

Illinois General Assembly 2013 and 2014 HB-3086

**98TH GENERAL ASSEMBLY
State of Illinois
2013 and 2014
HB3086**

Introduced , by Rep. Deborah Mell

SYNOPSIS AS INTRODUCED:

225 ILCS 725/30 new

225 ILCS 725/35 new

Amends the Illinois Oil and Gas Act. Provides that no person shall conduct high volume horizontal hydraulic fracturing operations without express legislative authorization, which shall not be granted until after receipt of the findings and recommendations of the Hydraulic Fracturing Task Force. Creates the Hydraulic Fracturing Task Force. Provides that the purpose of the Task Force is to conduct a thorough review of the regulation of hydraulic fracturing operations in Illinois and to gather information, review, evaluate, and make recommendations regarding the regulation of hydraulic fracturing operations in Illinois. Sets forth the membership of the task force. Provides that the Task Force shall provide its findings and recommendations to the General Assembly within 2 years after the effective date of the amendatory Act. Repeals the provisions creating the Task Force on July 1, 2016. Effective immediately.

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FISCAL NOTE ACT MAY APPLY

A BILL FOR

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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 Illinois Oil and Gas Act is amended by
5	adding Sections 30 and 35 as follows:
6	(225 ILCS 725/30 new)
7	<u>Sec. 30. Hydraulic fracturing moratorium.</u>
8	<u>(a) No person shall conduct high volume horizontal</u>
9	<u>hydraulic fracturing operations in Illinois without express</u>
10	<u>legislative authorization. Any express authorization shall not</u>
11	<u>be granted until after receipt of the written findings and</u>
12	<u>recommendations of the Hydraulic Fracturing Task Force set</u>
13	<u>forth in Section 35 of this Act. Any passage of subsequent</u>
14	<u>legislation shall be informed by the express findings and</u>
15	<u>recommendations of the Hydraulic Fracturing Task Force.</u>
16	<u>(b) As used in this Section:</u>
17	<u>"High volume horizontal hydraulic fracturing</u>
18	<u>operations" means any and all procedures used and any and</u>
19	<u>all states of the treatment or operation of any and all</u>
20	<u>horizontal wells by the pressurized application of more</u>
21	<u>than 80,000 gallons of water or mixtures of water, sand,</u>
22	<u>and chemicals, or any combination thereof, or use of more</u>
23	<u>than 80,000 gallons of hydraulic fracturing fluid per</u>

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1	<u>treatment stage to initiate or propagate fractures,</u>
2	<u>fissures, or other openings in shale to enhance the</u>
3	<u>extraction or production of oil or gas.</u>
4	<u>"Horizontal well" means a well with a wellbore drilled</u>
5	<u>laterally at an angle of at least 80 degrees to the</u>

6 vertical and with a horizontal projection exceeding 100
7 feet measured from the initial point of penetration into
8 the productive formation through the terminus of the
9 lateral in the same common source of hydrocarbon supply.
10 "Hydraulic fracturing fluid" means the fluid,
11 including the applicable base fluid and all hydraulic
12 fracturing additives, steam, hot water, sand, or any other
13 substance used to perform high volume hydraulic
14 fracturing.
15 "Shale" means a fine-grained sedimentary rock formed
16 by the consolidation of clay, silt, or mud that is
17 representative of, but not limited to, the New Albany Shale
18 and Maquoketa Shale groups as defined in the Illinois
19 Bulletin 95 Handbook of Stratigraphy.
20 (225 ILCS 725/35 new)
21 Sec. 35. The Hydraulic Fracturing Task Force.
22 (a) There is hereby created the Hydraulic Fracturing Task
23 Force.
24 (b) The purpose of the Task Force is to conduct a thorough,
25 scientific, and public investigation reviewing, assessing, and

1 addressing the potential dangers, potential environmental
2 effects, and the potential socio-economic costs of hydraulic
3 fracturing to public health, private property, air quality, and
4 water availability including issues of supply scarcity, water
5 quality, public lands, livestock, wildlife, seismic
6 vulnerability and preparedness, and public commons (such as
7 roadways and highways, including wear, tear, and repair of
8 increased traffic patterns and congestion); to assess the
9 overall local and regional potential economic gains, losses, or
10 both; and to consider issues of community integrity, including
11 issues of self-determination.
12 (c) The Task Force is also charged with performing a
13 thorough review of all relevant and available scientific
14 studies pertaining to hydraulic fracturing throughout the

15 United States, including those conducted by State governments,
 16 universities in the United States and elsewhere, and reputable
 17 environmental and industry institutions. The Task Force shall
 18 also conduct a significant review of all regulations of
 19 hydraulic fracturing operations in all the states and in known
 20 localities throughout the United States.

21 (d) The Task Force shall gather information, review
 22 studies, evaluate testimony, and consider and summarize
 23 written comments received, and shall make written findings and
 24 recommendations regarding the economic and technological
 25 feasibility and reasonableness of conducting hydraulic
 26 fracturing in Illinois, as well as the potential environmental

1 and health impacts from such activities.

2 (e) The Task Force shall identify and recommend any areas
 3 requiring further inquiry, study, or investigation and shall
 4 make recommendations, based on the evidence gathered, to
 5 propose (i) other moratoria on hydraulic fracturing or a
 6 continuation of the moratorium set forth under Section 30, (ii)
 7 an outright ban on such activity, or (iii) potential
 8 regulations or areas of regulation, with recommendations for
 9 any operations of hydraulic fracturing in Illinois.

10 (f) The Task Force shall gather information, including
 11 through public comments and public hearings, and shall, upon
 12 gathering all information available, make written findings and
 13 recommendations to the General Assembly and the Governor,
 14 including, but not limited to, investigation, findings, and
 15 recommendations concerning the following areas or issues:

16 (1) the protection of the State's water resources,
 17 including the identification of potential contaminants,
 18 potential sources of environmental contamination,
 19 potential for migration of contaminants to surface and
 20 ground water resources, expected rate of water usage and
 21 its impact on aquifers, private wells, and public sources
 22 of drinking water, and potential health risks from any

23	<u>identified risks of contamination of water resources;</u>
24	<u>(2) potential impacts to agriculture, tourism, and</u>
25	<u>other industries, such as the wine producing industry;</u>
26	<u>(3) potential impacts to wildlife and natural</u>

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1	<u>resources;</u>
2	<u>(4) potential chemicals used in hydraulic fracturing</u>
3	<u>fluid and the safety and health implications of use of such</u>
4	<u>chemicals and the potential use of inert tracer chemicals</u>
5	<u>to identify fracking fluid that has migrated;</u>
6	<u>(5) potential air emissions, including identifying</u>
7	<u>potential air pollutants, point and nonpoint sources of</u>
8	<u>releases of contaminants to the air, and recommended</u>
9	<u>controls, monitoring, and regulation for such potential</u>
10	<u>emissions;</u>
11	<u>(6) potential areas of regulation, including</u>
12	<u>recommendations as to proper equipment standards,</u>
13	<u>operating practices, set back requirements, environmental</u>
14	<u>monitoring and sampling, the handling, storage, and</u>
15	<u>disposal of hydraulic fracturing fluid, flowback, and any</u>
16	<u>and all waste water and solid waste, including whether any</u>
17	<u>such waste should be classified as hazardous waste or</u>
18	<u>radioactive waste, and any potential regulatory provisions</u>
19	<u>required to protect water and air resources and public and</u>
20	<u>private interests;</u>
21	<u>(7) identification of all risks, including effects on</u>
22	<u>seismic activities and recommendations regarding the same;</u>
23	<u>(8) potential permitting requirements for hydraulic</u>
24	<u>fracturing;</u>
25	<u>(9) potential concerns regarding the safeguarding of</u>
26	<u>proprietary information, including trade secret and</u>

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1	<u>business confidential information, that may be required to</u>
2	<u>be provided to government regulators and emergency</u>
3	<u>responders;</u>
4	<u>(10) the practices of persons, sometimes referred to as</u>
5	<u>landmen, in the leasing, buying, or both of oil rights, gas</u>
6	<u>rights, mineral rights, subsurface rights, or a</u>
7	<u>combination thereof, and establishing surface rights from</u>
8	<u>owners of surface land, including findings and</u>
9	<u>recommendations for any regulations regarding subsurface</u>
10	<u>rights and regarding leasing and buying practices; and</u>
11	<u>(11) identification and summarization of information</u>
12	<u>gathered at public hearings and in written comments from</u>
13	<u>interested persons regarding proposed hydraulic fracturing</u>
14	<u>operations in Illinois.</u>
15	<u>(g) The Fracking Task Force shall consist of the following</u>
16	<u>members, with all appointments to the Task Force to be made</u>
17	<u>within 30 days after the effective date of this Section:</u>
18	<u>(1) one member appointed by the Speaker of the House;</u>
19	<u>(2) one member appointed by the House Minority Leader;</u>
20	<u>(3) one member appointed by the President of the</u>
21	<u>Senate;</u>
22	<u>(4) one member appointed by the Senate Minority Leader;</u>
23	<u>(5) one member appointed by the Office of the Attorney</u>
24	<u>General;</u>
25	<u>(6) one member appointed by the Director of Natural</u>
26	<u>Resources;</u>

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1	<u>(7) one member appointed by the Director of the</u>
2	<u>Illinois Environmental Protection Agency;</u>
3	<u>(8) two persons representing environmental interests</u>
4	<u>appointed by the Governor, including one lawyer;</u>
5	<u>(9) two persons representing oil and gas interests</u>
6	<u>appointed by the Governor, including one lawyer;</u>
7	<u>(10) one person representing agricultural interests</u>
8	<u>from the Illinois Farm Bureau appointed by the Governor;</u>

9	<u>(11) one person representing public water supplies</u>
10	<u>appointed by the Governor;</u>
11	<u>(12) one person appointed by the Director of the</u>
12	<u>Illinois Emergency Management Agency;</u>
13	<u>(13) one person appointed by the United States</u>
14	<u>Department of Agriculture Natural Resource Conservation</u>
15	<u>Service, preferably a resident of a County where New Albany</u>
16	<u>Shale is present;</u>
17	<u>(14) one person appointed by the Illinois Department of</u>
18	<u>Agriculture who holds a position as State Conservationist</u>
19	<u>in an Illinois County where New Albany Shale is present;</u>
20	<u>(15) one member appointed by the Governor from the</u>
21	<u>Illinois State Geological Survey;</u>
22	<u>(16) one person appointed by the Governor from the</u>
23	<u>Southern Illinois Farming Network;</u>
24	<u>(17) one member appointed by the Director of Insurance;</u>
25	<u>(18) one member appointed by the Director of the</u>
26	<u>Illinois Office of Tourism;</u>

1	<u>(19) one member appointed by the Governor representing</u>
2	<u>an environmental group working for the conservation of the</u>
3	<u>Shawnee National Forest;</u>
4	<u>(20) one member appointed by the Pollution Control</u>
5	<u>Board;</u>
6	<u>(21) one member appointed by the Governor from the</u>
7	<u>Illinois Rural Water Association;</u>
8	<u>(22) one member appointed by the Governor from the</u>
9	<u>Illinois Association of Groundwater Professionals or from</u>
10	<u>a similar organization;</u>
11	<u>(23) one member appointed by the Governor from the</u>
12	<u>Illinois Department of Public Health;</u>
13	<u>(24) one member appointed by the Governor from the</u>
14	<u>Illinois Municipal League; and</u>
15	<u>(25) two members appointed by the Governor from the</u>
16	<u>Illinois Counties Association, Illinois Association of</u>

17 County Board Members and Commissioners, Illinois
 18 Association of County Officials, or the United Counties
 19 Council of Illinois.
 20 (h) The members of the Task Force shall designate a
 21 chairperson upon their first meeting, which shall take place no
 22 later than 90 days after the effective date of this Section.
 23 (i) The Task Force shall conduct monthly or bi-monthly
 24 meetings, conference calls, or both, and shall conduct at least
 25 3 public hearings before filing its final written findings and
 26 recommendations in accordance with this Section.

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1 (j) At the public hearings, the Task Force shall allow
 2 interested persons to present their views and comments and to
 3 present any written literature, statements, articles, or
 4 comments. Transcripts of all hearings shall be made available
 5 to the Task Force and the public. Based on attendance and time
 6 frames, the Task Force may set limits for the time each speaker
 7 may comment, but in no event shall less than 5 minutes be
 8 allowed per speaker and any speaker with technical or
 9 scientific credentials shall be given deference to testify at
 10 least 15 minutes or more. Equal time shall be given to all
 11 expert presentations of evidence and concerns.

12 (k) The Task Force shall hold no fewer than 3, nor greater
 13 than 5, public hearings, which shall be held at geographically
 14 convenient locations around the State. These hearings shall be
 15 determined by the Task Force on a schedule that is publicly
 16 announced in area newspapers, State buildings, websites, and
 17 other media no less than 3 weeks in advance of each hearing and
 18 in local newspapers no more than 3 months in advance of any
 19 given hearing in that geographic area. These hearings may be
 20 continued if all persons could not be heard, and all hearings
 21 shall be completed at least 3 months prior to the time for
 22 submission of the final written findings and recommendations.

23 (l) The members of the Task Force shall receive no
 24 compensation for their services on the Task Force, but shall be

25 reimbursed for any ordinary and necessary expenses incurred in
26 the performance of their duties, including reimbursement for

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1 mileage. The Task Force members may divide responsibilities as
2 appropriate for the subject matter and as determined by any
3 majority vote of the group or as given to the Chairman from a
4 majority vote of the members. However, any member may
5 investigate or inquire as to any issue listed in subsection (f)
6 of this Section.

7 (m) The Department of Natural Resources and the Illinois
8 Environmental Protection Agency shall each provide at least one
9 full-time person to provide administrative staff support to the
10 Task Force, as needed.

11 (n) All documents gathered by the Task Force shall be made
12 public record and shall be made available as conveniently as
13 possible for review by the public in as timely a manner as
14 practicable, including making all information available in
15 electronic form, through a website, or both.

16 (o) The Task Force shall provide its written findings and
17 recommendations to the General Assembly and the Governor no
18 later than 2 years after the effective date of this amendatory
19 Act of the 98th General Assembly. The public record of
20 documents, comments, and transcripts shall also be made
21 available in electronic form or on a website. Individual
22 members or any groups of members may file separate findings and
23 recommendations or dissents on particular issues, but
24 consensus of the entire group is encouraged and all findings
25 and recommendations by the entire group shall be identified in
26 the final written report.

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1 (p) This Section is repealed on July 1, 2016.

2 Section 99. Effective date. This Act takes effect upon

