Aric Nesbitt (H.B. 4885)
Representative Rick Outman (H.B. 5254)
Representative Thomas F. Stallworth III (H.B. 5255)
Representative Peter Pettalia (H.B. 5274)
House Committee: Energy and Technology
Senate Committee: Energy and Technology

Date Completed: 2-25-14

CONTENT

House Bill 4885 (H-2) would amend Public Act 48 of 1929, which provides for a severance tax on oil and gas, to establish a severance tax of 4.0% on oil or gas produced from a carbon dioxide secondary or enhanced recovery project approved after March 30, 2014.

House Bill 5254 (H-2) would amend Public Act 16 of 1929, which regulates the transportation and sale of crude oil and petroleum through pipelines, to include a pipeline transporting carbon dioxide substances in the Act's definition of "pipeline".

House Bill 5255 (H-1) would amend Public Act 16 of 1929 to include carbon dioxide substances in provisions regarding the use of eminent domain for the acquisition of pipeline rights-of-way, and to require condemnation procedures to be conducted in accordance with the Uniform Condemnation Procedures Act.

House Bill 5274 (H-1) would amend Public Act 16 of 1929 to include references to carbon dioxide substances in provisions regarding the following:

- **The rights of a person exercising or claiming the right to transport or store crude oil or petroleum or engaging in the business of buying, selling, or dealing in crude oil or petroleum.**
- **The regulatory authority of the Public Service Commission.**
- **Discrimination by a common purchaser or common carrier of crude oil or petroleum.**

House Bills 4885 (H-2), 5254 (H-2), and 5255 (H-1) are tie-barred to each other. House Bill 5274 (H-1) is tie-barred to all of the other bills.

House Bill 4885 (H-2)

Public Act 48 of 1929 requires a severance tax to be levied upon each producer engaged in the business of severing oil or gas from the soil. The total amount of oil or gas received, purchased, stored, or transported must be reported to the Department of Treasury on a monthly basis. As a rule, the amount of the severance tax is 5.0% of the gross cash market value of the total production of gas or 6.6% of the gross cash market value of the total production of oil during the preceding monthly period, exclusive of the production or proceeds from the production attributable to the State, the U.S. government, or a political subdivision of Michigan or the U.S.

The Act contains several exceptions to these percentages. The bill would create another exception for a carbon dioxide secondary or enhanced recovery project approved after March 30, 2014. In that case, the severance tax required to be paid by each producer at the time of making each monthly report, on oil or gas produced from a carbon dioxide secondary or enhanced recovery project, would be 4.0% of the gross cash market value for oil or natural gas.

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

House Bill 5254 (H-2)

Public Act 16 of 1929 governs the transport of crude oil and petroleum via pipeline. The Act defines "pipeline" as a pipeline used or to be used to transport crude oil or petroleum. The bill also would refer to the transport of carbon dioxide substances.

The Act requires any offer to a landowner for an easement for the purpose of "locating, constructing, maintaining, operating, and transporting crude oil or petroleum pipelines" on agricultural property to include certain information, such as the anticipated physical impact of pipeline construction on the property and written assurance regarding the remedy of any damage done to the owner's property during pipeline construction or repair. Under the bill, this requirement would apply to an offer for an easement for the purpose of "locating, laying, constructing, and maintaining pipelines" on agricultural property.

House Bill 5255 (H-1)

Under Public Act 16 of 1929, a corporation, association, or person exercising or claiming the right to carry or transport crude oil or petroleum by or through pipeline or to engage in the business of piping, transporting, or storing crude oil or petroleum, or engaging in the business of buying, selling, or dealing in crude oil or petroleum, is granted the right of condemnation by eminent domain and the use of Michigan highways for the purpose of transporting petroleum by pipelines and the location, laying, construction, maintenance, and operations of those pipelines. Condemnation proceedings must be conducted in accordance with the same procedure and in the same manner provided by law for the condemnation of rights-of-way by railroad companies.

The bill, instead, would allow a person to condemn property by eminent domain and use the State's highways to acquire necessary rights-of-way for any of the following purposes:

-- To transport crude oil or petroleum or carbon dioxide substances.
-- To locate, lay, construct, maintain, and operate pipelines for the permitted purposes.

Condemnation proceedings would have to be conducted as provided in the Uniform Condemnation Procedures Act.

House Bill 5274 (H-1)

Public Act 16 of 1929 provides that a corporation, association, or person exercising or claiming the right to carry or transport crude oil or petroleum by or through pipeline or to engage in the business of piping, transporting, or storing crude oil or petroleum, or engaging in the business of buying, selling, or dealing in crude oil or petroleum in Michigan, does not have the right to conduct or engage in the business or operations, or have the right to locate, maintain, or operate the necessary pipelines, fixtures, and equipment on, over, along, across, through, in, or under any present or future highway or elsewhere, or have the right of eminent domain or any other right concerning the business or operations except as authorized by and subject to the Act. The bill would include references to carbon dioxide substances in this provision.

The Act also does the following: authorizes the Public Service Commission to control, investigate, and regulate every person exercising or claiming the right to carry or transport crude oil or petroleum; exempts producers or refiners of crude oil or petroleum from regulation under the Act if the nature of their business is private and involves no public interest; and prohibits discrimination by a common purchaser or common carrier of crude oil and petroleum. Under the bill, all of these provisions also would apply with regard to carbon dioxide substances.

The bill would define "carbon dioxide substance" as a gaseous or liquid substance, consisting primarily of carbon dioxide, that will be put in storage or that has been or will be used to produce hydrocarbons in a secondary or enhanced recovery operation.

MCL 205.303 (H.B. 4885)
483.2a (H.B. 5254)
483.2 (H.B. 5255)
483.1 et al. (H.B. 5274)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 4885 (H-2)

The bill would have an unknown impact on State revenue. To the extent that the lower severance tax rate proposed by the bill for new carbon dioxide secondary or enhanced recovery projects resulted in oil and gas production that would not otherwise occur, State revenue would increase. If the additional production would take place without the incentive of a lower tax rate, then the bill would decrease State revenue. The revenue from the oil and gas severance tax is deposited in the General Fund. Revenue from the oil and gas severance tax was $59.5 million in FY 2012-13 and is estimated to be $62.0 million in FY 2013-14, based on estimates adopted at the January 2014 Consensus Revenue Estimating Conference.

House Bills 5254 (H-2), 5255 (H-1), & 5274 (H-1)

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt
Josh Sefton

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