S T A T E O F N E W Y O R K

786

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing a fund for the natural gas and oil producing industry to make financial security affordable for natural gas and oil producers who own, operate, maintain and plug natural gas and oil wells

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The environmental conservation law is amended by adding a new section 23-0315 to read as follows:

S 23-0315. FINANCIAL SECURITY FUND.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER OF TAXATION AND FINANCE AND COMPTROLLER ARE HEREBY DIRECTED AND AUTHORIZED TO ESTABLISH A NATURAL GAS AND OIL WELL SECURITY FUND (HEREINAFTER REFERRED TO IN THIS SECTION AS THE "FUND") TO ENABLE ELIGIBLE NATURAL GAS AND OIL PRODUCERS TO MEET THE FINANCIAL SECURITY REQUIREMENTS OF THIS CHAPTER FOR THE PERMITTING, OPERATION, MAINTENANCE AND PLUGGING OF NATURAL GAS AND OIL WELLS. THE FUND SHALL BE ADMINISTERED BY THE COMMISSIONER IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. IN LIEU OF THE FINANCIAL SECURITY REQUIREMENTS ESTABLISHED BY THE COMMISSIONER OR THIS CHAPTER, A NATURAL GAS OR OIL PRODUCER MAY SATISFY THE FINANCIAL SECURITY REQUIREMENTS FOR NATURAL GAS OR OIL WELL PLUGGING AND ABANDONMENT BY PARTICIPATION IN THE NATURAL GAS AND OIL WELL SECURITY FUND.

2. (A) A NATURAL GAS PRODUCER WHO IS THE OWNER AND/OR OPERATOR OF ANY NATURAL GAS WELL DRILLED TO A COMPLETION DEPTH OF NO MORE THAN SIX THOUSAND FEET THAT HAS BEEN REGISTERED WITH AND PERMITTED BY THE DEPARTMENT SHALL BE ELIGIBLE TO PARTICIPATE IN THE FUND.

(B) AN OIL PRODUCER WHO IS THE OWNER AND/OR OPERATOR OF ANY OIL WELL DRILLED TO A COMPLETION DEPTH OF NO MORE THAN SIX THOUSAND FEET THAT HAS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD02705-01-1

BEEN REGISTERED WITH AND PERMITTED BY THE DEPARTMENT SHALL BE ELIGIBLE TO PARTICIPATE IN THE FUND.

(C) THE RATE OF PAYMENT INTO THE FUND SHALL BE TEN DOLLARS PER WELL PER YEAR.

(D) THE COMMISSIONER SHALL DEPOSIT ALL MONIES RECEIVED FROM NATURAL GAS AND OIL PRODUCERS FOR THIS FUND AND ALL FUNDS SO RECEIVED AND DEPOSITED IN SUCH FUND SHALL NOT BE DEEMED TO BE STATE FUNDS. THE COMPTROLLER SHALL BE EMPOWERED TO INVEST SUCH FUNDS PURSUANT TO SECTION NINETY-EIGHT-A OF THE STATE FINANCE LAW CONSISTENT WITH THE PURPOSES OF THIS SECTION. THE COMMISSIONER IS HEREBY AUTHORIZED TO DRAW UPON SUCH FUNDS, IN HIS OR HER DISCRETION, TO PURCHASE CREDIT INSURANCE FOR THE BENEFIT OF THE FUND. THE COMMISSIONER SHALL MAKE AN ANNUAL REPORT OF THE RECEIPTS TO AND DISBURSEMENTS FROM THE FUND, INCLUDING THE COST OF ADMINISTRATION OF THE FUND, WHICH REPORT SHALL BE MADE AVAILABLE TO EACH ELIGIBLE NATURAL GAS AND OIL PRODUCER AND TO ANY OTHER PERSON HAVING AN INTEREST IN THE FUND. A COPY OF SUCH REPORT SHALL BE FORWARDED TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

(E) WHEN THE FUND HAS ACCUMULATED FIFTY THOUSAND DOLLARS OR SUCH GREATER OR LESSER AMOUNT WHICH SHALL BE SUFFICIENT TO COVER THE COST OF PLUGGING UP TO FIVE WELLS PER YEAR, CALCULATED UPON THE BASIS OF THE AVERAGE COST OF PLUGGING WELLS TYPICALLY COVERED BY THE FUND DURING THE PRECEDING CALENDAR YEAR, AS THE COMMISSIONER MAY DETERMINE IS SUFFICIENT TO PROTECT THE PLUGGING REQUIREMENTS OF PRODUCERS, HE OR SHE SHALL ADMINISTER THE FUND IN THE MANNER PRESCRIBED IN THIS SECTION.

(F) IF A NATURAL GAS OR OIL PRODUCER PARTICIPATING IN THE FUND ELECTS TO TERMINATE HIS OR HER PARTICIPATION THEREIN, HE OR SHE SHALL GIVE NOTICE IN WRITING TO THE COMMISSIONER SIX MONTHS PRIOR TO THE WITHDRAWAL AND HE OR SHE SHALL FILE A SURETY BOND OR OTHER SECURITY NINETY DAYS BEFORE THE WITHDRAWAL DATE. UPON BEING SATISFIED THAT THE NATURAL GAS OR OIL PRODUCER IS NOT IN DEFAULT IN ANY PLUGGING OR GAS OR OIL WELL PERMIT REQUIREMENTS, THE COMMISSIONER SHALL AUTHORIZE THE COMPTROLLER TO PAY TO SUCH PRODUCER HIS OR HER PRO RATA SHARE WITHIN THIRTY DAYS.

(G) ANY NATURAL GAS OR OIL PRODUCER WHO FIRST ELECTS TO PARTICIPATE IN THE FUND SHALL MAKE AN INITIAL PAYMENT TO THE FUND OF FIVE HUNDRED DOLLARS. UPON THE PAYMENT OF THE INITIAL DEPOSIT INTO THE FUND, AS REQUIRED HEREIN, A PRODUCER ELECTING TO PARTICIPATE IN THE FUND MAY APPLY TO THE COMMISSIONER FOR TERMINATION OR ADJUSTMENT OF AN EXISTING BOND OR EXISTING ALTERNATIVE SECURITY REQUIREMENT FILED WITH THE COMMISSIONER.

3. THE COMMISSIONER, AFTER NOTICE AND PUBLIC HEARING, IS AUTHORIZED TO ADOPT, AMEND, REPEAL AND ENFORCE SUCH RULES AND REGULATIONS THAT THE COMMISSIONER DEEMS NECESSARY TO CARRY OUT THE PROVISIONS AND INTENT OF THIS FUND.

S 2. This act shall take effect immediately.