



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 903 (as enacted)
Sponsor: Senator Tom Casperson
Senate Committee: Natural Resources
House Committee: Energy Policy

PUBLIC ACT 316 of 2016

Date Completed: 1-4-17

CONTENT

The bill amended Part 617 (Unitization) of the Natural Resources and Environmental Protection Act to revise the method for approval by interested parties of a plan for the unit operation of oil and gas pools, before an order of the Department of Environmental Quality (DEQ) providing for the unit operation can take effect. Specifically, in some cases, the bill reduces the share of responsibility for unit operation costs or entitlement to production or proceeds needed for approval of the plan.

Under Part 617, any interested lessee may file with the DEQ a verified petition requesting an order for the unit operation of a pool, pools, or parts of one or more pools. The petition must contain certain information, including the following:

- A description of the proposed unit area containing the pool, pools, or parts of one or more pools to be operated.
- The names of all people who own or have an interest in oil and gas in the proposed unit area and the names of all surface owners in the area, and, if known, their addresses.
- A recommended plan of unitization applicable to the proposed unit area that the petitioner considers fair, reasonable, and equitable.
- A verified statement indicating in detail what action the petitioner has taken to contact and obtain the approval of all people of record who own or have an interest in oil and gas in the proposed unit area who have not approved the proposed plan of unitization.

("Lessee" means a lessee under an oil and gas lease, as well as an owner of unleased land or mineral rights who has the right to develop them for oil and gas. "Pool" means a natural underground reservoir containing or appearing to contain a common accumulation of oil and gas. "Unit area" means the formation or formations that are unitized and surface acreage that is a part of the unitized land, as described in the plan for unit operations that is the subject of the DEQ's order. Unitization is explained below, under **BACKGROUND.**)

Upon filing the petition, the petitioner must notify certain interested people. A person may protest the petition by giving the DEQ written notice of protest and the reasons for it. If no protests are filed, the DEQ may issue an order without holding a hearing. The DEQ must issue an order providing for the unit operation of a unit area if the Department makes certain findings, e.g., that the requested unitization is reasonably necessary to substantially increase the ultimate recovery of oil and gas from the unit area.

In addition, a DEQ order providing for unit operations may not be declared or become effective until the Department finds, either in this order or a supplemental order, that the plan has been approved in writing in one of several alternative ways.

Under the bill, one option for approval is by those people who, under the order, will have to pay at least 51% of the costs of unit operation, and also by those who will be entitled to at least 51% of the production from the unit area or the proceeds of the production that will be credited to interests that are free of cost, including royalties, overriding royalties, and production payments. Previously, the Act required approval by those people who would have to pay at least 75% of the costs of unit operation, and by those who would be entitled to at least 75% of the production or the proceeds.

Also, under the bill, a plan may be approved by those who, under the order, will be entitled to at least 65% of all production from the unit area or the proceeds of the production. Previously, this percentage was 90%.

(The third method of approval, which the bill did not modify, is by those people who, under the order, will be entitled to at least 75% of all production from the unit area or the proceeds of the production, as long as they include people who will be entitled to at least 50% of the production from the unit area or the proceeds of the production that will be credited to interests that are free of cost.)

The bill took effect on November 3, 2016.

MCL 324.61703 & 324.61706

BACKGROUND

Under the common law tradition of the "rule of capture", the first person to extract oil or gas from a pool gains exclusive ownership over the resources of that pool. In some cases, however, a common oil or gas pool underlies multiple parcels of property; thus, historically, the rule of capture created situations in which some landowners extracted their neighbors' share of the resource without compensating them for it. To protect the rights of property owners who do not gain access to a common pool before their neighbors, states have enacted a statutory mechanism, known as unitization, that supersedes the rule of capture. Through unitization, mineral or leasehold interests applicable to a common pool are consolidated, enabling the exploration and development of an entire geologic structure or area by a single operator. Unitization is designed to ensure that all involved landowners are compensated for their mineral resources. It also can improve the efficiency of production by enabling the coordination of multiple wells and the extraction of oil and gas that otherwise would be unrecoverable.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.