

Regular Session, 2014

HOUSE BILL NO. 1275 (Substitute for House Bill No. 406 by Representative Tim Burns)

BY REPRESENTATIVE TIM BURNS

ADMINISTRATIVE PROCEDURE: Provides specified procedures for notice, public hearings, and reports regarding permits from the office of conservation of the Dept. of Natural Resources for operations that involve hydraulic fracture stimulation in certain parishes

1 AN ACT

2 To enact R.S. 49:954.2, relative to the Administrative Procedure Act; to provide specified
3 procedures regarding the issuance of certain permits; to provide for notice and public
4 hearings; to provide for reports to and oversight by the legislature; to provide for
5 promulgation of rules relative to such procedure; to provide for effectiveness; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 49:954.2 is hereby enacted to read as follows:

9 §954.2. Procedures for permits involving hydraulic fracture stimulation

10 A. In addition to the provisions of Title 30 of the Louisiana Revised Statutes
11 of 1950 and applicable administrative rules, any person seeking a permit after April
12 23, 2014, from the office of conservation of the Department of Natural Resources for
13 an operation that involves hydraulic fracture stimulation in a parish in which
14 hydraulic fracture stimulation has not occurred shall do all of the following:

15 (1) Publish notice of his intention to seek the permit on two separate days in
16 the official journal of the parish where the operation is proposed and in another
17 newspaper with a larger circulation within the parish than the official journal of the
18 parish, if there is one. The contents and format of the notice required by this Section
19 shall be prescribed by the office of conservation and shall include:

1 (a) Prominent placement in the newspaper in a section other than the
2 classified advertisement or public notice section.

3 (b) Formatting in a box with a bolded outline.

4 (c) A size of not less than two inches by four inches.

5 (d) Print in bold face type.

6 (2) Provide notice to the governing authority of the parish in which the
7 proposed operation would be located and to the governing authority of each
8 municipality within a thirty-mile radius of the proposed operation at least thirty days
9 prior to applying for the permit.

10 (3) Provide notice to each member of the legislature who represents in whole
11 or in part the parish in which the proposed operation would be located at least thirty
12 days prior to applying for the permit.

13 (4) Provide notice to the appropriate oversight committees at least thirty days
14 prior to applying for the permit.

15 (5) Issue a press release regarding the proposed operation to newspapers with
16 substantial distribution within the parish in which the proposed operation would be
17 located and to area broadcast media.

18 (6) Conduct a comprehensive study of the benefits and burdens of the
19 proposed operation on the economy and development of the area and compile a
20 report of his findings.

21 (7) Provide proof of compliance with the provisions of this Subsection to the
22 office of conservation of the Department of Natural Resources.

23 B. Failure to comply with the requirements of Subsection A of this Section
24 shall make an application for a permit from the office of conservation of the
25 Department of Natural Resources for an operation that involves hydraulic fracture
26 stimulation null, void, and of no effect until the person seeking the permit has fully
27 complied with the requirements of Subsection A of this Section and with all
28 applicable requirements of law, including Title 30 of the Louisiana Revised Statutes
29 of 1950 and applicable administrative rules.

1 C. After the office of conservation of the Department of Natural Resources
2 receives an application for a permit for an operation that involves hydraulic fracture
3 stimulation and proof of compliance with Subsection A of this Section, the office of
4 conservation shall do all of the following:

5 (1) Publish notice of a public hearing on the application prominently in the
6 newspaper with the largest distribution in the parish in which the proposed operation
7 would be located. At a minimum, such notice shall contain the date and location of
8 the public hearing, information regarding how and to whom at the office of
9 conservation comments regarding the proposed operation may be submitted, and
10 information regarding how and where the public can view documents regarding the
11 proposed operation, including but not limited to the study of the benefits and
12 burdens.

13 (2) Provide for a comment period of not less than thirty days following
14 notice and prior to the public hearing.

15 (3) Issue a press release regarding the public hearing to newspapers with
16 substantial distribution within the parish where the proposed operation would be
17 located and to area broadcast media.

18 (4) Conduct a public hearing in a centrally located, easily accessible location
19 in the parish.

20 (5) Summarize all public comment received prior to and at the public hearing
21 in a report which shall be submitted to the appropriate oversight committees in the
22 same manner as reports required pursuant to R.S. 49:968(D) and to each member of
23 the legislature who represents in whole or in part the parish in which the proposed
24 operation would be located.

25 D. The appropriate oversight committees may hold a public hearing on the
26 report no earlier than five days and no later than thirty days following the day the
27 report is received by the appropriate oversight committees.

1 E. After the expiration of the time period for the appropriate oversight
2 committees to hold a public hearing on the report, the office of conservation of the
3 Department of Natural Resources may issue the permit.

4 F. Notwithstanding any provisions of this Chapter to the contrary, the office
5 of conservation of the Department of Natural Resources may promulgate rules
6 necessary for the implementation of the requirements of this Section in the manner
7 provided in R.S. 49:953(B) for emergency rules.

8 G. Notwithstanding the provisions of Subsections A and B of this Section,
9 to the extent that any provision of this Section and the provisions of Title 30 of the
10 Louisiana Revised Statutes of 1950 or of applicable administrative rules are in
11 conflict, the provisions of this Section shall prevail.

12 H. For purposes of this Section the term "appropriate oversight committees"
13 shall mean the standing committees of each house of the legislature having
14 jurisdiction over review of proposed rules of the Department of Natural Resources.

15 Section 2. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

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)]

Tim Burns

HB No. 1275

Abstract: Provides specified procedures for notice, public hearings, reports, and legislative oversight regarding permits from the office of conservation of the Dept. of Natural Resources for operations that involve hydraulic fracture stimulation in a parish in which hydraulic fracture stimulation has not occurred.

Proposed law provides, in addition to the provisions of present law (Title 30) and applicable administrative rules, that any person seeking a permit after April 23, 2014, from the office of conservation of the Dept. of Natural Resources for an operation that involves hydraulic fracture stimulation in a parish in which hydraulic fracture stimulation has not occurred shall do all of the following:

- (1) Publish notice of his intention to seek the permit on two separate days in the official journal of the parish and in another newspaper with a larger circulation within the parish than the official journal. Requires the office of conservation to prescribe the content and format of the notice to include prominent placement in the newspaper; formatting in a box with a bolded outline; a size of not less than two inches by four inches; and print in bold face type.
- (2) Provide notice to the governing authority of the parish, to the governing authority of each municipality within a thirty-mile radius of the proposed operation, to each member of the legislature who represents in whole or in part the parish in which the operation is proposed, and the appropriate legislative oversight committees at least 30 days prior to applying for the permit.
- (3) Issue a press release regarding the proposed operation to newspapers with substantial distribution within the parish where the operation is proposed and to area broadcast media.
- (4) Conduct a comprehensive study of the benefits and burdens of the proposed operation on the economy and development of the area and compile a report of its findings.
- (5) Provide proof of compliance with proposed law to the office of conservation.

Proposed law provides that failure to comply with proposed law makes an application for a permit from the office of conservation for an operation that involves hydraulic fracture stimulation null, void, and of no effect until the person seeking the permit has fully complied with proposed law and with all applicable requirements of present law, including Title 30 of the La. R.S. of 1950 and applicable administrative rules.

Proposed law provides that after the office of conservation receives an application for a permit for an operation that involves hydraulic fracture stimulation and proof of compliance with proposed law, the office of conservation shall:

- (1) Publish notice of a public hearing on the application prominently in the newspaper with the largest distribution in the parish in which the operation is proposed. Requires the notice to include the date and location of the public hearing, information regarding how and to whom at the office of conservation comments may be submitted, and information regarding how and where the public can view documents regarding the proposed operation.
- (2) Provide for a comment period of not less than 30 days following notice and prior to the public hearing.
- (3) Issue a press release regarding the public hearing to newspapers with substantial distribution within the parish where the operation is proposed and to area broadcast media.
- (4) Conduct a public hearing in a centrally located, easily accessible location in the parish.
- (5) Summarize all public comment received prior to and at the public hearing in a report which shall be submitted to the appropriate oversight committees of the legislature as provided in present law (Administrative Procedure Act) in the same manner as reports required pursuant to present law (R.S. 49:968(D)) and to each member of the legislature who represents in whole or in part the parish in which the operation is proposed.

Proposed law further authorizes the appropriate oversight committees of the legislature to hold a public hearing on the report no earlier than five days and no later than 30 days following the day the report is received. Provides after the expiration of the time period for the appropriate oversight committees to hold a public hearing the office of conservation may issue the permit. Authorizes office of conservation to promulgate rules necessary for the implementation of the requirements of proposed law in the manner provided in present law (R.S. 49:953(B)) for emergency rules. Specifies that if any provision of proposed law conflicts with present law (Title 30) or applicable administrative rules, proposed law prevails.

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

(Adds R.S. 49:954.2)