

2024 Third Extraordinary Session

HOUSE BILL NO. 24

BY REPRESENTATIVE GEYMANN AND SENATOR HENSGENS

MINERALS/MINERAL BOARD: Provides for the leasing of state property for energy-related purposes (Item #17)

1 AN ACT

2 To amend and reenact R.S. 30:124(B), 125, 126(A), 127(A)(introductory paragraph),
3 (B)(introductory paragraph), (C), and (H), 128(A), 129(B)(3), 148.3, and 209(4)(b)
4 and to enact R.S. 30:124(G) and 148.10, relative to leasing of state property for
5 energy-related purposes; to provide for the authority of the State Mineral and Energy
6 Board; to classify lease payments for purposes of federal estate law; to increase fees
7 and deposits collected by the State Mineral and Energy Board and the office of
8 mineral resources; to provide relative to applications for the lease of state property;
9 to provide for the transfer or assignment of leases; to limit the prohibition on offering
10 more than five thousand acres of state property for lease; to provide for minimum
11 royalty, continuing security, and Pugh clauses in mineral leases on state property; to
12 provide for applicability of laws regarding the lease of state property for storage and
13 transportation facilities; to provide for the distribution of revenue collected by the
14 office of mineral resources under operating agreements; to provide an effective date;
15 and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 30:124(B), 125, 126(A), 127(A)(introductory paragraph),
18 (B)(introductory paragraph), (C), and (H), 128(A), 129(B)(3), 148.3, and 209(4)(b) are
19 hereby amended and reenacted and R.S. 30:124(G) and 148.10 are hereby enacted to read
20 as follows:

1 §124. Board may lease public lands; fee

2 * * *

3 B. The State Mineral and Energy Board, hereinafter referred to as the
4 "board", has authority to lease ~~for the development and production of minerals, oil,~~
5 ~~gas, or alternative energy sources,~~ any lands belonging to the state, or the title to
6 which is in the public, including road beds, water bottoms, vacant state lands, and
7 lands adjudicated to the state at tax sale, for the development and production of
8 minerals, oil, gas, or alternative energy sources and for the purposes set forth in R.S.
9 30:148.2. The board, in consultation with the Department of Transportation and
10 Development, shall adopt rules and regulations in accordance with the
11 Administrative Procedure Act to implement the provisions of this Subpart.

12 * * *

13 G. Payments due to the state pursuant to leases under this Section shall be
14 considered a tax for the purposes of collection under 11 U.S.C. 503(b)(1)(B) and not
15 rent.

16 §125. Application for lease; fee

17 ~~A.~~ All proposals for mineral leases under this ~~Section and R.S. 30:126~~
18 Subpart shall be submitted to and examined by the assistant secretary of the office
19 of mineral resources who shall transmit them to the board for its action. All
20 proposals shall be submitted by application as provided herein in the form required
21 by the office of mineral resources, giving the description of the land, including a
22 map, and submission of ~~four~~ six hundred dollars, payable to the office of mineral
23 resources, to satisfy the cost of processing the application. The fee shall not be
24 returned, even in the event of a bid.

25 §126. Inspection; quantity of land; advertisements for bids; fees

26 A. Upon receipt of an application accompanied by the nonrefundable fee, the
27 State Mineral and Energy Board may cause an inspection of the land to be made,
28 including geophysical and geological surveys. After receiving the report of the
29 inspection, the board may offer for lease all or part of the lands described in the

1 application. However, no mineral lease shall contain more than five thousand acres.
 2 The board shall publish in the official journal of the state, and in the official journal
 3 of the parish where the lands are located, an advertisement which must appear in
 4 these journals not more than sixty days prior to the date for the opening of bids. The
 5 board may, at its discretion, publish other such advertisements. This advertisement
 6 shall contain a description of the land proposed to be leased, the time when and place
 7 where sealed bids shall be received and publicly opened, a statement that the bid may
 8 be for the whole or any particularly described portion of the land advertised, and any
 9 other information that the board may consider necessary, and the royalty to be
 10 demanded should the board deem it to be in the interest of the state to call for bids
 11 on the basis of a royalty fixed by it. If the lands are situated in two or more parishes,
 12 the advertisement shall appear in the official journals of all the parishes where the
 13 lands may be partly located. This advertisement and any other published by the
 14 board shall constitute judicial advertisement and legal notice within the
 15 contemplation of Chapter 5 of Title 43 of the Louisiana Revised Statutes of 1950.
 16 When requested to furnish proof of publication, the board may charge a fee of ~~twenty~~
 17 thirty-five dollars to furnish the proof of publication.

18 * * *

19 §127. Opening bids; minimum royalties; terms of lease; deposit; security

20 A. Only those bidders who are registered prospective leaseholders with the
 21 office of mineral resources, or those who register within two business days after the
 22 lease sale at which the bid is opened and prior to the conditional issuance of the
 23 lease, shall be allowed to obtain a mineral lease from the state of Louisiana. Any
 24 bidder who is not properly registered with the office of mineral resources at the time
 25 bids are opened, but whose bid is otherwise acceptable, shall have until the end of
 26 the second business day following the date on which the bid was conditionally
 27 accepted by the State Mineral and Energy Board to become properly registered with
 28 the office of mineral resources. If said bidder remains unregistered by the close of
 29 business of the second business day following the day the mineral lease sale at which

1 the bid was conditionally accepted, the conditionally accepted bid shall be deemed
 2 rejected. The provisions of this Subsection shall also apply in cases where there is
 3 no more than one bid made by unregistered prospective leaseholders. Bids may be
 4 for the whole or any particularly described portion of land advertised. At the time
 5 and place mentioned in the advertisement for the consideration of bids, they shall be
 6 publicly opened. Bids received by the mineral board shall be opened at any state-
 7 owned buildings situated in the city in which the capitol is located. The mineral
 8 board has authority to accept the bid most advantageous to the state and may lease
 9 upon whatever terms it considers proper. However, the minimum royalties to be
 10 stipulated in any mineral lease, other than a mineral lease executed by or on behalf
 11 of a school board, shall be:

12 * * *

13 B. The minimum royalties to be stipulated in any mineral lease executed by
 14 or on behalf of any school board shall be:

15 * * *

16 C. Each mineral lease where ascertainable shall clearly describe the land
 17 leased by section, township, and range, or where authorized by the office of mineral
 18 resources, by points along the lease boundary delineated by Lambert X,Y
 19 coordinates connected by lines having distances and bearing, or in any other manner
 20 authorized by the office of mineral resources, and shall contain a provision
 21 permitting the state, at its option, to take in kind the portion due it as royalty of any
 22 minerals produced and saved from the leased premises. The office of mineral
 23 resources may collect a fee of five dollars each to furnish a proof of lease.

24 * * *

25 H. The board may include in any lease entered into by the state, any state
 26 agency, or any political subdivision after July 31, 2019, a clause which grants a
 27 continuing security interest in and to all ~~as-extracted~~ collateral attributable to,
 28 produced, or to be produced, from the leased premises or from lands pooled or
 29 unitized therewith, as security for the prompt and complete payment and

1 performance of the lessee's obligation to pay royalties or other sums of money that
 2 may become due under the lease, as contemplated by the Uniform Commercial Code.
 3 The board may subordinate the state's security interest in any amounts in excess of
 4 the royalties and other sums due to the state, to the security interest of one or more
 5 lenders. However, no less than thirty days prior to entering into the first lease that
 6 contains a clause granting a continuing security interest under the provisions of this
 7 Section, the board shall submit the proposed clause language to the House
 8 Committee on Natural Resources and Environment and the Senate Committee on
 9 Natural Resources for review.

10 §128. Transfers; approval by board; fees; penalties

11 A. No transfer or assignment in relation to any lease granted by the State
 12 Mineral and Energy Board of minerals or mineral rights on lands, the bodies of any
 13 lakes, bays or coves, the sea, arms of the sea, or other navigable waters and the beds
 14 thereof owned by the state shall be valid unless approved by the State Mineral and
 15 Energy Board. The mineral board may charge a fee of one hundred seventy-five
 16 dollars to cover the cost of preparing and docketing transfers or assignments of such
 17 leases ~~of mineral or mineral rights~~. All parties to transfers or assignments in relation
 18 to any such lease ~~of mineral or mineral rights from the state~~ shall be registered
 19 prospective leaseholders with the office of mineral resources. Transfers or
 20 assignments shall not be granted to prospective leaseholders that are not currently
 21 registered with the office of mineral resources.

22 * * *

23 §129. Powers, duties, and authority of board; pooling agreements; operating units;
24 fees

25 * * *

26 B.

27 * * *

28 (3) However, each ~~contract of lease~~ mineral lease contract entered into by
 29 the board after August 1, 1991, shall contain a clause, commonly referred to as a

1 "Pugh clause", which shall provide that the commencement of operations for the
 2 drilling of a well, the conducting of reworking operations, or production of minerals,
 3 on any portion of a unit which embraces all or any part of the property covered by
 4 such lease shall maintain the lease in effect under the terms of the lease only as to the
 5 part of the leased property embraced by the unit. The clause may provide that the
 6 acreage outside the unit(s) may be maintained by any means covered by the lease,
 7 but if by rental payments, then such payment may be reduced proportionately to the
 8 amount of acreage included in the unit as it bears to the total acreage in the lease,
 9 provided that the rental per acre on the outside acreage shall not be less than one-half
 10 of the cash payment paid for the lease per acre nor shall the lease on the non-unitized
 11 acreage be extended more than two years beyond the primary term.

12 * * *

13 §148.3. Application for lease

14 Any person, firm, or corporation desiring to lease any land or bodies of any
 15 lakes, bays or coves, sea, arms of the sea, or other navigable waters and beds thereof
 16 under the provisions of this Subpart shall present to the lessor a written application,
 17 together with a cash deposit of ~~fifty~~ one hundred dollars. The application shall set
 18 forth the name, current physical address, telephone number, e-mail address, and
 19 contact person of the applicant, a reasonably definite legal description of the location
 20 in the form required by the lessor, the amount of acreage that the applicant desires
 21 to lease, ~~and~~ a request that the acreage described therein be leased to the applicant
 22 under the provisions of this Subpart, and all other information required by the lessor.
 23 The application shall be held confidential by the lessor until advertisement.
 24 Applications shall be mailed or delivered to the lessor at its official office or business
 25 domicile or submitted by such other means as may be authorized by the lessor. The
 26 deposit of ~~fifty~~ one hundred dollars shall be returned to the applicant if he makes an
 27 unsuccessful bid after a sum sufficient to pay the advertising costs have been
 28 deducted.

29 * * *

1 §148.10. Applicability

2 Notwithstanding any provision to the contrary contained in Subpart A of this

3 Part, the provisions of this Subpart shall apply to leases by the State Mineral and

4 Energy Board for the purposes set forth in R.S. 30:148.2.

5 * * *

6 §209. State Mineral and Energy Board; authority

7 In order to carry out the provisions of R.S. 30:208, the State Mineral and

8 Energy Board may:

9 * * *

10 (4)

11 * * *

12 (b) The office of mineral resources, on behalf of the mineral board, shall

13 administer all operating agreements. After deposit of all ~~production payments~~

14 revenues collected to the Bond Security and Redemption Fund, an amount equal to

15 twenty-five percent of the ~~production payments~~ revenues collected from any

16 operating agreement entered into after August 15, 1997, shall be credited to the

17 Mineral and Energy Operation Fund for appropriation to the Department of Energy

18 and Natural Resources.

19 * * *

20 Section 2. This Act shall become effective January 1, 2025.

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 24 Original

2024 Third Extraordinary Session

Geymann

Abstract: Provides for the authority of the State Mineral and Energy Board relative to leasing state property for energy-related purposes, increases fees and deposits related to the lease of state property, clarifies that certain provisions of law apply to mineral leases on state property, and provides for the distribution of revenue collected by the office of mineral resources pursuant to operating agreements.

Present law authorizes the State Mineral and Energy Board to lease state lands, water bodies, and water bottoms for the development and production of oil, gas, and alternative energy sources (R.S. 30:124(B)) and for injection, storage, transportation, shipment, and withdrawal

of oil, natural gas, liquid hydrocarbons, and carbon dioxide in underground reservoirs, the construction and use of related surface facilities and tanks, and for the use of caverns in salt domes for the injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, and carbon dioxide and for the construction and use of related surface facilities (R.S. 30:148.2).

Proposed law retains present law and references to the board's authority to reflect present law. (R.S. 30:124(B))

Proposed law classifies payments due for the lease of public lands as taxes rather than rent for purposes of calculating estate expenses under federal law. (R.S. 30:124(G))

Present law requires the payment of a \$400 fee for applications to the office of mineral resources proposing the lease of public lands. (R.S. 30:125(A))

Proposed law increases this fee from \$400 to \$600. (R.S. 30:125)

Present law prohibits the State Mineral and Energy Board from offering for lease an area greater than 5,000 acres. (R.S. 30:126(A))

Proposed law limits this prohibition to mineral leases only. (R.S. 30:126(A))

Present law requires that, if the State Mineral and Energy Board decides to offer particular public property for lease, the board must advertise the offer prior to the opening of bids. (R.S. 30:126(A))

Proposed law retains present law.

Present law authorizes the State Mineral and Energy Board to charge a fee of \$20 when a proof of publication is requested. (R.S. 30:126(A))

Proposed law increases this fee from \$20 to \$35. (R.S. 30:126(A))

Present law establishes minimum royalties to be stipulated in any lease executed by or on behalf of any school board, and minimum royalties to be stipulated in any other lease by the State Mineral and Energy Board. (R.S. 30:127(A) and (B))

Proposed law limits the present law minimum royalty requirements to mineral leases only. (R.S. 30:127(A) and (B))

Present law requires that each lease include a clear description of the leased property and contain a clause allowing the state to collect its royalty in kind. (R.S. 30:127(C))

Proposed law limits these requirements to mineral leases only. (R.S. 30:127(C))

Present law allows the State Mineral and Energy Board to include a clause in any lease that grants a continuing security interest in as-extracted collateral attributable to the leased premises to secure payment of the lessee's obligations to pay royalties and other sums due under the lease. (R.S. 30:127(H))

Proposed law authorizes this clause for continuing security on any collateral rather than just as-extracted collateral. (R.S. 30:127(H))

Present law authorizes the State Mineral and Energy Board to charge a fee of \$100 for the assignment or transfer of a lease granted by the board. (R.S. 30:128(A))

Proposed law increases this fee from \$100 to \$175. (R.S. 30:128(A))

Present law requires leases entered into by the State Mineral and Energy Board to contain a "Pugh clause". (R.S. 30:129(B)(3))

Proposed law limits this requirement to mineral leases only. (R.S. 30:129(B)(3))

Present law requires a cash deposit of \$50 to accompany any application for the lease of public lands with the right to erect storage and transportation facilities, which is returned to the applicant, minus the cost of advertising, if they are unsuccessful at auction. (R.S. 30:148.3)

Proposed law increases the required cash deposit from \$50 to \$100. (R.S. 30:148.3)

Present law establishes the information that must be provided in an application for the lease of public lands with the right to erect storage and transportation facilities. (R.S. 30:148.3)

Proposed law retains present law and adds that the applicant must also provide all other information required by the lessor. (R.S. 30:148.3)

Proposed law establishes that the provisions of Subpart A-2 of Part II of Chapter 2 of Title 30, regarding leases with the right to erect storage and transportation facilities, do apply to leases by the State Mineral and Energy Board for the injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, and carbon dioxide in underground reservoirs; the construction and use of related surface facilities and tanks; the use of caverns in salt domes for the injection, storage, transportation, shipment, and withdrawal of oil, natural gas, liquid hydrocarbons, and carbon dioxide; and the construction and use of related surface facilities (R.S. 30:148.2). (R.S. 30:148.10)

Present law requires that all production payments received by the office of mineral resources pursuant to an operating agreement be deposited into the Bond Security and Redemption Fund and thereafter that 25% of all such production payments be credited to the Mineral and Energy Operation Fund for appropriation to the Dept. of Energy and Natural Resources. (R.S. 30:209)

Proposed law changes these requirements to apply to all revenues collected by the office of mineral resources pursuant to operating agreements, rather than to production payments alone. (R.S. 30:209)

Effective January 1, 2025.

(Amends R.S. 30:124(B), 125, 126(A), 127(A)(intro. para.), (B)(intro. para.), (C), and (H), 128(A), 129(B)(3), 148.3, and 209(4)(b); Adds R.S. 30:124(G) and 148.10)