

2022 Regular Session

SENATE BILL NO. 245

BY SENATOR ALLAIN AND REPRESENTATIVE COUSSAN

NATURAL RESOURCES DEPT. Provides for the Orphan Well Program. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 30:83(F)(7), 86(E)(2), 89(C)(3), and 92(A) and (C), to enact R.S.
3 30:83(F)(8), 84(A)(3) and (8), and to repeal R.S. 30:85(B), to provide for the
4 Louisiana Oilfield Site Restoration Law; to provide for the Oilfield Site Restoration
5 Fund; to provide for the powers and duties of the Oilfield Site Restoration
6 Commission and the secretary and assistant secretary of the Department of Natural
7 Resources; to provide for contracts for site assessment or restoration; to provide for
8 an executive director; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 30:83(F)(7), 86(E)(2), 89(C)(3), and 92(A) and (C) are hereby
11 amended and reenacted and R.S. 30:83(F)(8), 84(A)(3) and (8) are hereby enacted to read
12 as follows:

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

14 * * *

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

16 * * *

17 (7) Request from the executive director, by a majority vote, any

1 information regarding any matter concerning their powers numerated in this
2 Section. Additionally, the commission may request the secretary to review the
3 appointment of the serving executive director upon a two-third vote of the
4 appointed members of the commission.

5 (8) Perform any function authorized by this Part or which is consistent with
6 its purpose and not otherwise assigned by this Part to the secretary or assistant
7 secretary.

8 * * *

9 §84. Powers of the secretary

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

12 * * *

13 (3) Employ, appoint, remove, assign, and promote from any funding
14 sources authorizing administrative costs, such personnel as is necessary for the
15 efficient administration of this Part, including the appointment of an executive
16 director who shall be an unclassified employee. In addition to any other powers,
17 duties, functions, and responsibilities defined by the secretary, the executive
18 director shall assist the secretary in the efficient administration of this Part.

19 * * *

20 (8) Authorize, upon a finding of economic justification, the closure and
21 restoration of nonpriority orphaned oilfield sites that may be packaged together
22 as projects. This authority shall be used to decrease in a cost effective manner
23 the total number of orphaned wells. Excluding expenses of money deposited
24 pursuant to R.S. 30:86(D)(9) or (10) or emergency response costs pursuant to
25 R.S. 30:6.1, 86(E)(5), and 92, the cost of closing and restoring nonpriority
26 orphaned oilfield sites shall not exceed twenty percent of the amount expended
27 from the Oilfield Site Restoration Fund in any fiscal year, unless otherwise
28 approved by the commission.

29 * * *

1 §86. Oilfield Site Restoration Fund

2 * * *

3 E. Except as otherwise provided in this Section, the monies in the fund may
4 be disbursed and expended pursuant to the authority and direction of the secretary
5 or assistant secretary for the following purposes and uses:

6 * * *

7 (2) Upon approval of the commission, the administration of this Part by the
8 department in an amount not to exceed nine hundred fifty thousand dollars each
9 fiscal year. **Amounts expended pursuant to Paragraph (4) of this Subsection**
10 **shall not count towards the administrative expenditure limitation.**

11 * * *

12 §89. Non-orphan site restoration

13 * * *

14 C. For sites restored pursuant to Subsections A and B of this Section, after
15 site restoration has been completed and approved by the assistant secretary, funds
16 from the site-specific trust account will be disbursed as follows:

17 * * *

18 (3) If the funds in the site-specific trust account are depleted prior to the
19 payment of all site restoration costs, and if the assistant secretary **subsequently**
20 declares that oilfield site to be an orphaned oilfield site **and upon approval of the**
21 **commission**, the Oilfield Site Restoration Fund shall contribute the balance of the
22 restoration costs for that orphaned oilfield site.

23 * * *

24 §92. Orphan site restoration

25 A. The ~~assistant secretary is hereby authorized to conduct site restoration on~~
26 ~~any site declared to be an orphaned oilfield site. The secretary or assistant secretary~~
27 ~~may to~~ expend sums from the fund and enter into contracts for the purpose of site
28 restoration **on any site declared to be an orphaned oilfield site. The assistant**
29 **secretary may conduct site restoration, expend sums from the fund, and enter**

1 **into contracts for the purpose of site restoration to respond to an emergency as**
 2 **provided in R.S. 30:6.1.**

3 * * *

4 C. A contract for site assessment or site restoration shall require a formal bid
 5 process. All contracts herein shall be exempt from the provisions of the Public Bid
 6 Law and the Louisiana Procurement Code; however, before this exemption from the
 7 Public Bid Law and the Louisiana Procurement Code can be effective the assistant
 8 secretary shall promulgate rules in accordance with the Administrative Procedure
 9 Act to set forth the procedures, which, to the extent practicable, shall be in
 10 substantial compliance with the Public Bid Law and shall require a formal bid
 11 process. A project which the assistant secretary has declared in writing to be an
 12 emergency may employ a written and thoroughly documented informal bidding
 13 procedure in which bids are solicited from at least three bidders. All such contracts
 14 shall be reviewed prior to execution by the assistant secretary and all informally bid
 15 contracts shall be reviewed by the secretary. **Notwithstanding any other**
 16 **requirements in this Part, any monies deposited pursuant to R.S. 30:86(D)(9)**
 17 **or (10) may be expended by the secretary through a contract entered into under**
 18 **any competitive process authorized by Title 38 or 39 of the Louisiana Revised**
 19 **Statutes of 1950.**

20 Section 2. R.S. 30:85(B) is hereby repealed.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
 22 signed by the governor, upon expiration of the time for bills to become law without signature
 23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 25 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Tyler S. McCloud.

timely cleanup, closure, and restoration of oilfield sites.

Present law creates the Oilfield Site Restoration Commission within the office of the secretary of the Department of Natural Resources, with powers and duties for both the commission and the secretary, and provides for powers and duties to the assistant secretary of the office of conservation, also referred to as the commissioner of conservation.

Present law authorizes the assistant secretary to conduct site restoration on any site declared to be an orphaned oilfield site and authorizes the secretary or assistant secretary to expend sums from the Oilfield Site Restoration Fund and enter into contracts for the purpose of site restoration.

Proposed law authorizes the secretary to expend sums from the fund and enter contracts for the purpose of orphaned oilfield site restoration. Proposed law authorizes the assistant secretary in response to an emergency to conduct site restoration, expend sums from the fund, and enter into contracts for the purpose of site restoration.

Present law authorizes the assistant secretary, upon a finding of economic justification and with the concurrence of the commission, to authorize the closure and restoration of nonpriority orphaned oilfield sites by lots which are subject to bidding in large packages. Present law limits this authority that such action does not reduce the number of priority sites that can be properly closed and restored in any fiscal year.

Proposed law moves the authority for the closure and restoration of nonpriority orphaned oilfield sites from the assistant secretary to the secretary. Proposed law authorizes the secretary, upon a finding of economic justification, to authorize the closure and restoration of nonpriority orphaned oilfield sites that may be packaged together as projects.

Proposed law provides this authority is used to decrease in a cost effective manner the total number of orphaned wells.

Proposed law authorizes, from administrative costs funding, the secretary to employ personnel necessary for the administration of present law including the appointment of an executive director who will be an unclassified employee.

Proposed law authorizes the commission to request from the executive director information regarding their numerated powers. Proposed law also authorizes the commission to request the secretary to review the appointment of the serving executive director upon a two-third vote.

Present law grants the commission any function authorized by present law that is consistent with its purpose. Proposed law limits functions to those not otherwise assigned to the secretary or the assistant secretary.

Proposed law limits the cost of closing and restoring nonpriority orphaned oilfield sites to 20% of the amount expended from the Fund in any fiscal year, unless otherwise approved by the commission. Proposed law excludes from this limitation expenses the sum of \$30 million from the first federal funds received by the state for which oilfield site restoration or plugging orphan wells is an allowable use, monies from federal appropriations or any federal grant program for the purpose of restoring orphan oilfield sites, or emergency response costs.

Present law provides that costs to administer present law shall not exceed \$950,000 each fiscal year. Proposed law provides that monies collected from civil penalties or cost recovered from responsible parties do not count towards this administrative expenditure limit.

Present law authorizes the fund to contribute the balance of the restoration costs for a site

if the site-specific trust account for a nonorphan site is depleted if the assistant secretary declares that oilfield site to be an orphaned oilfield site. Proposed law retains present law except requires approval by the commission.

Present law requires a contract for site assessment or site restoration to require a formal bid process.

Present law authorizes an exemption for these contracts from the provisions of the Public Bid Law and the Louisiana Procurement Code if the assistant secretary promulgates rules for contacting procedures. Further, the procedures must be in substantial compliance with the Public Bid Law and shall require a formal bid process.

Present law authorizes the assistant secretary to employ an informal bidding procedure to respond to an emergency in which bids are solicited from at least three bidders. Further, requires these contracts be reviewed prior to execution by the assistant secretary and all informally bid contracts be reviewed by the secretary. Proposed law retains present law.

Proposed law authorizes the secretary through a contract entered into under any competitive process authorized by present law to expend any monies deposited pursuant to the sum of \$30 million from the first federal funds received by the state for which oilfield site restoration or plugging orphan wells is an allowable use or monies from federal appropriations or any federal grant program for the purpose of restoring orphan oilfield sites.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 30:83(F)(7), 86(E)(2), 89(C)(3), and 92(A) and (C); adds R.S. 30:83(F)(8), 84(A)(3) and (8); repeals R.S. 30:85(B))

Summary of Amendments Adopted by Senate

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

1. Designates the appointed executive director as an unclassified employee.
2. Makes technical changes.