

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE
FOR ENGROSSED SENATE
BILL NO. 370

By: Easley and Taylor of the
Senate

and

Rice of the House

COMMITTEE SUBSTITUTE

An Act relating to oil and gas; amending Sections 1 and 2, Chapter 257, O.S.L. 1992, Section 3, Chapter 257, O.S.L. 1992, as amended by Section 2, Chapter 343, O.S.L. 1992, and Sections 4, 5, 6, 7 and 12, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Sections 288.1, 288.2, 288.3, 288.4, 288.5, 288.6, 288.7 and 288.12), which relate to the Oklahoma Independent Energy Education and Marketing Act; modifying name of act; deleting certain definitions; adding certain definitions; modifying composition of board; stating terms of office; providing method for removal of members from office; providing for appointment of certain board members; modifying statutory reference; deleting duplicative language; deleting requirement of board to keep file of certain producers; modifying name of certain revolving fund; designating expenditure of a certain percentage of revolving fund; levying assessment on oil production to fund activities of board; stating procedures for payment of assessment; authorizing the Oklahoma Tax Commission to retain certain monies to defray costs of processing assessment; requiring monies to be deposited in certain fund; requiring the board to collect unpaid assessments; requiring the Oklahoma Tax Commission to report information to board regarding persons failing to pay assessment; authorizing person subject to assessment to request refund; authorizing certain payment of interest; requiring board to promulgate rules governing refund process; stating procedure for requesting and paying refund; authorizing the board to verify accuracy of refund requests; modifying statutory language; repealing Sections 8, 9 and 10, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Sections 288.8, 288.9 and 288.10), which relate to assessment on oil production, exemptions from assessment and referendum on continuation of assessment; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.1), is amended to read as follows:

Section 288.1 This act shall be known and may be cited as the "Oklahoma ~~Independent~~ Energy Education and Marketing Act".

SECTION 2. AMENDATORY Section 2, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.2), is amended to read as follows:

Section 288.2 As used in the Oklahoma ~~Independent~~ Energy Education and Marketing Act:

1. "Board" means the Oklahoma ~~Independent~~ Energy Resources Board;

2. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity;

3. "Independent producer" means any person:

a.—who produces oil and is not engaged in refining or marketing of such products, or

b.—who derives a majority of his oil-related income from working interest;

4. "~~Fully integrated~~ Major oil company" means any person who produces oil in the State of Oklahoma and who is a retailer as defined in IRS Code Sec. 613A (d) (2) or a refiner as defined in Sec. 613A (d) (4) of the Code; or is classified as a public utility, or an affiliated company of a public utility; or is classified as an interstate pipeline, or an affiliated company of an interstate pipeline;

5. "~~Royalty interest~~" means ~~any interest in oil production that exists by virtue of the base royalty of an oil lease and does not participate in the costs associated with operating and producing oil from said lease;~~

6. "~~Overriding royalty interest~~" means ~~any interest in oil production, other than the base royalty interest, that does not participate in the cost associated with operating and producing oil from said lease;~~

7. ~~"Working interest" means an interest derived under the terms of an oil lease that is proportionately responsible for the costs associated with extracting, producing and marketing the oil produced under said lease; and~~

8. "Qualified ~~state~~ independent producer association" means an entity in existence as of January 1, 1992, that is organized and operating within the state, a majority of whose governing body are independent producers and ~~who~~ which represents the independent oil industry on a statewide basis; and

6. "Qualified major oil company association" means an entity in existence as of January 1, 1992, that is organized and operating within the state, a majority of whose governing body is composed of persons who represent major oil companies and which represent major oil companies on a statewide basis.

SECTION 3. AMENDATORY Section 3, Chapter 257, O.S.L. 1992, as amended by Section 2, Chapter 343, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.3), is amended to read as follows:

Section 288.3 There is hereby created until July 1, 1998, the Oklahoma ~~Independent~~ Energy Resources Board which shall be subject to the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes. The purpose of the Board is to coordinate a program designed to demonstrate to the general public the importance of the Oklahoma ~~independent~~ oil exploration and production industry, to encourage the wise and efficient use of energy, to promote environmentally sound production methods and technologies, to develop existing supplies of Oklahoma's oil resources ~~and~~, to support research and educational activities concerning the ~~independent~~ oil exploration and production industry and to cause remediation of historical oilfield environmental problems.

SECTION 4. AMENDATORY Section 4, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.4), is amended to read as follows:

Section 288.4 A. The Board shall be composed of at least eighteen (18) members ~~who are~~. The eighteen members shall be independent oil producers, six to be appointed by the Governor,

six to be appointed by the President Pro Tempore of the Senate and six to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore and Speaker of the House of Representatives shall make appointments of independent producers from a list of names submitted by qualified ~~state independent producer~~ associations.

B. The ~~independent producer~~ members of the Board shall:

1. Be at least twenty-five (25) years of age;
2. Be a resident of the State of Oklahoma; and
3. Have at least five (5) years of active experience in the ~~independent~~ oil exploration and production industry.

C. The initial term of office for independent producer members of the Board shall be as follows: six members for one (1) year, six members for two (2) years and six members for three (3) years.

~~Thereafter, the terms of the Board members shall be for three (3) years.~~ For the initial appointments of independent producers, each appointing authority shall make two appointments for one-year terms, two appointments for two-year terms and two appointments for three-year terms. Thereafter, the terms of the independent producer members shall be for three (3) years.

D. The six (6) independent producer members of the Board whose initial term of office is for one (1) year shall serve until October 1, 1993, at which time their terms shall expire and will be replaced by the members appointed under subsection E of this section.

E. On October 1, 1993, six (6) members shall be appointed to the Board who represent major oil companies, two to be appointed by the Governor, two to be appointed by the President Pro Tempore of the Senate and two to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives shall make appointments of members representing major oil companies from a list of names submitted by qualified major oil company associations. The initial term of office for members representing major oil companies shall be as follows:

1. Two members appointed by the Governor for one (1) year;
2. Two members appointed by the Speaker of the House of Representatives for two (2) years; and
3. Two members appointed by the President Pro Tempore of the Senate for three (3) years.

Thereafter, the terms of the major oil company members shall be for three (3) years.

~~D.~~ F. After October 1, 1993, the Board shall be composed of eighteen (18) members, twelve of which shall be independent producers and six shall be representatives of major oil companies.

G. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. The independent producer members and major oil company members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

~~E.~~ H. The After October 1, 1993, the independent producer and major oil company members of the Board appointed pursuant to subsections A and E of this section may by majority vote appoint a maximum of three representatives with at least one from each of the following independent-producer-related areas to serve as members of the Board: one member from a royalty owner associations or association and two members representing crude oil purchasing companies, in a manner prescribed by the rules of the Board. These additional members shall have full voting rights and privileges and will serve three-year terms. They may be removed from the Board by a majority vote of the independent producer and major oil company members of the Board appointed pursuant to subsections A and E of this section.

~~F.~~ I. The Board shall at its first meeting elect one of its ~~independent producer~~ members as chairperson, who shall preside over meetings of the Board and perform such other duties as may be required by the Board. The first meeting of the Board shall be called by the Governor.

~~G.~~ J. No member of the Board shall receive a salary or reimbursement for duties performed as a member of the Board however, members are eligible to receive travel reimbursement as

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provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 5. AMENDATORY Section 5, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.5), is amended to read as follows:

Section 288.5 The Board shall have the following powers, duties and responsibilities:

1. To administer and enforce the provisions of the Oklahoma ~~Independent~~ Energy Education and Marketing Act;

2. To establish an office for the Board within the State of Oklahoma;

3. To elect a chairperson and whatever other officers may be necessary to direct operations of the Board;

4. To employ personnel as shall be deemed necessary to carry out the purpose and provisions of this act and to prescribe their duties and fix their compensation;

~~5. To promulgate such rules as it deems necessary to carry out its duties and responsibilities;~~

~~6.~~ To establish and administer the ~~Independent~~ Energy ~~Education~~ Resources Revolving Fund;

~~7.~~ 6. To approve or disapprove the budget of the Board;

~~8.~~ 7. To promulgate rules as it deems necessary to carry out the provisions of this act;

~~9.~~ 8. To enter into contracts or agreements for studies, research projects, experimental work, supplies or other services to carry out the purposes of the Oklahoma ~~Independent~~ Energy Education and Marketing Act, and incur those expenses necessary to carry out said purpose. Any such contract or agreement shall provide that:

a. the person entering the contract or agreement on behalf of the Board shall develop and submit to the Board a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project,

b. the person entering the contract or agreement shall keep accurate records of all of its transactions,

account for funds received and expended, and make periodic reports to the Board of activities conducted, and such other reports as the Board may require;

~~10.~~ 9. To keep accurate records of all financial transactions performed pursuant to this act. These records shall be audited annually by an independent auditor and an annual report shall be compiled and presented to the Governor;

~~11.~~ 10. To cooperate with any private, local, state or national commission, organization, agency or group and to make contracts and agreements for joint programs beneficial to the ~~independent~~ oil industry;

~~12.~~ 11. To accept donations, grants, contributions and gifts from any public or private source and deposit such in the ~~Independent Energy Education Resources~~ Revolving Fund;

~~13.~~ 12. To approve or disapprove the investment of any monies in the ~~Independent Energy Education Resources~~ Revolving Fund pursuant to Section ~~10~~ 288.10 of this ~~act~~ title; and

~~14.~~ 13. To keep an accurate record of all assessments collected ~~and a file of the independent producers who have paid the assessment.~~

SECTION 6. AMENDATORY Section 6, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.6), is amended to read as follows:

Section 288.6 A. There shall be an annual meeting of the Board at which the annual report and proposed budget will be presented. The Board shall, at the call of the chairperson, hold at least three other regular meetings each year. The chairperson shall establish the time, a manner and place of all meetings and shall provide notice of such meetings. A majority of the ~~producer~~ members of the Board shall constitute a quorum for the transaction of any business. In addition, the Board shall determine the circumstances under which additional meetings of the Board may be held.

B. The Board may appoint a Director who shall carry out the provisions of the Oklahoma ~~Independent~~ Energy Education and

Marketing Act. The Director shall not be one of the appointed Board members.

SECTION 7. AMENDATORY Section 7, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.7), is amended to read as follows:

Section 288.7 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma ~~Independent~~ Energy Resources Board to be designated the "~~Independent~~ Energy ~~Education Resources~~ Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Oklahoma ~~Independent~~ Energy Resources Board from assessments received and collected pursuant to Section 8 of this act, and donations, grants, contributions and gifts from any public or private source. The Board may expend funds as provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Of the monies collected and not refunded pursuant to Sections 8 and 9 of this act, a minimum of fifty percent (50%) of said monies collected during the first three (3) years after October 1, 1993, and not subsequently refunded, shall be expended on environmental cleanup and remediation projects related to oil and gas pollution authorized by the Board. Beginning October 1, 1996, the Board shall determine the percentage of monies collected and not refunded to be expended on environmental cleanup and remediation projects.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.8A of Title 52, unless there is created a duplication in numbering, reads as follows:

A. To fund the activities of the Oklahoma Energy Resources Board, an assessment shall be levied in the amount of two cents (\$0.02) on each barrel of oil produced from each well in the State of Oklahoma except for oil production exempt from the payment of gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes.

B. The assessment levied by subsection A of this section shall be deducted from the proceeds of production by the person remitting gross production tax to the Oklahoma Tax Commission pursuant to Section 1001 of Title 68 of the Oklahoma Statutes. Such assessment shall be remitted to the Oklahoma Tax Commission in the same manner as is provided by law for the payment of gross production tax. Provided, the person remitting the assessment may remit cumulative amounts of Twenty-five Dollars (\$25.00) or less quarterly. To defray the costs of receiving and depositing the assessments levied by this section, the Oklahoma Tax Commission shall retain One Thousand Dollars (\$1,000.00) per month of the assessments received for deposit in the Oklahoma Tax Commission Revolving Fund created pursuant to Section 113 of Title 68 of the Oklahoma Statutes. The remaining monies received by the Oklahoma Tax Commission pursuant to this section shall be deposited in the Energy Resources Revolving Fund.

C. The Board shall be responsible for taking appropriate and necessary actions to collect any assessment which is not paid or is not properly paid. The Oklahoma Tax Commission shall not be responsible for collecting any assessment not remitted to the Oklahoma Tax Commission for deposit in the Energy Resources Revolving Fund. The Oklahoma Tax Commission shall report to the Board any information it obtains regarding failure of any person to properly pay the assessment due, including any documentation it may have of such failure.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 288.9A of Title 52, unless there is created a duplication in numbering, reads as follows:

A. Any person subject to the assessment levied by Section 8 of this act may request a refund as provided in this section of the assessment paid on production for the preceding calendar year. Upon compliance with the provisions of this section and rules promulgated by the Board to implement this section, the Board shall refund to each person requesting a refund of the amount of the assessment paid by or on behalf of such person during the preceding calendar year. Refunds made to producers will include

interest earned at the rate equal to the average United States Treasury bill rate of the preceding calendar year as certified by the State Treasurer.

B. The request for a refund of the assessment paid on production for the preceding calendar year must be made during the first three (3) calendar months following the calendar year for which the refund is requested. Failure to request a refund during this period shall terminate the right of any person to receive a refund for the assessment paid on production for the preceding calendar year. The Board shall give notice of the availability of the refund through press releases or such other means as it deems appropriate.

C. Each person requesting a refund shall execute an affidavit showing the amount of refund requested, and the affiant was the owner of the production for which the refund is requested. The Board may verify the accuracy of the request for refund.

D. No company or person who requests a refund under this section shall be eligible to serve or have a representative serve as a member of the Board.

SECTION 10. AMENDATORY Section 12, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.12), is amended to read as follows:

Section 288.12 Nothing in this act may be construed to preempt or supersede any other program relating to ~~independent~~ oil and gas promotion ~~and/or~~ or marketing organized and operated under the laws of the State of Oklahoma or the United States. The provisions of this act applicable to the rules shall be applicable to amendments to the rules. In the event of the establishment of a national program for an assessment on oil and natural gas production, the Board, by majority vote, may elect to designate up to a maximum of fifty percent (50%) of the funds collected under this act to such a national program in lieu of an additional assessment as may be required by such national program.

SECTION 11. REPEALER Sections 8, 9 and 10, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Sections 288.8, 288.9 and 288.10), are hereby repealed.

SECTION 12. Sections 1 through 3 and 5 through 10 of this act shall become effective October 1, 1993.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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