

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1244

By: Rice

AS INTRODUCED

An Act relating to oil and gas; Amending Sections 2, 5, 7, 8 and 9, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Sections 288.2, 288.5, 288.7, 288.8 and 288.9), which relates to the Oklahoma Independent Energy Education and Marketing Act; deleting certain definitions; modifying record keeping duties of the Board; updating statutory reference; modifying authority of the Board to collect assessment; clarifying amount of assessment; providing implementation date for assessment; providing date for first assessment; deleting certain exemptions; deleting certain petition procedures; deleting assessment exemption application procedure; providing for certain refund of assessment; requiring certain rules and procedures; and declaring an emergency.

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

SECTION 1. 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 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. 5. "Qualified state 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 represents the independent oil industry on a statewide basis.

SECTION 2. 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 Revolving Fund;
7. To approve or disapprove the budget of the Board;
8. To promulgate rules as it deems necessary to carry out the provisions of this act;
9. 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. 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. 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. To accept donations, grants, contributions and gifts from any public or private source and deposit such in the Independent Energy Education Revolving Fund;

13. To approve or disapprove the investment of any monies in the Independent Energy Education Revolving Fund pursuant to Section ~~10~~ 288.11 of this ~~act~~ title; and

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

SECTION 3. 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 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 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 § 288.8 of this ~~act~~ title, 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.

SECTION 4. AMENDATORY Section 8, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.8), is amended to read as follows:

Section 288.8 A. The Board is hereby authorized to levy an assessment on oil produced in the State of Oklahoma ~~by independent producers~~. Said 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.

B. Said assessments shall be remitted to the Board by the person remitting the gross production or severance tax. In the event the remitter of the gross production tax is not the distributor of revenue, then the distributor of revenue shall remit the assessment, unless the distributor of revenue and the remitter of the gross production tax agree that said assessment shall be remitted by the remitter of the gross production tax. In the event of such agreement, the distributor of revenue shall furnish the remitter of the gross production tax information on working interest owners necessary to comply with the provisions of Section 288.1 et seq. of this act title. ~~Beginning April 1, 1993,~~

C. Beginning October 1, 1993, said assessments shall be implemented. The first assessment shall be remitted to the Board no later than ninety (90) days following the last day of December 1993. Thereafter, assessments shall be remitted to the Board on a quarterly basis no later than ninety (90) days following the last working day of the months of March, June, September and December.

The Board shall deposit all remittances to the Independent Energy Education Revolving Fund.

D. Any person remitting assessment to the Board shall maintain and upon request make available for inspection data pertaining to the collection or remittance of independent producers assessments to the Board.

E. Said assessments shall be used for payment of the costs of plans and projects, as provided for in ~~paragraph 9 of~~ Section 5 288.5 of this ~~act~~ title, administrative costs incurred by the Board, not to exceed twenty percent (20%) of the total collected assessment in any given year, and to establish a reasonable reserve.

~~Said assessment rate shall be two cents (\$0.02) per barrel of oil.~~

~~B. Fully integrated oil companies, royalty owners and overriding royalty interest owners shall be exempt from the assessment. The amount of the assessment collected under this act shall not be deducted from production proceeds payable to royalty or overriding royalty interest owners. Said assessment shall be borne entirely by the independent producer.~~

~~C. Upon request, the Corporation Commission shall supply a list of fully integrated oil companies to the parties charged with collection of the assessment. Within the first year after the enactment of this act, a company that does not appear on said list of exempt companies may petition the Board for inclusion on said list. The petition shall explain the company's qualifications as a fully integrated oil company as defined in Section 2 of this act. If the Board determines the company qualifies as a fully integrated oil company, an exemption shall be granted by majority vote of the Board.~~

SECTION 5. AMENDATORY Section 9, Chapter 257, O.S.L. 1992 (52 O.S. Supp. 1992, Section 288.9), is amended to read as follows:

Section 288.9 A. ~~Any independent producer subject to the assessment provided in this act that objects to the collection of the assessment may make annual application to the Oklahoma Independent Energy Resources Board for exemption from the assessment. Application for exemption shall be made no later than August 1 of each year. Exemptions from assessment shall be effective for the period of one (1) year beginning September 1 to August 31 of the succeeding year. Application forms for exemptions shall be furnished by the Board~~ person subject to the assessment levied in Section 288.8 of this title 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 the amount of the fee paid by or on behalf of such person during the preceding calendar year.

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 request for a refund shall be made in such manner and upon such forms as the Board may require. Each person requesting a refund shall execute an affidavit stating the description of the producing property generating the production for which the refund is requested, the amount of the refund requested and that affiant was the owner of the production upon which the assessment was levied. The Board may require such other information and documentation

reasonably necessary to verify the accuracy of the request for a refund.

SECTION 6. 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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