

2016 Regular Session

HOUSE BILL NO. 819

BY REPRESENTATIVES JIM MORRIS AND BISHOP

CONSERVATION: Provides for the Oilfield Site Restoration Fund

1 AN ACT

2 To amend and reenact R.S. 30:82, 84(A)(1), 86(B), (C), and (E)(1), 87(A), (B), (E), and
3 (F)(1), and 95(A) and to enact R.S. 30:83(F)(2) and 83.1, relative to the Oilfield Site
4 Restoration Fund; to provide for definitions; to authorize the issuance of bonds for
5 certain purposes; to provide for the pledge and dedication of the monies deposited
6 in the Oilfield Site Restoration Fund; to provide for the duties and powers of the
7 secretary of the Department of Natural Resources and the Oilfield Site Restoration
8 Commission; to provide for the liability of the state; to provide relative to the
9 requirements and limitations for issuance of revenue bonds; to authorize the
10 execution of certain documents; to provide for fees on crude petroleum and gas
11 produced; to provide for the suspension and resumption of collecting fees; and to
12 provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 30:82, 84(A)(1), 86(B), (C), and (E)(1), 87(A), (B), (E), and (F)(1),
15 and 95(A) are hereby amended and reenacted and R.S. 30:83(F)(2) and 83.1 are hereby
16 enacted to read as follows:

17 §82. Definitions

18 As used in this Part, the following terms shall have the meanings ascribed to
19 them in this Section, unless the context or use clearly indicates otherwise:

1 (1) "Assistant secretary" means the assistant secretary of the office of
2 conservation within the Department of Natural Resources or his authorized
3 representatives.

4 (2) "Bonds" means revenue bonds, notes, certificates, or other evidences of
5 indebtedness issued by an issuer pursuant to R.S. 30:83.1.

6 ~~(2)~~ (3) "Commission" means the Oilfield Site Restoration Commission.

7 ~~(3)~~ (4) "Department" means the Department of Natural Resources.

8 ~~(4)~~ (5) "Fund" means the Oilfield Site Restoration Fund.

9 (6) "Issuer" means a public trust and public corporation organized and
10 existing by, under, and pursuant to the provisions of R.S. 9:2341 through 2347,
11 whose beneficiary is the state of Louisiana, and who is authorized to issue revenue
12 bonds on behalf of the state of Louisiana.

13 ~~(5)~~ (7) "Nonproducing oilfield site" means an oilfield site which is not a
14 producing oilfield site and which has not been declared an orphaned oilfield site by
15 the assistant secretary.

16 ~~(6)~~ (8) "Oilfield site" or "exploration and production (E&P) site" means any
17 oilfield site or exploration and production site as defined in R.S. 30:29(I)(4).

18 ~~(7)~~ (9) "Orphaned oilfield site" means an oilfield site which has no continued
19 useful purpose for the exploration, production, or development of oil or gas and
20 which has been declared to be an orphaned oilfield site by the assistant secretary
21 under R.S. 30:91.

22 ~~(8)~~ (10) "Producing oilfield site" means an oilfield site which is associated
23 with the production of oil or gas for at least six months of the preceding calendar
24 year.

25 ~~(9)~~ (11) "Responsible party" means the operator of record according to the
26 office of conservation records, who last operated the property on which the oilfield
27 site is located at the time the site is about to be abandoned, ceases operation, or
28 becomes an unusable oilfield site, and that operator's partners and working interest
29 owners of that oilfield site. A working interest owner is the owner of a mineral right

1 who is under an obligation to share in the costs of drilling or producing a well on the
2 oilfield site.

3 (12) "Revenues" means the revenues described in R.S. 30:83.1(A)(2).

4 ~~(10)~~ (13) "Secretary" means the secretary of the Department of Natural
5 Resources.

6 ~~(11)~~ (14) "Site restoration" means any and all oilfield site restoration
7 activities required of a responsible party of an oil or gas property by regulations
8 adopted by the office of conservation pursuant to this Subtitle, including without
9 limitation plugging of oil and gas wells, pit closure, site remediation, and removal
10 of oilfield equipment.

11 ~~(12)~~ (15) "Unusable oilfield site" means an oilfield site which has no
12 continued useful purpose for the exploration, production, or development of oil or
13 gas and for which a responsible party can be located.

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

15 * * *

16 F. The powers of the commission shall be limited to the following:

17 * * *

18 (2) The commission, at the direction of the secretary, is authorized to pledge
19 the sources available to fund authorized purposes and to secure the issuance of bonds
20 to fund such purposes provided in R.S. 30:83.1.

21 * * *

22 §83.1. Authorization of bonds

23 A.(1) An issuer is authorized to issue bonds pursuant to the provisions of
24 R.S. 9:2341 through 2347 for the benefit of the commission, at the direction of the
25 secretary, to raise funds for authorized purposes in accordance with the provisions
26 of this Section and the constitutional and statutory provisions governing the issuance
27 of bonds by such entities.

28 (2) The bonds may be secured by an irrevocable pledge and dedication of
29 revenues of the commission, at the direction of the secretary, which shall consist of

1 all monies deposited in the fund pursuant to R.S. 30:86(D), collected, derived, or
2 received from the oilfield site restoration fees and penalties imposed pursuant to R.S.
3 30:87 or any other lawfully available revenues, if any, to the extent appropriated, but
4 shall not include site specific trust account monies as identified in R.S. 30:86(D)(6)
5 and 88. The bonds of the issuer shall be revenue bonds payable solely from the
6 above-described sources, to the extent appropriated and released from the state, and
7 such pledge shall not constitute a pledge of the full faith and credit of the state.

8 (3) The bonds shall be entitled to priorities on the revenues pledged and
9 dedicated pursuant to Paragraph (2) of this Subsection, subject to the prior pledge
10 applicable to outstanding bonds, if any, as provided for in a loan agreement, trust
11 indenture, or other instrument entered into with the issuer or otherwise in connection
12 with the bonds.

13 B.(1) When any bonds have been issued and secured in accordance with the
14 provisions of this Section, neither the commission, the department, the state, nor any
15 other entity may act to impair any obligation or contract for the benefit of the holders
16 of the bonds or discontinue or decrease any fee, penalties, or other revenue in
17 anticipation of the collection of which the bonds have been issued until all of the
18 bonds have been retired as to principal and interest or irrevocable provision
19 otherwise made for their complete redemption and payment in principal, interest, and
20 redemption premium, if any, and the complete payment of all amounts due under the
21 trust agreement pursuant to which the bonds are issued.

22 (2) Any pledge of revenues for the security of the bonds shall be valid and
23 binding from the time the pledge is made and shall be subject to the lien of such
24 pledge without any physical delivery thereof or further act, and the lien of any such
25 pledge shall be valid and binding against all parties having claims of any kind in tort,
26 contract, or otherwise against the state, the department, or the commission whether
27 or not such parties have notice thereof. Any trust agreement by which a pledge is
28 created need not be filed or recorded.

1 (3) The secretary or the undersecretary is hereby authorized on behalf of the
2 commission to execute loan, reimbursement, investment, and bond purchase
3 agreements, and all documents as may be necessary or desirable to carry out the
4 provisions of this Section and is further authorized to take any and all further actions
5 and execute and deliver all other documents as may be necessary in connection with
6 the issuance of any bonds, notes, certificates, reimbursement obligations, or other
7 evidences of indebtedness referred to in this Section. The provisions of R.S.
8 9:2347(J) shall not apply to bonds or any contractual obligation, including the pledge
9 of state funds, to be undertaken or incurred in connection therewith.

10 (4) At the direction of the secretary, the commission is authorized to create
11 funds or accounts for the deposit of the revenues or the proceeds of the bonds,
12 including funds described above or other revenues and monies pledged in connection
13 therewith or respect thereto.

14 (5) The department and, at the direction of the secretary, the commission are
15 authorized to enter into any and all agreements or contracts, execute any and all
16 instruments, and do and perform any and all acts necessary, convenient, or desirable
17 for the issuance of the bonds or to carry out any power expressly given in this
18 Section.

19 C. Notwithstanding any provision of law to the contrary, any revenues
20 received by the commission pledged to the repayment of any bonds issued in
21 accordance with this Section may be collected and disbursed as set forth in the
22 documents providing for the issuance of the bonds or other related documents.

23 §84. Powers of the secretary

24 A. The powers of the secretary shall include without limitation the power to
25 do the following:

26 (1) Make expenditures or commitments to make expenditures from the fund
27 or disburse funds for the restoration of oilfield sites as he deems necessary and
28 appropriate, including but not limited to disbursement of monies in the fund pursuant

1 to R.S. 30:86(E)(2) to pay principal, interest, and related costs in connection with the
2 issuance of bonds.

3 * * *

4 §86. Oilfield Site Restoration Fund

5 * * *

6 B. The funds received shall be placed in the special trust fund in the custody
7 of the state treasurer to be used only in accordance with this Part and shall not be
8 placed in the general fund. The funds provided to the commission pursuant to this
9 Section shall at all times be and remain the property of the commission. The funds
10 shall only be used for the purposes set forth in this Part and for no other
11 governmental purposes, ~~nor shall any portion hereof ever be available to borrow~~
12 ~~from by any branch of government.~~ Except for the pledge of the revenues provided
13 in R.S. 30:83.1, it is the intent of the legislature that this fund and its increments shall
14 remain intact and inviolate. Any interest or earnings of the fund shall be credited
15 only to the fund.

16 C. The treasurer of the state of Louisiana shall certify, to the secretary of the
17 Department of Revenue, the date on which the balance in the fund equals or exceeds
18 ~~ten~~ twenty million dollars. The oilfield site restoration fees on oil and gas provided
19 for in R.S. 30:87 shall not be collected or required to be paid on or after the first day
20 of the second month following the certification, except that the secretary of the
21 Department of Revenue shall resume collecting the fees on receipt of a certification
22 from the treasurer that, based on the expenditures or commitments to expend monies,
23 the fund has fallen below ~~six~~ twelve million dollars. The secretary of the
24 Department of Revenue shall continue collecting the fees until collections are again
25 suspended in the manner provided by this Section. The sums in the site-specific trust
26 accounts within the fund and sums generated from the issuance of bonds pursuant
27 to R.S. 30:83.1 shall not be counted to determine the balance of the fund for the
28 purposes of this Subsection.

29 * * *

1 E. The monies in the fund may be disbursed and expended pursuant to the
2 authority and direction of the secretary or assistant secretary for the following
3 purposes and uses:

4 (1) Any oilfield site assessment or restoration conducted by the Department
5 of Natural Resources pursuant to this Part, and the payment of the principal, interest,
6 and legal fees, credit enhancement fees, trustee fees, and other related costs of
7 issuance or ongoing expenses in connection with issuance of bonds or other debt
8 obligations on behalf of the commission, at the direction of the secretary, pursuant
9 to R.S. 30:83.1 for the purpose of financing the costs of such oilfield site assessments
10 and restorations.

11 * * *

12 §87. Oilfield site restoration fees

13 A. There is hereby imposed on crude petroleum produced from producing
14 wells in this state a fee in the amount of ~~one and one-half~~ three cents on each barrel
15 of oil and condensate. "Oil" and "condensate" shall mean the same such oil and
16 condensate as is taxable under the provisions of Part I of Chapter 6 of Subtitle II of
17 Title 47 of the Louisiana Revised Statutes of 1950. The fee is in addition to any tax
18 imposed pursuant to the Louisiana Revised Statutes of 1950, Title 47. The
19 provisions of the Louisiana Tax Code shall apply to the administration, collection,
20 and enforcement of the fee imposed herein, and the penalties provided by that code
21 shall apply to any person who fails to pay or report the fee. Collection of the fee
22 shall be suspended in the manner provided by R.S. 30:86(C). Proceeds from the fee,
23 including any penalties collected in connection with the fee, shall be deposited into
24 the Oilfield Site Restoration Fund.

25 B. There is hereby imposed on gas produced from producing wells in this
26 state a fee in the amount of ~~three-tenths~~ three-fifths of one cent for each thousand
27 cubic feet. "Gas" shall mean the same such gas as is taxable under the provisions of
28 Part I of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
29 1950. The fee is in addition to any tax imposed pursuant to the Louisiana Revised

1 Statutes of 1950, Title 47. The provisions of the Louisiana Tax Code shall apply to
2 the administration, collection, and enforcement of the fee, and the penalties provided
3 by that code shall apply to any person who fails to pay or report the fee. Collection
4 of the fee shall be suspended in the manner provided by R.S. 30:86(C). Proceeds
5 from the fee, including any penalties collected in connection with the fee, shall be
6 deposited into the Oilfield Site Restoration Fund.

7 * * *

8 E. The fees provided for in Subsections A and B of this Section shall be
9 borne by the responsible parties and not by the royalty and overriding royalty owner.
10 ~~The fees provided for in Subsections A and B shall commence with September 1993~~
11 ~~production.~~

12 F. The site restoration fee shall be the following:

13 (1) Full rate production: ~~one and one-half~~ three cents per barrel on crude oil
14 and condensate or ~~three-tenths~~ three-fifths of one cent per thousand cubic feet on
15 natural gas and casing head gas.

16 * * *

17 §95. No inference of liability on the part of the state

18 A. Nothing in this Part shall establish or create any liability or responsibility
19 on the part of the commission or the state of Louisiana to pay any costs associated
20 with site restoration from any ~~source~~ sources other than the fund created by R.S.
21 30:86 or the funds established in connection with the issuance of bonds on behalf of
22 the commission, at the direction of the secretary, pursuant to R.S. 30:83.1 nor shall
23 the commission or the state of Louisiana have any liability or responsibility to make
24 any payments for costs associated with site restoration if the trust created herein is
25 insufficient to do so.

26 * * *

27 Section 2. This Act shall take effect and become operative if and when the Act
28 which originated as House Bill No. ____ of this 2016 Regular Session of the Legislature is
29 enacted and becomes effective.

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)]

HB 819 Original

2016 Regular Session

Jim Morris

Abstract: Authorizes the issuance of bonds secured by revenue deposited into the Oilfield Site Restoration Fund and increases the fees on oil and gas production deposited into that fund.

Present law establishes the Oilfield Site Restoration Fund (Fund) into which are placed fees collected on oil and gas production in the state, contributions, interest earned on the monies in the Fund, civil penalties, or costs recovered from responsible parties to oilfield site restoration, grants and donations, and site-specific trust accounts. Authorizes use of the monies in the Fund for oilfield site restoration or assessment conducted by the Dept. of Natural Resources for administration of the oilfield site restoration program.

Present law creates the Oilfield Site Restoration Commission within the office of the secretary of the Dept. of Natural Resources. Further provides for the powers of the commission.

Proposed law retains present law.

Proposed law authorizes an issuer, on behalf of the commission and at the direction of the secretary, to issue bonds to raise funds to use for the authorized purposes of the commission.

Proposed law provides that the bonds may be secured by an irrevocable pledge and dedication of revenues consisting of the oilfield site restoration fees and penalties and any other revenue to the extent appropriated, but shall not include site specific trust account monies. Such pledge shall not constitute a pledge of the full faith and credit of the state.

Proposed law requires the bonds be entitled to priorities on the revenues of the commission as provided in a loan agreement, trust indenture, or other instrument.

Proposed law provides that when any bonds have been issued and secured in accordance with proposed law, neither the commission, the department, the state, nor any other entity may act to impair any obligation or contract for the benefit of the holders of the bonds or discontinue or decrease any fee, rate, or other revenue in anticipation of the collection of which the bonds have been issued until all of the bonds have been retired as to principal and interest or irrevocable provision otherwise made for their complete redemption and payment in principal, interest, and redemption premium, if any, and the complete payment of all amounts due under the trust agreement pursuant to which the bonds are issued.

Proposed law provides for the validity of the pledge of revenues without physical delivery, notice, or recordation.

Proposed law authorizes the secretary or undersecretary of the department to execute certain agreements and documents necessary or desirable to carry out proposed law.

Proposed law authorizes the creation of funds or accounts for the revenues and proceeds of the bonds and the pledged revenues and authorizes the collection and disbursement of revenues in accordance with documents providing for the issuance of the bonds.

Proposed law authorizes the secretary to distribute revenue pursuant to proposed law to pay principal, interest, and related costs in connection with the issuance of bonds.

Present law provides the funds in the Oilfield Site Restoration Fund shall not be available to borrow. Proposed law provides the funds may be pledged in accordance with proposed law.

Present law imposes oilfield site restoration fees as follows: 1½¢ per barrel on oil and condensate and up to 3/10ths of 1¢ per 1,000 cubic feet on gas. Present law additionally provides for a reduced fee for reduced-rate production, such as stripper wells and incapable wells, which is a proportional reduction based on the reduction from the full rate severance tax.

Proposed law increases the fee from 1½¢ to 3¢ per barrel of oil and condensate and from 3/10th of 1¢ to 3/5th of 1¢ per 1,000 cubic feet of gas.

Present law suspends collections of the fee upon certification by the treasurer that the Fund balance equals or exceeds \$10 million. Specifies that the collection of the fee resumes upon certification that the Fund balance is below \$6 million. Specifies that the funds in site-specific trust accounts are not counted in determining the balance of the Fund for this purpose.

Proposed law increases the Fund balances necessary to suspend or resume fee collections from \$10 million to \$20 million to suspend and from \$6 million to \$12 million to resume and provides that the funds generated from proposed law shall also not be counted in determining the balance of the Fund with such limitation.

Present law limits the liability or responsibility of the commission or the state to pay for site restoration beyond the Oilfield Site Restoration Fund. Proposed law retains present law and includes funds established from the issuance of bonds.

Effective if and when House Bill No. _____ of this 2016 R.S. is enacted and becomes effective.

(Amends R.S. 30:82, 84(A)(1), 86(B), (C), and (E)(1), 87(A), (B), (E), and (F)(1), and 95(A); Adds R.S. 30:83(F)(2) and 83.1)