

Date of Hearing: May 8, 2019

**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

Lorena Gonzalez, Chair

AB 345 (Muratsuchi) – As Amended April 29, 2019

Policy Committee: Natural Resources

Vote: 7 - 3

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

**SUMMARY:**

This bill requires new oil and gas development or enhanced operations, as defined, permitted by the Division of Oil, Gas, and Geothermal Resources (DOGGR), except on federal land, to be located at least 2,500 feet from a residence, school, childcare facility, playground, hospital, or health clinic. Specifically, this bill:

- 1) Defines “oil and gas development” to mean exploration for drilling, production and processing of oil, gas or other gaseous and liquid hydrocarbons.
- 2) Defines “enhanced operations” to mean operations intended to increase the hydrocarbon production of an oil and gas well. Specifies those enhancement operations include well stimulation treatments, acid well stimulation treatments and restoring a plugged and abandoned well or an idle well into production, but does not include repairs or well maintenance work.
- 3) Authorizes a city or county to require new oil and gas development to be further than 2,500 feet away from a residence, school, childcare facility, playground and hospital or health clinic.
- 4) Authorizes an operator of an oil and gas well or a production facility to file a written request with DOGGR for a variance to reduce the health protection zone to the maximum achievable distance. Requires the request to include competent, substantial and relevant evidence demonstrating the applicable health protection zone would extend beyond the area in which the operator has a legal right to locate the oil or gas well or production facility, and that the variance would be consistent with this bill and protect public health and safety.
- 5) Authorizes DOGGR to grant a variance upon making a written finding that: a) the operator has no other feasible means of accessing a legal subsurface right; b) the variance provides as much distance between sensitive receptors and the oil and gas operations as is achievable; and c) the variance would not endanger public health and safety.
- 6) Exempts a permit issued before January 1, 2020, from the requirements of this bill.

**FISCAL EFFECT:**

- 1) Potential total lost revenues of up to \$3.5 billion from oil production from reserves in the setback zone if the “enhancement operations” language in the bill is interpreted to apply to existing oil production. For example, if “operations intended to increase the hydrocarbon

production of an oil and gas well” include steam injections or other non-chemical enhanced oil recovery methods, existing production might be affected. If not, the lost revenue will be significantly less.

- 2) Potential lost revenues of up to \$350 million per year (present value of \$62 per barrel) for the \$2,390 idle wells (identified as likely to be activated) located in the setback zone that, if activated, could produce 5.6 million barrels of oil annually.
- 3) Annual revenue losses, potentially in the range of one hundred million dollars from corporate taxes, employee income taxes and sales and use taxes.
- 4) Increased DOGGR costs of approximately \$4 million per year to implement the bill.

#### COMMENTS:

- 1) **Purpose.** According to the author:

In 2015, the California Council on Science and Technology’s (CCST) issued a report regarding the health and environmental impacts associated with hydraulic fracturing, which recommended a health and safety buffer zone between sensitive land uses and oil and gas wells in order to protect communities where neighborhood drilling occurs. Despite this recommendation, current law does not prohibit oil and gas operators from placing wells near sensitive areas, such as schools, day cares, residential homes, and hospitals.

AB 345 will mandate a 2,500-foot health and safety buffer zone between new oil and gas wells and sensitive land uses, which include schools, day care centers, residential homes, and hospitals, thereby creating a safe distance between drilling operations and vulnerable populations in order to avoid serious public health and safety risks and impacts.

- 2) **Background.** California has a long history of oil production and is ranked fourth in the nation in oil production behind Texas, North Dakota, and Alaska. While the vast majority of oil production occurs in Kern County (123.7 million barrels) the county with the second most production is Los Angeles County (19.8 million barrels). Because oil and gas development in Los Angeles County is located in densely populated areas, this bill impacts Los Angeles County the most, followed by Kern, Orange and Ventura counties.
- 3) **Impacts of This Bill.** According to DOGGR, there are 15,733 oil and gas wells in California that are located within the proposed setback requirement; 9,222 are active wells and 6,511 are considered idle wells. The DOGGR estimate assumes about \$1 million dollars per year in litigations costs.

This bill also creates the ability for an operator to request a variance from the 2,500 feet setback requirement. However, the variance requires the supervisor to find the operations would not endanger public health and safety. This bill’s codified findings declare that oil and gas extraction endangers public health and safety. Therefore, it is unlikely the variance could ever be used without more litigation.

In addition, DOGGR is not the right agency to determine whether oil and gas development has fully mitigated air quality, noise, and odors impacts. DOGGR's cost estimate includes \$2 million to contract with the California Air Resources Board and the Office of Environmental Health Hazards Assessment to provide assistance with variance determinations. Additionally, variances may require environmental impact reports under the California Environmental Quality Act (CEQA).

Some argue this bill is a taking of a property owner's mineral rights. This issue will ultimately be decided in the courts, at significant cost to the state.

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