

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 13

FISCAL
NOTE

By Senator Smith

[Introduced January 11, 2023; referred
to the Committee on Energy, Industry, and Mining;
and then to the Committee on 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, all 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.**

6 (a) The secretary shall have as his or her duty the supervision of the execution and
 7 enforcement of matters related to oil and gas set out in this article and §22-6-1 *et seq.*, §22-6A-1 *et*
 8 *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.

9 (b) The secretary is authorized to propose rules for legislative approval in accordance with
 10 the provisions of §29A-3-1 *et seq.* of this code necessary to effectuate the above stated purposes.

11 (c) The secretary shall have full charge of the oil and gas matters set out in §22-6-1 *et seq.*,
 12 §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
 13 code. In addition to all other powers and duties conferred upon him or her, the secretary shall have
 14 the power and duty to:

15 (1) Supervise and direct the activities of the office of oil and gas and see that the purposes
 16 set forth in subsections (a) and (b) of this section are carried out;

17 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
 18 needed to carry out the purposes of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et*
 19 *seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and appoint them as such. All appointees
 20 must be qualified civil service employees, but no person is eligible for appointment until he or she

21 has served in a 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 §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et*
26 *seq.*, and §22-21-1 *et seq.* of this code;

27 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector
28 in making their findings, orders and notices, upon inspections made in accordance with §22-6-1 *et*
29 *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 seq.* of
30 this code;

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

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

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

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

45 (10) Collect a permit fee of \$400 for each permit application filed other than an application
46 for a deep well, horizontal wells regulated pursuant to article six-a of this chapter, or a coalbed

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

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

63 ~~(11)~~ (12) Perform all other duties which are expressly imposed upon the secretary by the
64 provisions of this chapter;

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

68 ~~(13)~~ (14) Adopt rules with respect to the issuance, denial, retention, suspension or
69 revocation of permits, authorizations and requirements of this chapter, which rules shall assure
70 that the rules, permits and authorizations issued by the secretary are adequate to satisfy the
71 purposes of §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.*,
72 §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code, particularly with respect to the consolidation of

73 the various state and federal programs which place permitting requirements on the exploration,
74 development, production, storage and recovery of this state's oil and gas; and

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

79 (d) The secretary shall have authority to visit and inspect any well or well site and any other
80 oil or gas facility in this state and may call for the assistance of any oil and gas inspector or
81 inspectors or supervising inspector whenever such assistance is necessary in the inspection of
82 any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and
83 supervising inspectors shall have authority to visit and inspect any well or well site and any other
84 oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas
85 operations required by by §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-
86 10-1 *et seq.*, and §22-21-1 *et seq.* of this code; administer and enforce all oil and gas laws and
87 rules; and perform other duties and services as may be prescribed by the secretary. The
88 inspectors shall note and describe all violations of of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et*
89 *seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §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 coal
93 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 or
96 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 State Treasurer to the credit of such special fund all fees collected under the
4 provisions of §22-6-2(c)(10) and §22-6-2(c)(11) of this code.

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

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

13 (b) In addition to any other fees required by the provisions of this article, every applicant for
14 a permit to drill a well shall, before the permit is issued, pay to the secretary a special reclamation
15 fee of \$150 for each activity for which a well work application is required to be filed: *Provided*, That
16 a special reclamation fee shall not be assessed for plugging activities. ~~Such~~ The special
17 reclamation fee shall be paid at the time the application for a drilling permit is filed with the
18 secretary and the payment of ~~such~~ the reclamation fee shall be a condition precedent to the
19 issuance of said permit.

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

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

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

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

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