



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5748

by Rep. Jerry Costello, II

SYNOPSIS AS INTRODUCED:

35 ILCS 450/2-15
225 ILCS 732/1-35

Amends the Illinois Hydraulic Fracturing Tax Act. Provides that the tax rate for the severance and production of oil or gas shall be 1.5% (rather than 3%) of the value of the oil or gas. Provides that for oil the tax shall be: (i) 1.5% of the value of the oil (rather than 3%) where the average daily production from the well in a month is less than 25 barrels; (ii) 2% of the value of the oil (rather than 4%) where the average daily production from the well in a month is between 25 barrels and 50 barrels; (iii) 2.5% of the value of the oil (rather than 5%) where the average daily production from the well in a month is between 50 barrels and 100 barrels; and (iv) 3% of the value of the oil (rather than 6%) where the average daily production from the well in a month is 100 barrels or more. Provides that for gas the tax shall be 3% (rather than 6%) of the value of the gas. Amends the Hydraulic Fracturing Regulatory Act. Deletes language stating that every applicant for a high volume horizontal hydraulic fracturing permit shall include a traffic management plan on his or her application.

LRB100 20082 LNS 35365 b

1 AN ACT concerning hydraulic fracturing.

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

4 Section 5. The Illinois Hydraulic Fracturing Tax Act is
5 amended by changing Section 2-15 as follows:

6 (35 ILCS 450/2-15)

7 Sec. 2-15. Tax imposed.

8 (a) For oil and gas removed on or after July 1, 2013, there
9 is hereby imposed a tax upon the severance and production of
10 oil or gas from a well on a production unit in this State
11 permitted, or required to be permitted, under the Illinois
12 Hydraulic Fracturing Regulatory Act, for sale, transport,
13 storage, profit, or commercial use. The tax shall be applied
14 equally to all portions of the value of each barrel of oil
15 severed and subject to such tax and to the value of the gas
16 severed and subject to such tax. For a period of 24 months from
17 the month in which oil or gas was first produced from the well,
18 the rate of tax shall be 1.5% ~~3%~~ of the value of the oil or gas
19 severed from the earth or water in this State. Thereafter, the
20 rate of the tax shall be as follows:

21 (1) For oil:

22 (A) where the average daily production from the
23 well during the month is less than 25 barrels, 1.5% ~~3%~~

1 of the value of the oil severed from the earth or
2 water;

3 (B) where the average daily production from the
4 well during the month is 25 or more barrels but less
5 than 50 barrels, 2% ~~4%~~ of the value of the oil severed
6 from the earth or water;

7 (C) where the average daily production from the
8 well during the month is 50 or more barrels but less
9 than 100 barrels, 2.5% ~~5%~~ of the value of the oil
10 severed from the earth or water; or

11 (D) where the average daily production from the
12 well during the month is 100 or more barrels, 3% ~~6%~~ of
13 the value of the oil severed from the earth or water.

14 (2) For gas, 3% ~~6%~~ of the value of the gas severed from
15 the earth or water.

16 If a well is required to be permitted under the Hydraulic
17 Fracturing Regulatory Act, the tax imposed by this Section
18 applies, whether or not a permit was obtained.

19 (b) Oil produced from a well whose average daily production
20 is 15 barrels or less for the 12-month period immediately
21 preceding the production is exempt from the tax imposed by this
22 Act.

23 (c) For the purposes of the tax imposed by this Act the
24 amount of oil produced shall be measured or determined, in the
25 case of oil, by tank tables, without deduction for overage or
26 losses in handling. Allowance for any reasonable and bona fide

1 deduction for basic sediment and water, and for correction of
2 temperature to 60 degrees Fahrenheit will be allowed. For the
3 purposes of the tax imposed by this Act the amount of gas
4 produced shall be measured or determined, by meter readings
5 showing 100% of the full volume expressed in cubic feet at a
6 standard base and flowing temperature of 60 degrees Fahrenheit,
7 and at the absolute pressure at which the gas is sold and
8 purchased. Correction shall be made for pressure according to
9 Boyle's law, and used for specific gravity according to the
10 gravity at which the gas is sold and purchased.

11 (d) The following severance and production of gas shall be
12 exempt from the tax imposed by this Act: gas injected into the
13 earth for the purpose of lifting oil, recycling, or
14 repressuring; gas used for fuel in connection with the
15 operation and development for, or production of, oil or gas in
16 the production unit where severed; and gas lawfully vented or
17 flared; gas inadvertently lost on the production unit by reason
18 of leaks, blowouts, or other accidental losses.

19 (e) All oil and gas removed from the premises where severed
20 is subject to the tax imposed by this Act unless exempt under
21 the terms of this Act.

22 (f) The liability for the tax accrues at the time the oil
23 or gas is removed from the production unit.

24 (Source: P.A. 98-22, eff. 6-17-13; 98-756, eff. 7-16-14.)

25 Section 10. The Hydraulic Fracturing Regulatory Act is

1 amended by changing Section 1-35 as follows:

2 (225 ILCS 732/1-35)

3 Sec. 1-35. High volume horizontal hydraulic fracturing
4 permit application.

5 (a) Every applicant for a permit under this Act shall first
6 register with the Department at least 30 days before applying
7 for a permit. The Department shall make available a
8 registration form within 90 days after the effective date of
9 this Act. The registration form shall require the following
10 information:

11 (1) the name and address of the registrant and any
12 parent, subsidiary, or affiliate thereof;

13 (2) disclosure of all findings of a serious violation
14 or an equivalent violation under federal or state laws or
15 regulations in the development or operation of an oil or
16 gas exploration or production site via hydraulic
17 fracturing by the applicant or any parent, subsidiary, or
18 affiliate thereof within the previous 5 years; and

19 (3) proof of insurance to cover injuries, damages, or
20 loss related to pollution or diminution in the amount of at
21 least \$5,000,000, from an insurance carrier authorized,
22 licensed, or permitted to do this insurance business in
23 this State that holds at least an A- rating by A.M. Best &
24 Co. or any comparable rating service.

25 A registrant must notify the Department of any change in

1 the information identified in paragraphs (1), (2), or (3) of
2 this subsection (a) at least annually or upon request of the
3 Department.

4 (b) Every applicant for a permit under this Act must submit
5 the following information to the Department on an application
6 form provided by the Department:

7 (1) the name and address of the applicant and any
8 parent, subsidiary, or affiliate thereof;

9 (2) the proposed well name and address and legal
10 description of the well site and its unit area;

11 (3) a statement whether the proposed location of the
12 well site is in compliance with the requirements of Section
13 1-25 of this Act and a plat, which shows the proposed
14 surface location of the well site, providing the distance
15 in feet, from the surface location of the well site to the
16 features described in subsection (a) of Section 1-25 of
17 this Act;

18 (4) a detailed description of the proposed well to be
19 used for the high volume horizontal hydraulic fracturing
20 operations including, but not limited to, the following
21 information:

22 (A) the approximate total depth to which the well
23 is to be drilled or deepened;

24 (B) the proposed angle and direction of the well;

25 (C) the actual depth or the approximate depth at
26 which the well to be drilled deviates from vertical;

1 (D) the angle and direction of any nonvertical
2 portion of the wellbore until the well reaches its
3 total target depth or its actual final depth; and

4 (E) the estimated length and direction of the
5 proposed horizontal lateral or wellbore;

6 (5) the estimated depth and elevation, according to the
7 most recent publication of the Illinois State Geological
8 Survey of Groundwater for the location of the well, of the
9 lowest potential fresh water along the entire length of the
10 proposed wellbore;

11 (6) a detailed description of the proposed high volume
12 horizontal hydraulic fracturing operations, including, but
13 not limited to, the following:

14 (A) the formation affected by the high volume
15 horizontal hydraulic fracturing operations, including,
16 but not limited to, geologic name and geologic
17 description of the formation that will be stimulated by
18 the operation;

19 (B) the anticipated surface treating pressure
20 range;

21 (C) the maximum anticipated injection treating
22 pressure;

23 (D) the estimated or calculated fracture pressure
24 of the producing and confining zones; and

25 (E) the planned depth of all proposed perforations
26 or depth to the top of the open hole section;

1 (7) a plat showing all known previous wellbores within
2 750 feet of any part of the horizontal wellbore that
3 penetrated within 400 vertical feet of the formation that
4 will be stimulated as part of the high volume horizontal
5 hydraulic fracturing operations;

6 (8) unless the applicant documents why the information
7 is not available at the time the application is submitted,
8 a chemical disclosure report identifying each chemical and
9 proppant anticipated to be used in hydraulic fracturing
10 fluid for each stage of the hydraulic fracturing operations
11 including the following:

12 (A) the total volume of water anticipated to be
13 used in the hydraulic fracturing treatment of the well
14 or the type and total volume of the base fluid
15 anticipated to be used in the hydraulic fracturing
16 treatment, if something other than water;

17 (B) each hydraulic fracturing additive anticipated
18 to be used in the hydraulic fracturing fluid, including
19 the trade name, vendor, a brief descriptor of the
20 intended use or function of each hydraulic fracturing
21 additive, and the Material Safety Data Sheet (MSDS), if
22 applicable;

23 (C) each chemical anticipated to be intentionally
24 added to the base fluid, including for each chemical,
25 the Chemical Abstracts Service number, if applicable;
26 and

1 (D) the anticipated concentration in the base
2 fluid, in percent by mass, of each chemical to be
3 intentionally added to the base fluid;

4 (9) a certification of compliance with the Water Use
5 Act of 1983 and applicable regional water supply plans;

6 (10) a fresh water withdrawal and management plan that
7 shall include the following information:

8 (A) the source of the water, such as surface or
9 groundwater, anticipated to be used for water
10 withdrawals, and the anticipated withdrawal location;

11 (B) the anticipated volume and rate of each water
12 withdrawal from each withdrawal location;

13 (C) the anticipated months when water withdrawals
14 shall be made from each withdrawal location;

15 (D) the methods to be used to minimize water
16 withdrawals as much as feasible; and

17 (E) the methods to be used for surface water
18 withdrawals to minimize adverse impact to aquatic
19 life.

20 Where a surface water source is wholly contained within
21 a single property, and the owner of the property expressly
22 agrees in writing to its use for water withdrawals, the
23 applicant is not required to include this surface water
24 source in the fresh water withdrawal and management plan;

25 (11) a plan for the handling, storage, transportation,
26 and disposal or reuse of hydraulic fracturing fluids and

1 hydraulic fracturing flowback. The plan shall identify the
2 specific Class II injection well or wells that will be used
3 to dispose of the hydraulic fracturing flowback. The plan
4 shall describe the capacity of the tanks to be used for the
5 capture and storage of flowback and of the lined reserve
6 pit to be used, if necessary, to temporarily store any
7 flowback in excess of the capacity of the tanks.
8 Identification of the Class II injection well or wells
9 shall be by name, identification number, and specific
10 location and shall include the date of the most recent
11 mechanical integrity test for each Class II injection well;

12 (12) a well site safety plan to address proper safety
13 measures to be employed during high volume horizontal
14 hydraulic fracturing operations for the protection of
15 persons on the site as well as the general public. Within
16 15 calendar days after submitting the permit application to
17 the Department, the applicant must provide a copy of the
18 plan to the county or counties in which hydraulic
19 fracturing operations will occur. Within 5 calendar days of
20 its receipt, the Department shall provide a copy of the
21 well site safety plan to the Office of the State Fire
22 Marshal;

23 (13) a containment plan describing the containment
24 practices and equipment to be used and the area of the well
25 site where containment systems will be employed, and within
26 5 calendar days of its receipt, the Department shall

1 provide a copy of the containment plan to the Office of the
2 State Fire Marshal;

3 (14) a casing and cementing plan that describes the
4 casing and cementing practices to be employed, including
5 the size of each string of pipe, the starting point, and
6 depth to which each string is to be set and the extent to
7 which each string is to be cemented;

8 (15) (blank); ~~a traffic management plan that~~
9 ~~identifies the anticipated roads, streets, and highways~~
10 ~~that will be used for access to and egress from the well~~
11 ~~site. The traffic management plan will include a point of~~
12 ~~contact to discuss issues related to traffic management.~~
13 ~~Within 15 calendar days after submitting the permit~~
14 ~~application to the Department, the applicant must provide a~~
15 ~~copy of the traffic management plan to the county or~~
16 ~~counties in which the well site is located, and within 5~~
17 ~~calendar days of its receipt, the Department shall provide~~
18 ~~a copy of the traffic management plan to the Office of the~~
19 ~~State Fire Marshal;~~

20 (16) the names and addresses of all owners of any real
21 property within 1,500 feet of the proposed well site, as
22 disclosed by the records in the office of the recorder of
23 the county or counties;

24 (17) drafts of the specific public notice and general
25 public notice as required by Section 1-40 of this Act;

26 (18) a statement that the well site at which the high

1 volume horizontal hydraulic fracturing operation will be
2 conducted will be restored in compliance with Section
3 240.1181 of Title 62 of the Illinois Administrative Code
4 and Section 1-95 of this Act;

5 (19) proof of insurance to cover injuries, damages, or
6 loss related to pollution in the amount of at least
7 \$5,000,000; and

8 (20) any other relevant information which the
9 Department may, by rule, require.

10 (c) Where an application is made to conduct high volume
11 horizontal fracturing operations at a well site located within
12 the limits of any city, village, or incorporated town, the
13 application shall state the name of the city, village, or
14 incorporated town and be accompanied with a certified copy of
15 the official consent for the hydraulic fracturing operations to
16 occur from the municipal authorities where the well site is
17 proposed to be located. No permit shall be issued unless
18 consent is secured and filed with the permit application. In
19 the event that an amended location is selected, the original
20 permit shall not be valid unless a new certified consent is
21 filed for the amended location.

22 (d) The hydraulic fracturing permit application shall be
23 accompanied by a bond as required by subsection (a) of Section
24 1-65 of this Act.

25 (e) Each application for a permit under this Act shall
26 include payment of a non-refundable fee of \$13,500. Of this

1 fee, \$11,000 shall be deposited into the Oil and Gas Resource
2 Management Fund for the Department to use to administer and
3 enforce this Act and otherwise support the operations and
4 programs of the Office of Oil and Gas Resource Management. The
5 remaining \$2,500 shall be deposited into the Illinois Clean
6 Water Fund for the Agency to use to carry out its functions
7 under this Act. The Department shall not initiate its review of
8 the permit application until the applicable fee under this
9 subsection (e) has been submitted to and received by the
10 Department.

11 (f) Each application submitted under this Act shall be
12 signed, under the penalty of perjury, by the applicant or the
13 applicant's designee who has been vested with the authority to
14 act on behalf of the applicant and has direct knowledge of the
15 information contained in the application and its attachments.
16 Any person signing an application shall also sign an affidavit
17 with the following certification:

18 "I certify, under penalty of perjury as provided by law
19 and under penalty of refusal, suspension, or revocation of
20 a high volume horizontal hydraulic fracturing permit, that
21 this application and all attachments are true, accurate,
22 and complete to the best of my knowledge."

23 (g) The permit application shall be submitted to the
24 Department in both electronic and hard copy format. The
25 electronic format shall be searchable.

26 (h) The application for a high volume horizontal hydraulic

1 fracturing permit may be submitted as a combined permit
2 application with the operator's application to drill on a form
3 as the Department shall prescribe. The combined application
4 must include the information required in this Section. If the
5 operator elects to submit a combined permit application,
6 information required by this Section that is duplicative of
7 information required for an application to drill is only
8 required to be provided once as part of the combined
9 application. The submission of a combined permit application
10 under this subsection shall not be interpreted to relieve the
11 applicant or the Department from complying with the
12 requirements of this Act or the Illinois Oil and Gas Act.

13 (i) Upon receipt of a permit application, the Department
14 shall have no more than 60 calendar days from the date it
15 receives the permit application to approve, with any conditions
16 the Department may find necessary, or reject the application
17 for the high volume horizontal hydraulic fracturing permit. The
18 applicant may waive, in writing, the 60-day deadline upon its
19 own initiative or in response to a request by the Department.

20 (j) If at any time during the review period the Department
21 determines that the permit application is not complete under
22 this Act, does not meet the requirements of this Section, or
23 requires additional information, the Department shall notify
24 the applicant in writing of the application's deficiencies and
25 allow the applicant to correct the deficiencies and provide the
26 Department any information requested to complete the

1 application. If the applicant fails to provide adequate
2 supplemental information within the review period, the
3 Department may reject the application.

4 (Source: P.A. 98-22, eff. 6-17-13; 98-756, eff. 7-16-14;
5 99-139, eff. 7-24-15.)