

Senate Amendment #11: Authorizing Secretary to modify permit fees by legislative rule

Senator Snyder moves to amend the bill on page 9, section 1, after line 18, by inserting the following:

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

(a) The Secretary shall have as his or her duty the supervision of the execution and enforcement of matters related to oil and gas set out in this article and in articles eight and nine of this chapter.

(b) The Secretary is authorized to propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to effectuate the above stated purposes.

(c) The Secretary shall have full charge of the oil and gas matters set out in this article and in articles eight and nine of this chapter. In addition to all other powers and duties conferred upon him or her, the Secretary shall have the power and duty to:

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

(2) ~~Employ a supervising oil and gas inspector and oil and gas inspectors~~ Determine the number of supervising oil and gas inspectors and oil and gas inspectors needed to carry out the purposes of this article and articles six-a, eight, nine, ten, and

twenty-one of this chapter and appoint them as such. All appointees shall be qualified civil service employees, but no person is eligible for appointment until he or she has served in a probationary status for a period of six months to the satisfaction of the Secretary. Every supervising oil and gas inspector shall be paid not less than \$40,000 per year. Every oil and gas inspector shall be paid not less than \$35,000 per year ;

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

~~(4) Suspend for good cause any oil and gas inspector or supervising inspector without compensation for a period not exceeding thirty days in any calendar year~~ Make investigations or inspections necessary to ensure complete compliance with the provisions of this code and enforce the provisions of this article and articles six-a, eight, nine, ten, and twenty-one of this chapter;

(5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector in making their findings, orders and notices, upon inspections made in accordance with this article and articles ~~seven, six-a, eight, nine, and ten, and eleven~~ of this chapter;

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

compensation;

(7) Hear and determine applications made by owners, well operators and coal operators for the annulment or revision of orders made by oil and gas inspectors or the supervising inspector, and to make inspections, in accordance with the provisions of this article and articles eight and nine of this chapter;

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

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

(10) Collect a permit fee of \$400 for each permit application filed other than an application for a deep well, horizontal well, or a coalbed methane well; and collect a permit fee of \$650 for each permit application filed for a deep well: *Provided*, That no permit application fee shall be required when an application is submitted solely for the plugging or replugging of a well, or to modify an existing application for which the operator previously has submitted a permit fee under this section. All application fees required hereunder shall be in lieu of and not in addition to

any fees imposed under article eleven of this chapter relating to discharges of stormwater but shall be in addition to any other fees required by the provisions of this article: *Provided, however,* That upon a final determination by the United States Environmental Protection Agency regarding the scope of the exemption under section 402(1)(2) of the federal Clean Water Act (33 U.S.C. 1342(1)(2)), which determination requires a "national pollutant discharge elimination system" permit for stormwater discharges from the oil and gas operations described therein, any permit fees for stormwater permits required under article eleven of this chapter for such operations shall not exceed \$100.

(11) Perform all other duties which are expressly imposed upon the Secretary by the provisions of this chapter;

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

(13) Adopt rules with respect to the issuance, denial, retention, suspension or revocation of permits, authorizations and requirements of this chapter, which rules shall assure that the rules, permits and authorizations issued by the Secretary are adequate to satisfy the purposes of this article and articles six-a, seven, eight, nine, **and ten and twenty-one** of this chapter particularly with respect to the consolidation of the various state and federal programs which place permitting requirements on the

exploration, development, production, storage and recovery of this state's oil and gas: *Provided*, That notwithstanding any provisions of this article and articles seven, eight, nine and ten of this chapter to the contrary, the environmental quality board shall have the sole authority pursuant to section three, article three, chapter twenty-two-b to promulgate rules setting standards of water quality applicable to waters of the state; and

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

(d) The Secretary shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or inspectors or supervising inspector whenever such assistance is necessary in the inspection of any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and the supervising inspector shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state. They shall make all necessary surveys and inspections of oil and gas operations required by this article and articles six-a, eight, nine, ten and twenty-one of this chapter; administer and enforce all oil and gas laws and rules; and perform other duties and services as may be prescribed by the secretary.

Inspectors shall give particular attention to all conditions of each permit to ensure complete compliance therewith. They shall note and describe all violations of this article and articles six-a, eight, nine, ten or twenty-one of this chapter and immediately report those violations to the secretary in writing, furnishing at the same time a copy of the report to the operator concerned. Any

well operator, coal operator operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land may request the Secretary to have an immediate inspection made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate with the Secretary, all oil and gas inspectors and the supervising inspector in making inspections or obtaining information.

~~(e) Oil and gas inspectors shall devote their full time and undivided attention to the performance of their duties, and they shall be responsible for the inspection of all wells or well sites or other oil or gas facilities in their respective districts as often as may be required in the performance of their duties.~~