

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1060
(Natural Resources Committee)
(At the request of the Industrial Commission)

AN ACT to create and enact chapter 38-21 and a new section to chapter 54-17.4 of the North Dakota Century Code, relating to creation of the geophysical, geothermal, subsurface minerals, and coal exploration and geologic data preservation funds; to amend and reenact sections 38-08-04.4, 38-08-04.5, and 38-19-04 and subsection 5 of section 54-44.4-02 of the North Dakota Century Code, relating to oil well plugging contracts, the oil and gas well plugging and site reclamation fund, geothermal energy extraction permits, and exemptions from procurement practices; to provide a continuing appropriation; to provide for a report to the budget section; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 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 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.
2. There is no ~~surety~~ bond covering the well to be plugged or the site to be reclaimed or there is a ~~forfeited-surety~~ bond but the cost of plugging or replugging the well or reclaiming the site exceeds the amount of the bond.
3. The 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.

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 ~~an industrial commission meeting~~ 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 ~~plug or replug such wells under such rules as the commission may prescribe~~ 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 2. 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. 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.
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.
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. ~~However, when the fees accumulated in the fund exceed two hundred fifty thousand dollars, any additional fees collected by the oil and gas division of the industrial commission must be deposited in the general fund.~~

SECTION 3. AMENDMENT. Section 38-19-04 of the North Dakota Century Code is amended and reenacted as follows:

38-19-04. Permit ~~or~~ and report required. It is unlawful to commence any operations for the drilling, boring, excavating, or construction of a geothermal energy extraction facility, ~~which is used for other than private residential heating and cooling purposes,~~ without first securing a permit from the director of mineral resources, under such rules as may be adopted by the commission and after paying to the commission a fee for each such facility in an amount to be prescribed by the commission by rule. The fee set must be related to the cost ~~or~~ of regulation and inspection under this chapter.

A report is required upon completion of any geothermal energy extraction facility ~~used solely for private residential heating or cooling purposes.~~ The report must be prepared by the geothermal energy extraction facility installer on a form provided by the state geologist and must be furnished to the state geologist within thirty days after the completion of the facility. The report must contain relevant information the state geologist requires relating to the environmental safety of the facility, including the

facility owner and location, a log of formations penetrated, ~~if any~~ or total depth, system specifications and design, and fluids used in the facility.

All construction of geothermal energy extraction facilities must comply with rules adopted under this chapter.

SECTION 4. Chapter 38-21 of the North Dakota Century Code is created and enacted as follows:

38-21-01. Geophysical, geothermal, subsurface minerals, and coal exploration fund. There is created a geophysical, geothermal, subsurface minerals, and coal exploration fund. The following must be deposited into the fund:

1. Fees collected under sections 38-08.1-04, 38-12-03, 38-12.1-05, and 38-19-04.
2. Money received from the forfeiture of bonds or other security required by section 38-08.1-03.1, 38-12-02, 38-12.1-04, or 38-19-03.
3. Money received by the industrial commission from any federal or state agency, or any other source, to satisfy the purposes for which the fund is established.
4. Money received for penalties imposed under section 38-08.1-07, 38-12-05, 38-12.1-08, or 38-19-07.
5. Money recovered from any person to recoup costs and expenses incurred by the industrial commission to satisfy any duty imposed by chapter 38-08.1, 38-12, 38-12.1, or 38-19.

38-21-02. Fund uses. Money in the fund may be used to pay costs and expenses incurred by the industrial commission to satisfy unfulfilled obligations imposed on persons regulated under chapters 38-08.1, 38-12, 38-12.1, and 38-19. To cure such obligations, the commission may enter contracts consistent with the requirements of section 38-08-04.4.

38-21-03. Continuing appropriation - Cap. All money collected under section 38-21-01 must be deposited in the fund established by that section. The fund must be maintained as a special fund and all money transferred into the fund is appropriated and must be used and disbursed solely for the purposes described in section 38-21-02. If, however, the fund reaches five hundred thousand dollars, any additional money collected under section 38-21-01 must be deposited in the general fund, provided there are no outstanding obligations to be paid by the fund.

SECTION 5. A new section to chapter 54-17.4 of the North Dakota Century Code is created and enacted as follows:

Geologic data preservation fund - Continuing appropriation. The geologic data preservation fund may be used to defray the expenses of preserving geologic data compiled by the commission and disseminating the data to county, state, and federal departments and agencies and members of the general public. All moneys collected for dissemination of geologic data under this section must be deposited in the geologic data preservation fund. This fund must be maintained as a special fund in the state treasury and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of paying the current cost of providing information as determined by the commission based on actual costs.

SECTION 6. AMENDMENT. Subsection 5 of section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

5. Procurements through a contract or other instrument executed by the industrial commission under chapter 54-17.5 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.

SECTION 7. BUDGET SECTION REPORT. The industrial commission shall report to the budget section during the 2007-08 interim on revenues and expenditures of the abandoned oil and gas well plugging and site reclamation fund; geophysical, geothermal, subsurface minerals, and coal exploration fund; and the geologic data preservation fund for the biennium beginning July 1, 2007, and ending June 30, 2009.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1060 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 92 Nays 0 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State