

Regular Session, 2013

HOUSE BILL NO. 636

BY REPRESENTATIVE DANAHAAY

ENERGY/OIL & GAS: Changes the oil spill contingency fee both in amount and application and removes limitation on expenditures from the Oil Spill Contingency Fund

1 AN ACT

2 To amend and reenact R.S. 30:2483(E), 2484, and 2485, to enact R.S. 30:2454(32), and to
3 repeal R.S. 30:2486 and 2487, relative to the Oil Spill Contingency Fund; to provide
4 for the fees levied to supply monies to such fund; to provide relative to uses for the
5 fund; to remove limitations on the fund; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 30:2483(E), 2484, 2485 are hereby amended and reenacted and R.S.
8 30:2454(32) is hereby enacted to read as follows:

9 §2454. Definitions

10 * * *

11 (32) "Refinery" means a facility located within the state of Louisiana where
12 crude oil is converted into a finished or higher grade product.

13 * * *

14 §2483. Oil Spill Contingency Fund

15 * * *

16 E. After compliance with the requirements of Article VII, Section 9(B) of
17 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
18 and prior to monies being placed in the state general fund, an amount equal to that
19 deposited, as required in Subsection D ~~hereof~~ of this Section, and monies

1 appropriated by the legislature shall be credited to a special fund hereby created in
2 the state treasury to be known as the "Oil Spill Contingency Fund". The monies in
3 this fund shall be used solely as provided in this ~~Section~~ Part and only in the amounts
4 appropriated by the legislature. All unexpended and unencumbered monies in this
5 fund at the end of the fiscal year shall remain in the fund. The monies in this fund
6 shall be invested by the state treasurer in the same manner as monies in the state
7 general fund, and interest earned on the investment of these monies shall remain in
8 the fund. ~~Except as otherwise provided in this Section, the balance of the fund shall~~
9 ~~not exceed thirty million dollars, exclusive of all fees, other than all fees collected~~
10 ~~pursuant to R.S. 30:2485 and 2486, penalties, judgments, reimbursements, charges,~~
11 ~~interest, and federal funds collected pursuant to the provisions of this Chapter. As~~
12 ~~authorized by Article VII, Section 10.7(C) of the Constitution of Louisiana, the~~
13 ~~amount of monies in the fund shall not be limited to thirty million dollars during a~~
14 ~~declared state of emergency or disaster caused by an unauthorized discharge of oil.~~

15 §2484. Uses of fund

16 A. Money in the fund may be disbursed for the following purposes and no
17 others:

18 (1) Administrative and personnel expenses of the office of the coordinator,
19 excluding those of the oil spill technical assistance program, ~~not to exceed six~~
20 ~~hundred thousand dollars in any fiscal year, except that during a declared state of~~
21 ~~emergency or disaster caused by an unauthorized discharge of oil, more than six~~
22 ~~hundred thousand dollars in a fiscal year may be disbursed from the fund after~~
23 ~~approval of the commissioner of administration and the Joint Legislative Committee~~
24 ~~on the Budget.~~

25 (2) Removal costs related to abatement and containment of actual or
26 threatened unauthorized discharges of oil incidental to unauthorized discharges of
27 hazardous substances.

28 (3) Removal costs and damages related to actual or threatened unauthorized
29 discharges of oil as provided in this Chapter.

1 (4) Protection, assessment, restoration, rehabilitation, or replacement of or
2 mitigation of damage to natural resources damaged by an unauthorized discharge of
3 oil as provided in this Chapter.

4 (5) Grants, with the approval of the interagency council, for interagency
5 contracts as provided in R.S. 30:2495, ~~not to exceed seven hundred fifty thousand~~
6 ~~dollars in any fiscal year. Of the total amount of grants awarded in any fiscal year,~~
7 ~~one hundred thousand dollars shall be made available for~~ including grants
8 specifically for the purposes of research, testing, and development of discharge and
9 blowout prevention and training using full scale well service training.

10 (6) ~~Beginning in Fiscal Year 96-97 and each fiscal year thereafter until~~
11 ~~Fiscal Year 1999-2000, the monies expended from the fund for the~~ The Oil Spill
12 Technical Assistance Program established in R.S. 30:2480(C)(4) ~~shall be increased~~
13 ~~by one hundred thousand dollars each fiscal year whereupon funding for the Oil Spill~~
14 ~~Technical Assistance Program shall reach five hundred thousand dollars during~~
15 ~~Fiscal Year 2000-2001.~~

16 (7) Operating costs and contracts for response and prevention as provided
17 in this Chapter, ~~excluding operating costs and contracts where indicated of the oil~~
18 ~~spill technical assistance program, not to exceed six hundred thousand dollars in any~~
19 ~~fiscal year; except that during a declared state of emergency or disaster caused by an~~
20 ~~unauthorized discharge of oil, more than six hundred thousand dollars in a fiscal year~~
21 ~~may be disbursed from the fund after approval of the commissioner of administration~~
22 ~~and the Joint Legislative Committee on the Budget.~~

23 (8) Other costs and damages authorized by this Chapter.

24 (9) B. Any state agency or political subdivision seeking an appropriation
25 from the fund or proposing expenditures utilizing money from the fund must notify
26 the coordinator in writing before submitting the appropriation request to the
27 legislature.

28 (10) ~~An inventory under R.S. 30:2480, to be completed by July 1, 2001, in~~
29 ~~an amount not to exceed five million five hundred fifty thousand dollars in total.~~

1 ~~B. Funds paid to the office of the oil spill coordinator as cost recoveries from~~
2 ~~responsible parties, the Oil Spill Contingency Fund, or the federal Oil Spill Liability~~
3 ~~Trust Fund, shall not be included in the amounts provided for in Paragraphs (1) and~~
4 ~~(7) of Subsection A. Such cost recoveries and other funds may be used to~~
5 ~~supplement the activities normally funded under those Paragraphs beyond the set~~
6 ~~limits provided therein.~~

7 §2485. Oil spill contingency fee

8 A. There is hereby imposed a fee of one-quarter of one cent per barrel on
9 ~~every person owning~~ crude oil received by a refinery for storage or processing. in
10 ~~a vessel at the time such crude oil is transferred to or from a vessel at a marine~~
11 ~~terminal within the state of Louisiana.~~ This fee is shall be in addition to all taxes or
12 other fees levied on crude oil and the monies collected shall be placed in the Oil Spill
13 Contingency Fund as provided in R.S. 30:2483.

14 B. The operator of the ~~marine terminal~~ refinery shall ~~collect the fee from the~~
15 ~~owner of the crude oil and~~ remit the fee to the secretary. The fee shall be imposed
16 only once on the same crude oil. The fee shall be paid quarterly by the last day of
17 the month following the calendar quarter in which liability for the fee is incurred.
18 ~~Fees collected during a quarter must be remitted to the state even if the fee is~~
19 ~~suspended during that quarter.~~ For the expenses of collecting this fee, the operator
20 is authorized to withhold one and one-half percent of the fees ~~collected~~ due during
21 each quarter provided that the amount due was not delinquent at the time of payment.

22 C. Notwithstanding the provisions of Subsection A of this Section, the fee
23 shall be levied at the rate of one-half cent per barrel if the state treasurer certifies to
24 the secretary of the Department of Revenue a written finding of the following facts:

25 (1) The balance in the fund is less than five million dollars.

26 (2) An unauthorized discharge of oil in excess of one hundred thousand
27 gallons has occurred within the previous thirty days as certified by the coordinator.

1 (3) Expenditures from the fund for damages and removal costs are
 2 reasonably expected by the coordinator and interagency council to deplete the fund
 3 by more than fifty percent of the balance of the fund, and certification of this
 4 expectation and the estimated damages and removal costs have been submitted to the
 5 state treasurer.

6 D. In the event of a certification to the secretary under Subsection C of this
 7 Section, the secretary shall collect the fee at the rate of one-half cent per barrel until
 8 the balance in the fund reaches seven million dollars. The state treasurer shall certify
 9 to the secretary the date on which the balance in the fund equals seven million
 10 dollars. Upon such certification to the secretary, the fee shall revert to the standard
 11 fee delineated in R.S. 30:2485(A).

12 E. The fee levied by this Part shall be subject to the provisions of Chapter
 13 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The
 14 coordinator in conjunction with the secretary shall adopt rules for the collection and
 15 administration of the fee provided for in this Section.

16 Section 2. R.S. 30:2486 and 2487 are hereby repealed in their entirety.

17 Section 3. The provisions of this Act shall become effective upon final judgment or
 18 settlement of the Multi-District Litigation 2179 arising from the Deepwater Horizon oil spill
 19 that began on April 20, 2010; or deposit into the Resources and Ecosystems Sustainability,
 20 Tourist Opportunities and Revived Economies of the Gulf Coast States Act (RESTORE Act)
 21 Trust Fund penalties assessed or levied under the federal Water Pollution Control Act, 33
 22 U.S.C. 1231; or July 1, 2014, whichever occurs first.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Danahay

HB No. 636

Abstract: Changes the oil spill contingency fee both in amount and in application and removes limitations on the expenditures from the fund.

Present law provides for a means of financing oil spill response activities by the state of Louisiana. Provides for a fee to be levied on crude oil transferred to or from a vessel at a

marine terminal with the state. Provides for those monies to be placed in the Oil Spill Response Fund to be used to respond to oil spills in the state.

Proposed law defines "refinery" to mean a facility located within Louisiana where crude oil is converted into a finished or higher grade product.

Present law limits the balance of the Oil Spill Contingency Fund to \$30 million including all fees collected, penalties, judgments, reimbursements, charges, interest, and federal funds. Proposed law removes this ceiling on the fund.

Present law provides generally for the use of the monies in the fund. Authorizes the use for administrative and personnel not to exceed \$600,000. Authorizes the issuance of grants for research, testing and development of discharge and blowout prevention and training not to exceed \$750,000. Authorizes monies to be spent on the Oil Spill Technical Assistance Program. Authorizes operating costs and contract expenses for response and prevention not to exceed \$600,000 except during times of declared emergency when funds in excess of \$600,000 can be disbursed upon approval by the Joint Legislative Committee on the Budget.

Proposed law removes all of the above listed expenditure limits.

Present law further authorizes the monies to be spent for an inventory by July 1, 2001, of natural resources damages in an amount not to exceed \$5,550,000. Proposed law removes this provision.

Present law provides that funds paid to the oil spill coordinator as cost recoveries from responsible parties, the Oil Spill Contingency Fund, or the federal Oil Spill Liability Trust Fund shall not be used for administrative or operating purposes. Proposed law removes this provision.

Present law imposes a fee of 4 cents per barrel of crude oil transferred to or from a vessel to a marine terminal within the state. Provides that the fee is levied when the balance in the fund is less than \$5 million, when an unauthorized discharge in excess of 100,000 gallons has occurred, or when expenditures from the fund for damages and removal costs are expected to deplete the fund by more than 50% of the balance of the fund. Provides that the 4 cent fee shall be collected until such time as the balance in the fund equals \$7 million and that when the \$7 million balance is reached the fee shall no longer be collected.

Proposed law levies the fee at all times on the operator of a refinery where crude oil is received for storage or processing. The fee is 1/4 cent per barrel except when the fund balance is less than \$5 million or an authorized discharge in excess of 100,000 gallons has occurred, or expenditures from the fund are anticipated to deplete the fund by more than 50% of the balance of the fund. At that point, the fee shall be increased to 1/2 cent per barrel until the balance of the fund equals \$7 million. Upon such certification to the secretary, the fee shall revert to the standard fee provided for in proposed law.

Present law provides for a process by which it shall be determined whether or not the fee is to be levied based on the balance of the fund, when the fund balance reaches \$7 million, the fee is suspended and when the balance falls below \$5 million, the fee is reinstated. Proposed law removes this process.

Effective upon final judgment or settlement of the Multi-District Litigation 2179 arising from the Deepwater Horizon oil spill that began on April 20, 2010; or deposit into the Resources and Ecosystems Sustainability, Tourist Opportunities and Revived Economies of the Gulf Coast States Act (RESTORE Act) Trust Fund penalties assessed or levied under the federal Water Pollution Control Act, 33 U.S.C 1231; or July 1, 2014, whichever occurs first.

(Amends R.S. 30:2483(E), 2484, and 2485; Adds R.S. 30:2454(32); Repeals R.S. 30:2486 and 2487)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Adds effective date of Jan. 1, 2014.

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Changes the effective date from Jan. 1, 2014, to upon final judgement or settlement of the Multi-District Litigation 2170 arising from the Deepwater Horizon oil spill that began on April 30, 2010; or deposit of the RESTORE Act penalties assessed or levied under the federal Water Pollution Control Act; or July 1, 2014, whichever occurs first.
2. Makes technical changes.