

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2725

**FISCAL
NOTE**

BY DELEGATE HANSEN

[Introduced February 24, 2021; Referred to the
Committee on Energy and Manufacturing then
Finance]

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 funding of the Office of Oil and Gas of the Department of
 3 Environmental Protection and to the plugging of orphaned oil and gas wells by an annual
 4 fee on each well that is not plugged.

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~~ §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1
 4 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 §29A-3-1 et seq. of this code necessary to effectuate the above stated purposes.

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

11 (1) Supervise and direct the activities of the office of oil and gas and see that the purposes
 12 set forth in ~~subsections (a) and (b) of this section~~ §22-6-1(a) and §22-6-1(b) of this code are
 13 carried out;

14 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
 15 needed to carry out the purposes of this article and ~~articles six-a, eight, nine, ten, and twenty-one~~
 16 ~~of this chapter~~ §22-6A-1 et seq., §22-8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., and §22-21-

17 1 et seq. of this code and appoint them as such. All appointees must be qualified civil service
18 employees, but no person is eligible for appointment until he or she has served in a probationary
19 status for a period of six months to the satisfaction of the secretary;

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

22 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
23 the provisions of this article and ~~articles six a, eight, nine, ten, and twenty-one of this chapter~~ §22-
24 6A-1 et 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;

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

29 (6) Employ a hearing officer and such clerks, stenographers and other employees, as may
30 be necessary to carry out his or her duties and the purposes of the office of oil and gas and fix
31 their compensation;

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

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

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

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

57 (11) On or after the first day of July each year collect from the responsible operator of
58 each well subject to this article or §22-6A-1 et seq. of this code that has not yet been plugged,
59 and that is not only providing free gas to a landowner, an annual oversight fee of \$100 for each
60 well.

61 ~~(11)~~ (12) Perform all other duties which are expressly imposed upon the secretary by the
62 provisions of this chapter;

63 ~~(12)~~ (13) Perform all duties as the permit issuing authority for the state in all matters
64 pertaining to the exploration, development, production, storage and recovery of this state's oil and
65 gas;

66 ~~(13)~~ (14) Adopt rules with respect to the issuance, denial, retention, suspension or
67 revocation of permits, authorizations and requirements of this chapter, which rules shall assure
68 that the rules, permits and authorizations issued by the secretary are adequate to satisfy the

69 purposes of this article and ~~articles six-a, seven, eight, nine, ten and twenty-one of this chapter~~
70 §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 seq. of this
71 code particularly with respect to the consolidation of the various state and federal programs which
72 place permitting requirements on the exploration, development, production, storage and recovery
73 of this state's oil and gas; and

74 ~~(14)~~ (15) Perform such acts as may be necessary or appropriate to secure to this state the
75 benefits of federal legislation establishing programs relating to the exploration, development,
76 production, storage and recovery of this state's oil and gas, which programs are assumable by
77 the state.

78 (d) The secretary shall have authority to visit and inspect any well or well site and any
79 other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
80 inspectors or supervising inspector whenever such assistance is necessary in the inspection of
81 any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
82 supervising inspectors shall have authority to visit and inspect any well or well site and any other
83 oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas
84 operations required by this article and ~~articles six-a, eight, nine, ten and twenty-one of this chapter~~
85 §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 seq. of this
86 code; administer and enforce all oil and gas laws and rules; and perform other duties and services
87 as may be prescribed by the secretary. The inspectors shall note and describe all violations of
88 this article and ~~articles six-a, eight, nine, ten or twenty-one of this chapter~~ §22-6A-1 et seq., §22-
89 8-1 et seq., §22-9-1 et seq., §22-10-1 et seq., or §22-21-1 et seq. of this code and promptly report
90 those violations to the secretary in writing, furnishing at the same time a copy of the report to the
91 operator concerned. Any well operator, coal operator operating coal seams beneath the tract of
92 land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said
93 coal seams beneath said tract of land may request the secretary to have an immediate inspection
94 made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate

95 with the secretary, all oil and gas inspectors and the supervising inspector in making inspections
96 or obtaining information.

97 (e) Subject to the provisions of §29B-1-1 *et seq.* of this code, all records of the office shall
98 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 Treasurer to the credit of such special fund all fees collected under ~~the~~
4 ~~provisions of subdivision ten, subsection (c), section two of this article §22-6-2(c)(10) and §22-6-~~
5 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 the
10 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, every applicant
15 for a permit to drill a well shall, before the permit is issued, pay to the secretary a special
16 reclamation fee of \$150 for each activity for which a well work application is required to be filed:
17 *Provided, That a special reclamation fee shall not be assessed for plugging activities. Such*
18 *special reclamation fee shall be paid at the time the application for a drilling permit is filed with*
19 *the secretary and the payment of such reclamation fee shall be a condition precedent to the*
20 *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, and the secretary shall deposit with the state
23 Treasurer to the credit of such special fund all special reclamation fees collected. The proceeds
24 of any bond forfeited under the provisions of this article shall inure to the benefit of and shall be
25 deposited in such oil and gas reclamation fund.

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

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

38 The secretary shall make an annual report to the Governor and to the Legislature setting
39 forth the number of wells reclaimed or plugged through the use of the oil and gas reclamation
40 fund provided for herein. Such report shall identify each such reclamation and plugging project,
41 state the number of wells reclaimed or plugged thereby, show the county wherein such wells are
42 located and shall make a detailed accounting of all expenditures from the oil and gas reclamation
43 fund.

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

NOTE: The purpose of this bill is to provide stable and adequate funding to the Office of

Oil and Gas of the Department of Environmental Protection in order to oversee oil and gas wells' compliance with the law for the life of the wells. The Office of Oil and Gas currently only receives, and unlike other offices is only funded by, one-time fees generated by the applications for the permits for initial drilling of a well. It only has a reduced staff of 25 including only one inspector for every 5000 wells. The bill provides the funding by requiring an annual oversight fee of \$100 for each well that is to be used for the functions of the Office of Oil and Gas with any excess to be used to plug orphaned wells.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.