

ACT No. 666

2016 Regular Session

HOUSE BILL NO. 819

BY REPRESENTATIVES JIM MORRIS, ARMES, BILLIOT, BISHOP, TERRY BROWN,
CHANEY, COUSSAN, DEVILLIER, GUINN, MIGUEZ, MONTOUCET, WHITE,
AND ZERINGUE

1 AN ACT

2 To amend and reenact R.S. 30:82, 84(A)(1), 86(B), (C), and (E)(1) and (2), 87(A), (E), and
3 (F)(1), and 95(A) and to enact R.S. 30:83(F)(2), 83.1, and 86(F), relative to the
4 Oilfield Site Restoration Fund; to provide for definitions; to authorize the issuance
5 of bonds for certain purposes; to provide for the pledge and dedication of the monies
6 deposited in the Oilfield Site Restoration Fund; to provide for the duties and powers
7 of the secretary of the Department of Natural Resources and the Oilfield Site
8 Restoration Commission; to provide for the liability of the state; to provide relative
9 to the requirements and limitations for issuance of revenue bonds; to authorize the
10 execution of certain documents; to provide for uses of the Oilfield Site Restoration
11 Fund; to provide for fees on crude petroleum and gas produced; to provide for the
12 suspension and resumption of collecting fees; and to 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) and (2), 87(A), (E), and
15 (F)(1), and 95(A) are hereby amended and reenacted and R.S. 30:83(F)(2), 83.1, and 86(F)
16 are hereby 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)~~ R.S.
 18 30:29(I)(5).

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

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

26 ~~(9)~~ (11) "Responsible party" means the operator of record according to the
 27 office of conservation records, who last operated the property on which the oilfield
 28 site is located at the time the site is about to be abandoned, ceases operation, or
 29 becomes an unusable oilfield site, and that operator's partners and working interest
 30 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) At the direction of the secretary, pledge the revenues available to fund
19 authorized purposes and to secure the issuance of bonds to fund such purposes
20 provided in R.S. 30:83.1, provided that annual debt service shall not be in excess of
21 fifty percent of the pledged revenues estimated to be received in the calendar year
22 the bonds are issued.

23 * * *

24 §83.1. Authorization of bonds

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

1 (2) The bonds may be secured by an irrevocable pledge and dedication of
2 revenues of the commission, at the direction of the secretary, which shall consist of
3 all monies deposited in the fund pursuant to R.S. 30:86(D), collected, derived, or
4 received from the oilfield site restoration fees and penalties imposed pursuant to R.S.
5 30:87 or any other lawfully available revenues, if any, to the extent appropriated,
6 provided that annual debt service shall not be in excess of fifty percent of the
7 pledged revenues estimated to be received in the calendar year the bonds are issued,
8 but shall not include site-specific trust account monies as identified in R.S.
9 30:86(D)(6) and 88. The bonds of the issuer shall be revenue bonds payable solely
10 from the above-described sources, to the extent appropriated and released from the
11 state, and such pledge shall not constitute a pledge of the full faith and credit of the
12 state.

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

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

27 (2) Any pledge of revenues for the security of the bonds shall be valid and
28 binding from the time the pledge is made and shall be subject to the lien of such
29 pledge without any physical delivery thereof or further act, and the lien of any such
30 pledge shall be valid and binding against all parties having claims of any kind in tort,

1 contract, or otherwise against the state, the department, or the commission whether
 2 or not such parties have notice thereof. Any trust agreement by which a pledge is
 3 created need not be filed or recorded.

4 (3) The secretary or the undersecretary is hereby authorized on behalf of the
 5 commission to execute loan, reimbursement, investment, and bond purchase
 6 agreements, and all documents as may be necessary or desirable to carry out the
 7 provisions of this Section and is further authorized to take any and all further actions
 8 and execute and deliver all other documents as may be necessary in connection with
 9 the issuance of any bonds, notes, certificates, reimbursement obligations, or other
 10 evidences of indebtedness referred to in this Section. The provisions of R.S.
 11 9:2347(J) shall not apply to bonds or any contractual obligation, including the pledge
 12 of state funds, to be undertaken or incurred in connection therewith.

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

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

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

26 §84. Powers of the secretary

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

29 (1) Make expenditures or commitments to make expenditures from the fund
 30 or disburse funds for the restoration of oilfield sites as he deems necessary and

1 appropriate, including but not limited to disbursement of monies in the fund pursuant
2 to R.S. 30:86(E)(2) to pay principal, interest, and related costs in connection with the
3 issuance of bonds.

4 * * *

5 §86. Oilfield Site Restoration Fund

6 * * *

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

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

30 * * *

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 (2) The administration of this Part by the Department of Natural Resources
12 in an amount not to exceed ~~seven~~ nine hundred fifty thousand dollars each fiscal
13 year.

14 * * *

15 F. In addition to the disbursements and expenditures authorized by
16 Subsection E of this Section, not less than one million dollars or twenty percent of
17 the amount appropriated to the fund, whichever is less, annually shall be used to plug
18 orphaned wells drilled to a depth less than three thousand feet in the Shreveport
19 District and the Monroe District of the office of conservation beginning Fiscal Year
20 2016-2017 and through the end of Fiscal Year 2018-2019. However, these monies
21 are subject to being disbursed and expended for any costs associated with response
22 to any emergency as provided in R.S. 30:6.1.

23 §87. Oilfield site restoration fees

24 A. There is hereby imposed on crude petroleum produced from producing
25 wells in this state a fee ~~in the amount of one and one-half cents~~ on each barrel of oil
26 and condensate. "Oil" and "condensate" shall mean the same such oil and
27 condensate as is taxable under the provisions of Part I of Chapter 6 of Subtitle II of
28 Title 47 of the Louisiana Revised Statutes of 1950. The fee is in addition to any tax
29 imposed pursuant to the Louisiana Revised Statutes of 1950, Title 47. The
30 provisions of ~~the Louisiana Tax Code~~ Chapters 17 and 18 of Subtitle II of Title 47

1 of the Louisiana Revised Statutes of 1950 shall apply to the administration,
 2 collection, and enforcement of the fee imposed herein, and the penalties provided by
 3 that code shall apply to any person who fails to pay or report the fee. Collection of
 4 the fee shall be suspended in the manner provided by R.S. 30:86(C). Proceeds from
 5 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)(a) Full rate production: ~~one and one-half cents per barrel on crude oil and~~
 14 ~~condensate or~~ For crude oil and condensate, the fee shall be based on the oil price on
 15 July first of each year for the ensuing twelve months based upon the average New
 16 York Mercantile Exchange Price per barrel of crude oil per month on the close of
 17 business on June thirtieth for the prior twelve months. The amount of the fee for a
 18 well that produces crude oil and condensate shall be as follows:

19 (i) The fee shall be one and one-half cents per barrel on crude oil and
 20 condensate if the price of oil is at or below sixty dollars per barrel.

21 (ii) The fee shall be three cents per barrel on crude oil and condensate if the
 22 price of oil is above sixty dollars and at or below ninety dollars per barrel.

23 (iii) The fee shall be four and one-half cents per barrel on crude oil and
 24 condensate if the price of oil is above ninety dollars per barrel.

25 (b) For natural gas and casing head gas, the fee shall be three-tenths of one
 26 cent per thousand cubic feet on natural gas and casing head gas.

27 * * *

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

29 A. Nothing in this Part shall establish or create any liability or responsibility
 30 on the part of the commission or the state of Louisiana to pay any costs associated

1 with site restoration from any ~~source~~ sources other than the fund created by R.S.
 2 30:86 or the funds established in connection with the issuance of bonds on behalf of
 3 the commission, at the direction of the secretary, pursuant to R.S. 30:83.1 nor shall
 4 the commission or the state of Louisiana have any liability or responsibility to make
 5 any payments for costs associated with site restoration if the trust created herein is
 6 insufficient to do so.

7 * * *

8 Section 2. This Act shall take effect and become operative if and when the Act
 9 which originated as House Bill No. 632 of this 2016 Regular Session of the Legislature is
 10 enacted and becomes effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____