

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

Senate Bill 712

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[Originating in the Committee on Energy, Industry,
and Mining; reported on March 25, 2021]

1 A BILL to amend and reenact §22-6-2 and §22-6-29 of the Code of West Virginia, 1931, as
2 amended, relating to the Office of Oil and Gas of the Department of Environmental
3 Protection; establishing annual oversight fee for wells producing more than 10,000 cubic
4 feet of gas per day; and providing that those fees, if not used for other purposes, may be
5 moved to the Oil and Gas Reclamation Fund.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION;
ENFORCEMENT.**

**§22-6-2. Secretary – powers and duties generally; department records open to public;
inspectors.**

1 (a) The secretary shall have as his or her duty the supervision of the execution and
2 enforcement of matters related to oil and gas set out in ~~this article and in articles six-a, eight, nine,~~
3 ~~ten and twenty-one of this chapter~~ §22-6-1 et seq., §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et
4 seq., §22-10-1 et seq., and §22-21-1 et seq. of this code.

5 (b) The secretary is authorized to propose rules for legislative approval in accordance with
6 the provisions of ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code necessary to
7 effectuate the above stated purposes.

8 (c) The secretary shall have full charge of the oil and gas matters set out in ~~this article and~~
9 ~~in articles six-a, eight, nine, ten and twenty-one of this chapter~~ §22-6-1 et seq., §22-6A-1 et seq.,
10 §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., and §22-21-1 et seq. of this code. In addition
11 to all other powers and duties conferred upon him or her, the secretary shall have the power and
12 duty to:

13 (1) Supervise and direct the activities of the Office of Oil and Gas and see that the
14 purposes set forth in ~~subsections (a) and (b) of this section~~ §22-6-2(a) and §22-6-2(b) of this code
15 are carried out;

16 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
17 needed to carry out the purposes of ~~this article and articles six a, eight, nine, ten, and twenty one~~
18 ~~of this chapter~~ §22-6-1 et seq., §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et
19 seq., and §22-21-1 et seq. of this code and appoint them as such. All appointees must be qualified
20 civil service employees, but no person is eligible for appointment until he or she has served in a
21 probationary status for a period of six months to the satisfaction of the secretary;

22 (3) Supervise and direct such oil and gas inspectors and supervising inspectors in the
23 performance of their duties;

24 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
25 the provisions of ~~this article and articles six a, eight, nine, ten, and twenty one of this chapter~~ §22-
26 6-1 et seq., §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., and §22-21-1 et
27 seq. of this code;

28 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector
29 in making their findings, orders, and notices upon inspections made in accordance with ~~this article~~
30 ~~and articles six a, eight, nine, ten and twenty one of this chapter~~ §22-6-1 et seq., §22-6A-1 et
31 seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., and §22-21-1 et seq. of this code;

32 (6) Employ a hearing officer and such clerks, stenographers, and other employees as may
33 be necessary to carry out his or her duties and the purposes of the Office of Oil and Gas and fix
34 their compensation;

35 (7) Hear and determine applications made by owners, well operators, and coal operators
36 for the annulment or revision of orders made by oil and gas inspectors or the supervising
37 inspector, and to make inspections, in accordance with the provisions of ~~this article and articles~~
38 ~~eight and nine of this chapter~~ §22-6-1 et seq., §22-6A-1 et seq., §22-8-1 et seq., and §22-9-1 et
39 seq. of this code;

40 (8) Cause a properly indexed permanent and public record to be kept of all inspections
41 made by the secretary or by oil and gas inspectors or the supervising inspector;

42 (9) Conduct research and studies as the secretary shall deem necessary to aid in
43 protecting the health and safety of persons employed within or at potential or existing oil or gas
44 production fields within this state, to improve drilling and production methods, and to provide for
45 the more efficient protection and preservation of oil and gas-bearing rock strata and property used
46 in connection therewith;

47 (10) Collect a permit fee of \$400 for each permit application filed other than an application
48 for a deep well, horizontal wells regulated pursuant to ~~article six a of this chapter~~ §22-6A-1 et
49 seq., of this code, or a coalbed methane well; and collect a permit fee of \$650 for each permit
50 application filed for a deep well: *Provided*, That no permit application fee is required when an
51 application is submitted solely for the plugging or replugging of a well, or to modify an existing
52 application for which the operator previously has submitted a permit fee under this section. All
53 application fees required hereunder are in lieu of and not in addition to any fees imposed under
54 ~~article eleven of this chapter~~ §22-11-1 et seq. of this code relating to discharges of stormwater
55 but are in addition to any other fees required by the provisions of ~~this article~~ §22-6-1 et seq. of
56 this code: *Provided, however*, That upon a final determination by the United States Environmental
57 Protection Agency regarding the scope of the exemption under ~~section~~ Section 402(l)(2) of the
58 federal Clean Water Act (33 U.S.C. 1342(l)(2)), which determination requires a “national pollutant
59 discharge elimination system” permit for stormwater discharges from the oil and gas operations
60 described therein, any permit fees for stormwater permits required under §22-11-1 et seq. of this
61 code for such operations may not exceed \$100;

62 (11) On or after the first day of July each year, collect from the responsible operator of
63 each well subject to §22-6-1 et seq. or §22-6A-1 et seq. of this code that has not yet been plugged,
64 and that produces 10,000 cubic feet of gas per day or more as reported to the State Tax
65 Commissioner in the previous reporting year, an annual oversight fee of \$100 for each well;

66 (14) (12) Perform all other duties which are expressly imposed upon the secretary by the
67 provisions of this chapter;

68 ~~(12)~~ (13) Perform all duties as the permit issuing authority for the state in all matters
69 pertaining to the exploration, development, production, storage, and recovery of this state's oil
70 and gas;

71 ~~(13)~~ (14) Adopt rules with respect to the issuance, denial, retention, suspension, or
72 revocation of permits, authorizations, and requirements of this chapter, which rules shall assure
73 that the rules, permits, and authorizations issued by the secretary are adequate to satisfy the
74 purposes of ~~this article and articles six-a, seven, eight, nine, ten and twenty-one of this chapter~~
75 §22-6-1 et seq., §22-6A-1 et seq., §22-7-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et
76 seq. and §22-21-1 et seq. of this code particularly with respect to the consolidation of the various
77 state and federal programs which place permitting requirements on the exploration, development,
78 production, storage, and recovery of this state's oil and gas; and

79 ~~(14)~~ (15) Perform such acts as may be necessary or appropriate to secure to this state the
80 benefits of federal legislation establishing programs relating to the exploration, development,
81 production, storage, and recovery of this state's oil and gas, which programs are assumable by
82 the state.

83 (d) The secretary shall have authority to visit and inspect any well or well site and any
84 other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
85 inspectors or supervising inspector whenever such assistance is necessary in the inspection of
86 any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
87 supervising inspectors shall have authority to visit and inspect any well or well site and any other
88 oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas
89 operations required by ~~this article and articles six-a, eight, nine, ten and twenty-one of this chapter~~
90 §22-6-1 et seq., §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., and §22-21-
91 1 et seq. of this code; administer and enforce all oil and gas laws and rules; and perform other
92 duties and services as may be prescribed by the secretary. The inspectors shall note and describe
93 all violations of ~~this article and articles six-a, eight, nine, ten or twenty-one of this chapter~~ §22-6-

94 1 et seq., §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., or §22-21-1 et seq.
95 of this code and promptly report those violations to the secretary in writing, furnishing at the same
96 time a copy of the report to the operator concerned. Any well operator, coal operator operating
97 coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or
98 lessee is not yet operating said coal seams beneath said tract of land may request the secretary
99 to have an immediate inspection made. The operator or owner of every well or well site or any
100 other oil or gas facility shall cooperate with the secretary, all oil and gas inspectors and the
101 supervising inspector in making inspections or obtaining information.

102 (e) Subject to the provisions of §29B-1-1 *et seq.* of this code, all records of the office shall
103 be open to the public.

§22-6-29. Operating permit and processing fund; special reclamation fund; fees.

1 (a) There is hereby continued within the Treasury of the State of West Virginia the special
2 fund known as the Oil and Gas Operating Permit and Processing Fund, and the secretary shall
3 deposit with the ~~state~~ State Treasurer to the credit of such special fund all fees collected under
4 ~~the provisions of subdivision ten, subsection (c), section two of this article~~ §22-6-2(c)(10) and §22-
5 6-2(c)(11) of this code.

6 The Oil and Gas Operating Permit and Processing Fund shall be administered by the
7 secretary for the purposes of carrying out the provisions of this chapter. Fees collected under
8 §22-6-2(c)(11) of this code not used for other purposes may be moved to the Oil and Gas
9 Reclamation Fund that is continued in §22-6-29(b) of this code at the discretion of the Chief of
10 the Office of Oil and Gas.

11 The secretary shall make an annual report to the Governor and to the Legislature on the
12 use of the fund, and shall make a detailed accounting of all expenditures from the Oil and Gas
13 Operating Permit and Processing Fund.

14 (b) In addition to any other fees required by the provisions of ~~this article~~ §22-6-1 et seq. of
15 this code, every applicant for a permit to drill a well shall, before the permit is issued, pay to the

16 secretary a special reclamation fee of \$150 for each activity for which a well work application is
17 required to be filed: *Provided*, That a special reclamation fee shall not be assessed for plugging
18 activities. ~~Such~~ The special reclamation fee shall be paid at the time the application for a drilling
19 permit is filed with the secretary and the payment of ~~such~~ the reclamation fee shall be a condition
20 precedent to the issuance of said permit.

21 There is hereby continued within the Treasury of the State of West Virginia the special
22 fund known as the ~~oil and gas reclamation fund~~ Oil and Gas Reclamation Fund, and the secretary
23 shall deposit with the ~~state~~ State Treasurer to the credit of ~~such~~ the special fund all special
24 reclamation fees collected. The proceeds of any bond forfeited under the provisions of §22-6-1 *et*
25 *seq.* of this code shall inure to the benefit of, and shall be deposited in, ~~such oil and gas~~
26 ~~reclamation fund~~ the Oil and Gas Reclamation Fund.

27 The ~~oil and gas reclamation fund~~ Oil and Gas Reclamation Fund shall be administered by
28 the secretary. The secretary shall cause to be prepared plans for the reclaiming and plugging of
29 abandoned wells which have not been reclaimed or plugged or which have been improperly
30 reclaimed or plugged. The secretary, as funds become available in the ~~oil and gas reclamation~~
31 ~~fund~~ Oil and Gas Reclamation Fund, shall reclaim and properly plug wells in accordance with said
32 plans and specifications and in accordance with the provisions of ~~this article~~ §22-6-1 et seq. of
33 this code relating to the reclaiming and plugging of wells and all rules promulgated thereunder.
34 ~~Such~~ The funds may also be utilized for the purchase of abandoned wells, where such purchase
35 is necessary, and for the reclamation of such abandoned wells, and for any engineering,
36 administrative, and research costs as may be necessary to properly effectuate the reclaiming and
37 plugging of all wells, abandoned or otherwise.

38 The secretary may avail the division of any federal funds provided on a matching basis
39 that may be made available for the purpose of reclaiming or plugging any wells.

40 The secretary shall make an annual report to the Governor and to the Legislature setting
41 forth the number of wells reclaimed or plugged through the use of the Oil and Gas Reclamation

42 Fund provided for herein. ~~Such~~ The report shall identify each such reclamation and plugging
43 project, state the number of wells reclaimed or plugged thereby, show the county wherein such
44 wells are located, and shall make a detailed accounting of all expenditures from the Oil and Gas
45 Reclamation Fund.

46 All wells shall be reclaimed or plugged by contract entered into by the secretary on a
47 competitive bid basis as provided for under the provisions of §5A-3-1 *et seq.* of this code and the
48 rules promulgated thereunder.