

2015 Regular Session

SENATE BILL NO. 41

BY SENATOR ALLAIN

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

CONSERVATION. Provides relative to the Louisiana Oilfield Site Restoration Law.
(8/1/15)

AN ACT

To amend and reenact R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1), and the introductory paragraph of (A)(3), and to enact R.S. 30:91(B)(5), relative to the Louisiana Oilfield Site Restoration Law; to provide relative to oilfield site trust accounts; to require a site-specific trust account for certain oilfield sites; to provide relative to orphaned oilfield sites; to provide for the procedure prior to declaring a site orphaned; to provide certain penalties; to provide relative to the recovery of site restoration costs; to provide for certain monetary limits and their effects; to provide certain terms, conditions, requirements, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1), and the introductory paragraph of (A)(3) are hereby amended and reenacted and R.S. 30:91(B)(5) is hereby enacted to read as follows:

§88. Oilfield site trust accounts

A.(1) If an oilfield site is transferred from one party to another, a site-specific trust account may be established to separately account for each such site for the

1 purpose of providing a source of funds for site restoration of that oilfield site at such
2 time in the future when restoration of that oilfield site is required.

3 (2) If an oilfield site is transferred from the operator of record to another
4 operator, a site-specific trust account shall be established to separately account
5 for each such site for the purpose of providing a source of funds for site
6 restoration of that oilfield site at such time in the future when restoration of that
7 oilfield site is required.

8 (3) For purposes of this Part, a transfer shall be deemed to have been made
9 once there is a change in ownership of any kind at an oilfield site. Once established,
10 the site-specific trust account shall survive until completion of site restoration of the
11 associated oilfield site.

12 B. In the event the parties or operators of record to a transfer ~~elect to~~
13 establish a site-specific trust account under this Section, the assistant secretary shall
14 require an oilfield site restoration assessment to be made to determine the site
15 restoration requirements existing at the time of the transfer, or at the time the site-
16 specific trust account is established. The oilfield site restoration assessment shall be
17 conducted by approved site assessment contractors appearing on a list approved by
18 the commission or acceptable to the commission. The oilfield site restoration
19 assessment shall specifically detail site restoration needs and shall provide an
20 estimate of the site restoration costs needed to restore the oilfield site based on the
21 conditions existing at the time of transfer, or at the time the site-specific trust account
22 is established.

23 C. The party ~~or parties~~ or operator of record to the transfer shall, based
24 upon the site restoration assessment, propose a funding schedule which will provide
25 for the site-specific trust account. The funding schedule shall consider the uniqueness
26 of each transfer, acquiring party or acquiring operator, and oilfield site. Funding
27 of the site-specific trust account shall include some contribution to the account at the
28 time of transfer and at least quarterly payments to the account. Cash or bonds in a
29 form and of a type acceptable to the assistant secretary, or any combination thereof,

1 may also be considered for funding. The assistant secretary shall monitor each trust
2 account to assure that it is being properly funded. The funds in each trust account
3 shall remain the property of the commission.

4 * * *

5 E. When transfers of oilfield sites occur subsequent to the formation of site-
6 specific trust accounts but prior to the end of their economic life, the assistant
7 secretary and the acquiring party or acquiring operator shall, in the manner
8 provided for in this Section, again redetermine cost and agree upon a funding
9 schedule. The balance of any site-specific trust account at the time of subsequent
10 transfer shall remain with the oilfield site and shall be a factor in the redetermination.

11 F. Once the assistant secretary has approved the site-specific trust account,
12 and the account is fully funded, the party or operator of record transferring the
13 oilfield site and all prior owners, operators, and working interest owners shall not
14 thereafter be held liable by the state for any site restoration costs or actions
15 associated with the transferred oilfield site. The party acquiring or the operator
16 acquiring the oilfield site shall thereafter be the responsible party for the purposes
17 of this Part.

18 G. The failure of a transferring party or the transferring operator of record
19 to make a good faith disclosure of all oilfield site conditions existing at the time of
20 the transfer may render that party or operator liable for the costs of restoration of
21 such undisclosed conditions in excess of the balance of the site-specific trust fund.

22 H. Except as provided in Subsection E and Paragraph (A)(2), the parties to
23 a transfer may elect not to establish a site-specific trust account; however, in the
24 absence of such account, the parties shall not be exempt from liability as set forth in
25 Subsection F of this Section.

26 * * *

27 §91. Orphaned oilfield sites

28 * * *

29 B.(1)(a) Prior to declaring a site to be an orphaned oilfield site, the assistant

1 secretary shall seek to notify ~~the last operator~~ **all operators** of record, at ~~his~~ **their**
2 last known address contained in the department records, of the site that is to be
3 declared orphaned and shall publish a notice in the Louisiana Register that the
4 oilfield site is to be declared orphaned.

5 **(b) If the current operator of record fails to respond or fails to close and**
6 **restore an oilfield site when ordered by the assistant secretary, then the**
7 **assistant secretary shall order, in reverse chronological order from the date of**
8 **the notice provided in this Subsection, the former operators of record of the**
9 **oilfield site to close and restore the oilfield site in accordance with the rules and**
10 **regulations adopted by the assistant secretary.**

11 **(c)** If resolution of a factual dispute is requested by any owner or operator,
12 the assistant secretary shall hold a fact-finding hearing prior to declaring the site
13 orphaned and the assistant secretary shall make any fact determination necessary to
14 resolve the dispute.

15 * * *

16 **(5) Failure by an operator of record of an oilfield site to close and**
17 **restore the oilfield site when ordered to do so by the assistant secretary, shall**
18 **subject that operator to the provisions of R.S. 30:93 and the penalties in R.S.**
19 **30:94.**

20 * * *

21 §93. Recovery of site restoration costs

22 A. If the assistant secretary undertakes restoration of an orphaned oilfield site
23 under this Part, the secretary shall seek to recover all costs incurred by the secretary,
24 assistant secretary, penalties, and other relief from any party who has operated or
25 held a working interest in such site, or who is required by law, rules adopted by the
26 department, or a valid order of the assistant secretary to control, clean up, close, or
27 restore the oilfield sites in accordance with the following:

28 (1) All oilfield sites for which there is no site-specific trust fund shall be
29 restored with monies provided by the fund. Except for the responsible party, the

1 secretary shall not be authorized to recover restoration costs from parties which
 2 formerly operated or held a working interest in an orphaned oilfield site unless
 3 restoration costs for a particular orphaned oilfield site including support facilities
 4 exceed ~~two hundred~~ fifty thousand dollars. Recovery of costs under this Paragraph
 5 shall be from the parties in inverse chronological order from the date on which the
 6 oilfield site was declared orphaned.

7 * * *

8 (3) If the oilfield site does not meet the provisions of R.S. 30:88(F) and
 9 restoration costs exceed ~~two hundred~~ fifty thousand dollars, recovery of costs shall
 10 be from the parties in inverse chronological order from the date on which the oilfield
 11 site has been declared orphaned, except that a party shall be exempt from liability for
 12 restoration of an orphaned oilfield site as provided for in this Part in which said party
 13 had an operating or working interest if, and only if, the party complies with all of the
 14 following:

15 * * *

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

DIGEST

SB 41 Engrossed

2015 Regular Session

Allain

Present law authorizes the establishment of a site-specific trust account for an oilfield site that is transferred from one party to another party.

Proposed law requires the establishment of a site-specific trust account for an oilfield site that is transferred from the operator of record to another operator.

Present law provides for the procedure of declaring an oilfield site as orphaned. Requires that prior to declaring a site orphaned, the assistant secretary of DNR must notify the last operator of record.

Proposed law requires the asst. secretary of DNR to notify all operators.

Proposed law provides that if the current operator of record fails to respond or fails to close and restore an oilfield site when ordered by the asst. secretary, then the asst. secretary must order, in reverse chronological order from the date of the notice provided in present law, the former operators of record to close and restore the oilfield site.

Proposed law provides for penalties and the recovery of site restoration costs to be assessed against the operator who fails to close and restore the oilfield site.

Present law provides recovery of site restoration costs. Further provides that the secretary

of Department of Natural Resources is not authorized to recover restoration costs from parties that formerly operated or held a working interest in an orphaned oilfield site unless restoration costs for a particular orphaned oilfield site including support facilities exceed \$250,000.

Proposed law changes the restoration costs limitation from \$250,000 to \$50,000.

Present law provides that if the oilfield site does not meet the provisions of R.S. 30:88(F) and restoration costs exceed \$250,000, recovery of costs will be from the parties in inverse chronological order from the date on which the oilfield site has been declared orphaned, except that a party will be exempt from liability for restoration of an orphaned oilfield site if the party meets certain requirements.

Proposed law changes the restoration costs limitation from \$250,000 to \$50,000.

Effective August 1, 2015.

(Amends R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1), and the introductory paragraph of (A)(3); adds R.S. 30:91(B)(5))

Summary of Amendments Adopted by Senate

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

1. Requires a site-specific trust account when an oilfield site is transferred between operators.
2. Changes the procedure for declaring an oilfield site as orphaned.
3. Provides for penalties and the recovery of site restoration costs from certain operators.