

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

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), (E), and (F)(1),

3 and 95(A) and to enact R.S. 30:83(F)(2), 83.1, and 86(F), 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 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), 87(A), (E), and (F)(1), and

15 95(A) are hereby amended and reenacted and R.S. 30:83(F)(2), 83.1, and 86(F) 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)~~ 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

1 owners of that oilfield site. A working interest owner is the owner of a mineral right
2 who is under an obligation to share in the costs of drilling or producing a well on the
3 oilfield site.

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

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

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

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

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

16 * * *

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

18 * * *

19 (2) At the direction of the secretary, pledge the revenues available to fund
20 authorized purposes and to secure the issuance of bonds to fund such purposes
21 provided in R.S. 30:83.1.

22 * * *

23 §83.1. Authorization of bonds

24 A.(1) An issuer is authorized to issue bonds pursuant to the provisions of
25 R.S. 9:2341 through 2347 for the benefit of the commission, at the direction of the
26 secretary, to raise funds for authorized purposes in accordance with the provisions
27 of this Section and the constitutional and statutory provisions governing the issuance
28 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, but
6 shall not include site-specific trust account monies as identified in R.S. 30:86(D)(6)
7 and 88. The bonds of the issuer shall be revenue bonds payable solely from the
8 above-described sources, to the extent appropriated and released from the state, and
9 such pledge shall not constitute a pledge of the full faith and credit of the state.

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

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

24 (2) Any pledge of revenues for the security of the bonds shall be valid and
25 binding from the time the pledge is made and shall be subject to the lien of such
26 pledge without any physical delivery thereof or further act, and the lien of any such
27 pledge shall be valid and binding against all parties having claims of any kind in tort,
28 contract, or otherwise against the state, the department, or the commission whether

1 or not such parties have notice thereof. Any trust agreement by which a pledge is
2 created need not be filed or recorded.

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

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

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

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

25 §84. Powers of the secretary

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

28 (1) Make expenditures or commitments to make expenditures from the fund
29 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~~ twelve 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~~ eight 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

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 this Subsection.

2 * * *

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

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

13 * * *

14 F. In addition to the disbursements and expenditures authorized by
15 Subsection E of this Section, not less than one million dollars annually shall be used
16 to plug orphaned wells drilled to a depth less than three thousand feet in the
17 Shreveport District and the Monroe District of the office of conservation beginning
18 Fiscal Year 2016-2017 and through the end of Fiscal Year 2018-2019.

19 §87. Oilfield site restoration fees

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

1 including any penalties collected in connection with the fee, shall be deposited into
2 the Oilfield Site Restoration Fund.

3 * * *

4 E. The fees provided for in Subsections A and B of this Section shall be
5 borne by the responsible parties and not by the royalty and overriding royalty owner.
6 ~~The fees provided for in Subsections A and B shall commence with September 1993~~
7 ~~production.~~

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

9 (1)(a) Full rate production: ~~one and one-half cents per barrel on crude oil and~~
10 ~~condensate or~~ For crude oil and condensate, the fee shall be based on the oil price on
11 July first of each year for the ensuing twelve months based upon the average New
12 York Mercantile Exchange Price per barrel of crude oil per month on the close of
13 business on June thirtieth for the prior twelve months. The amount of the fee for a
14 well that produces crude oil and condensate shall be as follows:

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

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

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

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

23 * * *

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

25 A. Nothing in this Part shall establish or create any liability or responsibility
26 on the part of the commission or the state of Louisiana to pay any costs associated
27 with site restoration from any ~~source~~ sources other than the fund created by R.S.
28 30:86 or the funds established in connection with the issuance of bonds on behalf of
29 the commission, at the direction of the secretary, pursuant to R.S. 30:83.1 nor shall

1 the commission or the state of Louisiana have any liability or responsibility to make
 2 any payments for costs associated with site restoration if the trust created herein is
 3 insufficient to do so.

4 * * *

5 Section 2. This Act shall take effect and become operative if and when the Act
 6 which originated as House Bill No. 632 of this 2016 Regular Session of the Legislature is
 7 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 Reengrossed

2016 Regular Session

Jim Morris

Abstract: Authorizes the issuance of bonds secured by revenue deposited into the Oilfield Site Restoration Fund and bases the fees on oil production deposited into that fund on the price of a barrel of crude oil.

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 changes the fee from 1½¢ per barrel of oil and condensate to a fee based on the average New York Mercantile Exchange price of a barrel of crude oil as follows:

- (1) Price per barrel is \$60 or less, the fee is 1 ½¢.
- (2) Price per barrel is greater than \$60 and at or less than \$90, the fee is 3¢.
- (3) Price per barrel is greater than \$90, the fee is 4 ½¢.

Proposed law retain present law on the fee for 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 \$12 million to suspend and from \$6 million to \$8 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.

Proposed law requires \$1 million from the Oil Field Site Restoration Fund be used to plug orphaned well drilled less than 3000 ft. wells in the Shreveport and Monroe office of conservation districts for three fiscal years beginning FY2016-2017.

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. 632 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), (E), and (F)(1), and 95(A); Adds R.S. 30:83(F)(2), 83.1, and 86(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Change the balance of the Oil Field Site Restoration Fund reaches to stop the collection of the per barrel fee from \$10 million to \$12 million and the balance collection resumes from \$6 million to \$8 million.
2. Require \$1 million from the Oil Field Site Restoration Fund to plug orphaned well drilled less than 3000 ft. wells in the Shreveport and Monroe office of conservation districts for three fiscal years.
3. Change the fee on crude oil and condensate from 1½¢ per barrel to a fee based on the price of a barrel of crude oil.
4. Effective date is if and when HB 632 of this 2016 R.S. is enacted and becomes effective.