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## **OLR Bill Analysis**

**sSB 753 (File 56, as amended by Senate "A")\***

### ***AN ACT CONCERNING THE STATE-WIDE BAN ON FRACKING WASTE.***

#### **SUMMARY**

This bill, with a limited exception for research, permanently bans accepting, receiving, collecting, storing, treating, transferring, selling, acquiring, handling, applying, processing, and disposing of hydraulic fracturing ("fracking") waste, natural gas waste, or oil waste in Connecticut. Current law imposes a narrower ban that generally applies to accepting, receiving, collecting, storing, treating, transferring, and disposing of fracking waste until the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations to, among other things, control it as hazardous waste. (DEEP has not adopted such regulations.)

The bill maintains existing law's exception for conducting certain fracking waste research. However, it requires the DEEP commissioner, before approving a research request, to adopt regulations that, among other things, eliminate the exemption in the state's hazardous management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy.

The bill bans the sale, offer, barter, manufacture, distribution, and use of anti-icing, de-icing, pre-wetting, or dust suppression products derived from or containing fracking waste, natural gas waste, or oil waste. Under current law, the DEEP commissioner may regulate products derived from fracking waste through regulations.

The bill also requires anyone exploring for oil or gas to register with DEEP on a form the commissioner prescribes. Under current law, such a person has to register only after the commissioner adopts regulations

providing (1) standards for oil and gas exploration and production wells and (2) the registration fee, which must be enough to pay the registration program's administrative costs. The bill continues to require such regulations.

Lastly, the bill specifies that the state law on fracking, natural gas, and oil waste preempts any municipal ordinance or act on accepting, receiving, collecting, storing, treating, transferring, selling, acquiring, handling, applying, processing, and disposing of such waste, including the discharge of wastewaters into or from a pollution abatement facility.

\*Senate Amendment "A" specifies that the state law on fracking, natural gas, and oil waste preempts related municipal ordinances.

EFFECTIVE DATE: Upon passage

### **BAN ON FRACKING, NATURAL GAS, OR OIL WASTE**

Under the bill, no person, including an individual, business, or political subdivision of the state, may accept, receive, collect, store, treat, transfer, sell, acquire, handle, apply, process, or dispose of fracking, natural gas, or oil waste (see Expanded Definitions below). The ban includes discharging wastewaters into or from a pollution abatement facility or introducing natural gas or oil waste into a solid waste management facility in, or operated by, the state.

The bill eliminates a provision that allows a person to collect or transport fracking waste for receipt, acceptance, or transfer in the state if he or she obtains a DEEP permit before doing so. Consequently, it prohibits the practice.

It also eliminates the DEEP commissioner's authority to adopt regulations allowing the sale, offer, barter, manufacture, distribution, or use of an anti-icing, de-icing, pre-wetting, or dust suppression product derived from or containing fracking waste. Thus, the bill bans these actions and also applies the ban to products derived from natural gas and oil waste.

## **RESEARCH EXCEPTION**

The bill maintains a provision in existing law that allows certain fracking waste research to be conducted in the state, but it prohibits the DEEP commissioner from approving such a request until there are applicable regulations. The bill also expands the type of waste that a person may conduct research on to include natural gas or oil waste, but it does not increase the amount of waste that can be used for research.

As under existing law, DEEP may approve up to three requests for a person to treat up to 330 gallons of waste for research purposes or a single request for treating up to 500 gallons. The research is limited to determining whether the waste can be made suitable for use or reuse.

### ***Regulations Required***

Before approving a research request, the bill requires the commissioner to adopt regulations, which must:

1. eliminate the exemption in the state's hazardous waste management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy;
2. ensure that any radioactive materials that may be in the waste do not pollute the state's air, land, or waters or threaten human health or the environment;
3. require disclosure of the waste's composition; and
4. require that records be kept on the waste's origins and intermediate and final delivery points.

## **EXPANDED DEFINITIONS**

Under current law, "hydraulic fracturing" refers to the process of pumping fluid into or under the ground's surface for purposes of fracturing rock to explore for, develop, produce, or recover natural gas. The bill broadens the definition by also applying it to oil and other subsurface hydrocarbons. The bill additionally provides that "waste

from hydraulic fracturing” includes any substances that are associated with, instead of only used for or generated secondarily to, fracking.

Under the bill, “natural gas waste” is:

1. liquid or solid waste, or its parts, from natural gas extraction activity;
2. solid waste leachate associated with the activity;
3. waste from, or associated with, natural gas underground storage;
4. waste from, or associated with, liquefied petroleum gas well storage operations; and
5. products or byproducts from treating, modifying, or processing these wastes.

The bill defines “oil waste” as (1) liquid or solid waste, or its parts, from oil extraction activity; (2) solid waste leachate associated with the activity; and (3) products or byproducts from treating, modifying, or processing these wastes.

Extraction activity refers to geological or geophysical activities related to exploring for or extracting natural gas or oil, such as core and rotary drilling and fracking.

### **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 1 (02/25/2019)

Judiciary Committee

Joint Favorable

Yea 38 Nay 0 (04/30/2019)