

Regular Session, 2009

SENATE BILL NO. 41

BY SENATORS DUPRE, N. GAUTREAUX AND MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING. Changes the name of the Mineral Resources Operation Fund to the Mineral and Energy Operation Fund and requires the fund to be used by the Department of Natural Resources for the regulation of minerals, ground water and related energy activities. (7/1/09)

1 AN ACT

2 To amend and reenact R.S. 17:9(B) and 3367(B), R.S. 30:4(D)(1), (2) and (3), 83(G),

3 121(A), 123.1(A) and (C), 124, 126(A), 127(A), 127.1(B)(1), 128(A) and (B)(2),

4 131, 136(A)(1)(b) and (B)(1), (2) and (3), 136.1(A) and (B), 136.3(A) and (D), 137,

5 139, 141, 143(A), (D)(4), (5), (6), and (F), 144(A) and (B), 148.1, 148.2(A) and (B),

6 150(C)(1), 153, 154(C), 155, 156, 158, 159, 179.11, 179.12, 186, 187, 188(A) and

7 (B), 208, 209 (introductory paragraph), (2) and (4)(b), (d) and (e), 209.1(A) and

8 (B)(1), 212(A), (D)(2) and (3), 213, 214, 215, 216(B) and (C)(4), and 804, R.S.

9 34:3108(E), 3478(E) and 3498(E), R.S. 36:353, 359(E) and 807, R.S. 39:14(1), R.S.

10 41:643(A), 1217.1(B), 1732(A) and (B) and 1733, R.S. 42:6.1(A)(6), R.S. 44:18,

11 R.S. 56:30.3(B), 426(C), and 798(A)(1), (2)(b) and (c), relative to the Department

12 of Natural Resources; to change the name of the State Mineral Board to the State

13 Mineral and Energy Board; to change the name of the Mineral Resources Operation

14 Fund to the Mineral and Energy Operation Fund; to provide for the dedication of

15 monies in the fund; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 17:9(B) and 3367(B) are hereby amended and reenacted to read as

1 follows:

2 §9. Authority to execute mineral leases; approval by mineral board

3 * * *

4 B. Each lease sought to be executed under authority of this Section shall
5 require the prior approval of the ~~State Mineral Board~~ **State Mineral and Energy**
6 **Board**.

7 * * *

8 §3367. Authority to execute mineral leases on college and university lands; term;
9 use of revenues

10 * * *

11 B. Each lease sought to be executed under authority of this Section shall
12 require the prior approval of the ~~State Mineral Board~~ **State Mineral and Energy**
13 **Board**.

14 * * *

15 Section 2. R.S. 30:4(D)(1), (2) and (3), 83(G), 121(A), 123.1(A) and (C), 124,
16 126(A), 127(A), 127.1(B)(1), 128(A) and (B)(2), 131, 136(A)(1)(b) and (B)(1), (2) and (3),
17 136.1(A) and (B), 136.3(A) and (D), 137, 139, 141, 143(A), (D)(4), (5), (6), and (F), 144(A)
18 and (B), 148.1, 148.2(A) and (B), 150(C)(1), 153, 154(C), 155, 156, 158, 159, 179.11,
19 179.12, 186, 187, 188(A) and (B), 208, 209 (introductory paragraph), (2) and (4)(b), (d) and
20 (e), 209.1(A) and (B)(1), 212(A), (D)(2) and (3), 213, 214, 215, 216(B) and (C)(4), and 804
21 are hereby amended and reenacted to read as follows:

22 §4. Jurisdiction, duties, and powers of the assistant secretary; rules and regulations

23 * * *

24 D. The assistant secretary shall make, after notice and public hearing as
25 provided in this Chapter, any reasonable rules, regulations, and orders that are
26 necessary:

27 (1) To require that all pipelines, excluding field transmission, flow, and
28 gathering lines; all wells; and associated structures, including any fittings, tie-overs,
29 appliances, and equipment, which are constructed on state water bottoms pursuant

1 to the grant of a right-of-way by the secretary of the Department of Natural
2 Resources or the issuance of a lease by the ~~State Mineral Board~~ **State Mineral and**
3 **Energy Board** shall conform to the following provisions:

4 * * *

5 (2) To require that all field transmissions, flow, and gathering lines
6 constructed on state water bottoms pursuant to the grant of a right-of-way by the
7 secretary of the Department of Natural Resources or the issuance of a lease by the
8 ~~State Mineral Board~~ **State Mineral and Energy Board** shall meet all requirements
9 of the United States Army Corps of Engineers for burial and shall be located,
10 installed, marked, and maintained in a proper manner, to be approved by the assistant
11 secretary, so as to minimize undue interference with persons making other uses of
12 state waters or water bottoms, including mariners and fishermen.

13 (3) To require that all equipment, machinery, and materials associated with
14 the construction, operation, maintenance, or abandonment of all pipelines, including
15 field transmission, flow, and gathering lines; all wells; and all associated structures,
16 which are constructed on state water bottoms pursuant to the grant of a right-of-way
17 by the secretary of Department of Natural Resources or the issuance of a lease by the
18 ~~State Mineral Board~~ **State Mineral and Energy Board** shall conform to the
19 following provisions:

20 * * *

21 §83. Oilfield Site Restoration Commission; Department of Natural Resources

22 * * *

23 G. The records, documents, and meetings of the commission shall be subject
24 to the same requirements and exceptions regarding access by the public as are the
25 records, documents, and meetings of the ~~State Mineral Board~~ **State Mineral and**
26 **Energy Board**.

27 * * *

28 SUBPART A. ~~STATE MINERAL BOARD~~ **STATE**
29 **MINERAL AND ENERGY BOARD**

1 against that lessee in the amount of one hundred dollars per day until the record
 2 lessee is properly registered with the office of mineral resources. The liquidated
 3 damage assessment may be waived, in whole or in part, by the ~~State Mineral Board~~
 4 **State Mineral and Energy Board**.

5 §124. Board may lease public lands; fee

6 The ~~State Mineral Board~~ **State Mineral and Energy Board** has the authority
 7 to lease for the development and production of minerals, oil, and gas, any lands
 8 belonging to the state, or the title to which is in the public, including road beds, water
 9 bottoms, vacant state lands, and lands adjudicated to the state at tax sale. The mineral
 10 board is further authorized to collect a fee for such leasing in the amount of ten
 11 percent of the total cash bonus paid at the lease sale. The fee shall be in addition to
 12 the total cash bonus paid.

13 * * *

14 §126. Inspection: quantity of land; advertisements for bids; fees

15 A. Upon receipt of an application accompanied by the nonrefundable fee, the
 16 ~~State Mineral Board~~ **State Mineral and Energy Board** may cause an inspection of
 17 the land to be made, including geophysical and geological surveys. After receiving
 18 the report of the inspection, the board may offer for lease all or part of the lands
 19 described in the application. However, no lease shall contain more than five
 20 thousand acres. The board shall publish in the official journal of the state, and in the
 21 official journal of the parish where the lands are located, an advertisement which
 22 must appear in these journals not more than sixty days prior to the date for the
 23 opening of bids. The board may, at its discretion, publish other such advertisements.
 24 This advertisement shall contain a description of the land proposed to be leased, the
 25 time when and place where sealed bids shall be received and publicly opened, a
 26 statement that the bid may be for the whole or any particularly described portion of
 27 the land advertised, and any other information that the board may consider necessary,
 28 and the royalty to be demanded should the board deem it to be in the interest of the
 29 state to call for bids on the basis of a royalty fixed by it. If the lands are situated in

1 two or more parishes, the advertisement shall appear in the official journals of all the
2 parishes where the lands may be partly located. This advertisement and any other
3 published by the board shall constitute judicial advertisement and legal notice within
4 the contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950.
5 When requested to furnish proof of publication, the board may charge a fee of twenty
6 dollars to furnish the proof of publication.

7 * * *

8 §127. Opening bids; minimum royalties; terms of lease, deposit

9 A. Only those bidders who are registered prospective leaseholders with the
10 office of mineral resources, or those who register within two business days after the
11 lease sale at which the bid is opened and prior to the conditional issuance of the
12 lease, shall be allowed to obtain a mineral lease from the state of Louisiana. Any
13 bidder who is not properly registered with the office of mineral resources at the time
14 bids are opened, but whose bid is otherwise acceptable, shall have until the end of
15 the second business day following the date on which the bid was conditionally
16 accepted by the ~~State Mineral Board~~ **State Mineral and Energy Board** to become
17 properly registered with the office of mineral resources. If said bidder remains
18 unregistered by the close of business of the second business day following the day
19 the mineral lease sale at which the bid was conditionally accepted, the conditionally
20 accepted bid shall be deemed rejected. The provisions of this Subsection shall also
21 apply in cases where there is no more than one bid made by unregistered prospective
22 leaseholders. Bids may be for the whole or any particularly described portion of land
23 advertised. At the time and place mentioned in the advertisement for the
24 consideration of bids, they shall be publicly opened. Bids received by the mineral
25 board shall be opened at any state-owned buildings situated in the city in which the
26 capitol is located. The mineral board has authority to accept the bid most
27 advantageous to the state and may lease upon whatever terms it considers proper.
28 However, the minimum royalties to be stipulated in any lease, other than a lease
29 executed by or on behalf of a school board, shall be:

1 * * *

2 §127.1. Tertiary recovery incentive

3 * * *

4 B.(1) In order to accomplish the purposes set forth in Subsection A of this
5 Section, the ~~State Mineral Board~~ **State Mineral and Energy Board** may enter into
6 an agreement with the lessee under any present and future state mineral lease or
7 leases, under which such lessee may be relieved from the payment of all or part of
8 the royalty otherwise due to the state under the applicable mineral lease or leases in
9 regard to production from the particular reservoir involved in a qualified tertiary
10 recovery project, until such project has reached payout from the total production,
11 "payout" to be defined by the board on a project-by-project basis based on:

12 * * *

13 §128. Transfers; approval by board; fees; penalties

14 A. No transfer or assignment in relation to any lease of minerals or mineral
15 rights owned by the state shall be valid unless approved by the ~~State Mineral Board~~
16 **State Mineral and Energy Board**. The mineral board may charge a fee of one
17 hundred dollars to cover the cost of preparing and docketing transfers or assignments
18 of leases of mineral or mineral rights. All parties to transfers or assignments in
19 relation to any lease of mineral or mineral rights from the state shall be registered
20 prospective leaseholders with the office of mineral resources. Transfers or
21 assignments shall not be granted to prospective leaseholders that are not currently
22 registered with the office of mineral resources.

23 B.(1) * * *

24 (2) The penalties shall be paid into the ~~Mineral Resources~~ **Mineral and**
25 **Energy** Operation Fund on behalf of the board. The board may waive all or any part
26 of the penalties provided in this Section.

27 * * *

28 §131. Surveys, reports and investigations

29 The Department of Public Works, parish surveyors, State Highway

1 Engineers, Louisiana State University and Agricultural and Mechanical College and
 2 any board, department or institution of the state and the governing authorities of
 3 political subdivisions shall make such surveys, reports and investigations, and
 4 furnish such records and information as may be required by the ~~State Mineral Board~~
 5 **State Mineral and Energy Board** for the purposes of determining boundaries,
 6 character, title, location and other matters relating to lands.

7 * * *

8 §136. Funds, disposition and appropriation of; penalties

9 A.(1)(a) * * *

10 (b) The office of mineral resources shall maintain a log in which shall be
 11 noted the date, time, and payor of each payment and the nature thereof, whether
 12 check or electronic wire transfer, so that the board may determine whether such
 13 payment was correct, sufficient, and timely made. The board shall then transmit
 14 these payments by electronic transfer, or hand-carry these payments, on the day
 15 received, to the state treasurer. If the board cannot make such determination
 16 promptly, it shall nevertheless transmit these payments by electronic transfer, or
 17 hand-carry these payments, on the day received, to the state treasurer and request the
 18 treasurer to place such funds as are being reviewed by the board under this Section
 19 in a suspense account until such time as the board makes the determination herein
 20 required and notifies the state treasurer of the disposition to be made by them. If the
 21 payor attributable to a lease unit well (LUW) code changes between monthly
 22 payment dates without notification to the office of mineral resources of the change
 23 and with submission of the current mailing address, telephone number, and email
 24 address for the new payor prior to the next month's payment, the new payor shall be
 25 subject to a liquidated damage penalty of one thousand dollars. The ~~State Mineral~~
 26 ~~Board~~ **State Mineral and Energy Board** shall have authority to waive all or any
 27 part of said damages based on a consideration of all factors bearing on the issue.

28 * * *

29 B.(1) Any form required by the Department of Natural Resources or the

1 office of mineral resources to be filed in conjunction with the payment of any sum,
2 other than bonuses, rentals, or shut-in payments, which has been incorrectly
3 completed in any part, and which error results in the inability of any agency or
4 subdivision thereof to carry out any of its statutory or regulatory duties in a timely
5 manner, unless corrected in full prior to the payment due date, shall render the
6 royalty pay or subject to a penalty of five percent of the total sum due or paid, not
7 to exceed five hundred dollars, as liquidated damages. The whole or any part of the
8 damages provided for in this Paragraph may be waived by the ~~State Mineral Board~~
9 **State Mineral and Energy Board** and said damages shall, as with any and all
10 liquidated damages assessed and collected by the ~~State Mineral Board~~ **State Mineral**
11 **and Energy Board** in accordance with any statutory or contractual provision, be
12 deemed self-generated funds to be deposited into the ~~Mineral Resources~~ **Mineral**
13 **and Energy** Operation Fund.

14 (2) The failure to pay or the underpayment of all sums other than bonuses,
15 rentals, or shut-in payments, for whatever cause, shall subject the lessee, his
16 successor, or assigns, to a penalty of ten percent of the total sum due not to exceed
17 one thousand dollars, which penalty shall be assessed, and owing on the day
18 following the date payment was due, and shall be deemed liquidated damages. The
19 whole or any part of the penalty set forth herein may be waived by the ~~State Mineral~~
20 ~~Board~~ **State Mineral and Energy Board**.

21 (3) When notice is given of the incorrect completion of any required form,
22 or demand for payment is made for failure to pay or underpayment, or sixty days has
23 elapsed from the date payment was due with the correctly filled out form, an
24 additional penalty of two percent of the total sum then due shall accrue beginning on
25 the sixty-first day on each thirty-day period thereafter, or fraction thereof, up to a
26 maximum of twenty-four percent in additional penalty. The penalty therein provided
27 shall be in addition to interest at the legal rate compounded monthly. Both the
28 penalty and interest shall accrue to principal and interest accumulated at the end of
29 each thirty-day period, or fraction thereof, also without necessity of further notice

1 and shall be in addition to all remedies available under law, including those
 2 prescribed in R.S. 31:137 through 141. In the event the ~~State Mineral Board~~ **State**
 3 **Mineral and Energy Board** finds, subject to judicial review, that a substantial and
 4 justiciable controversy exists as to whether any such royalties are legally due, it shall
 5 defer the commencement of the accrual of the aforesaid penalty until the controversy
 6 is resolved by amicable agreement or by final decree of any court of competent
 7 jurisdiction. The whole or any part of the penalties set for hereinabove may be
 8 waived by the ~~State Mineral Board~~ **State Mineral and Energy Board**.

9 * * *

10 §136.1. Proceeds from mineral royalties, leases, and bonuses; payment into the
 11 Bond Security and Redemption Fund; payment into the Louisiana
 12 Investment Fund for Enhancement. (L.I.F.E.)

13 A. The proceeds of all royalties from all mineral leases to be granted, as well
 14 as all mineral leases heretofore granted, by the state of Louisiana on state-owned
 15 land, lake and river beds, and other water bottoms belonging to the state remaining
 16 after complying with dedication of such revenues heretofore made and after
 17 deductions of any appropriations of such revenues made by law for the payment of
 18 the expenses of the ~~state mineral board~~ **State Mineral and Energy Board**, shall be
 19 paid into the state treasury and shall be credited to the Bond Security and
 20 Redemption Fund.

21 B. The proceeds of all leases and bonuses, including annual delay rentals
 22 under said leases to be granted as well as all proceeds from mineral leases and delay
 23 rentals thereunder heretofore granted, by the state of Louisiana on state-owned land,
 24 lake and river beds, and other water bottoms belonging to the state remaining after
 25 complying with dedications of such revenues heretofore made and after deduction
 26 of any appropriations of such revenues made by law for the payment of the expenses
 27 of the ~~state mineral board~~ **State Mineral and Energy Board**, shall be paid into the
 28 state treasury for credit to the Bond Security and Redemption Fund.

29 * * *

1 §136.3. ~~Mineral Resources~~ **Mineral and Energy** Operation Fund

2 A. There is hereby established in the state treasury a special fund to be
3 known as the "~~Mineral Resources~~ **Mineral and Energy** Operation Fund", hereinafter
4 referred to as the "fund".

5 * * *

6 D. The monies in the fund shall be appropriated by the legislature to the
7 Department of Natural Resources, ~~office of mineral resources~~, to be used solely for
8 the administration and ~~operation of the office of mineral resources~~ **regulation of**
9 **minerals, ground water and related energy activities.**

10 * * *

11 §137. Agreements to offset, compensate and recover from future royalties

12 The ~~State Mineral Board~~ **State Mineral and Energy Board** is hereby
13 empowered to enter into agreements with lessees or other parties under state oil, gas
14 and mineral leases or other agreement heretofore or hereafter issues to offset,
15 compensate, and recover from royalty thereafter accruing to the state of Louisiana,
16 amounts equal to any royalty or other payments (all herein called "royalty") which
17 such lessees or other parties have paid to the state was, is, or may become lawfully
18 entitled because of overpayment or action by the Federal Power Commission;
19 provided, however, that with respect to any royalty based on amounts received by
20 the lessee or other parties for sales of natural gas that may be subject to refund by
21 order or directive of the Federal Power Commission, such agreements may require
22 the immediate payment of such portion of such royalty that is determined to be
23 proper by the ~~State Mineral Board~~ **State Mineral and Energy Board**, such payment
24 to be subject to the offsetting, compensation and recovery provisions of R.S. 30:137
25 to 30:141.

26 * * *

27 §139. Validation of agreements

28 All agreements of the character contemplated by R.S. 30:137 which have
29 heretofore been entered into by the ~~State Mineral Board~~ **State Mineral and Energy**

1 **Board** are hereby ratified, confirmed and validate; however, such agreements may
2 be modified or amended in accordance with the terms of R.S. 30:137 to 30:141.

3 * * *

4 §141. Power of mineral board not derogated - Other rights and remedies not modified
5 R.S. 30:137 to 30:141 are not intended in any way to derogate from or
6 question the power and authority of the ~~State Mineral Board~~ **State Mineral and**
7 **Energy Board** to enter into any agreements of any type whatsoever pursuant to its
8 power and authority heretofore expressly or impliedly granted by law; and the
9 provisions hereof shall not modify in any way the right of any lessee or other party
10 to invoke the rights and remedies available under existing laws.

11 * * *

12 §143. Transfer of solid mineral leases, approval by board

13 A. In addition to the provisions of R.S. 30:128, in the case of a proposed
14 transfer, under the circumstances described in Subsection B hereof, of any lease or
15 sublease entered into by or under the authority of or subject to the jurisdiction of the
16 ~~State Mineral Board~~ **State Mineral and Energy Board** which includes the
17 development and production of solid minerals, the board shall determine whether to
18 approve such proposed transfer pursuant to this Section and to such rules and
19 regulations as may be issued hereunder.

20 * * *

21 D. (1) * * *

22 (4) Promptly after the conclusion of the hearing, the secretary of the
23 Department of Natural Resources shall prepare written findings of fact and a
24 recommended decision on the application. He shall transmit these to the ~~State~~
25 ~~Mineral Board~~ **State Mineral and Energy Board** together with a certified copy of
26 the hearing record. After giving due consideration to whether the evidence
27 establishes that the proposed transferee is competent and otherwise qualified to
28 perform all of the obligations under the lease or sublease in such a manner as not to
29 adversely affect the public interest of the state as respects its natural resources, the

1 ~~State Mineral Board~~ **State Mineral and Energy Board** shall issue a written decision
2 granting or denying the application in whole or in part or upon such conditions as it
3 may deem appropriate.

4 (5) An appeal may be taken from any final order of the ~~State Mineral Board~~
5 **State Mineral and Energy Board** under this Section only by a party to the hearing
6 required herein in accordance with R.S. 49:964 and R.S. 49:965.

7 (6) Anything herein to the contrary notwithstanding, the secretary of the
8 Department of Natural Resources may transmit a recommended decision to the ~~State~~
9 ~~Mineral Board~~ **State Mineral and Energy Board** without first conducting an
10 investigation or holding a hearing if (i) all necessary parties to the hearing file
11 affidavits with the secretary of the Department of Natural Resources attesting their
12 belief that there are no substantial issues requiring an investigation or hearing and
13 (ii) the secretary independently determines that there are no substantial issues
14 requiring an investigation or hearing.

15 * * *

16 F. Whenever it appears to the ~~State Mineral Board~~ **State Mineral and**
17 **Energy Board** or the secretary of the Department of Natural Resources that any
18 person has engaged or is about to engage in any act or practice constituting a
19 violation of any provision of this Section, the secretary of Department of Natural
20 Resources may investigate and issue orders and notices. In addition to all other
21 remedies, the ~~State Mineral Board~~ **State Mineral and Energy Board** or the
22 secretary of the Department of Natural Resources may bring an action in any court
23 of competent jurisdiction in the name and on behalf of this state against any person
24 or persons participating in or about to participate in a violation of this Section, to
25 enforce compliance with this Section, or enjoin any action in violation of this
26 Section.

27 * * *

28 §144. Sale of royalties in-kind to small refiners

29 A. On or before December 31, 1979, the secretary of the Department of

1 Natural Resources shall submit to the ~~State Mineral Board~~ **State Mineral and**
 2 **Energy Board** for implementation a regulatory program for the sale and/or
 3 processing of in-kind crude oil royalties to refiners in the state and procedures for the
 4 sale and/or processing, delivery, and use of royalty crude oil, which at a minimum
 5 include the following:

6 * * *

7 B. Prior to submitting the program to the ~~State Mineral Board~~ **State Mineral**
 8 **and Energy Board** for implementation, the secretary shall present the proposed
 9 program to the House Committee on Natural Resources and Environment and Senate
 10 Committee on Natural Resources, meeting jointly, for approval thereof. Within
 11 thirty days after receipt of the program from the secretary, the mineral board shall
 12 initiate rulemaking procedures thereon in compliance with R.S. 49:951 et seq.

13 * * *

14 §148.1. Lessor defined

15 For the purposes of this Subpart the term "lessor" shall refer to and include
 16 the ~~State Mineral Board~~ **State Mineral and Energy Board**, any school district,
 17 levee district, drainage district, municipal or parochial subdivision of this state, any
 18 penal or charitable institution, any state university or college, and any other unit or
 19 institution deriving its authority and powers from the sovereignty of the state.

20 §148.2. Lands which may be leased

21 A. Any lessor may, through its governing authority, lease any lands of which
 22 the lessor has title, custody, or possession, and the ~~State Mineral Board~~ **State**
 23 **Mineral and Energy Board** may lease lands, bodies of any lakes, bays or coves,
 24 sea, arms of the sea, or other navigable waters and beds thereof belonging to the state
 25 or the title to which is in the public:

26 * * *

27 B. In addition, where otherwise consistent with the provisions of this Subpart
 28 as applied to leased premises, the ~~State Mineral Board~~ **State Mineral and Energy**
 29 **Board** may grant surface or subsurface agreements for the right to erect and use on

1 unleased premises such facilities and equipment.

2 * * *

3 §150. Louisiana Royalty Relief Dry Hole Credit Program; requirements; conditions;

4 limitations; expiration

5 * * *

6 C.(1) The royalty relief dry hole credit shall be in the form of a deduction
7 from future royalty payments due to the state on production derived from depths of
8 greater than 19,999 feet true vertical depth from any new well drilled on state-owned
9 lands or state-owned water bottoms in the coastal zone, as defined in R.S. 49:215.24,
10 subsequent to the dry hole for which drilling commences on or after July 1, 2005.
11 The deduction shall be the lesser of: (a) five billion cubic feet of natural gas
12 production, or (b) fifty percent of the cost of the dry hole well. The cost of the dry
13 hole well shall be calculated and determined in accordance with rules, methods and
14 procedures adopted by the ~~State Mineral Board~~ **State Mineral and Energy Board**.
15 The royalty relief shall be prorated over a thirty-six month period, provided that the
16 net royalty payments to the state shall not be less than the minimum required by R.S.
17 30:127. If application of the credit would result in payments less than that required
18 by R.S. 30:127, the office of mineral resources may extend the royalty relief credit
19 for an additional period of up to twenty-four months to allow full use of the credit,
20 up to a total of sixty months.

21 * * *

22 §153. Agencies may lease or administer through ~~State Mineral Board~~ **State Mineral**
23 **and Energy Board**

24 A. Any agency may by resolution direct the ~~State Mineral Board~~ **State**
25 **Mineral and Energy Board** to lease its land in the manner provided in Subpart A
26 of this Part. The bonus money, if any, received for the lease shall be transmitted by
27 the ~~State Mineral Board~~ **State Mineral and Energy Board** to the agency. After the
28 execution of the original lease, all rights and authority in connection therewith shall
29 be vested in the agency to the same extent as if the agency had itself leased the land.

1 B. Upon request, the ~~State Mineral Board~~ **State Mineral and Energy Board**
 2 may administer and manage the leases of any levee district, state university, state
 3 college, state penal or charitable institution, or agency, unit, or institution of the
 4 state. If the ~~State Mineral Board~~ **State Mineral and Energy Board** agrees to
 5 administer and manage such leases, the parties shall enter into a cooperative
 6 endeavor agreement to accomplish this purpose.

7 §154. Signing of papers and disposition of funds when agency leases own lands;
 8 deposit

9 * * *

10 C. In all cases where sixteenth section or school indemnity lands are leased,
 11 either by the ~~State Mineral Board~~ **State Mineral and Energy Board** or the school
 12 board, all funds realized from these leases shall be paid to the school board of the
 13 parish where the lands are situated and credited to the current school fund of that
 14 parish, except that in the case of school indemnity lands, the lease shall be made by
 15 the ~~State Mineral Board~~ **State Mineral and Energy Board** only and the funds
 16 credited to the parish school board entitled thereto.

17 * * *

18 §155. Alternative procedures

19 If an agency does not avail itself of the provisions of R.S. 30:153, it may
 20 lease its lands for mineral purposes on its own motion, or on written application, by
 21 advertising and letting in the manner provided by this Subpart, subject however to
 22 approval of the ~~State Mineral Board~~ **State Mineral and Energy Board** as provided
 23 in R.S. 30:158.

24 §156. Procedure when agency leases its own lands

25 A person desiring to lease from a state agency shall make application with
 26 deposit to the agency in the same manner as is set forth in R.S. 30:125 for application
 27 with deposit to the mineral board. The agency shall itself advertise, receive bids at
 28 its domicile, and lease in the same manner and subject to the same restrictions
 29 applicable to leases by the ~~State Mineral Board~~ **State Mineral and Energy Board**

1 under R.S. 30:126 and 30:127. The agency has the same powers over leases granted
 2 by it as are granted the ~~State Mineral Board~~ **State Mineral and Energy Board** in
 3 R.S. 30:129.

4 * * *

5 §158. Approval of lease by board

6 No lease executed under the authority of this Subpart shall be valid unless the
 7 agency obtains its approval by the ~~State Mineral Board~~ **State Mineral and Energy**
 8 **Board**. The authority of the ~~State Mineral Board~~ **State Mineral and Energy Board**
 9 shall be ministerial with regard to whether or not the agency has correctly followed
 10 the procedural steps in granting the lease in question, and discretionary with regard
 11 to whether or not the terms of the agency lease are in the best interest of the agency
 12 and the public which it serves. A lease made under the provisions of this Subpart
 13 which is not approved by the ~~State Mineral Board~~ **State Mineral and Energy Board**
 14 and countersigned by the duly authorized officer of that body is null and void.

15 §159. State banks in liquidation, leases subject to approval, how

16 All mineral leases entered into by state banks in liquidation shall be subject
 17 to the approval of the ~~State Mineral Board~~ **State Mineral and Energy Board** and
 18 of the district court having jurisdiction of the liquidations.

19 * * *

20 §179.11. Authorization to enter into agreements during controversy relating to
 21 submerged lands

22 In regard to the controversy between the United States and the state of
 23 Louisiana as to whether any portion of any submerged land is owned and controlled
 24 by the state of Louisiana under the provisions of the Submerged Lands Act (43 U.
 25 S. C. A. §1301 et seq.) (Public Law 31, 83rd Congress; 67 Stat. 29), or whether such
 26 lands are owned and controlled by the United States under the provisions of the
 27 Outer Continental Shelf Lands Act (43 U. S. C. A. §1301 et seq) (Public Law 212,
 28 83 Congress; 67 State.462), or any amendment or revision thereof, the ~~State Mineral~~
 29 **Board State Mineral and Energy Board** is authorized, with the concurrence and

1 approval of the Governor, to negotiate and enter into agreements for and on behalf
 2 of the state of Louisiana, with any lessee or future lessee of the state of Louisiana,
 3 to negotiate and enter into tentative agreements or stipulations with the United
 4 States, or any present or future grantee or lessee of the United States, respecting the
 5 ownership and boundaries of such lands and operations under any mineral lease on
 6 any other sums payable thereunder, including withdrawals from such deposits in
 7 escrow or impoundment, pending the settlement or adjudication of the controversy.
 8 Payments or deposits made pursuant to any such agreement shall be considered as
 9 being in compliance with the terms of the applicable lease. Upon the final settlement
 10 or adjudications of such controversy, all sums so impounded shall be paid to the
 11 parties entitled thereto. Any sums finally determined to be payable to the state of
 12 Louisiana shall be deposited with the proper state agency in accordance with the
 13 constitution and laws of this state.

14 §179.12. Ratification by legislature of any final agreements or stipulations

15 No final agreement or stipulation negotiated with the United States by the
 16 ~~State Mineral Board~~ **State Mineral and Energy Board** with the concurrence and
 17 approval of the governor, respecting the ownership and boundary of such lands,
 18 which changes or modifies the historic seaward boundary of the state of Louisiana
 19 as established by Act 33 of 1954 (R.S. 49:1), or which leases to the United States any
 20 part of the bonuses, rents, royalties and other sums heretofore or hereafter deposited
 21 in escrow or impoundment under the provisions of the Interim Agreement of October
 22 12, 1956, between the United State and the state of Louisiana, shall be binding on the
 23 state of Louisiana until such agreement or stipulation shall have been ratified by a
 24 majority vote of both Houses of the Louisiana Legislature.

25 * * *

26 §186. Distribution of funds

27 A. Within a reasonable time after the receipt of any funds received under or
 28 on account of any such oil, gas or other mineral lease as rental, bonus, royalty or
 29 otherwise, the ~~State Mineral Board~~ **State Mineral and Energy Board** shall deposit

1 in the registry of the district court having jurisdiction in the parish wherein said
2 property is situated in more than one parish, then in the registry of any district court
3 having jurisdiction over any parish wherein a part of said immovable property is
4 situated, all of the funds so received, less and except sums authorized to be deducted
5 by the mineral board under R.S. 30:188, and shall thereafter be relieved of all
6 liability for the payment of such funds upon complying with the requirements of R.S.
7 30:187.

8 B. Any such funds that the ~~State Mineral Board~~ **State Mineral and Energy**
9 **Board** presently possesses shall be deposited in the registry of the court as set out
10 in Subsection A of this Section within a reasonable time after July 8, 1960.

11 §187. Judicial procedure

12 The ~~State Mineral Board~~ **State Mineral and Energy Board** shall present to
13 the said district court having jurisdiction an application drawn in the usual form of
14 a petition in a civil case and said petition shall contain (a) the name and domicile of
15 the applicant (b) a full and complete account of how the applicant came into
16 possession of the funds deposited and (c) the list of co-owners required and
17 described in R.S. 30:185. However, applicant may add any list of owners which
18 were not included in the original application on behalf of any claimant received by
19 the applicant. It shall not be a prerequisite to the filing of this petition that a dispute
20 exists over the ownership of the funds. The ~~State Mineral Board~~ **State Mineral and**
21 **Energy Board** shall not be obligated to make any investigation of title whatsoever
22 beyond said list furnished pursuant to R.S. 30:185. The ~~State Mineral Board~~ **State**
23 **Mineral and Energy Board** shall pray for service on all persons listed in the
24 petition as claiming or having an interest in the funds deposited and shall pray
25 further that all such persons named in the petition shall be cited to answer and make
26 such claims to the funds as they may desire; and further, that all persons claiming or
27 having an interest in such funds as they may desire; and further, that all persons
28 claiming or having an interest in such funds, whether named in the petition or not,
29 shall be cited by publication to answer and make such claim to the funds as they may

1 desire. The notice by publication herein referred to shall be made six times during
2 the sixty days immediately following the filing of the petition in the official journal
3 of the parish in which the suit is filed and in the state official journal six times during
4 said sixty day period. All parties however cited, whether personally or by
5 publication, shall appear and answer the petition no later than seventy-five days from
6 the date of the filing of the petition. The court after a full hearing shall determine the
7 ownership of the funds and in the event the court should determine that part of the
8 funds are owned by persons unknown, or missing, then the court shall direct that
9 such funds be delivered to the Collector of Revenue, State of Louisiana, except that
10 in the parish of Orleans, said funds shall be delivered to the Public Administrator
11 thereof.

12 §188. Distribution of funds and administration of leases

13 A. The applicant depositing the money, namely, the ~~State Mineral Board~~
14 **State Mineral and Energy Board**, shall not be required to pay any costs in the
15 proceedings. All costs of all parties plaintiff, defendant, intervener, or otherwise, to
16 the suit, shall be paid out of the funds deposited, with preference and priority over
17 any and all persons. However, the successful litigant for the funds deposited may
18 recover all costs which have been paid out of the funds deposited, from the other
19 litigant or litigants who contested his right thereto.

20 B. At or after the conclusion of the proceedings instituted pursuant to R.S.
21 30:187, the ~~State Mineral Board~~ **State Mineral and Energy Board** may, from time
22 to time, employ any of the following procedures or combinations thereof, to effect
23 the distribution of funds received by virtue of leases granted under R.S. 30:184, and
24 for the administration of such leases;

25 (1) The ~~State Mineral Board~~ **State Mineral and Energy Board** may
26 distribute such funds and administer such leases itself, either through its personnel
27 or through persons with whom it contracts for such distribution and administration.

28 (2) The ~~State Mineral Board~~ **State Mineral and Energy Board** may create
29 one or more trusts, naming one or more persons, firms, or corporations, as trustee or

1 trustees, and transfer to such trustees any or all of its rights and duties under any or
 2 all such leases, for the benefit of the owners of the land or interests therein. The ~~State~~
 3 ~~Mineral Board~~ **State Mineral and Energy Board** may impose such terms and
 4 conditions in the trust as it deems desirable, and, to the extent applicable and not in
 5 conflict with such terms and conditions, the Louisiana Trust Code shall thereafter
 6 govern such trust. The term of the trust may be as long as any such leases are in
 7 force and effect, and the trustee or trustees shall be responsible for the distribution
 8 of such funds and administration of such leases.

9 (3) The ~~State Mineral Board~~ **State Mineral and Energy Board**, upon written
 10 notice to the court in which proceedings provided for in R.S. 30:187 have been
 11 instituted, may cause such court to distribute the funds and administer the leases. The
 12 ~~State Mineral Board~~ **State Mineral and Energy Board** shall deposit all funds
 13 received by it in the registry of such court and shall thereafter be relieved of all
 14 responsibilities therefor. The court, in such proceedings, may appoint such experts
 15 to assist it as may be necessary, and may appoint a person as master or receiver for
 16 the purpose of performing and supervising the actual work of such distribution and
 17 administration.

18 * * *

19 §208. Exploration of public lands

20 The ~~State Mineral Board~~ **State Mineral and Energy Board** may explore and
 21 develop the mineral resources of lands belonging to the state which might lease
 22 under Subpart A of Part II of Chapter 2 of this Title.

23 §209. ~~State Mineral Board~~ **State Mineral and Energy Board**, authority of

24 In order to carry out the provisions of R.S. 30:208, the ~~State Mineral Board~~
 25 **State Mineral and Energy Board** may:

26 * * *

27 (2) Equip, drill, and operate wells or mines for the production of minerals.
 28 If a party is found to be equipping, drilling, or operating wells or mines for the
 29 production of minerals and the office of mineral resources finds that it is in the best

1 interest of the state, the office may allow that party to continue such activity under
 2 the oversight of the office. Further, the office may collect from that party, after
 3 deduction of reasonable costs of drilling, equipping, and operating wells, the value
 4 of production from those wells. Revenues collected under the provisions of this
 5 Paragraph shall be credited to the ~~Mineral Resources~~ **Mineral and Energy**
 6 Operation Fund in the state treasury.

7 * * *

8 (4)(a) * * *

9 (b) The office of mineral resources, on behalf of the mineral board, shall
 10 administer all operating agreements. After deposit of all production payments to the
 11 Bond Security and Redemption Fund, an amount equal to twenty-five percent of the
 12 production payments from any operating agreement entered into after August 15,
 13 1997, shall be credited to the ~~Mineral Resources~~ **Mineral and Energy** Operation
 14 Fund for appropriation to the ~~office of mineral resources~~ **Department of Natural**
 15 **Resources**.

16 * * *

17 (d) Those operating agreements entered into by the ~~State Mineral Board~~
 18 **State Mineral and Energy Board** prior to August 15, 1997, are hereby ratified as
 19 being in compliance herewith.

20 (e) Upon a two-thirds vote of the members of the ~~State Mineral Board~~ **State**
 21 **Mineral and Energy Board** and after a public hearing conducted in the affected
 22 parish pursuant to R.S. 30:6, enter into operating agreements whereby the state
 23 receives a share of revenues from the storage of oil, natural gas, liquid or liquefied
 24 hydrocarbons, or carbon dioxide, in whole or in part, as many be agreed upon by the
 25 parties, and assumes all or a portion of the risk of the cost of the activity in those
 26 situations where the board determines it is in the best interest of the state either in
 27 equity or in the promotion of conservation to do so, such as but not limited to the
 28 following illustrations:

29 * * *

1 §209.1. Acquisition of geological information

2 A. The right of the ~~State Mineral Board~~ **State Mineral and Energy Board**
 3 under R.S. 30:209 to conduct or contract for geophysical and geological surveys and
 4 other operations on lands which the board might lease for the state in order to carry
 5 out the provisions of R.S. 30:208, relative to exploration and development of mineral
 6 resources shall include the right to acquire and receive, either as owner in its own
 7 right or licensee, from the company acquiring and processing the data under the
 8 geophysical or geological surveys, and geophysical, geological, and engineering
 9 information and data acquired or processed from the surveys or operations conducted
 10 on any lands, whether public or private, for evaluation, administration, and
 11 development of the mineral resources of state-owned properties.

12 B. (1) Information and data acquired as authorized by Subsection A of this
 13 Section shall be confidential for all purposes consistent with the terms of acquisition
 14 and shall be made available only to the ~~State Mineral Board~~ **State Mineral and**
 15 **Energy Board**, and the commissioner of conservation at the sole discretion of the
 16 board, who shall keep such information and data confidential and may use such
 17 information and data only in the lawful, official administration and development of
 18 publicly owned lands. Whoever knowingly and willfully violates the provisions of
 19 this Subsection shall be punished by the penalties provided by R.S. 30:213(B).

20 * * *

21 §212. Permits for surveys on public lands

22 A. The ~~State Mineral Board~~ **State Mineral and Energy Board** shall have
 23 exclusive authority to grant exclusive and nonexclusive permits to conduct
 24 geophysical and geological surveys of any kind on state-owned lands, including
 25 water bottoms. No person shall conduct a geophysical or geological survey on state-
 26 owned lands, including water bottoms, without obtaining a permit. These permits
 27 shall be granted pursuant to rules promulgated under the provisions of the
 28 Administrative Procedure Act by the Department of Natural Resources. No permit
 29 shall be granted covering lands over which the state has a mere servitude without

1 consent of the owner of the abutting property.

2 * * *

3 D. After deposit to the Bond Security and Redemption Fund as required
4 under the provisions of Article VII, Section 9(B) of the Constitution of Louisiana,
5 the following amounts shall be deposited as follows:

6 * * *

7 (2) Of the amount received from nonexclusive geophysical and geological
8 surveys conducted on all other state-owned lands and water bottoms, twenty percent
9 shall be deposited into the Louisiana Wildlife and Fisheries Conservation Fund and
10 the remainder deposited into the ~~Mineral Resources~~ **Mineral and Energy** Operation
11 Fund created by R.S. 30:136.3.

12 (3) Of the amount received from exclusive geophysical and geological
13 surveys conducted on all other state-owned lands and water bottoms, five dollars per
14 acre shall be deposited into the Louisiana Wildlife and Fisheries Conservation Fund
15 and the remainder deposited into the ~~Mineral Resources~~ **Mineral and Energy**
16 Operation Fund created by R.S. 30:136.3.

17 §213. Furnishing state information obtained under permits

18 A.(1) For any permit issued prior to July 1, 2004, the holder of a permit to
19 conduct geophysical and geological surveys shall furnish to the ~~State Mineral Board~~
20 **State Mineral and Energy Board** or office of mineral resources maps showing the
21 location of all shot points and detector or geophone setups located on the property
22 and the dates on which they were used, together with the subsurface contours
23 obtained as a result of the use of the points. Additionally, the permit holder shall
24 deliver a copy of any and all seismic data acquired, including 3D, 2D, gravity,
25 magnetic, and any other geophysical or geological data, in a format acceptable to the
26 office of mineral resources. This information shall not extend to lands beyond the
27 boundaries of the public property surveyed. This information shall be furnished to
28 the office of mineral resources or the ~~State Mineral Board~~ **State Mineral and**
29 **Energy Board** within ninety days after completion of the final stacked and migration

1 processing, but not more than six months after the completion of the survey. Except
2 for the information included in a seismic permit, including the plat showing the
3 geometric polygon of the area on which the seismic is to be shot, all other
4 information, including maps, plots, and other data provided to the ~~State Mineral~~
5 ~~Board~~ **State Mineral and Energy Board** hereunder shall be confidential and an
6 exception to the provision of public records laws and shall not be released to any
7 other agency or entity, or for any reason, including publication in a technical journal,
8 absent a valid court order from a court of competent jurisdiction or absent written
9 permission of, and under the strict limitations imposed by, the owner having
10 authority to license said data.

11 (2) For any permit issued on or after July 1, 2004, the holder of a permit to
12 conduct geophysical or geological surveys shall retain ownership of the data
13 gathered and shall not be required to submit the data as required in Paragraph (1) of
14 this Subsection. However, the ~~State Mineral Board~~ **State Mineral and Energy**
15 **Board** or the employees of the office of mineral resources shall be allowed to review
16 the data. Except for the information included in a seismic permit, including the plat
17 showing the geometric polygon of the area which the seismic is to be shot, all other
18 information, including maps, plots, and other data reviewed by the ~~State Mineral~~
19 ~~Board~~ **State Mineral and Energy Board** or the staff of the office of mineral
20 resources hereunder shall be confidential and an exception to the provisions of public
21 records laws and shall not be released to any other agency or entity, or for any
22 reason, including publication in a technical journal, absent a valid court order from
23 court of competent jurisdiction or absent written permission of, and under the strict
24 limitations imposed by, the owner having authority to license said data.

25 B. Whoever knowingly and willfully violates the provisions of the Section
26 or any rule or order of the ~~State Mineral Board~~ **State Mineral and Energy Board**
27 made thereunder shall be fined up to one hundred thousand dollars or imprisoned for
28 not more than one year, or both.

29 §214. Permit for survey entailing use of public waters or bottoms

1 Any person who makes or causes to be made a geophysical survey entailing
 2 the use of shot points in any lake, river, or stream bed or other bottoms, the title to
 3 which is in the public, shall obtain from the ~~State Mineral Board~~ **State Mineral and**
 4 **Energy Board** a special permit therefor. This permit shall be granted under the rules
 5 and regulations which may from time to time be promulgated by the Department of
 6 Wildlife and Fisheries for the protection of oysters, fish, and wildlife.

7 §215. Nonexclusive geophysical permits

8 A. A nonexclusive permit to conduct seismic, geophysical, or geological
 9 surveying upon state-owned lands, including water bottoms, shall be valid for one
 10 year from the date of issuance. However, if operations commence within the year
 11 and are ceased due to unforeseen circumstances, the term may be extended for up to
 12 one year from the cessation of operations by the secretary of Department of Natural
 13 Resources. The permittee shall pay to the office of the ~~State Mineral Board~~ **State**
 14 **Mineral and Energy Board** at least every twelve month or more often as necessary.
 15 The fee shall be based upon market value but shall be no more than thirty dollars and
 16 no less than five dollars per acre.

17 B. The secretary of the Department of Wildlife and Fisheries may object to
 18 an application for a nonexclusive permit to conduct seismic, geophysical, or
 19 geological surveying on lands, including water bottoms, under the jurisdiction of the
 20 Wildlife and Fisheries Commission, including wildlife management areas, wildlife
 21 refuges, public shooting grounds, or outdoor recreation areas. Upon the secretary's
 22 objections, the application shall be presented for final determination to the ~~State~~
 23 ~~Mineral Board~~ **State Mineral and Energy Board**.

24 §216. Exclusive geophysical permits

25 * * *

26 B.(1) After receiving an application to conduct exclusive geological or
 27 geophysical survey, the office of mineral resources shall evaluate the prospective
 28 area of survey in order to set the minimum terms which shall then be recommended
 29 and presented to the ~~State Mineral Board~~ **State Mineral and Energy Board** for

1 approval or rejection.

2 (2) For applications that include lands, including water bottoms, under the
3 jurisdiction of the Wildlife and Fisheries Commission, including wildlife
4 management areas, wildlife refuges, public shooting grounds, or outdoor recreation
5 areas, the office of mineral resources shall evaluate the prospective area of survey
6 in order to set the minimum terms which shall then be recommended and presented
7 to the secretary of the Department of Wildlife and Fisheries for approval or rejection.
8 If the recommended minimum terms are rejected by the secretary of the Department
9 of Wildlife and Fisheries, the office of mineral resources in cooperation and
10 consultation with the Department of Wildlife and Fisheries shall immediately set
11 minimum terms. If the office of mineral resources and the Department of Wildlife
12 and Fisheries are unable to set minimum terms, the recommendations from both
13 entities shall be presented for final determination to the ~~State Mineral Board~~ **State**
14 **Mineral and Energy Board.**

15 C.(1) * * *

16 (4) If all written bids to survey lands, including water bottoms, under the
17 jurisdiction of the Wildlife and Fisheries Commission, including wildlife
18 management areas, wildlife refuges, public shooting grounds, or outdoor recreation
19 areas, are rejected, the ~~State Mineral Board~~ **State Mineral and Energy Board**, with
20 consultation and cooperation with the Department of Wildlife and Fisheries, may
21 immediately offer for competitive bidding a permit upon all or any designated part
22 of the land advertised, upon terms most advantageous to the state. On all other state-
23 owned lands, including water bottoms, if all written bids are rejected, the board may
24 immediately offer for competitive bidding a permit upon all or any designated part
25 of the land advertised, upon terms appearing most advantageous to the state. These
26 offerings shall be subject to the board's right to reject any and all bids.

27 * * *

28 §804. Jurisdiction over state geothermal resources and products

29 The ~~State Mineral Board~~ **State Mineral and Energy Board** is hereby vested

1 with exclusive authority to lease for the exploration, development, production and
 2 distribution of geothermal resources and the byproducts thereof any lands belonging
 3 to the state, or the title to which is in the public domain, including road beds, water
 4 bottoms, and lands adjudicated to the state at tax sale. To the extent applicable, the
 5 mineral board is also vested with the same powers of supervision and management
 6 of all geothermal leases granted by the state that are vested in the board under R.S.
 7 30:129 with respect to leases granted for minerals, oil and gas.

8 Section 3. R.S. 34:3108(E), 3478(E) and 3498(E) are hereby amended and reenacted
 9 to read as follows:

10 §3108. Acquisition of sites; lease of state-owned lands and water bottoms

11 * * *

12 E. Nothing in this chapter is intended to authorize the authority to lease state
 13 owned lands and water bottoms for the exploration, development and production of
 14 oil, gas, sulphur or other minerals or for the cultivation or production of marine
 15 resources or detract from the authority of the ~~State Mineral Board~~ **State Mineral**
 16 **and Energy Board** and/or Louisiana Wildlife and Fisheries Commission to lease for
 17 such purposes. However, tracts once leased to the authority may not be leased by the
 18 ~~State Mineral Board~~ **State Mineral and Energy Board** or the Louisiana Wildlife
 19 and Fisheries Commission without the express consent of the authority, unless it can
 20 be shown by the ~~state mineral board~~ **State Mineral and Energy Board** or the
 21 Louisiana Wildlife and Fisheries Commission, by clear and convincing evidence,
 22 that such lease or leases will not adversely affect present or future authority
 23 operations.

24 * * *

25 §3478. Acquisition of sites; lease of state-owned lands and water bottoms

26 * * *

27 E. Nothing in this Chapter is intended to authorize the authority to lease state-
 28 owned lands and water bottoms for the exploration, development and production of
 29 oil, gas, sulphur, or other minerals, or for the cultivation or production of marine

1 resources or detract from the authority of the ~~State Mineral Board~~ **State Mineral**
 2 **and Energy Board** and Louisiana Wildlife and Fisheries Commission to lease for
 3 such purposes. However, tracts once leased to the authority may be leased by the
 4 ~~State Mineral Board~~ **State Mineral and Energy Board** or the Louisiana Wildlife
 5 and Fisheries Commission without the express consent of the authority, unless it can
 6 be shown by the ~~State Mineral Board~~ **State Mineral and Energy Board** or the
 7 Louisiana Wildlife and Fisheries Commission, by clear and convincing evidence,
 8 that such lease or leases will not adversely affect present or future authority
 9 operations.

10 * * *

11 §3498. Acquisition of sites; lease of state-owned lands and water bottoms

12 * * *

13 E. Nothing in this Chapter is intended to authorize the authority to lease state-
 14 owned lands and water bottoms for the exploration, development and production of
 15 oil, gas, sulphur, or authority of the ~~State Mineral Board~~ **State Mineral and Energy**
 16 **Board** and Louisiana Wildlife and Fisheries Commission to lease for such purposes.

17 Section 4. R.S. 36:353, 359(E) and 807 are hereby amended and reenacted to read
 18 as follows:

19 §353. Secretary of natural resources

20 There shall be a secretary of natural resources, who shall be appointed by the
 21 governor with consent of the Senate and who shall serve at the pleasure of the
 22 governor at a salary fixed by the governor, which salary shall not exceed the amount
 23 approved for such position by the legislature while in session. The secretary shall
 24 serve as the executive head and chief administrative officer of the Department of
 25 Natural Resources and shall have the responsibility for the policies of the department
 26 except as otherwise provided by this Title, and for the administration, control, and
 27 operation of the functions, programs, and affairs of the department; provided that the
 28 secretary shall perform his functions under the general control and supervision of the
 29 governor. The secretary shall be an ex officio member of the ~~State Mineral Board~~

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State Mineral and Energy Board.

* * *

§359. Transfer of agencies and functions to Department of Natural Resources

* * *

E. The ~~State Mineral Board~~ **State Mineral and Energy Board** (R.S. 30:121 et seq.) is transferred to and hereafter shall be within the Department of Natural Resources as provided in R.S. 36:807.

* * *

§807. Transfer; ~~State Mineral Board~~ **State Mineral and Energy Board**

The ~~State Mineral Board~~ **State Mineral and Energy Board**, transferred by the provisions of R.S. 36:359(E), shall be transferred as provided in R.S. 36:802, except the secretary of the Department of Natural Resources shall be an ex officio member of the ~~State Mineral Board~~ **State Mineral and Energy Board**. The ~~State Mineral Board~~ **State Mineral and Energy Board** shall retain supervision of all mineral leases granted by the state, and it shall retain general authority to take action for and on behalf of and to protect the interests of the state in accordance with the provisions of Title 30 of the Revised Statutes of 1950, as amended, and applicable laws.

Section 5. R.S. 39:14(1) is hereby amended and reenacted to read as follows:

§14. Exceptions

The following shall not be subject to the provision of R.S. 39:11 and 12 but shall be subject to the provisions of R.S. 39:13:

(1) Lands and waterbottoms leased by the ~~State Mineral Board~~ **State Mineral and Energy Board** in accordance with the provisions of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950 including but not limited to leases for the exploration and production of oil, gas, and other hydrocarbons, and related mineral activities.

* * *

Section 6. R.S. 41:643(A), 1217.1(B), 1732(A) and (B) and 1733 are hereby

1 amended and reenacted to read as follows:

2 §643. Vermilion Parish; Sixteenth section land; distribution of mineral proceeds,
3 and ownership of minerals and mineral revenues

4 A. The state of Louisiana, the ~~State Mineral Board~~ **State Mineral and**
5 **Energy Board** may enter into and execute a compromise and settlement with the
6 Vermilion Parish School Board regarding the ownership of certain mineral and
7 mineral revenues together with the disposition of mineral revenues derived from a
8 certain area alleged by the school board to be a "Sixteenth Section" located in
9 Township 15 South, Range 1 West, in East White Lake, Vermilion Parish, Louisiana.

10 * * *

11 §1217.1. Renewal of lease; highest bid option

12 * * *

13 B. Notwithstanding any provision of law to the contrary, if the commissioner
14 or secretary determines there exists a public need to maintain the current lessee, the
15 commissioner or secretary may offer the current lessee, if he made a bid, the option
16 to match the highest bid in order to lease the state lands. The provisions of this
17 Subsection shall not apply to oyster leases, alligator leases, or oil and gas leases
18 entered into by the Department of Wildlife and Fisheries, or to any lease entered into
19 by the ~~State Mineral Board~~ **State Mineral and Energy Board**.

20 * * *

21 §1732. Lease authority and royalties

22 A. Notwithstanding any other provision of law except Subsection B of this
23 Section, the ~~State Mineral Board~~ **State Mineral and Energy Board** in conjunction
24 with the secretary of the Department of Natural Resources, shall have the authority
25 to lease for the exploration, development, or production of energy from wind any
26 lands belonging to the state or the title to which is held by the state, including water
27 bottoms, vacant state lands, and lands adjudicated to the state at tax sale, except
28 lands that form any portion of state highway right-of-way. The leases shall be
29 granted through a public bid process which shall be promulgated by the adoption of

1 rules and regulations by the ~~State Mineral Board~~ **State Mineral and Energy Board**.

2 All bonuses, rentals, royalties, payments, or other sums due the state as the lessor
3 under the terms of leases granted under the provisions of this Subsection for the
4 exploration, development, and production of energy from wind shall be paid to the
5 office of mineral resources. Revenues received from these leases by the office of
6 mineral resources shall be remitted to the state treasurer who, after compliance with
7 Article VII, Section 9 of the state constitution, shall credit an amount equal to
8 twenty-five percent of the revenues to the Wetlands Conservation and Restoration
9 Fund and an amount equal to the seventy-five percent to the state general fund. The
10 funds generated under leases granted under the provisions of this Section shall not
11 be included in calculations for the Budget Stabilization Fund.

12 B. Notwithstanding any other provision of law, the ~~State Mineral Board~~
13 **State Mineral and Energy Board**, with the approval of the secretary of the
14 Department of Wildlife and Fisheries, shall have the authority to lease for the
15 exploration, development, or production of energy from wind, any properties under
16 the jurisdiction of the Wildlife and Fisheries Commission or the Department of
17 Wildlife and Fisheries, including but not limited to wildlife management areas and
18 refuges. The leases shall be granted through a public bid process which shall be
19 promulgated by the adoption of rules and regulations by the ~~State Mineral Board~~
20 **State Mineral and Energy Board**. All bonuses, rentals, royalties, payments or
21 other sums payable to the state as the lessor under the terms of leases granted under
22 the provisions of this Subsection for the exploration, development, and production
23 of energy from wind shall be deposited in the Wildlife and Fisheries Conservation
24 Fund.

25 * * *

26 §1733. Award of state wind leases

27 A. All proposals for lease of state lands for the exploration, development, or
28 production of energy from wind shall be submitted to the ~~State Mineral Board~~ **State**
29 **Mineral and Energy Board**. The ~~State Mineral Board~~ **State Mineral and Energy**

1 **Board** shall then submit to the state land office and the Department of Wildlife and
2 Fisheries the portion of the proposal which contains the location of the proposed
3 lease. The state land office and the Department of Wildlife and Fisheries shall
4 review the proposed location of the lease and shall certify to the ~~State Mineral Board~~
5 **State Mineral and Energy Board** whether or not there are other leases of any kind
6 at the proposed lease location. If there are other leases, the state agencies shall attach
7 to the certification a copy of all other leases at the proposed lease location. The state
8 land office and the Department of Wildlife and Fisheries are hereby authorized to
9 charge the applicant reasonable fees to fulfill the requirements of this Section. Any
10 such fees shall be promulgated through rules and regulations adopted in accordance
11 with the Administrative Procedure Act.

12 B. After certification by the other state agencies, the ~~State Mineral Board~~
13 **State Mineral and Energy Board** shall forward the applications and certification
14 with copies of any other leases on the proposed location to the secretary of the
15 Department of Natural Resources who shall evaluate whether the lands proposed for
16 lease best support the exploration, development, or production of energy from wind.
17 In evaluating the proposed lease, the secretary of the Department of Natural
18 Resources shall consider the capability of the lease proposal to fulfill the intent of
19 this Chapter, the environmental impact of the placement of wind turbines and other
20 equipment necessary for the exploration, development, or production of energy from
21 wind, the impact of the proposed lease on any other leases, including leases for the
22 exploration or production of subsurface deems appropriate. When evaluating the
23 proposed lease, the secretary of the Department of Natural Resources shall consult
24 with the Department of Wildlife and Fisheries when the proposed lease lies within
25 the confines of properties under the jurisdiction of the Louisiana Wildlife and
26 Fisheries Commission or the Department of Wildlife and Fisheries and may consult
27 any other state agency or governmental entity that may have jurisdiction within the
28 confines of the proposed lease.

29 C. If the secretary of the Department of Natural Resources determines that

1 a proposed lease for the exploration, development, or production of energy from
 2 wind is appropriate he shall recommend to the ~~State Mineral Board~~ **State Mineral**
 3 **and Energy Board** that the board conduct a public bid process. If the secretary of
 4 Department of Natural Resources determines that a proposed lease for the
 5 exploration, development, or production of energy from wind is not appropriate, he
 6 shall notify the ~~State Mineral Board~~ **State Mineral and Energy Board** who shall
 7 then notify the applicant that no bid process shall occur.

8 D. A lease may be granted in whole or in part. Prior to the advertisement for
 9 bids for each lease there shall be a minimum dollar amount set and a minimum
 10 percentage of revenue to be produced by each wind turbine to be known as an
 11 "electric power production royalty", which shall be advertised by the ~~State Mineral~~
 12 ~~Board~~ **State Mineral and Energy Board** as a minimum requirement for granting the
 13 lease. No lease shall be granted in whole or part unless the amount of any electric
 14 power production royalty has been approved by the House Committee on Natural
 15 Resources and Environment and the Senate Committee on Natural Resources prior
 16 to advertisement. The ~~State Mineral Board~~ **State Mineral and Energy Board** has
 17 authority to accept the bid it finds is most advantageous to the state and may lease
 18 upon whatever terms it considers proper. Such lease shall include a provision
 19 permitting the state, at its option, to take in kind all or any of the portion due it as
 20 royalty.

21 Section 7. R.S. 42:6.1(A)(6) is hereby amended and reenacted to read as follows:

22 §6.1. Exceptions to open meetings

23 A. A public body may hold an executive session pursuant to R.S. 42:6 for
 24 one or more of the following reasons

25 * * *

26 (6) Any meeting of the ~~State Mineral Board~~ **State Mineral and Energy**
 27 **Board** at which records or matters entitled to confidential status by existing law are
 28 required to be considered or discussed by the board with its staff or with any
 29 employee or other individual, firm, or corporation to whom such records or matters

1 are confidential in their nature, and are disclosed to and accepted by the board
 2 subject to such privilege, for the exclusive use in evaluating lease bids or
 3 development covering state-owned lands and water bottoms, which exception is
 4 proved pursuant to and consistently with the Public Records Act, being Chapter I of
 5 Title 44 of the Louisiana Revised Statutes of 1950, as amended, and other statutes
 6 to which the board is subject.

7 * * *

8 Section 8. R.S. 44:18 is hereby amended and reenacted to read as follows:

9 §18. Geophysical survey information

10 All information and records of geophysical or geological surveys furnished
 11 to the ~~State Mineral Board~~ **State Mineral and Energy Board** or the office of
 12 mineral resources pursuant to R.S. 30:213 shall be confidential and exempt from the
 13 provisions of this Chapter.

14 Section 9. R.S. 56:30.3(B), 426(C), 798(A)(1) and (2)(b) and (c) are hereby amended
 15 and reenacted to read as follows:

16 §30.3. Lease of state lands; access to public waterways

17 * * *

18 B. Notwithstanding any provision of law to the contrary, if the secretary
 19 determines there exists a public need to maintain the current lessee, the secretary
 20 may offer the current lessee, if he made a bid, the option to match the highest bid in
 21 order to lease the state lands. The provisions of this Subsection shall not apply to
 22 oyster leases, oil and gas leases or alligator leases entered into by the department, or
 23 to any lease entered into by the ~~State Mineral Board~~ **State Mineral and Energy**
 24 **Board**. The department shall promulgate rules and regulations providing for uniform
 25 criteria to assess the management of leased property.

26 * * *

27 §426. Filing and recordation of water bottoms leases

28 * * *

29 C. If a lease is not recorded and filed within the time periods provided above,

1 no third party shall be bound or affected by the provision of that lease, until such
 2 time as it is properly recorded and filed. There shall be no claim against the state of
 3 Louisiana for the disregard of the provisions of any lease not properly recorded and
 4 filed in accordance with foregoing, nor shall there be any claim against the
 5 department, the register of the state land office, or the ~~state mineral board~~ **State**
 6 **Mineral and Energy Board**, for the disregard of the provisions of any lease which
 7 has not been properly filed with the respective agency involved.

8 * * *

9 §798. Russell Sage or Marsh Island Refuge

10 A. (1) The ~~State Mineral Board~~ **State Mineral and Energy Board** is hereby
 11 authorized to lease for exploration, development or production of oil, gas, or other
 12 minerals all or any portion of Marsh Island, donated to the state of Louisiana by the
 13 Russell Sage Foundation and accepted by the state of Louisiana, under the terms and
 14 provision of Act No. 70 of the 1920 Regular Session of the Legislature, as
 15 supplemented by Act 136 of the 1958 Regular Session of the Legislature, and of the
 16 contract between the state of Louisiana and the Russell Sage Foundation entered into
 17 pursuant to said Act, now on file and of record in the office of the secretary of state;
 18 such lease or leases to be for such time or times as may be mutually agreed upon
 19 between the Russell Sage Foundation and the ~~State Mineral Board~~ **State Mineral**
 20 **and Energy Board**, and under such conditions, rules, and regulations as will, to the
 21 satisfaction of the Russell Sage Foundation, afford adequate present and future
 22 protection of Marsh Island for the purposes for which it was donated by the Russell
 23 Sage Foundation to the state and as will insure a minimum disturbance of wildlife
 24 on the island, and upon condition that the state of Louisiana shall pay or cause to be
 25 paid to the Russell Sage Foundation in the usual manner one-half of any and all
 26 revenues due to the state as royalty, rentals, or otherwise from such use, exploration,
 27 and development of such leased lands, except tax revenues, and that the state of
 28 Louisiana shall devote the other half of the such revenues so derived, first to
 29 maintaining, policing, and improving Marsh Island as a wildlife refuge or reserve,

1 which funds shall be credited to, and form part of the Marsh Island Operating Fund,
 2 and any excess thereafter remaining of the state's one-half share of such revenues in
 3 the Marsh Island Operating Fund at the conclusion of the fiscal year shall be divided
 4 into two equal parts, one of which shall be dedicated, set aside, and placed with the
 5 state treasurer in a special fund to be known as the "Russell Sage or Marsh Island
 6 Refuge Fund", in order to insure through investment or its principal income, for the
 7 future maintenance, policing, and improving of Marsh Island as a wildlife refuge,
 8 and the other such part shall be available to be expended by the Louisiana
 9 Department of Wildlife and Fisheries or its successors for statewide projects for the
 10 propagation and protection of wildlife in the state of Louisiana.

11 (2)(a) * * *

12 (b) The secretary of Louisiana Department of Wildlife and Fisheries shall
 13 file with the ~~State Mineral Board~~ **State Mineral and Energy Board** annually, on or
 14 before July thirtieth of each year, an accurate and detailed written report, in
 15 duplicate, of the expenditures made from the state's one-half share of such revenues.
 16 One of the copies of such report shall be delivered by the ~~State Mineral Board~~ **State**
 17 **Mineral and Energy Board** to the Russell Sage Foundation, and the other shall
 18 remain on file with the ~~State Mineral Board~~ **State Mineral and Energy Board**,
 19 provided that the Russell Sage Foundation shall have the right if it so desires to
 20 verify any such report by audit.

21 (c) Upon the same terms and conditions and subject to the same division and
 22 disposition of revenues therefrom the ~~State Mineral Board~~ **State Mineral and**
 23 **Energy Board** is authorized to grant permits to conduct geophysical surveys of all
 24 or any portion of Marsh Island.

25 * * *

26 Section 10. This Act shall become effective on July 1, 2009.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by J. W. Wiley.

DIGEST

Dupre (SB 41)

Proposed law changes the name of the State Mineral Board to the State Mineral and Energy Board.

Present law provides that the monies in the Mineral Resources Operation Fund must be appropriated by the legislature to DNR's office of mineral resources and must be used only for the administration and operation of the office of mineral resources.

Proposed law changes the name of the Mineral Resources Operation Fund to the Mineral and Energy Operation Fund.

Proposed law changes the use of monies in the Mineral Resources Operation Fund. Removes the requirement that the monies in the fund be appropriated to DNR's office of mineral resources and used only for the administration and operation of such office. Further provides that the monies be appropriated to DNR for the administration and regulation of minerals, ground water and related energy activities.

Effective July 1, 2009.

(Amends R.S. 17:9(B) and 3367(B), R.S. 30:4(D)(1), (2) and (3), 83(G), 121(A), 123.1(A) and (C), 124, 126(A), 127(A), 127.1(B)(1), 128(A) and (B)(2), 131, 136(A)(1)(b) and (B)(1), (2) and (3), 136.1(A) and (B), 136.3(A) and (D), 137, 139, 141, 143(A), (D)(4), (5), (6), and (F), 144(A) and (B), 148.1, 148.2(A) and (B), 150(C)(1), 153, 154(C), 155, 156, 158, 159, 179.11, 179.12, 186, 187, 188(A) and (B), 208, 209 (intro para), (2) and (4)(b), (d) and (e), 209.1(A) and (B)(1), 212(A), (D)(2) and (3), 213, 214, 215, 216(B) and (C)(4), and 804, R.S. 34:3108(E), 3478(E) and 3498(E), R.S. 36:353, 359(E) and 807, R.S. 39:14(1), R.S. 41:643(A), 1217.1(B), 1732(A) and (B) and 1733, R.S. 42:6.1(A)(6), R.S. 44:18, R.S. 56:30.3(B), 426(C), and 798(A)(1), (2)(b) and (c))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill.

1. Changes the name of the State Mineral Board to the State Mineral and Energy Board.