



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3086

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.

LRB098 08178 MGM 38274 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 Illinois Oil and Gas Act is amended by  
5 adding Sections 30 and 35 as follows:

6 (225 ILCS 725/30 new)

7 Sec. 30. Hydraulic fracturing moratorium.

8 (a) No person shall conduct high volume horizontal  
9 hydraulic fracturing operations in Illinois without express  
10 legislative authorization. Any express authorization shall not  
11 be granted until after receipt of the written findings and  
12 recommendations of the Hydraulic Fracturing Task Force set  
13 forth in Section 35 of this Act. Any passage of subsequent  
14 legislation shall be informed by the express findings and  
15 recommendations of the Hydraulic Fracturing Task Force.

16 (b) As used in this Section:

17 "High volume horizontal hydraulic fracturing  
18 operations" means any and all procedures used and any and  
19 all states of the treatment or operation of any and all  
20 horizontal wells by the pressurized application of more  
21 than 80,000 gallons of water or mixtures of water, sand,  
22 and chemicals, or any combination thereof, or use of more  
23 than 80,000 gallons of hydraulic fracturing fluid per

1 treatment stage to initiate or propagate fractures,  
2 fissures, or other openings in shale to enhance the  
3 extraction or production of oil or gas.

4 "Horizontal well" means a well with a wellbore drilled  
5 laterally at an angle of at least 80 degrees to the  
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 identified risks of contamination of water resources;

24 (2) potential impacts to agriculture, tourism, and  
25 other industries, such as the wine producing industry;

26 (3) potential impacts to wildlife and natural

1       resources;

2           (4) potential chemicals used in hydraulic fracturing  
3       fluid and the safety and health implications of use of such  
4       chemicals and the potential use of inert tracer chemicals  
5       to identify fracking fluid that has migrated;

6           (5) potential air emissions, including identifying  
7       potential air pollutants, point and nonpoint sources of  
8       releases of contaminants to the air, and recommended  
9       controls, monitoring, and regulation for such potential  
10       emissions;

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

21           (7) identification of all risks, including effects on  
22       seismic activities and recommendations regarding the same;

23           (8) potential permitting requirements for hydraulic  
24       fracturing;

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

1 business confidential information, that may be required to  
2 be provided to government regulators and emergency  
3 responders;

4 (10) the practices of persons, sometimes referred to as  
5 landmen, in the leasing, buying, or both of oil rights, gas  
6 rights, mineral rights, subsurface rights, or a  
7 combination thereof, and establishing surface rights from  
8 owners of surface land, including findings and  
9 recommendations for any regulations regarding subsurface  
10 rights and regarding leasing and buying practices; and

11 (11) identification and summarization of information  
12 gathered at public hearings and in written comments from  
13 interested persons regarding proposed hydraulic fracturing  
14 operations in Illinois.

15 (g) The Fracking Task Force shall consist of the following  
16 members, with all appointments to the Task Force to be made  
17 within 30 days after the effective date of this Section:

18 (1) one member appointed by the Speaker of the House;

19 (2) one member appointed by the House Minority Leader;

20 (3) one member appointed by the President of the  
21 Senate;

22 (4) one member appointed by the Senate Minority Leader;

23 (5) one member appointed by the Office of the Attorney  
24 General;

25 (6) one member appointed by the Director of Natural  
26 Resources;

1           (7) one member appointed by the Director of the  
2 Illinois Environmental Protection Agency;

3           (8) two persons representing environmental interests  
4 appointed by the Governor, including one lawyer;

5           (9) two persons representing oil and gas interests  
6 appointed by the Governor, including one lawyer;

7           (10) one person representing agricultural interests  
8 from the Illinois Farm Bureau appointed by the Governor;

9           (11) one person representing public water supplies  
10 appointed by the Governor;

11           (12) one person appointed by the Director of the  
12 Illinois Emergency Management Agency;

13           (13) one person appointed by the United States  
14 Department of Agriculture Natural Resource Conservation  
15 Service, preferably a resident of a County where New Albany  
16 Shale is present;

17           (14) one person appointed by the Illinois Department of  
18 Agriculture who holds a position as State Conservationist  
19 in an Illinois County where New Albany Shale is present;

20           (15) one member appointed by the Governor from the  
21 Illinois State Geological Survey;

22           (16) one person appointed by the Governor from the  
23 Southern Illinois Farming Network;

24           (17) one member appointed by the Director of Insurance;

25           (18) one member appointed by the Director of the  
26 Illinois Office of Tourism;



1           (19) one member appointed by the Governor representing  
2           an environmental group working for the conservation of the  
3           Shawnee National Forest;

4           (20) one member appointed by the Pollution Control  
5           Board;

6           (21) one member appointed by the Governor from the  
7           Illinois Rural Water Association;

8           (22) one member appointed by the Governor from the  
9           Illinois Association of Groundwater Professionals or from  
10           a similar organization;

11           (23) one member appointed by the Governor from the  
12           Illinois Department of Public Health;

13           (24) one member appointed by the Governor from the  
14           Illinois Municipal League; and

15           (25) two members appointed by the Governor from the  
16           Illinois Counties Association, Illinois Association of  
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.

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

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.

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

2           Section 99. Effective date. This Act takes effect upon  
3           becoming law.