

ENROLLED HOUSE  
BILL NO. 2874

By: Rice of the House

and

Easley and Douglass of  
the Senate

An Act relating to oil and gas; amending Section 2, Chapter 257, O.S.L. 1992, as amended by Section 2, Chapter 184, O.S.L. 1993, Section 3, Chapter 257, O.S.L. 1992, as last amended by Section 3, Chapter 184, O.S.L. 1993, Section 4, Chapter 257, O.S.L. 1992, as last amended by Section 1, Chapter 76, O.S.L. 1995, Section 7, Chapter 257, O.S.L. 1992, as amended by Section 7, Chapter 184, O.S.L. 1993, Section 8, Chapter 184, O.S.L. 1993, Section 9, Chapter 184, O.S.L. 1993 and Section 12, Chapter 257, O.S.L. 1992, as amended by Section 10, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, Sections 288.2, 288.3, 288.4, 288.7, 288.8A, 288.9A and 288.12), which relate to the Oklahoma Energy Education and Marketing Act; modifying certain definitions; extending expiration date of Board; modifying purpose of the Oklahoma Energy Resources Board; deleting certain requirements for the Board; providing for appointments by the Board; stating qualifications of appointments; modifying expenditure requirements for environmental projects; providing for submission of environmental projects; deleting certain travel reimbursement prohibition; modifying assessment amount; changing amount retained by the Oklahoma Tax Commission; modifying refund procedure; requiring certain advertisement for refunds; requiring submission of certain evidence for refund; providing for collection of information to verify requests for refunds; modifying certain language; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 257, O.S.L. 1992, as amended by Section 2, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, Section 288.2), is amended to read as follows:

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

1. "Board" means the Oklahoma 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 or natural gas and is not engaged in refining or marketing of such products, or

b. who derives a majority of his ~~oil-related~~ oil-or natural gas-related income from working interest;

4. "Major oil company" means any person who produces oil or natural gas 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 a subsidiary, directly or indirectly, of a company that is classified as a major oil company as defined herein; and

5. "Qualified 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 which represents the independent oil or natural gas industry on a statewide basis.

SECTION 2. AMENDATORY Section 3, Chapter 257, O.S.L. 1992, as last amended by Section 3, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, Section 288.3), is amended to read as follows:

Section 288.3 There is hereby created until July 1, ~~1998~~ 2001, the Oklahoma 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 oil and natural gas 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 and natural gas resources, to support research and educational activities concerning the oil and natural gas exploration and production industry and to cause remediation of historical oilfield environmental problems.

SECTION 3. AMENDATORY Section 4, Chapter 257, O.S.L. 1992, as last amended by Section 1, Chapter 76, O.S.L. 1995 (52 O.S. Supp. 1995, Section 288.4), is amended to read as follows:

Section 288.4 A. The Oklahoma Energy Resources Board shall be composed of at least eighteen (18) members. The eighteen members shall be independent oil or natural gas producers, or representatives of major oil companies which do business in the state, 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 of independent producers which do business in the state submitted by qualified independent producer associations.

B. The members of the Board shall:

1. Be at least twenty-five (25) years of age; and  
2. Have at least five (5) years of active experience in the oil or natural gas 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.

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 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 to three-year terms under subsection E of this section.

E. On October 1, 1993, six members shall be appointed to the Board who represent major oil companies which do business in the state, 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. ~~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.~~ F. 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~~ appointed members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

~~H.~~ G. After October 1, 1993, the independent producer and major oil company members of the Board appointed pursuant to ~~subsections~~ subsection A ~~and E~~ of this section may by majority vote appoint a maximum of three representatives from each of the following producer-related areas to serve as members of the Board: one member from a royalty owner association and two members representing crude oil purchasing companies. 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~~ subsection A ~~and E~~ of this section.

~~I.~~ H. The Board shall at its first meeting elect one of its 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.

~~J.~~ I. No member of the Board shall receive a salary for duties performed as a member of the Board however, members are eligible to receive reimbursement for expenses and travel reimbursement as provided for in the State Travel Reimbursement Act.

SECTION 4. AMENDATORY Section 7, Chapter 257, O.S.L. 1992, as amended by Section 7, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, 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 Energy Resources Board to be designated the "Energy 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 Energy Resources Board from assessments received and collected pursuant to Section ~~& 288.8A~~ 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.

B. Of the monies collected and not refunded pursuant to Sections ~~& 288.8A~~ and ~~& 288.9A~~ of this ~~act~~ title, a minimum of fifty percent (50%) of said monies collected ~~during the first three (3) years after October 1, 1993, including a prorated share of~~ administrative costs incurred from the effective date of this act, and not subsequently refunded, shall be expended on environmental cleanup and remediation projects related to oil and gas pollution authorized by the Board from a priority list of projects submitted by the Oklahoma Corporation Commission or, only in the absence of Corporation Commission jurisdiction, projects submitted by other appropriate state agencies. ~~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.~~

C. None of the monies collected and not refunded pursuant to Sections ~~§ 288.8A~~ and ~~§ 288.9A~~ of this ~~act~~ title shall be used for travel expenses of ~~any member of the Oklahoma Energy Resources Board~~ ~~or~~ any member of the Oklahoma Legislature.

SECTION 5. AMENDATORY Section 8, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, Section 288.8A), is amended to read as follows:

Section 288.8A 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~~ one-tenth of one percent (1/10 of 1%) of the gross revenues received at the wellhead for oil, natural gas, casinghead gas or condensate 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)~~ Two Thousand Dollars (\$2,000.00) 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 legal 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 6. AMENDATORY Section 9, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, Section 288.9A), is amended to read as follows:

Section 288.9A A. Any person subject to the assessment levied by Section ~~§ 288.8A~~ of this ~~act~~ 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 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~~, paid advertisements placed in the newspaper with the largest general circulation in each county in the state and 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. Each person requesting a refund shall submit supporting evidence demonstrating the gross revenues, net to the person's revenue interest, received for oil, natural gas, casinghead gas or condensate in Oklahoma. The Board may verify, principally through the use of audits, the accuracy of the request for refund. In verifying the accuracy of a request for refund, the Board shall exercise its authority in a manner that will reduce, to the extent practicable and appropriate, the burden on persons providing the information to the Board.

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 7. AMENDATORY Section 12, Chapter 257, O.S.L. 1992, as amended by Section 10, Chapter 184, O.S.L. 1993 (52 O.S. Supp. 1995, 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 oil ~~and~~ or natural gas promotion 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~~ or 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 8. This act shall become effective July 1, 1996.

Passed the House of Representatives the 30th day of May, 1996.

Speaker of the House of  
Representatives

Passed the Senate the 31st day of May, 1996.

President of the Senate