



January 21, 2011

# SENATE BILL No. 71

DIGEST OF SB 71 (Updated January 18, 2011 5:42 pm - DI 118)

**Citations Affected:** IC 14-8; IC 14-10; IC 14-37; IC 32-23.

**Synopsis:** Coal bed methane and other oil and gas issues. Allows the department of natural resources to adopt emergency rules for most aspects of oil and gas and other petroleum regulation. Provides that oil and gas statutes do not apply to methane ventilation governed under an approved federal Mine Safety and Health Administration coal mine ventilation plan. Requires the natural resources commission to regulate various aspects of coal bed methane wells. Provides for regulation of coal bed methane wells and other gas wells in a similar manner. Requires coal bed methane well permit applicants to disclose chemicals to be used in the stimulation process of coal seams. Terminates the restriction on the extraction of coal bed methane from a well for oil and gas purposes. Requires the division of oil and gas (division) to give notice to interested persons of applications for coal bed methane permits, prohibits issuance of a permit less than 30 days after the posting, and establishes other permit issuance criteria. Requires the division of oil and gas to act on a permit application within fifteen (15) days after the elapse of the notice period to parties interested in developing commercially minable coal resources. Requires the director of the division of oil and gas to hold, within 30 days after a request, an informal hearing when there is a dispute regarding well locations. Allows the division to require an owner or operator to modify the location for the drilling of a well for oil and gas purposes, and requires an owner or operator to provide notice of the intent to drill under certain circumstances. Establishes coal seam  
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**Effective:** July 1, 2011.

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## Gard, Steele, Hume

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January 5, 2011, read first time and referred to Committee on Energy and Environmental Affairs.  
January 20, 2011, amended, reported favorably — Do Pass.

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SB 71—LS 6335/DI 52+



Digest Continued

protection requirements with respect to producing vertical oil and gas wells. Adjusts the requirements for an affidavit and map used to determine if a commercially minable coal resource is present in an area for which a permit application has been filed. Allows the division to release information regarding the presence of commercially minable coal seams to a person with an interest only in oil and gas explorations in addition for a well applicant. Adjusts the requirements for plugging wells. Allows the director of the division of oil and gas to approve alternative plugging methods. Allows an owner or operator of a coal mine to burn by flares coal bed methane under certain circumstances. Limits the exercise of rights in certain circumstances under a coal bed methane estate if the exercise affects miner safety or coal resources. Establishes relative rights between a coal estate in land and a coal bed methane estate in land. Repeals provisions concerning requirements for coal seam protection and for plugging of wells.

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January 21, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 71

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A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 14-8-2-42.2, AS ADDED BY P.L.78-2010,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 42.2. "Coal bed methane", for purposes of  
4 ~~IC 14-37-4-1~~, **section 317 of this chapter and IC 14-37**, means  
5 gaseous substances of whatever character lying within or emanating  
6 from:  
7 (1) unmined coal seams, either naturally or as a result of  
8 stimulation of the coal seam;  
9 (2) the void created by mining out coal seams; or  
10 (3) the gob created by longwall or other extraction methods of  
11 coal mining.  
12 SECTION 2. IC 14-10-2-5, AS AMENDED BY P.L.123-2006,  
13 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2011]: Sec. 5. (a) The department may adopt emergency rules  
15 under IC 4-22-2-37.1 to carry out the duties of the department under  
16 the following:  
17 (1) IC 14-9.

SB 71—LS 6335/DI 52+



- 1 (2) This article.
- 2 (3) IC 14-11.
- 3 (4) IC 14-12-2.
- 4 (5) IC 14-14.
- 5 (6) IC 14-17-3.
- 6 (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
- 7 (8) IC 14-19-1 and IC 14-19-8.
- 8 (9) IC 14-20-1.
- 9 (10) IC 14-21.
- 10 (11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
- 11 (12) IC 14-23-1.
- 12 (13) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and
- 13 IC 14-25-13.
- 14 (14) IC 14-26.
- 15 (15) IC 14-27.
- 16 (16) IC 14-28.
- 17 (17) IC 14-29.
- 18 (18) IC 14-35-1, IC 14-35-2, and IC 14-35-3.
- 19 **(19) IC 14-37 and IC 14-38, except IC 14-38-3.**

20 (b) A rule adopted under subsection (a) expires not later than one  
 21 (1) year after the rule is accepted for filing by the publisher of the  
 22 Indiana Register.

23 SECTION 3. IC 14-37-1-5 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 2011]: **Sec. 5. This article does not apply to methane ventilation  
 26 governed under an approved federal Mine Safety and Health  
 27 Administration coal mine ventilation plan.**

28 SECTION 4. IC 14-37-3-14.5 IS ADDED TO THE INDIANA  
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2011]: **Sec. 14.5. The commission shall:**

- 31 **(1) regulate coal bed methane wells and compliance with**
- 32 **IC 32-23-7-10 and IC 32-23-7-11;**
- 33 **(2) establish alternative spacing, survey, unit, and bonding**
- 34 **requirements for coal bed methane wells; and**
- 35 **(3) require that all coal bed methane well permit applications**
- 36 **include detailed plans for the following:**
  - 37 **(A) Stimulation, including disclosure of the types and**
  - 38 **amounts to be used of all fluids and chemicals, and any**
  - 39 **information necessary to assess the potential impact of**
  - 40 **stimulation on commercially minable coal resources and**
  - 41 **underground sources of drinking water.**
  - 42 **(B) Horizontal drilling.**

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**(C) Plugging of wells drilled by horizontal drilling.**

SECTION 5. IC 14-37-4-1, AS AMENDED BY P.L.78-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Subject to subsection (b), A person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.

(b) Except as provided in subsection (c) and (d):

(1) the extraction of coal bed methane from a well for oil and gas purposes on or after the effective date of this subsection and before July 1, 2012; is prohibited; and

(2) the department may not issue a permit under this chapter for the extraction of coal bed methane from a well for oil and gas purposes before July 1, 2012; regardless of whether the application for the permit was made to the department before the effective date of this subsection.

(c) Subsection (b) does not apply if the owner of the right to the coal from which the coal bed methane for which a permit is sought under this chapter is derived consents in an instrument binding on that owner to the extraction of the coal bed methane and to the issuance of the permit.

(d) Subsection (b)(1) does not apply to a coal bed methane well that is operated under a permit issued by the department.

SECTION 6. IC 14-37-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) Except as provided in section 9 of this chapter **and subject to subsections (b) and (c)**, if an applicant for a permit complies with:

- (1) this article; and
- (2) the rules adopted under this article;

the ~~commission~~ **director** shall issue a permit.

**(b) The division shall:**

- (1) maintain a list of parties with an interest in developing commercially minable coal resources who request in writing to be given notice of the filing of complete permit applications under this chapter with respect to coal bed methane; and**
- (2) give written notice of each complete permit application filed under this chapter with respect to coal bed methane not later than fifteen (15) days after the filing date to each party on the list maintained under subdivision (1).**

**(c) The notice given under subsection (b)(2) must include at least the following with respect to each proposed coal bed methane well:**

- (1) The location, type, and depth.**
- (2) The coal seam affected.**

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1           **(d) The division may not issue a permit under this chapter until**  
2 **all of the following requirements are satisfied:**  
3           **(1) At least thirty (30) days have elapsed after giving notice**  
4 **under subsection (b)(2).**  
5           **(2) The division has taken into consideration any comments**  
6 **received during the period referred to in subdivision (1) from**  
7 **a person interested in the future minability of a commercially**  
8 **minable coal resource.**  
9           **(3) The applicant has submitted to the director documentation**  
10 **demonstrating that the commercially minable coal seam**  
11 **outside the coal bed methane production area is protected**  
12 **adequately for future underground mining.**  
13           **(4) The director has issued a finding that the requirements of**  
14 **subdivisions (1) through (3) have been met.**  
15           **(e) The division shall issue or deny a permit under this chapter**  
16 **within fifteen (15) days after the elapse of the thirty (30) day notice**  
17 **period under subsection (d)(1).**  
18           SECTION 7. IC 14-37-7-3.5 IS ADDED TO THE INDIANA CODE  
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
20 1, 2011]: **Sec. 3.5. (a) Except as provided in subsection (b), the**  
21 **division may require an owner or operator to make reasonable**  
22 **modifications to the specific location for the drilling of a well for oil**  
23 **and gas purposes as required by this section if the modifications:**  
24           **(1) are necessary to protect commercially minable coal**  
25 **resources;**  
26           **(2) do not violate the drilling unit, well spacing, or other**  
27 **requirements of this article; and**  
28           **(3) do not result in waste.**  
29           **(b) Subsection (a) does not apply if the coal owner or coal lessee**  
30 **authorizes the drilling under IC 32-23-7-11(c)(2).**  
31           **(c) If an owner or operator proposes to drill a well for oil and**  
32 **gas purposes:**  
33           **(1) on land within the permit boundaries of an active**  
34 **underground mine permitted under IC 14-34;**  
35           **(2) on land underlaid by an inactive underground mine; or**  
36           **(3) on land:**  
37                   **(A) associated with a mine referred to in subdivision (1) or**  
38                   **(2) that is projected by the owner or operator to be mined;**  
39                   **and**  
40                   **(B) on which a commercially minable coal resource is**  
41                   **located;**  
42 **the owner or operator shall provide notice of the intent to drill the**

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1 well to the permittee of the mine under IC 14-34 or, in the case of  
 2 an inactive underground mine, to the person that has the right to  
 3 develop the coal resource.

4 (d) Except as provided in subsection (e), not more than fifteen  
 5 (15) days after receipt of the notice required by subsection (c), the  
 6 permittee of the mine under IC 14-34 or other person with the  
 7 right to develop the coal resources shall determine in writing  
 8 whether the specific location selected for the drilling of the well is  
 9 likely to result in either or both of the following:

10 (1) A significant diminution of the volume of coal ultimately  
 11 to be recovered from the underground mine.

12 (2) Endangerment of the health and safety of miners.

13 (e) Subsection (d) does not apply if the permittee of the mine  
 14 under IC 14-34 consents in writing to the placement of the well.

15 (f) A person that makes an affirmative determination under  
 16 subsection (d) shall:

17 (1) promptly provide a copy of the determination to the owner  
 18 or operator and the director; and

19 (2) identify alternative well locations that would:

20 (A) reduce or avoid diminution of the volume of coal  
 21 ultimately to be recovered from the underground mine;

22 (B) eliminate the likelihood of endangerment of the health  
 23 and safety of miners;

24 (C) not violate the drilling unit, well spacing, or other  
 25 requirements of this article; and

26 (D) not result in waste.

27 (g) If:

28 (1) the permittee of a mine under IC 14-34 or other person  
 29 with the right to develop the coal resources; and

30 (2) the owner or operator;

31 are unable to agree on a suitable location for the well that is not  
 32 likely to result in endangerment of the health and safety of miners,  
 33 the parties may request an informal hearing. The director shall  
 34 conduct, within thirty (30) days after a request is made, an  
 35 informal hearing under IC 14-37-3-16 to gather information to  
 36 identify an alternative well location as described in subsection  
 37 (f)(2).

38 (h) If:

39 (1) the director does not after the informal hearing under  
 40 subsection (g) identify a suitable location for the well that is  
 41 not likely to result in endangerment of the health and safety  
 42 of miners; and

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1           (2) the location for the well for which notice was provided  
 2           under subsection (c) is not likely to result in endangerment of  
 3           the health and safety of miners;  
 4           the owner or operator is not required to modify the location of the  
 5           proposed well and may proceed with the submittal of the permit  
 6           application to the department under this article.

7           SECTION 8. IC 14-37-7-4 IS AMENDED TO READ AS  
 8           FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If a **vertical or**  
 9           **vertical part of a horizontal** well is drilled and completed as a  
 10          producing well:

- 11           (1) through a commercially minable coal resource; and
- 12           (2) within an area **permitted under IC 14-34** or for which a ~~mine~~  
 13           ~~plan is an affidavit and map has been~~ filed with the commission  
 14           but for which an intermediate string is not required under section  
 15           3 8 of this chapter;

16          an owner or operator shall set a production string of casing properly  
 17          centralized and cemented and documented by a sonic cement  
 18          bond-variable density log:

19          (b) An owner or operator must provide at least forty-eight (48) hours  
 20          notice to the:

- 21           (1) department; and
  - 22           (2) person who filed the mine plan;
- 23          before commencing logging operations under this section:

24          (c) The person who filed the mine plan is entitled to:  
 25           (1) be present during the logging operations; and  
 26           (2) examine the log:

27          to ensure that adequate cement is placed behind the casing in the  
 28          area between fifty (50) feet below and one hundred (100) feet above  
 29          the commercially minable coal seam.

30          (b) On completion of the coal seam protection requirements of  
 31          subsection (a), the owner or operator shall prepare and submit an  
 32          affidavit on a form provided by the division to the director that  
 33          includes the following:

- 34           (1) Verification that the commercially minable coal resource  
 35           was protected as required by subsection (a).
- 36           (2) A cross-section drawing of the well showing the location of  
 37           each centralizer in the completed well.
- 38           (3) Evidence that adequate cement was circulated behind the  
 39           casing as required by subsection (a).

40          (c) The director may require the owner or operator to run a  
 41          cement bond-variable density log or other similar logging  
 42          procedure to determine the adequacy of cement bonding if the

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**director believes either or both of the following:**

**(1) That adequate cement has not been circulated to protect the commercially minable coal resource.**

**(2) That centralizers were not placed at locations necessary to properly centralize the casing through the coal seam.**

~~(d) The commission shall determine the adequacy of cement bonding. If there is a bonding failure the logging procedure under subsection (c) indicates that adequate cement bonding has not occurred~~ between fifty (50) feet below and one hundred (100) feet above the commercially minable coal resource, the owner or operator shall perform remedial action, as ordered by the ~~commission~~, **director**, that results in adequate bonding.

**(e) The owner or operator shall:**

**(1) submit:**

**(A) to the division the original of the affidavit required by subsection (b) and a copy of any logs required by subsection (c); and**

**(B) to the owner or operator of the commercially minable coal resource, if known, a copy of the affidavit required by subsection (b) and of any logs required by subsection (c); and**

**(2) complete the submission under subdivision (1) not later than thirty (30) days after ~~commencing~~ the later of the following:**

**(A) The date of completion of the well.**

**(B) The date of completion of any logging operations; the owner or operator shall provide the department and the person who filed the mine plan with a copy of the sonic cement bond-variable density log- procedure under subsection (c).**

**(f) If the director finds that coal seam protection measures taken by an owner or operator did not adequately protect the coal seam during coal mining operations in close proximity to a well that has not been plugged under IC 14-37-8-2 for which an affidavit is submitted under subsection (b), the owner or operator shall perform additional remedial action to ensure protection of the coal resource and the health and safety of miners. Significant water, gas, or other fluid movement into the underground mine that is transmitted through the annular space outside the protective casing string is evidence of a failure to adequately protect the coal seam.**

~~(f)~~ **(g) Preparation of the log and any remedial action required under this section are at the expense of the owner or operator.**

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1 SECTION 9. IC 14-37-7-8 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 8. (a) The owner or lessee of coal or another person  
4 with an interest to develop a coal resource may file with the  
5 division an affidavit that:**

6 **(1) identifies by a map prepared by an engineer licensed  
7 under IC 25-31 or a geologist licensed under IC 25-17.6:**

8 **(A) the location of coal that the owner or lessee holds for  
9 later commercial production;**

10 **(B) the location of coal that is in an area targeted for later  
11 commercial production;**

12 **(C) the location of the coal seam or seams of interest; and**

13 **(D) the approximate depth of the coal seam or seams of  
14 interest; and**

15 **(2) states that the coal:**

16 **(A) can be mined using generally accepted underground  
17 mining practices; and**

18 **(B) is of sufficient quantity and quality to be commercially  
19 saleable.**

20 **(b) All coal in an area designated under subsection (a) is  
21 considered a commercially minable coal resource.**

22 **(c) An affidavit referred to in subsection (a) may be made before  
23 applying for permits for the actual mining of the commercially  
24 minable coal resource. The division shall:**

25 **(1) subject to subsection (e), keep the affidavit and map  
26 confidential; and**

27 **(2) use the affidavit and map solely for determining if a  
28 commercially minable coal resource is present in an area for  
29 which a permit application has been filed under IC 14-37.**

30 **(d) The division shall determine if the proposed well location is  
31 in an area underlain by coal identified in subsection (a) upon  
32 receipt of:**

33 **(1) a permit application referred to in subsection (c)(2); or**

34 **(2) an inquiry from a person interested in oil and gas  
35 explorations or drilling a well for oil and gas purposes.**

36 **(e) The name of the person who filed the map referred to in  
37 subsection (c) is not confidential.**

38 SECTION 10. IC 14-37-8-2 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2. (a) Plugging  
40 methods must be approved by the commission and must permanently  
41 confine all oil, natural gas, and water in their original strata. Mud-laden  
42 fluid, cement, or mechanical plugs, or other methods or materials**

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1 approved by the director ~~shall~~ must be used singly or in combination.  
 2 (b) Subject to subsection (c), the commission shall adopt rules  
 3 under IC 4-22-2 to prescribe plugging methods for wells that  
 4 impact commercially minable coal resources.  
 5 (c) The plugging methods under subsection (b) do not apply to  
 6 a well if the consent of the coal owner or coal lessee is granted  
 7 under IC 32-23-7-11(c)(2).  
 8 SECTION 11. IC 14-37-8-4 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section  
 10 applies to a well that is being plugged as a dry hole immediately  
 11 following the completion of drilling or redrilling operations.  
 12 (b) Subject to subsection (c), an owner or operator ~~shall~~ notify  
 13 must give verbal or written notice of intent to plug a well to an oil  
 14 and gas inspector at least ~~forty-eight (48)~~ twelve (12) hours before  
 15 beginning the plugging and ~~abandoning a~~ of the well under this  
 16 chapter.  
 17 (c) Except as provided in subsection (d), an oil and gas inspector  
 18 must be present during the plugging of a well.  
 19 (d) Subsection (c) does not apply if:  
 20 (1) the owner or operator notifies an oil and gas inspector  
 21 under subsection (b);  
 22 (2) as part of the notice the owner or operator informs the oil  
 23 and gas inspector of the plan for plugging the well; and  
 24 (3) the oil and gas inspector gives the owner or operator  
 25 verbal or written approval of the plan.  
 26 SECTION 12. IC 14-37-8-4.2 IS ADDED TO THE INDIANA  
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 28 [EFFECTIVE JULY 1, 2011]: Sec. 4.2. (a) This section applies to the  
 29 plugging of a well other than a well that is plugged under section  
 30 4 or 4.3 of this chapter.  
 31 (b) An owner or operator must give written notice of intent to  
 32 plug a well to the department on a form provided by the  
 33 department at least ten (10) days before beginning the plugging of  
 34 the well under this chapter.  
 35 (c) The notice under subsection (b) must include a plan for  
 36 plugging a well:  
 37 (1) that describes the specific methods that will be used; and  
 38 (2) that is sufficient to demonstrate compliance with the  
 39 requirements of this chapter.  
 40 (d) The owner or operator may not begin the plugging of any  
 41 well under this section until after receipt of written approval from  
 42 the department of the plan referred to in subsection (c).

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1 (e) The owner or operator shall give an oil and gas inspector  
2 verbal or written notice at least forty-eight (48) hours before the  
3 scheduled time to begin plugging operations on a well.

4 SECTION 13. IC 14-37-8-4.3 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JULY 1, 2011]: Sec. 4.3. (a) This section applies to the  
7 plugging of a well other than a well referred to in section 4 of this  
8 chapter if an emergency or other urgent condition requires the  
9 immediate plugging of the well.

10 (b) An emergency condition exists if a well is found to be leaking  
11 or discharging oil, gas, or other fluids in quantities that are capable  
12 of:

- 13 (1) causing substantial harm to the environment; or
- 14 (2) posing an immediate threat to public health or safety.

15 (c) An urgent condition exists if delay in the plugging of a well  
16 will result in a substantial increase in the cost to plug the well due  
17 to impending weather or other conditions that are beyond the  
18 control of the owner or operator.

19 (d) An owner or operator may begin plugging a well under this  
20 chapter upon verbal approval from the division director or a  
21 designated representative of the division director.

22 (e) An oil and gas inspector must be present during the plugging  
23 of a well only if the presence of the inspector is required in the  
24 approval given under subsection (d).

25 SECTION 14. IC 14-37-8-4.4 IS ADDED TO THE INDIANA  
26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2011]: Sec. 4.4. Not later than thirty (30)  
28 days after the completion of well plugging operations under this  
29 chapter, the operator shall submit a report of well plugging to the  
30 department describing in detail the specific methods used to plug  
31 the well. The report must:

- 32 (1) be on a form provided by the department; and
- 33 (2) include an affidavit that:
  - 34 (A) certifies that the well was plugged in accordance with
  - 35 this chapter; and
  - 36 (B) is signed by the person who performed the well
  - 37 plugging operations and the well owner or operator.

38 SECTION 15. IC 14-37-8-7 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The director of the  
40 division of oil and gas may require an owner or operator to redrill and  
41 replug a hole if the operator does not comply with section ~~5~~ 4, 4.2, or  
42 4.3 of this chapter.

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1 SECTION 16. IC 14-37-11-3 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2011]: **Sec. 3. The owner or operator of a**  
4 **coal mine may burn in flares the coal bed methane produced from**  
5 **a coal bed methane well if either or both of the following apply:**

- 6 (1) **The burning is necessary to protect coal miners' safety.**
- 7 (2) **It is not economical to market the coal bed methane.**

8 SECTION 17. IC 32-23-7-0.3 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. As used in this chapter, "coal**  
11 **bed methane" has the meaning set forth in IC 14-8-2-42.2.**

12 SECTION 18. IC 32-23-7-0.4 IS ADDED TO THE INDIANA  
13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE JULY 1, 2011]: **Sec. 0.4. (a) As used in this chapter,**  
15 **"coal bed methane estate in land" means the aggregate of all rights**  
16 **in land that affect the coal bed methane:**

- 17 (1) **in the land;**
- 18 (2) **on the land;**
- 19 (3) **under the land; or**
- 20 (4) **that may be taken from beneath the surface of the land.**

- 21 (b) **The term includes the following:**
  - 22 (1) **The right to produce coal bed methane for commercial use**  
23 **or sale.**
  - 24 (2) **The appurtenant right to use the surface overlying the coal**  
25 **bed methane for coal bed methane operations.**

26 SECTION 19. IC 32-23-7-0.5 IS ADDED TO THE INDIANA  
27 CODE AS A NEW SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2011]: **Sec. 0.5. (a) As used in this chapter,**  
29 **"coal bed methane production area" means the area of land**  
30 **determined by the operator in which multiple wells are drilled for**  
31 **a common production purpose.**

- 32 (b) **A coal bed methane production area need not be part of a**  
33 **unit or other area in which production is pooled.**

34 SECTION 20. IC 32-23-7-0.8 IS ADDED TO THE INDIANA  
35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2011]: **Sec. 0.8. As used in this chapter,**  
37 **"commercially minable coal resource" has the meaning set forth**  
38 **in IC 14-8-2-47.**

39 SECTION 21. IC 32-23-7-1 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 1. (a) As used in this**  
41 **chapter, "oil and gas" means petroleum and mineral oils and gaseous**  
42 **substances of whatever character naturally lying or found beneath the**

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1 surface of land.

2 **(b) The term does not include coal bed methane.**

3 SECTION 22. IC 32-23-7-2.5 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2011]: **Sec. 2.5. As used in this chapter,**  
6 **"operations for coal bed methane", unless otherwise indicated by**  
7 **the context of this chapter, means:**

8 **(1) the exploration, surveying, or testing of land for coal bed**  
9 **methane;**

10 **(2) other investigation of the potential of land for coal bed**  
11 **methane production;**

12 **(3) the actual drilling or preparation for drilling of wells for**  
13 **coal bed methane;**

14 **(4) the stimulation of coal bed methane production by**  
15 **hydrofracturing or otherwise;**

16 **(5) the collection and transportation by pipeline of coal bed**  
17 **methane from:**

18 **(A) the land; or**

19 **(B) nearby land that is a part of a coal bed methane**  
20 **production area that includes the land; or**

21 **(6) any other actions directed toward the eventual production**  
22 **or attempted production of coal bed methane from the land.**

23 SECTION 23. IC 32-23-7-4 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 4. (a) As used in this**  
25 **chapter, "person in interest" means:**

26 **(1) if used in reference to an oil and gas estate in land, the**  
27 **owner of a beneficial interest in the oil and gas estate in land; or**

28 **(2) if used in reference to a coal bed methane estate in land,**  
29 **the owner of a beneficial interest in the coal bed methane**  
30 **estate in land;**

31 whether the interest is held for life, for a term of years, or in fee.

32 **(b) The term includes a lessee, licensee, or duly qualified agent of**  
33 **the owner.**

34 **(c) The term does not include a mortgagee or security assignee of**  
35 **the owner if the mortgagee or security assignee does not have a right**  
36 **to the control or operation of the premises for:**

37 **(1) if used in reference to an oil and gas estate in land, oil and**  
38 **gas; or**

39 **(2) if used in reference to a coal bed methane estate in land,**  
40 **coal bed methane.**

41 SECTION 24. IC 32-23-7-7 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) This section**

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**applies to the following:**

**(1) Interests in oil and gas.**

**(2) Interests in coal bed methane.**

~~(a)~~ **(b) An interest referred to in subsection (a)** in, on, under, or that may be taken from beneath the surface of land located in Indiana may be created:

- (1) for life;
- (2) for a term of years; or
- (3) in fee;

in the manner and to the extent that other interests in real estate and title are created.

~~(b)~~ **(c)** Title to the estates specified under subsection ~~(a)~~ **(b)** may be vested in one (1) or more persons by:

- (1) sole ownership;
- (2) tenancy in common;
- (3) joint tenancy;
- (4) tenancy by the entireties; or
- (5) another manner recognized under Indiana law.

~~(c)~~ **(d)** Interests or estates specified in this section are freely alienable, in whole or in part, in the same manner as are other interests in real estate.

SECTION 25. IC 32-23-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) This chapter does not limit the rights of parties to contract with regard to ~~the an~~ **an oil and gas estate or a coal bed methane estate in land** affecting lands in Indiana:

- (1) to the extent permitted by; and
- (2) in a manner consistent with;

the nature of the estate in law as specified under this chapter.

(b) This chapter ~~is intended to declare~~ **declares** the law of ~~this the~~ state with regard to the subject matter treated in this chapter as the law existed before ~~March 5, 1951.~~ **July 1, 2011.**

(c) This chapter does not affect the rights or powers of any commission, board, or authority duly constituted for the regulation of the oil and gas industry **or the coal bed methane industry** in Indiana.

SECTION 26. IC 32-23-7-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 10. No surface right or any other right pertaining to coal bed methane and naturally flowing from the character of any instrument in law may be exercised if the exercise of the right:**

- (1) compromises in any way the safety of current miners of**

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1 coal; or  
 2 (2) has the potential to compromise in any way the safety of  
 3 miners who might mine coal in the future.  
 4 SECTION 27. IC 32-23-7-11 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2011]: **Sec. 11. (a) If ownership of coal bed**  
 7 **methane is separate from ownership of coal, no surface right or**  
 8 **any other right pertaining to coal bed methane and naturally**  
 9 **flowing from the character of any instrument in law may be**  
 10 **exercised without the consent of the coal owner and the coal mine**  
 11 **operator if exercising the right:**  
 12 (1) results in; or  
 13 (2) has the potential to result in the future in;  
 14 any diminution of a commercially minable coal resource in  
 15 Indiana.  
 16 (b) For purposes of subsection (a), the use of any or a  
 17 combination of the following is presumed to be among the activities  
 18 that has the potential to result in the future in diminution of a  
 19 commercially minable coal resource:  
 20 (1) Hydrofracturing the coal seam.  
 21 (2) Horizontal drilling in the coal seam.  
 22 (3) Any other technology that disturbs the integrity of either  
 23 or both of the following:  
 24 (A) The coal seam.  
 25 (B) The strata surrounding the coal seam.  
 26 (c) An application for a permit to drill into or through one (1)  
 27 or more coal seams for the purpose of testing or producing coal  
 28 bed methane must be accompanied by:  
 29 (1) subject to subsection (d), certification by affidavit of the  
 30 applicant that upon diligent inquiry, including reference to:  
 31 (A) the record of filings maintained by the department and  
 32 made by coal owners and lessees under IC 14-8-2-47; and  
 33 (B) publicly available records pertaining to thickness and  
 34 depth of coal;  
 35 the activities of the applicant do not and will not result in  
 36 diminution of a commercially minable coal resource; or  
 37 (2) subject to subsections (e) and (f), written consent of the  
 38 coal owner or coal lessee authorizing the drilling.  
 39 (d) If the alternative in subsection (c)(1) is used by the applicant,  
 40 an applicant who provides a certification under subsection (c)(1)  
 41 shall submit with the permit application proof that written notice  
 42 of the permit application has been received by the owner and, if

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applicable, the lessee of the coal through which drilling is proposed.

(e) If there is a coal lease, the coal owner and the coal lessee must include in the written consent under subsection (c)(2) a statement acknowledging that the recovery of coal bed methane might result in the diminution of the commercially minable coal resource.

(f) If there is no coal lease, the coal owner must include in the written consent under subsection (c)(2) a statement that the coal owner has not leased the coal for coal mining purposes.

(g) Persons with the following interests in the coal through which drilling is proposed may object to the issuance of the permit on the basis of diminution of a commercially minable coal resource:

- (1) The owner.
- (2) If applicable, the lessee.
- (3) Another person with an interest to develop a coal resource who files an affidavit under IC 14-37-7-8.

(h) A person who files an affidavit under IC 14-37-7-8 may not object to the issuance of the permit if a coal owner files a written consent under subsection (c)(2).

(i) The natural resources commission shall prescribe by rule the procedure for objection under subsection (g), including a reasonable deadline for initiating the objection.

SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: IC 14-37-7-3; IC 14-37-7-5; IC 14-37-8-5; IC 14-37-8-6; IC 14-37-8-9.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 37, after "Stimulation" delete "." and insert ", **including disclosure of the types and amounts to be used of all fluids and chemicals, and any information necessary to assess the potential impact of stimulation on commercially minable coal resources and underground sources of drinking water.**".

Page 3, line 25, strike "commission" and insert "**director**".

Page 4, between lines 10 and 11, begin a new paragraph and insert: "**(e) The division shall issue or deny a permit under this chapter within fifteen (15) days after the elapse of the thirty (30) day notice period under subsection (d)(1).**".

Page 5, line 9, delete "(e)" and insert "**(d)**".

Page 5, line 25, after "," insert "**the parties may request an informal hearing.**".

Page 5, line 26, delete "the" and insert "**The**".

Page 5, line 26, after "conduct" insert ", **within thirty (30) days after a request is made,**".

Page 5, line 41, after "vertical" insert "**or vertical part of a horizontal**".

Page 6, line 2, after "area" insert "**permitted under IC 14-34 or**".

Page 7, delete lines 32 through 34.

Page 8, line 26, after "in" insert "**oil and gas explorations or**".

Page 8, line 34, after "cement," strike "or".

Page 8, line 34, after "plugs" insert ", **or other methods or materials approved by the director**".

Page 8, line 37, delete "special".

Page 8, line 39, delete "Special" and insert "**The**".

Page 8, line 39, after "methods" insert "**under subsection (b)**".

Page 15, line 14, delete "department of natural resources" and insert "**natural resources commission**".

and when so amended that said bill do pass.

(Reference is to SB 71 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 9, Nays 1.

SB 71—LS 6335/DI 52+



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