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Sixty-third
Legislative Assembly
of North Dakota

SECOND ENGROSSMENT

REENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Schatz, Anderson, Froseth, Hunskor, Kempenich, Thoreson

Senators Armstrong, Burckhard, Hogue, Lyson, O'Connell

A BILL for an Act to create and enact three new subsections to section 38-08-02, a new section to chapter 38-08, and a new section to chapter 38-11.1 of the North Dakota Century Code, relating to locating, definitions for, and mediation for pipeline facilities; to amend and reenact subsection 2 of section 38-08-04, sections 38-08-04.4 and 38-08-04.5, subsection 6 of section 38-08-15, subsection 1 of section 38-08-16, section 38-08-23, and subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund, reclamation of pipelines facilities, and oil and gas gross production tax for reclamation; to provide for application; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Three new subsections to section 38-08-02 of the North Dakota Century Code are created and enacted as follows:

"Abandoned pipeline" means an underground gathering pipeline that is no longer in service, is physically disconnected from in-service facilities, and is not intended to be reactivated for future use.

"Pipeline facility" means a pipeline, pump, compressor, storage, and any other facility, structure, and property incidental and necessary or useful in the interconnection of a pipeline or for the transportation, distribution, and deliver of energy-related commodities to points of sale or consumption or to the point of distribution for consumption located within or outside of this state.

"Underground gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas which is not subject to chapter 49-22.

SECTION 2. AMENDMENT. Subsection 2 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

2. To regulate:
   a. The drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil or gas.
   b. The shooting and chemical treatment of wells.
   c. The spacing of wells.
   d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations.
   e. Disposal of saltwater and oilfield wastes.
   f. Saltwater disposal wells and all associated facilities, including safety relating to location and road access to disposal wells and all associated facilities.
   g. The underground storage of oil or gas.

SECTION 3. AMENDMENT. Section 38-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.4. Commission authorized to enter into contracts.

The commission ~~is hereby authorized to~~may enter ~~into~~ public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, ~~and~~ the reclamation of abandoned oil and gas or injection well sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, or cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility.

2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond.
3. The well ~~or~~, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

~~Reclamation work must be limited to abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.~~ Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

The contracts for the plugging or replugging of wells or the reclamation of well sites must be on terms and conditions as prescribed by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

SECTION 4. AMENDMENT. Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Budget section report.

There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:
   a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
   b. Moneys received from the forfeiture of drilling and reclamation bonds.
   c. Moneys received from any federal agency for the purpose of this section.

d. Moneys donated to the commission for the purposes of this section.

e. Moneys received from the state's oil and gas impact fund.

f. Moneys recovered under the provisions of section 38-08-04.8.

g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.

h. Moneys transferred from the cash bond fund under section 38-08-04.11.

i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.

j. Civil penalties assessed under section 38-08-16.

2. Moneys in the fund may be used for the following purposes:

a. Contracting for the plugging of abandoned wells.

b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.

c. To pay mineral owners their royalty share in confiscated oil.

d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.

3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities.

4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium.

SECTION 5. AMENDMENT. Subsection 6 of section 38-08-15 of the North Dakota Century Code is amended and reenacted as follows:

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale ~~and all amounts paid as penalties provided for by this chapter~~ must be paid to the state treasurer and credited to the general fund.

SECTION 6. AMENDMENT. Subsection 1 of section 38-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1. Any person who violates any provision of this chapter, or any rule, regulation, or order of the commission is subject to a civil penalty to be imposed by the commission not to exceed twelve thousand five hundred dollars for each offense, and each day's violation is a separate offense, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter. Any such civil penalty may be compromised by the commission. All amounts paid as civil penalties must be deposited in the abandoned oil and gas well plugging and site reclamation fund. The penalties provided in this section, if not paid, are recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of the penalty may not operate to legalize any illegal oil, illegal gas, or illegal product involved in the violation for which the penalty is imposed, or to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

SECTION 7. AMENDMENT. Section 38-08-23 of the North Dakota Century Code is amended and reenacted as follows:

38-08-23. Plats.

Any person reclaiming a drilling pit or reserve pit after the completion of oil and gas drilling operations shall record an accurate plat certified by a registered surveyor showing the location of the well and notice that an abandoned drilling pit or reserve pit may be on the location within six months of the completion of the reclamation with the recorder of the county in which the drilling pit or reserve pit is located. A plat filed for record in accordance with this section may be recorded without acknowledgment or further proof as required by chapter 47-19 and without the auditor's certificate referred to in section 11-18-02.

SECTION 8. A new section to chapter 38-08 of the North Dakota Century Code is created and enacted as follows:

Submission of geographic information system data on oil and gas underground gathering pipelines required.

1. The commission shall create a geographic information system database for collecting pipeline shape files as submitted by each underground gathering pipeline owner or operator. The shape files and the resulting geographic information system database are exempt from any disclosure to parties outside the commission and are confidential except as provided in the section. The information may be used by the commission in furtherance of the commission's duties.

2. An owner or operator of an underground gathering pipeline shall submit to the commission, in a time period no longer than one hundred eighty days of putting any underground gathering pipeline into service, a shape file showing the centerline of the pipeline. Upon abandonment of any underground gathering pipeline, the owner or operator shall submit, in a time period no longer than one hundred eighty days of abandonment, to the commission an updated shape file reflecting the pipeline or portion of a pipeline that has been abandoned. For an oil and gas underground gathering pipeline that is in service after August 1, 2011, and before the effective date of this section, the owner or operator or most recent owner or operator shall submit, within eighteen months from the effective date for this section, shape files for all existing underground gathering pipelines, including any known abandoned pipeline.

3. Upon a written request by the owner or tenant of the real property regarding underground gathering pipelines located within the bounds of the real property owned or leased by that property owner or tenant, the commission shall provide to the owner or tenant the requested information. The commission may not include information on any underground gathering pipeline that exists outside the bounds of the real property owned or leased by the requesting party.

4. Upon request by the tax commissioner, the commission may allow access to information contained in the geographic information system database to the tax commissioner to be used for the sole purpose of administering the valuation and assessment of centrally assessed underground gathering pipeline property under chapter 57-06. The information obtained under this subsection is confidential and may be used only for the purposes identified in this subsection.

SECTION 9. A new section to chapter 38-11.1 of the North Dakota Century Code is created and enacted as follows:

Mediation of disputes.

The North Dakota mediation service may mediate disputes related to easements for oil and gas-related pipelines and associated facilities.

SECTION 10. AMENDMENT. Subsection 1 of section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
   a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
   b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium; ~~and~~
   c. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and
   d. Allocate the remaining revenues under subsection 3.

SECTION 11. APPLICATION. This Act does not apply to the reclamation of an oil or gas-related pipeline or associated facility put into service before August 1, 1983.