

SENATE SUBSTITUTE TO HB 205:

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 4 of Title 12 of the Official Code of Georgia Annotated,
 2 relating to mining and drilling, so as to regulate the exploration and extraction of gas and oil
 3 in this state; to provide for definitions; to provide for authority to create an Oil and Gas
 4 Board under certain circumstances; to require the promulgation of rules and regulations
 5 related to drilling and extraction; to amend provisions relating to drilling permits; to increase
 6 the amount of bond security for drilling operations; to provide for authority of local
 7 governments; to provide for a severance tax on the extraction of oil and gas; to amend Code
 8 Section 12-8-39 of the Official Code of Georgia Annotated, relating to landfill cost
 9 reimbursement fees and surcharges, so as to increase the fee charged in certain
 10 circumstances; to provide for related matters; to repeal conflicting laws; and for other
 11 purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Article 2 of Chapter 4 of Title 12 of the Official Code of Georgia Annotated, relating to
 15 mining and drilling, is amended by revising Part 2, relating to deep drilling for oil, gas, and
 16 other minerals, as follows:

17 **"Part 2**

18 12-4-40.

19 This part shall be known and may be cited as the 'Oil and Gas and Deep Drilling Act
 20 of 1975.'

21 12-4-41.

22 The General Assembly finds and declares that its duty to protect the health, safety, and
 23 welfare of the citizens of this state requires that adequate protection of underground fresh
 24 water supplies be assured in any drilling operation which may penetrate through any

25 stratum which contains fresh water. This duty further requires that adequate protection be
 26 assured in any drilling or the use of such drilled wells in certain other environmentally
 27 sensitive areas or in other circumstances where the result of such drilling and use may
 28 endanger the health, safety, and welfare of the citizens of this state. It is not the policy of
 29 the General Assembly to regulate the drilling of shallow exploration or engineering holes
 30 except in such environmentally sensitive areas as defined in this part. The General
 31 Assembly further finds and declares that, ~~with the current energy shortage which this state~~
 32 ~~and nation face, it must encourage~~ oil and gas exploration to identify new sources of
 33 energy, ~~but not~~ should not occur at the expense of our important natural resources such as
 34 residential, municipal, and industrial supplies of fresh water. The General Assembly
 35 further finds and declares that it should continue to encourage oil and gas exploration. The
 36 General Assembly further finds and declares that with an increase in oil exploration, it must
 37 provide assurances to persons engaging in such exploration that adequate safeguards
 38 regarding results of exploration will remain privileged information for a specified time.
 39 The General Assembly further finds and declares that it is in the public interest to obtain,
 40 protect, and disseminate all possible geologic information associated with drilling
 41 operations in order to further the purposes of future energy related research.

42 12-4-42.

43 As used in this part, the term:

44 (1) 'Board' means the Board of Natural Resources.

45 (1.1) 'Director' means the director of the Environmental Protection Division of the
 46 Department of Natural Resources.

47 (2) 'Drilling' means the boring of a hole in the earth by remote mechanical means and all
 48 associated activities, including but not limited to casing, perforating, plugging,
 49 cementing, and capping.

50 (3) 'Environmentally sensitive area of the coastal zone' means that area of the coastal
 51 zone where salt-water-bearing strata overlie the fresh-water aquifer system.

52 (4) 'Field' means the general area which is underlaid or appears to be underlaid by at least
 53 one pool. This term shall include the underground reservoir or reservoirs containing
 54 crude petroleum oil or natural gas, or both. The words 'field' and 'pool' mean the same
 55 thing when only one underground reservoir is involved; however, 'field,' unlike 'pool,'
 56 may relate to two or more pools.

57 (5) 'Gas' means all natural gas, including casing-head gas, and all other hydrocarbons not
 58 defined as oil in paragraph (10) of this Code section.

59 (5.1) 'Hydraulic fracturing' means those operations conducted in an individual well bore
 60 designed to increase the flow of hydrocarbons from the rock formation to such well bore

61 through modification of the permeability of reservoir rock by fracturing it through
62 application of fluids under pressure.

63 (6) 'Illegal mineral' means any mineral, including oil or gas, which has been produced
64 within the State of Georgia in violation of this part, any rule or regulation adopted and
65 promulgated pursuant to this part, or any order issued under this part.

66 (7) 'Illegal product' means any product of oil, gas, or other mineral, any part of which
67 was processed or derived, in whole or in part, from an illegal mineral.

68 (8) 'Mineral' means any naturally occurring substance found in the earth which has
69 commercial value. This term shall include oil and gas, as defined in this Code section,
70 but shall not include fresh water.

71 (9) 'Mineral product' means any commodity made from any mineral.

72 (10) 'Oil' means crude petroleum oil and other hydrocarbons, regardless of gravity, which
73 are produced at the well in liquid form by ordinary production methods and which are not
74 the result of condensation of gas after it leaves the reservoir.

75 (11) 'Owner' means the person who has the right to drill into and produce from any pool
76 and to appropriate the production either for himself or herself and another, or himself or
77 herself and others.

78 (12) 'Person' means any natural person, corporation, joint venture, association,
79 partnership, receiver, trustee, guardian, executor, administrator, fiduciary or
80 representative of any kind, all agencies or instrumentalities of the state, and all county or
81 municipal governments or any authority.

82 (13) 'Pool' means an underground reservoir containing a common accumulation of crude
83 petroleum oil or natural gas, or both. Each zone of a general structure which is
84 completely separated from any other zone in the structure is covered by the term 'pool'
85 as used in this part.

86 (14) 'Producer' means the owner of a well or wells capable of producing oil or gas, or
87 both.

88 (15) 'Tender' means a permit or certificate of clearance for the transportation of minerals,
89 including oil and gas, or mineral products produced under this part, approved and issued
90 or registered under the authority of the board.

91 (16) 'Unitization agreement' means a voluntary agreement between operators to create
92 operation units.

93 (17) 'Waste,' in addition to its ordinary meaning, means 'physical waste' as that term is
94 generally understood in the oil and gas industry. The term shall also include, but not be
95 limited to:

96 (A) The inefficient, excessive, or improper use or dissipation of reservoir energy and
97 the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well

98 or wells in a manner which results, or tends to result, in a reduction in the quantity of
 99 oil or gas ultimately to be recovered from any pool in this state;

100 (B) The inefficient storing of oil and the locating, spacing, drilling, equipping,
 101 operating, or producing of any oil or gas well or wells in a manner causing, or tending
 102 to cause, unnecessary or excessive surface loss or destruction of oil or gas;

103 (C) Abuse of the correlative rights and opportunities of each owner of gas or oil in a
 104 common reservoir due to nonuniform, disproportionate, and unratable withdrawals
 105 causing undue drainage between tracts of lands;

106 (D) The production of oil or gas in such a manner as to cause unnecessary water
 107 channeling or zoning;

108 (E) The operation of any oil well or wells with an inefficient gas-oil ratio;

109 (F) The drowning with water of any stratum or part thereof capable of producing gas
 110 or oil, except where approval for such a project has been granted by the department;

111 (G) Underground waste, however caused and whether or not defined, as the same
 112 relates to any activity regulated by this part;

113 (H) The creation of unnecessary fire hazards as the same relates to any activity
 114 regulated by this part;

115 (I) The escape into the open air, from a well producing both oil and gas, of gas in
 116 excess of the amount which is necessary in the efficient drilling or operation of the
 117 well; and

118 (J) Permitting gas produced from a gas well to escape into the air, except for testing
 119 purposes.

120 (18) 'Well' means any boring drilled in the search for or the production of oil, gas, or
 121 other minerals or water.

122 12-4-43.

123 For the purpose of this part:

124 (1) The board shall have the authority to make such inquiries as it may deem necessary
 125 into any matter over which it has jurisdiction;

126 (2) The board shall have the jurisdiction of and authority over the drilling of and
 127 subsequent use of any well for the exploration or production of oil and gas; any well for
 128 the exploration or production of any other mineral drilled to a depth greater than 1,800
 129 feet; any well for the exploration or production of any mineral located in the
 130 environmentally sensitive area of the coastal zone and which is drilled to a depth
 131 sufficient to penetrate the fresh-water aquifer system; any underground storage well with
 132 the exception of those wells covered by Article 3 of Chapter 4 of Title 46; any well for
 133 the underground disposal of waste materials; any well for the production of fresh water

134 drilled to a depth greater than 1,800 feet; and any well for the exploration or production
135 of brine or salt water;

136 (3) The board shall have the authority to regulate the spacing of wells and the production
137 of all oil and gas and the production of any other minerals produced through a well or
138 bore hole in liquid or slurry form to a depth greater than 1,800 feet or located in the
139 environmentally sensitive area; provided, however, that this authority does not extend to
140 the drilling of wells for the production of fresh water used for drinking, residential,
141 industrial, or agricultural purposes, except as provided for in paragraph (2) of this Code
142 section;

143 (4) The board shall have the power to adopt and promulgate rules and regulations
144 necessary to effectuate the purposes of this part;

145 (5) The board may delegate to the director the administrative duties and powers,
146 including, without limitation, the power to consider and issue permits to drill wells and
147 to establish drilling and operation units, created under the authority of this part; and

148 (6) Upon receipt of at least 12 applications during a calendar year for any permit to drill
149 any well for the exploration or production of oil or gas, the board may delegate to the
150 director the authority to create an Oil and Gas Board to review and issue permits and
151 regulate drilling activity. Any such Oil and Gas Board shall consist of the state geologist
152 and three other members appointed by the Governor.

153 12-4-44.

154 (a) The board shall have the authority to adopt and promulgate rules and regulations
155 dealing with the control of matters over which it has jurisdiction under this part. Such rules
156 and regulations shall include, but shall not be limited to, rules and regulations for the
157 following purposes:

158 (1) To require the drilling, casing, and plugging of wells regulated under this part to be
159 done in such a manner as to prevent the escape of oil or gas out of one stratum into
160 another stratum; to prevent the pollution of ~~fresh water supplies~~ surface water and ground
161 water supplies by oil, gas, salt water, or other contaminants; and to require reasonable
162 bonds;

163 (2) To require the making of reports showing the location of all wells regulated under
164 this part, including the filing of drill cutting samples, cores, and copies of all logs, and to
165 further require that the operator submit the name classification used for each of the
166 subsurface formations penetrated and the depth at which each such formation was
167 penetrated;

- 168 (3) To prevent the drowning by water of any stratum or part thereof capable of producing
169 oil or gas in paying quantities and to prevent the premature and irregular encroachment
170 of water which reduces the total ultimate recovery of oil or gas from any pool;
- 171 (4) To require the operation of wells regulated under this part with efficient gas-oil ratios
172 and to fix such ratios;
- 173 (5) To prevent 'blowouts,' 'caving,' and 'seepage' in the sense that conditions indicated
174 by such terms are generally understood in the oil and gas business;
- 175 (6) To prevent fires, waste, and spillage as same relates to any activity regulated by the
176 provisions of this part;
- 177 (7) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks,
178 plants, structures, and all storage and transportation equipment and facilities;
- 179 (8) To regulate the 'shooting,' perforating, fracturing, hydraulic fracturing, and chemical
180 treatment of wells;
- 181 (9) To regulate secondary recovery methods, including, but not limited to, the
182 introduction of gas, oil, water, or other substances into producing formations;
- 183 (10) To limit and prorate the production of oil or gas, or both, from any pool or field for
184 the prevention of waste as defined in Code Section 12-4-42;
- 185 (11) To require, either generally or in or from particular areas, certificates of clearance
186 or tenders in connection with the transportation of oil or gas produced in Georgia;
- 187 (12) To regulate the spacing of wells and to establish drilling units;
- 188 (13) To prevent, insofar as is practical, avoidable drainage from each developed unit
189 which is not equalized by counterdrainage;
- 190 (14) To establish procedures for the plugging and abandonment of wells regulated under
191 this part and to establish procedures for the restoration and reclamation of well sites;
- 192 (15) To require that accurate records be kept on forms to be prescribed by the director,
193 which records shall be reported to the director within the time specified in such rules and
194 regulations; reports shall include such information as the director may prescribe,
195 including, but not limited to, information concerning cuttings, subsurface samples, and
196 lithologic and geophysical logs;
- 197 (16) To require that geologic and testing information obtained from a well regulated
198 under this part be held in confidence by the director for a period of at least six months
199 from the time of drilling to total depth, or, if the director approves, a longer period, if the
200 operator makes a written request for the same stating the length of the extension desired
201 and the reasons therefor; provided, however, that the guarantee of confidentiality
202 provided for in this paragraph shall in no way impair the ability of the board or the
203 director to enforce this part;

204 (17) To regulate the issuance, denial, and revocation of permits and to regulate bonds
205 required under this part, except as to persons provided for in paragraph (18) of this Code
206 section;

207 (18) To regulate the issuance of permits to persons who have been found to have violated
208 any provision of this part, any rule or regulation adopted and promulgated pursuant to this
209 part, or any order or permit issued under this part, and to establish the amount of bond for
210 such persons;

211 (19) To regulate the cooperative development or operation of all or part of an oil or gas
212 pool as a unit;

213 (20) To require that certain geophysical logging and other tests be conducted to ensure
214 that the requirements of paragraphs (1), (8), and (14) of this Code section are met; and

215 (21) To regulate the underground storage or disposal of substances other than those
216 substances covered by the provisions of Article 3 of Chapter 4 of Title 46.

217 (b) On or before July 1, 2018, the board shall adopt regulations governing hydraulic
218 fracturing operations. Such regulations shall include, at a minimum:

219 (1) Provisions for public notice of any application for any permit for any hydraulic
220 fracturing well, such notice to be given before any decision on the permit application.
221 The contents of such public notice shall include, at a minimum:

222 (A) The name, address, and telephone number of the division contact where further
223 information can be obtained;

224 (B) The name and address of the applicant;

225 (C) The location of the well proposed to be fractured and the route of any directional
226 borehole to the end point of such borehole;

227 (D) A brief description of the project, including information regarding the sources of
228 water to be used as base fluid and estimated amounts and methods of wastewater
229 disposal; and

230 (E) A brief description of the public comment period and procedures the director will
231 follow to determine whether to issue the permit;

232 (2) Provisions for the identification of groundwater sources within one-half mile of any
233 proposed wellhead and within one-half mile along the route of any directional borehole
234 to the end point of such borehole, and for groundwater quality monitoring before, during,
235 and after drilling operations;

236 (3) Provisions providing for the mandatory disclosure of the chemicals in the fluids
237 used in hydraulic fracturing projects to the director and to the commissioner of public
238 health, and a fair process for the disclosure of fracturing fluids to facilitate transparency,
239 while protecting valuable trade secrets and allowing well owners, operators, and service
240 companies to protect their right to obtain an advantage over competitors;

- 241 (4) Provisions for the safe disposal of all hydraulic fracturing fluids; and
242 (5) Provisions for the restoration and reclamation of abandoned well sites, storage
243 facility sites, pits, and access roads.

244 12-4-45.

245 (a) In regard to the establishment of drilling units and operation units, the allocation of
246 production, the integration of separately owned tracts of land, and agreements in the
247 interest of conservation, the board, in addition to the jurisdiction, authority, or powers
248 granted elsewhere in this part, shall have the specific powers with respect to the exploration
249 or production of oil or gas enumerated below.

250 (1) **Drilling units.** For the prevention of waste and to avoid the augmenting and
251 accumulation of risk arising from the drilling of an excessive number of wells, the board
252 shall, after due investigation and a hearing, have full power and authority to establish
253 such drilling unit or units as may, in its discretion, seem most reasonable and practicable.
254 The board shall have control of the allocation of production over such units and shall,
255 after investigation and hearing, set up, establish, and allocate to each unit its just and
256 equitable share of production, and shall make such orders, rules, and regulations as will
257 give to each producer the opportunity to use his or her just and equitable share of the
258 reservoir energy of any pool. The board shall have power after notice and hearing to
259 review and approve, or disapprove, agreements made among owners or operators, or
260 among owners and operators in the interest of conservation of oil or gas or both or for the
261 prevention of waste. When two or more separately owned tracts of land are embraced
262 within an established drilling unit, the owners thereof may validly agree to integrate their
263 interests and to develop their lands as a drilling unit. Where, however, such owners have
264 not agreed to integrate their interests, the board may, for the prevention of waste or to
265 avoid the drilling of unnecessary wells, after notice and hearing, require such owners to
266 do so and to develop their lands as a drilling unit. Should the owners of separate tracts
267 embraced within a drilling unit fail to agree upon the integration of the tracts and the
268 drilling of a well on the unit, and should it be established that the board is without
269 authority to require integration as provided for above, then subject to all other applicable
270 provisions of this part, the owner of each tract embraced within the drilling unit may drill
271 on his or her tract, but the allowable production from said tract shall be such proportion
272 of the allowable production for the full drilling unit as the area of such separately owned
273 tracts bears to the full drilling unit.

274 (2) **Operation units.**

275 (A) For the prevention of waste and to assure the ultimate recovery of gas or oil, the
276 board may hold a hearing to consider the need for the operation as a unit of an entire

277 field, or of any pool or any portion thereof, or combination of pools, within a field, for
278 the production of oil or gas or both and other minerals which may be associated and
279 produced therewith by additional recovery methods.

280 (B) At the conclusion of the hearing the board shall issue an order requiring unit
281 operation if it finds that:

282 (i) Unit operation of the field, or of any pool or of any portion or combinations
283 thereof within the field, is reasonably necessary to prevent waste as defined in Code
284 Section 12-4-42 or to increase the ultimate recovery of oil or gas by additional
285 recovery methods; and

286 (ii) The estimated additional cost incident to the conduct of such operation will not
287 exceed the value of the estimated additional recovery of oil or gas; provided,
288 however, that the board shall be authorized to prohibit the production of gas or oil by
289 any recovery method if it has determined that such recovery method will result in
290 waste or reduce the ultimate recovery of gas or oil from any field or pool or portion
291 or combination thereof.

292 (C) The phrase 'additional recovery methods' as used in this Code section shall include,
293 but shall not be limited to, the maintenance or partial maintenance of reservoir
294 pressures by any method recognized by the industry and approved by the board;
295 recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid
296 hydrocarbons or any other substance, or any combination or combinations thereof; or
297 any other secondary method of producing hydrocarbons recognized by the industry and
298 approved by the board.

299 (D) The order provided for in subparagraph (B) of this paragraph shall be fair and
300 reasonable under all the circumstances, shall protect the rights of interested parties, and
301 shall include:

302 (i) A description of the area embraced, termed the unit area; and a description of the
303 affected pool or pools, or portions thereof, which lie within the unit area;

304 (ii) A statement of the nature of the operations contemplated;

305 (iii) A method of allocation among the separately owned tracts in the unit area of all
306 the oil or gas or both produced from the unit pool within the unit area and not required
307 in the conduct of such operation or unavoidably lost, such method of allocation to be
308 on a formula that is fair and equitable and will protect the correlative rights of all
309 interested parties;

310 (iv) A provision for adjustment among the owners of the unit area (not including
311 royalty owners) of their respective investments in wells, tanks, pumps, machinery,
312 materials, equipment, and other things and services of value attributable to the unit
313 operations. The amount to be charged unit operations for any such item shall be

314 determined by the owners of the unit area (not including royalty owners); provided,
315 however, that if such owners of the unit area are unable to agree upon the amount of
316 such charges, or to agree upon the correctness thereof, the board shall determine the
317 amount after due notice and hearing thereon. The net amount charged against the
318 owners of a separately owned tract shall be considered expense of unit operation
319 chargeable against such tract. The adjustment provided for in this division may be
320 treated separately and handled by agreements separate from the unitization agreement;

321 (v) A provision that the costs and expenses of unit operations, including investment,
322 past and prospective, be charged to the separately owned tracts in the same
323 proportions that such tracts share in unit productions. The expenses chargeable to a
324 tract shall be paid by the person or persons not entitled to share in production free of
325 operating costs, and who, in the absence of unit operation, would be responsible for
326 the expense of developing and operating such tracts, and such person's or persons'
327 interest in the separately owned tract shall be primarily responsible therefor. The
328 obligation or liability of such persons in the several, separately owned tracts for the
329 payment of unit expense shall at all times be several and not joint or collective. The
330 unit operator shall have a first and prior lien upon the leasehold estate exclusive of the
331 royalty interest provided thereby and unleased oil and gas rights, exclusive of
332 one-eighth interest therein, in and to each separately owned tract, and the interest of
333 the owners thereof in and to the unit production and all equipment in possession of
334 the unit, to secure the payment of the amount of the unit expense charged to and
335 assessed against such separately owned tract;

336 (vi) The designation of, or a provision for the selection of, a unit operator. The
337 conduct of all unit operations by the unit operator and the selection of a successor to
338 the unit operator shall be governed by the terms and provisions of the unitization
339 agreements;

340 (vii) A provision that when the full amount of any charge made against any interest
341 in a separately owned tract is not paid when due by the person or persons primarily
342 responsible therefor, then all of the oil and gas production allocated to the interest in
343 default in such separately owned tract, upon which production the unit operator has
344 a lien, may be appropriated by the unit operator and marketed and sold for the
345 payment of such charge, together with interest at a fair and equitable rate as
346 determined by the board thereon. The remaining portion of the unit production or the
347 proceeds derived therefrom allocated to each separately owned tract shall in all events
348 be regarded as royalty to be paid to the owners, free and clear of all unit expense and
349 free and clear of any lien therefor. The owner of any overriding royalty, oil and gas
350 payment, or other interest, who is not primarily responsible for the unpaid obligation,

351 shall, to the extent of any payment or deduction from his or her share, be subrogated
 352 to all the rights of the unit operator with respect to the interest or interests primarily
 353 responsible for such payment. Any surplus received by the operator from any such
 354 sale of production shall be credited to the person or persons from whom it was
 355 deducted in the proportion of their respective interest; and

356 (viii) The time the unit operation shall become effective, and the manner in which,
 357 and the circumstances under which, the unit operation shall terminate.

358 (E) An order requiring unit operation shall not become effective unless and until a
 359 contract incorporating the unitization agreement has been signed or in writing ratified
 360 or approved by the owners of at least ~~75~~ 85 percent in interest as costs are shared under
 361 the terms of the order and by ~~75~~ 85 percent in interest, as production is to be allocated,
 362 of the royalty owners in the unit area, and unless and until a contract incorporating the
 363 required arrangements for operations has been signed or in writing ratified or approved
 364 by the owners of at least ~~75~~ 85 percent in interest as costs are shared, and unless and
 365 until the board has made a finding, either in the order or in a supplemental order, that
 366 those contracts have been signed, ratified, or approved. Both contracts may be
 367 encompassed in a single document. In the event the required percentage interests have
 368 not signed, ratified, or approved such agreements within six months from and after the
 369 date of such order, or within such extended period as the board may prescribe, the order
 370 shall be automatically revoked.

371 (F)(i) The board, by entry of new or amending orders, may from time to time add to
 372 unit operations portions of pools not theretofore included, and may add to unit
 373 operations new pools or portions thereof, and may extend the unit area as required.
 374 Any such order, in providing for allocation of production from a unitized zone of the
 375 unit area, shall first allocate to such pool or pools, or portion thereof so added, a
 376 portion of the total production of oil or gas, or both, from all pools affected within the
 377 unit area, as enlarged and not required in the conduct of unit operations or
 378 unavoidably lost. Such allocation shall be based on a formula for sharing that is
 379 considered to treat each tract and each owner fairly and equitably during the
 380 remaining course of unit operations. The production so allocated to such added pool
 381 or pools or portions thereof shall be allocated to the separately owned tracts which
 382 participate in such production on a fair and equitable basis. The remaining portion
 383 of unit production shall be allocated among the separately owned tracts within the
 384 previously established unit area in the same proportions as those specified prior to the
 385 enlargement unless such proportions are shown to be erroneous by data developed
 386 subsequent to the former determination, in which event the errors shall be corrected.
 387 Orders promulgated under this Code section shall become operative at 7:00 A.M. on

- 388 the first day of the month next following the day on which the order becomes
389 effective.
- 390 (ii) An order promulgated by the board under this subparagraph shall not become
391 effective unless and until:
- 392 (I) All of the terms and provisions of the unitization agreement relating to the
393 extension or enlargement of the unit area or to the addition of pools or portions
394 thereof to unit operations have been fulfilled and satisfied, and evidence thereof has
395 been submitted to the board; and
- 396 (II) The extension or addition effected by such order has been agreed to in writing
397 by the owners of at least ~~75~~ 85 percent in interest as costs are shared in the area or
398 pools or portions thereof to be added to the unit operation by such order and
399 by ~~75~~ 85 percent in interest, as production is to be allocated, of the royalty owners
400 in the area or pools or portions thereof to be added to the unit operations by such
401 order, and evidence thereof has been submitted to the board.
- 402 (iii) In the event both of the requirements specified in subdivisions (I) and (II) of
403 division (ii) of this subparagraph are not fulfilled within six months from and after the
404 date of such order or within such extended period as the board may prescribe, the
405 order shall be automatically revoked.
- 406 (G) When the contribution of a separately owned tract with respect to any unit pool has
407 been established, such contribution shall not be subsequently altered except to correct
408 a mathematical or clerical error that caused the tract contribution to be erroneous,
409 unless an enlargement of the unit is effected. No change or correction of the
410 contribution of any separately owned tract shall be given retroactive effect, but
411 appropriate adjustment shall be made for the investment charges as provided in this
412 Code section.
- 413 (H) The portion of unit production allocated to a separately owned tract within the unit
414 area shall be deemed, for all purposes, to have been actually produced from such tract,
415 and operations with respect to any unit pool within the unit area shall be deemed, for
416 all purposes, to be the conduct of operations for the production of oil or gas, or both,
417 from each separately owned tract in the unit area.
- 418 (b) Owners, operators, and royalty owners who have separate holdings in the same oil or
419 gas pool or in any area that appears from geological or other data to be underlaid by a
420 common accumulation of oil or gas or both are authorized to make agreements among
421 themselves for establishing and carrying out a plan for the cooperative development and
422 operation of the pool or area, provided that such agreements must be approved by the
423 board; provided, further, that such agreements must be for the purpose of conserving gas
424 or oil or both, or for the prevention of waste, or to assure the ultimate recovery of gas or

425 oil or both. Such agreements shall not be held or construed to violate any of the laws of
426 this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

427 12-4-46.

428 (a) Before any well covered by this part, other than wells for the production of fresh water,
429 may be drilled, the person desiring to drill the well shall apply to the director for a drilling
430 permit, using such forms as the director may prescribe, and shall pay a fee of ~~\$25.00~~
431 \$500.00 for each permit.

432 (b) The director shall, within 30 days after the receipt of a properly completed application
433 from any person desiring to drill a well covered by this part, ~~either issue or deny a permit~~
434 ~~for the well~~ issue a public notice for the permit application by posting such notice to the
435 division website and by sending such notice via mail or electronic mail to any persons who
436 have requested notification of permit applications from the division. The director shall
437 allow for a 30 day public comment period to begin running from the date the public notice
438 is posted on the division website and as outlined in subsection (c) of this Code section. The
439 director shall review and consider the public comments received during the public
440 comment period.

441 (c) The permit applicant shall provide the director's public notice of the proposed well
442 directly to property owners and residents who may be impacted by the issuance of the
443 permit within ten days of the date of the public notice by, at a minimum:

444 (1) Posting the public notice along the road nearest to the proposed well;

445 (2) Providing the public notice to all persons owning real property within one-half mile
446 of the proposed wellhead and within one-half mile along the route of any directional
447 borehole and any residence that has any drinking water wells within one-half mile of the
448 proposed wellhead and within one-half mile along the route of any directional borehole;
449 and

450 (3) Publishing the public notice in at least one legal organ in the county where the well
451 will be located.

452 (d) After considering the permit application, the director shall either issue or deny a permit
453 for the well. The director shall notify the public of the final permit decision by posting the
454 decision to the division website and by sending notice of the decision via mail or electronic
455 mail to any persons who have requested notification of permit applications from the
456 division.

457 ~~(c)~~(e) In issuing or denying a permit for the drilling of a well covered by this part, the
458 director shall consider the extent to which the proposed well complies with this part, all
459 rules and regulations adopted and promulgated pursuant to this part, or any order under this
460 part.

461 ~~(d)~~(f) In issuing a permit for the drilling of any well covered by this part, the director shall
 462 specify therein such terms and conditions as he or she deems necessary to receive the
 463 permit and to lawfully operate thereunder. Permits shall include the following
 464 requirements:

465 (1) Requirements for testing the integrity of well casings;

466 (2) Requirements for maintenance and repair of roadways significantly impacted by
 467 drilling operations, including hydraulic fracturing activities; and

468 (3) Requirements for buffers around wells and property line setbacks that are sufficient
 469 to protect affected property owners from any noise, light, water, or air pollution resulting
 470 from any drilling operations.

471 (g) Any permit issued under this Code section shall become final unless ~~the~~ any person or
 472 persons named therein ~~request~~ requests in writing a hearing before an administrative law
 473 judge appointed by the board no later than 30 days after the issuance of such permit.

474 ~~(e)~~(h) The director shall have the power and the authority to revoke a permit for
 475 noncompliance with any of the provisions of this part, any rules and regulations
 476 promulgated under this part, or the special conditions contained in any permit.

477 ~~(f)~~(i) The issuance of a permit under this part in no way indicates a determination by the
 478 director as to property or contractual rights of the applicant to drill such a well at the
 479 designated location.

480 12-4-47.

481 (a) Prior to the issuance of a permit to drill any well covered by this part, the owner,
 482 operator, contractor, driller, or other person responsible for the conduct of the drilling
 483 operation shall furnish the state a bond or undertaking in the form prescribed by the board
 484 and in an amount set by the board, executed by a bonding, surety, or insurance company
 485 authorized to do business in this state in the favor of the state. Alternatively, the board in
 486 its discretion may require a similar undertaking executed only by such person to ensure a
 487 faithful performance of the requirements of this part, of any rules or regulations adopted
 488 pursuant thereto, or of any condition of a permit. Such bond or undertaking is intended to
 489 protect the state or any citizen thereof from any injury which may result from improper
 490 drilling.

491 (b) Any bond required under this part shall be released two years from the date of receipt
 492 by the director of all geological information required under this part or any rule or
 493 regulation adopted pursuant to this part; provided, however, that the director shall have
 494 examined and approved the abandoned well for which the bond was furnished.

495 (c) No bond required under this part shall exceed ~~\$50,000.00~~ \$100,000.00.

496 12-4-48.

497 (a) Whenever the director has reason to believe that any person is violating the provisions
498 of this part or any rule or regulation adopted pursuant to this part, the director may issue
499 an administrative order to that person. The order shall specify the provisions of this part
500 alleged to have been violated and shall order that corrective action be taken within a
501 reasonable period of time prescribed in the order. Any such order shall become final and
502 enforceable unless the person or persons named therein request in writing a hearing before
503 an administrative law judge appointed by the board no later than 30 days after the issuance
504 of the order.

505 (b) Whenever the director finds that an emergency exists requiring immediate action to
506 protect the public interest, the director may issue a provisional order reciting the existence
507 of such an emergency and requiring that such action be taken as is reasonably necessary
508 to meet the emergency under the circumstances, provided that such an emergency order
509 shall be issued only after an affidavit has been filed with the director showing specific facts
510 of such an emergency condition. Such order shall be effective immediately. Any person
511 against whom such order is directed shall upon appropriate notice comply therewith
512 immediately but on application to the director shall be afforded a hearing before an
513 administrative law judge appointed by the board within ten days of receipt of such
514 application by the director or, if the party applying so requests, within 48 hours of receipt
515 of such application by the director. Prior to such hearing, the director shall be authorized
516 to modify or revoke such order. After the hearing, the administrative law judge shall be
517 authorized to make such order as is just and reasonable, including an order continuing,
518 revoking, or modifying such provisional order.

519 (c) Whenever the director has reason to believe that any person is violating any provision
520 of this part or any rule or regulation adopted pursuant to this part, the director may bring
521 an action against such person in the proper superior court to restrain such person or persons
522 from continuing such violations. In such action, the director may seek injunctions,
523 including temporary restraining orders and temporary injunctions, without the necessity for
524 showing lack of an adequate remedy at law.

525 (d) Any person who willfully or negligently violates any provision of this part, any rule
526 or regulation adopted under this part, or any permit or final or emergency order of the
527 director shall be subject to a civil penalty of not less than \$50.00, but in any event not to
528 exceed \$10,000.00 for each act of violation. Each day of continued violation shall subject
529 such person to a separate civil penalty. An administrative law judge appointed by the
530 board, after a hearing shall determine whether or not any person has violated any provision
531 of this part or any rule or regulation adopted under this part or any permit or final or
532 emergency order of the director, and shall upon proper finding issue an order imposing

533 such civil penalties as provided in this Code section. Any person so penalized under this
 534 Code section is entitled to judicial review. In this connection, all hearings and proceedings
 535 for judicial review under this Code section shall be in accordance with Chapter 13 of Title
 536 50, the 'Georgia Administrative Procedure Act.' All civil penalties recovered by the
 537 director as provided by this chapter shall be paid into the state treasury to the credit of the
 538 general fund.

539 (e) In addition to any other enforcement remedy available to the director under this part,
 540 all illegal minerals and illegal products are declared to be contraband and forfeited to the
 541 state in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

542 (1) Any seizure of contraband shall be delivered to the director or his or her duly
 543 authorized agent;

544 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-12; and

545 (3) Property seized pursuant to this subsection shall not be required to be stored in an
 546 area within the jurisdiction of the court if such storage is not possible.

547 (f) Nothing in this Code section shall deny or abridge any cause of action a royalty owner,
 548 lienholder, or other claimant may have against any persons whose acts result in the
 549 forfeiture of the illegal oil, illegal gas, or illegal product.

550 12-4-49.

551 In the administration and enforcement of this part, all hearings before an administrative law
 552 judge shall be subject to Chapter 13 of Title 50, the 'Georgia Administrative Procedure
 553 Act.' Any party to said hearings (including the director) shall have the right of judicial
 554 review in accordance with Chapter 13 of Title 50.

555 12-4-50.

556 In any contested administrative hearing under this part, no person shall be excused from
 557 attending and testifying, or from producing books, papers, and records before the
 558 administrative law judge, or from obedience to the subpoena of the administrative law
 559 judge, on the ground or for the reason that the testimony or evidence, documentary or
 560 otherwise, required by him or her may tend to incriminate him or her or subject him or her
 561 to a penalty or forfeiture, provided that nothing contained in this Code section shall be
 562 construed as requiring any person to produce any books, papers, or records, or to testify in
 563 response to any inquiry, not pertinent to a question lawfully before the administrative law
 564 judge for determination. No evidence given by or required of any natural person shall be
 565 used or admitted against such a person in any criminal prosecution for any transaction,
 566 matter, or thing concerning which he or she may be required to testify or produce evidence,
 567 documentary or otherwise, before the administrative law judge in obedience to its

568 subpoena; provided, however, that no person testifying shall be exempt from prosecution
569 and punishment for perjury committed in so testifying.

570 12-4-51.

571 Any provision of Part 2 of Article 3 of Chapter 5 of this title which is inconsistent with this
572 part shall not be repealed by this part and shall govern over this part.

573 12-4-52.

574 This part shall not be construed as limiting the authority or functions of any officer or
575 agency of this state under any other law or regulation not inconsistent with this part.

576 12-4-52.1.

577 This part shall not be construed as limiting the authority of local governments to adopt
578 local zoning or land use ordinances limiting the location or timing of activities defined
579 herein for the purposes of protecting natural resources or human health and welfare.

580 12-4-53.

581 The following activities are prohibited:

- 582 (1) The waste of oil or gas as defined in this part;
- 583 (2) The sale, purchase, or acquisition or the transportation, refining, processing, or
584 handling of illegal minerals or illegal products;
- 585 (3) The sale, purchase, or acquisition or the transportation, refining, processing, or
586 handling in any other way of any mineral, including oil and gas, or any mineral product
587 without complying with this part or any rule or regulation of the board promulgated
588 pursuant to this part;
- 589 (4) Intentionally or negligently permitting any gas or oil well to get out of control;
- 590 (5) The drilling of any well covered by the provisions of this part by any person without
591 a permit for such drilling; and
- 592 (6) Any other violation of any provision of this part or any rule or regulation
593 promulgated under this part.

594 12-4-54.

595 (a) As used in this Code section, the term 'extractor' means any person removing oil or gas
596 from the ground pursuant to this part.

597 (b)(1) A severance tax shall be levied on oil or gas removed from the ground in this state
598 by an extractor as follows:

599 (A) Three cents per barrel of oil; and

600 (B) One cent per thousand cubic feet of gas.

601 (2) The Department of Revenue shall promulgate rules and regulations as necessary to
 602 implement and administer the provisions of this subsection and shall promulgate and
 603 make available forms for the use of extractors to assist in compliance with this
 604 subsection.

605 (c)(1) In addition to the tax provided for in subsection (b) of this Code section, the
 606 governing authority of each county and each municipal corporation is authorized to
 607 provide by local ordinance or resolution for the levy, assessment, and collection of a
 608 severance tax on oil or gas removed from the ground by an extractor within the
 609 jurisdiction of such county or municipality as follows:

610 (A) An amount not to exceed nine cents per barrel of oil; and

611 (B) An amount not to exceed two cents per thousand cubic feet of gas.

612 (2) The severance tax provided for in paragraph (1) of this subsection shall be collected
 613 by the Department of Revenue in the same manner and under the same procedures as
 614 provided for pursuant to subsection (b) of this Code section on behalf of each county and
 615 municipality electing to exercise the powers conferred herein and shall be remitted to
 616 each such county and municipality accordingly."

617 **SECTION 2.**

618 Code Section 12-8-39 of the Official Code of Georgia Annotated, relating to landfill cost
 619 reimbursement fees and surcharges, is amended by revising subsection (d) as follows:

620 "(d) Effective ~~January 1, 1992~~, July 1, 2017, when a municipal solid waste disposal facility
 621 is operated by private enterprise, the host local government is authorized and required to
 622 impose a surcharge of ~~\$1.00~~ \$3.00 per ton or volume equivalent in addition to any other
 623 negotiated charges or fees which shall be imposed by and paid to the host local government
 624 for the facility and shall be used to offset the impact of the facility, public education efforts
 625 for solid waste management, the cost of solid waste management, and the administration
 626 of the local or regional solid waste management plan; provided, however, that such
 627 surcharges may be used for other governmental expenses to the extent not required to meet
 628 the above or other solid waste management needs."

629 **SECTION 3.**

630 All laws and parts of laws in conflict with this Act are repealed.