

SB3386



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3386

Introduced 2/14/2014, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

225 ILCS 732/1-99
225 ILCS 732/1-138 new

Amends the Hydraulic Fracturing Regulatory Act. Provides that no person shall conduct horizontal drilling with fracturing operations or high volume horizontal hydraulic fracturing operations in this State. Provides that the ban on any and all horizontal drilling with fracturing operations and high volume horizontal hydraulic fracturing operations in this State shall continue until the General Assembly determines that horizontal drilling with fracturing operations and high volume horizontal hydraulic fracturing operations can be allowed to occur in this State in a manner that is consistent with Article XI, Sections 1 and 2 of the Illinois Constitution. Changes the name of the Task Force on Hydraulic Fracturing Regulation to "the Task Force on Fracturing Regulation". Adds members to the task force. Creates additional responsibilities for the task force.

LRB098 19585 MGM 54777 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Hydraulic Fracturing Regulatory Act is
5 amended by changing Section 1-99 and by adding Section 1-138 as
6 follows:

7 (225 ILCS 732/1-99)

8 Sec. 1-99. Task Force on ~~Hydraulic~~ Fracturing Regulation.

9 (a) There is hereby created the Task Force on ~~Hydraulic~~
10 Fracturing Regulation.

11 (b) The task force shall consist of the following members
12 as follows:

13 (1) Four legislators, appointed one each by the
14 President of the Senate, the Minority Leader of the Senate,
15 the Speaker of the House of Representatives, and the
16 Minority Leader of the House of Representatives;

17 (2) The Governor, or his or her representative;

18 (3) The Director of the Illinois Environmental
19 Protection Agency, or his or her representative;

20 (4) The Director of the Illinois Department of Natural
21 Resources, or his or her representative;

22 (5) The Attorney General of the State of Illinois, or
23 his or her representative;

1 (6) The Director of the Illinois State Geological
2 Survey, or his or her representative;

3 (7) Four representatives from environmental
4 organizations, at least one of whom shall be a national
5 environmental organization, at least one of whom shall be a
6 Midwest regional environmental organization, and at least
7 one of whom shall be an Illinois-based environmental
8 organization, appointed by the Director of the Illinois
9 Department of Natural Resources; ~~and~~

10 (8) Four representatives from entities representing
11 the interests of the oil and gas industry, at least one of
12 whom shall represent companies whose activities are
13 national in scope, at least one of whom shall represent
14 companies whose activities are primarily limited to this
15 State, at least one of whom shall represent an industry
16 trade association, and at least one of whom shall represent
17 a statewide labor federation representing more than one
18 international union, appointed by the Director of the
19 Illinois Department of Natural Resources; ~~and~~

20 (9) One member appointed by the Director of the
21 Illinois Department of Agriculture who holds a position as
22 a State conservationist;

23 (10) The Director of the Illinois Emergency Management
24 Agency, or his or her representative;

25 (11) One member of the Illinois Stewardship Alliance
26 appointed by the Governor;

1 (12) The Director of Insurance or his or her designee;

2 (13) The Director of the Illinois Office of Tourism or
3 his or her designee; this member should have a working
4 knowledge of the tourism industry in the Shawnee National
5 Forest;

6 (14) One member appointed by the Lieutenant Governor
7 representing a local environmental group working for the
8 conservation of the Shawnee National Forest;

9 (15) One member appointed by the Illinois Pollution
10 Control Board;

11 (16) One member appointed by the Board of the Illinois
12 Association of Groundwater Professionals;

13 (17) One member appointed by the Lieutenant Governor
14 from the Southern Illinois Farming Network;

15 (18) The Director of the Department of Public Health or
16 his or her designee;

17 (19) The Director of the Illinois Public Health
18 Association or his or her designee;

19 (20) One member appointed by the Governor representing
20 a statewide municipal organization;

21 (21) One member appointed by the Governor representing
22 a statewide county organization; and

23 (22) Three members appointed by the above members of
24 the Fracturing Task Force, who need not be Illinois
25 residents, but who are university employees and
26 independent scientists including:

1 (A) One seismologist with a background in research
2 and publishing on induced seismicity secondary to oil
3 and natural gas extraction or secondary to oil and
4 natural gas waste disposal;

5 (B) One hydrologist with a background in research
6 and publishing on the hydrological effects of the oil
7 and natural gas industry, and fracturing in
8 particular; and

9 (C) One geologist with a background in research and
10 publishing on the oil and natural gas industry, and
11 fracturing in particular.

12 (c) ~~(Blank). The Director of the Illinois Department of~~
13 ~~Natural Resources shall serve as chairperson of the task force,~~
14 ~~and the Department shall be responsible for administering its~~
15 ~~operations and ensuring that the requirements of this Section~~
16 ~~are met.~~

17 (d) The task force may consult with any persons or entities
18 it deems necessary to carry out its mandate.

19 (e) Members of the task force shall be appointed no later
20 than 90 days after the effective date of this amendatory Act of
21 the 98th General Assembly. The members of the task force shall
22 receive no compensation for serving as members of the task
23 force and: -

24 (1) All members of the task force shall work in
25 collaboration with each other towards the stated goals and
26 completion of the mandated reports required by this Act.

1 (2) All members of the task force shall designate a
2 chairperson by majority vote at their first meeting, which
3 shall take place no later than 120 days after the effective
4 date of this amendatory Act of the 98th General Assembly.

5 (3) All members of the task force shall be reimbursed
6 for any ordinary and necessary expenses incurred in the
7 performance of their duties, including reimbursement for
8 mileage.

9 (4) All members of the task force may divide
10 responsibilities as appropriate for the subject matter and
11 as determined by majority vote of the task force or as
12 given to the chairman by a majority vote of all the
13 members. However, any member of the combined task force may
14 investigate or inquire as to any issue listed in this Act.

15 (5) The Department and the Illinois Environmental
16 Protection Agency shall each provide at least one full-time
17 person to provide administrative staff support to the Task
18 Force, as needed.

19 (6) All documents gathered by the task force shall be a
20 public record and shall be made available as conveniently
21 as possible for review by the public in as timely a manner
22 as practicable, including making all information available
23 in electronic form through the Department's website.

24 (7) The task force shall conduct monthly or bi-monthly
25 meetings, conference calls, or both.

26 (f) The task force shall:

1 (1) prepare a report evaluating the scope of horizontal
2 drilling with fracturing operations and high volume
3 horizontal hydraulic fracturing operations activity in the
4 State and an evaluation of the regulatory frameworks for
5 horizontal drilling with fracturing operations and high
6 volume horizontal hydraulic fracturing operations in all
7 other states in the United States; and

8 (2) provide recommendations to the General Assembly as
9 to whether further legislation is needed to regulate,
10 limit, or ban high volume horizontal hydraulic fracturing
11 or horizontal drilling with fracturing operations in this
12 State. In performing these tasks, the task force shall
13 consider, at a minimum, the data collected by the
14 Department under Section 1-98 of this Act and the Illinois
15 Oil and Gas Act; ~~and~~

16 (3) conduct a thorough, scientific, and public
17 investigation reviewing, assessing, and addressing the
18 potential dangers, environmental effects, and
19 socio-economic costs of hydraulic fracturing and
20 horizontal drilling with fracturing, including wear, tear,
21 and repair, to public health, private property, air
22 quality, and water availability including issues of supply
23 scarcity, water quality, public lands, livestock,
24 wildlife, seismic vulnerability and preparedness, and
25 public ways, including roadways and highways; to assess the
26 overall local and regional potential economic gains,

1 losses, or both; and to consider issues of community
2 integrity, including issues of self-determination;

3 (4) perform a thorough review of all relevant and
4 available scientific studies pertaining to hydraulic
5 fracturing and horizontal drilling with fracturing
6 operations throughout the United States, including those
7 conducted by state governments, universities in the United
8 States and elsewhere, and reputable environmental and
9 industry institutions; the task force shall also conduct a
10 significant review of all regulations of hydraulic
11 fracturing operations and horizontal drilling with
12 fracturing operations in every state and in known
13 localities throughout the United States;

14 (5) gather information, review studies, evaluate
15 testimony, consider and summarize written comments
16 received, and make written findings and recommendations
17 regarding the economic and technological feasibility and
18 reasonableness of conducting hydraulic fracturing or
19 horizontal drilling with fracturing operations in this
20 State, as well as the potential environmental and health
21 impacts from this activity;

22 (6) identify and recommend any areas requiring further
23 inquiry, study, or investigation and shall make
24 recommendations, based on the evidence gathered, with
25 respect to any prospective hydraulic fracturing operations
26 and horizontal drilling with fracturing operations in this

1 State, consistent with the purpose set forth under
2 subsection (b) of Section 1-138 of this Act;

3 (7) gather information, including through public
4 comments and public hearings, and shall, upon gathering all
5 information available, make written findings and
6 recommendations to the General Assembly and the Governor,
7 including, but not limited to, investigation, findings,
8 and recommendations concerning the following:

9 (A) the protection of the State's water resources,
10 including the identification of potential
11 contaminants, potential sources of environmental
12 contamination, potential for migration of contaminants
13 to surface and ground water resources, expected rate of
14 water usage and its impact on aquifers, private wells,
15 and public sources of drinking water, and potential
16 health risks from any identified risks of
17 contamination of water resources;

18 (B) potential impacts to agriculture, tourism, and
19 other industries, including the wine producing
20 industry;

21 (C) potential impacts to wildlife and natural
22 resources;

23 (D) potential chemicals used in hydraulic
24 fracturing fluid or fracturing fluid and the safety and
25 health implications of the use of these chemicals and
26 the potential use of inert tracer chemicals to identify

1 hydraulic fracturing fluid or fracturing fluid that
2 has emigrated;

3 (E) potential air emissions, including identifying
4 potential air pollutants, point and nonpoint sources
5 of releases of contaminants to the air, and recommended
6 controls, monitoring, and regulation for these
7 potential emissions;

8 (F) potential areas of regulation, including
9 recommendations as to proper equipment standards,
10 operating practices, set back requirements,
11 environmental monitoring and sampling, the handling,
12 storage, and disposal of hydraulic fracturing fluid,
13 fracturing fluids and gas, flowback, and any and all
14 wastewater and solid waste, including whether any of
15 this waste should be classified as hazardous waste or
16 radioactive waste, and any potential regulatory
17 provisions required to protect water and air resources
18 and public and private interests;

19 (G) identification of all risks, including effects
20 on seismic activities and recommendations regarding
21 the same;

22 (H) proposed permitting requirements for hydraulic
23 fracturing or horizontal drilling with fracturing
24 operations;

25 (I) potential concerns regarding the safeguarding
26 of proprietary information, including trade secret and

1 business confidential information;

2 (J) the practices of landmen in the leasing,
3 acquisition, or both of oil rights, gas rights, mineral
4 rights, subsurface rights, use of a surface lands, or a
5 combination thereof, from land owners, including
6 findings and recommendations for any rules over these
7 practices;

8 (K) identification and summarization of
9 information gathered at public hearings and in written
10 comments from interested persons regarding proposed
11 hydraulic fracturing operations and horizontal
12 drilling with fracturing operations in this State; and

13 (L) the propriety of procedures that may allow the
14 placement of a well pad, support equipment, and
15 structures, on land where the surface owner has not
16 given express consent, or that may allow drilling and
17 fracturing to occur underground where the surface
18 owner has not given express consent; and

19 (8) conduct a 3-month public comment period with at
20 least 5 full-day public hearings, which shall be held in
21 each region of the Department (Northwestern Illinois,
22 Northeastern Illinois, East Central Illinois, West Central
23 Illinois, and Southern Illinois) at geographically
24 convenient locations, before filing its final written
25 findings and recommendations in accordance with this
26 Section. These hearings shall be determined by the Task

1 Force on a schedule that is publicly announced in area
2 newspapers, State buildings, websites, and other general
3 and local media and newspapers no less than 4 weeks before
4 each hearing. These hearings may be to additional days if
5 all persons wanting to speak could not be heard, and all
6 hearings shall be completed at least 3 months before the
7 time for submission of the final written findings and
8 recommendations.

9 At the full day public hearings, the task force shall allow
10 interested persons to present their views and comments and to
11 present any written literature, statements, articles, or
12 comments. Based on attendance and time frames, the task force
13 may set limits for the time each speaker may comment, but in no
14 event shall less than 5 minutes be allowed per speaker and any
15 speaker with technical or scientific credentials shall be given
16 deference to testify at least 15 minutes or more. Equal time
17 shall be given to all expert presentations of evidence and
18 concerns.

19 Transcripts of all hearings shall be made available to the
20 task force and the public through the Department's website.

21 (f-5) The task force shall provide updates of its written
22 findings and recommendations to the public, the General
23 Assembly and the Governor every year for 2 years from the
24 effective date of this amendatory Act of the 98th General. The
25 public record of documents, comments, and transcripts shall
26 also be made available in electronic form on the Department's

1 website. Individual members or any groups of members may file
2 separate findings and recommendations or dissents on
3 particular issues, but consensus of the entire task force is
4 encouraged and all findings and recommendations by the entire
5 task force shall be identified in the final written report.

6 (g) The task force shall submit its final report and
7 recommendations specified in subsection (f) of this Section to
8 the General Assembly on or before September 15, 2017 ~~2016~~.

9 (h) The task force, upon issuance of its final report and
10 recommendations, is dissolved and this Section is repealed.

11 (Source: P.A. 98-22, eff. 6-17-13.)

12 (225 ILCS 732/1-138 new)

13 Sec. 1-138. Hydraulic fracturing and horizontal drilling
14 with fracturing operations; banned.

15 (a) No person shall conduct horizontal drilling with
16 fracturing operations or high volume horizontal hydraulic
17 fracturing operations in this State. As used in this Act, "high
18 volume horizontal hydraulic fracturing operations" means all
19 stages of controlled directional drilling of a wells with
20 lateral penetration of at least 100 feet through a geologic
21 formation targeted for oil, natural gas liquids, or natural gas
22 extraction which use the process of pumping fluids, gas, or
23 other substances with or without a proppant down a well under
24 pressure expressly designed to initiate and propagate
25 fractures or fracture networks in the targeted geologic

1 formations to facilitate oil, natural gas liquids, or natural
2 gas extraction.

3 (b) It is the express purpose of this Section that the
4 Department shall stop accepting permit applications for any and
5 all horizontal drilling with fracturing operations or high
6 volume horizontal hydraulic fracturing operations in this
7 State beginning on the effective date of this amendatory Act of
8 the 98th General Assembly. It is the express purpose of this
9 Section that a ban on any and all horizontal drilling with
10 fracturing operations high volume horizontal hydraulic
11 fracturing operations is imposed in this State beginning on the
12 effective date of this amendatory Act of the 98th General
13 Assembly.

14 (c) The ban on any and all horizontal drilling with
15 fracturing operations and high volume horizontal hydraulic
16 fracturing operations in this State shall continue until the
17 General Assembly determines that horizontal drilling with
18 fracturing operations and high volume horizontal hydraulic
19 fracturing operations can be allowed to occur in this State in
20 a manner that is consistent with Article XI, Sections 1 and 2
21 of the Illinois Constitution. The General Assembly shall
22 determine if, when, and how horizontal drilling with fracturing
23 operations and high volume horizontal hydraulic fracturing
24 operations can be conducted in a way that ensures that:

25 (1) a healthy environment will be protected and
26 maintained for each person residing in this State, all

1 persons residing in this State, and future generations of
2 persons residing in Illinois;

3 (2) a healthy environment can be protected and
4 maintained for the benefit of the present generation and
5 future generations during and after horizontal drilling
6 with fracturing operations or high volume horizontal
7 hydraulic fracturing operations;

8 (3) the surface water, ground water, deep aquifers,
9 air, surface land, substrata, forests, wildlife, farmland,
10 earthquake zones, and climate of this State will be
11 protected from any present or future harms or damages from
12 horizontal drilling with fracturing operations or high
13 volume horizontal hydraulic fracturing operations;

14 (4) any rules adopted by the Department or any law for
15 horizontal drilling with fracturing operations or high
16 volume horizontal hydraulic fracturing operations would
17 have a high probability of being fully implemented and
18 enforced by State agencies including the Department;

19 (5) that the State agencies that might be involved in
20 enforcing any rules adopted by the Department or laws for
21 horizontal drilling with fracturing operations or high
22 volume horizontal hydraulic fracturing operations have the
23 ability, funding, trained and knowledgeable employees, and
24 the internal agency or departmental checks and balances
25 that would allow for the full enforcement of any rules or
26 laws to protect the environment, climate, public health,

1 homes, property, livestock, domesticated animals,
2 businesses, livelihoods, and recreational areas and
3 activities of residents of this State from the harms and
4 damages otherwise likely to be caused by horizontal
5 drilling with fracturing operations or high volume
6 horizontal hydraulic fracturing operations; and

7 (6) that any subsequent legislation regarding
8 horizontal drilling with fracturing operations or high
9 volume horizontal hydraulic fracturing operations in this
10 State shall be informed by the findings and recommendations
11 of the Hydraulic Fracturing Task Force under section 1-99
12 of this Act.