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Chapter No. 474
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HOUSE BILL NO. 740

Originated in House _____ Clerk

HOUSE BILL NO. 740

AN ACT TO AMEND SECTIONS 53-1-7, 53-1-73, 53-1-77, 53-3-13 AND 53-11-23, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISIONS OF LAW REQUIRING CERTAIN EXPENSES OF THE MISSISSIPPI STATE OIL AND GAS BOARD TO BE DEFRAYED BY APPROPRIATION FROM THE STATE GENERAL FUND; TO AMEND SECTION 27-104-205, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT THE STATE OIL AND GAS BOARD BE FUNDED BY APPROPRIATIONS FROM THE GENERAL FUND; TO FURTHER AMEND SECTION 53-1-77, MISSISSIPPI CODE OF 1972, TO RETAIN, UNTIL JULY 1, 2021, THE AUTHORITY OF THE BOARD TO OBTAIN FUNDS FROM THE CAPITAL EXPENSE FUND FOR THE EMERGENCY PLUGGING OF ORPHANED WELLS; TO AMEND SECTION 27-103-303, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 53-1-7, Mississippi Code of 1972, is amended as follows:

53-1-7. The board shall appoint a State Oil and Gas Supervisor, herein called supervisor, who shall be a competent and qualified administrator and receive as compensation for his services an annual salary to be fixed by law. The supervisor shall be solely responsible for the administration of the offices of the State Oil and Gas Board and shall be charged with the duty of enforcing Sections 53-1-1 through 53-1-47, and Sections 53-3-3

through 53-3-165, and all rules, regulations and orders duly adopted by the board. The supervisor shall be ex officio secretary of the board and shall give bond, in such sum as the board may direct, with corporate surety to be approved by the board, conditioned that he will well and truly account for all funds coming into his hands as such secretary. He shall remit to the State Treasurer all monies collected by him as such secretary for deposit in trust for the use of the board in a special fund known as the Oil and Gas Conservation Fund to be expended as provided by law.

The supervisor shall devote his entire time to his official duties.

In addition, it shall be the supervisor's duty and responsibility to:

(a) Supervise and manage all personnel of the offices of the Oil and Gas Board.

(b) Formulate the duties and responsibilities of every staff employee in detail, including written job descriptions and written policies and procedures for performing staff tasks.

(c) Outline a detailed method of preparing, and devise a systematic procedure for the filing of reports by field inspectors.

(d) Formulate written policies and procedures for the effective and efficient operation of the office, and present these policies and procedures to the board for promulgation.

(e) Supervise the provision of technical support and assistance to the board in its decision-making capacity.

* * *

SECTION 2. Section 53-1-73, Mississippi Code of 1972, is amended as follows:

53-1-73. For the purposes of paying the costs and expenses incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and of the rules, regulations and orders of the State Oil and Gas Board, there is * * * levied and assessed against each barrel of oil produced in the State of Mississippi a charge not to exceed sixty (60) mills on each barrel of such oil sold, and against each one thousand (1,000) cubic feet of gas produced and sold a charge not to exceed six (6) mills on each one thousand (1,000) cubic feet of gas. The State Oil and Gas Board shall fix the amount of such charge in the first instances, and may, from time to time, change, reduce or increase the amount thereof, as in its judgment the charges against the fund may require, but the amounts fixed by * * * <u>the</u> board shall not exceed the limits hereinabove prescribed; and it shall be the duty of the board to make collection of such assessments. All monies collected shall be used exclusively to pay the expenses and other costs in connection with the functioning of the State Oil and Gas Board and the administration of the oil and gas conservation laws of the State

of Mississippi now in force or hereafter enacted and the rules, regulations and orders of * * * the board.

* * *

SECTION 3. Section 53-1-77, Mississippi Code of 1972, is amended as follows:

53-1-77. (1) The State Oil and Gas Supervisor, as ex officio secretary of such board, shall remit to the State Treasurer all monies collected by reason of the assessments made and fixed under the provisions of Section 53-1-73, and the State Treasurer shall deposit all such monies in a special fund known as the "Oil and Gas Conservation Fund," which is * * * continued in effect.

(2) All monies on deposit in the Oil and Gas Conservation Fund on April 10, 1948, and all monies hereafter deposited in such fund, shall be held in trust for the use of the board to pay the expenses and costs incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and the rules, regulations and orders of the State Oil and Gas Board issued thereunder. Disbursements shall be made from such fund only upon requisition of the State Oil and Gas Supervisor, as approved and allowed by the board, and which requisitions shall be supported by itemized statements thereto attached showing the purpose or purposes of such expenditures. Such requisitions shall be drawn upon the State * * * Fiscal Officer, who shall issue a warrant upon * * * the fund. Such

warrants so issued shall be paid by the State Treasurer upon presentation.

(3) The State Oil and Gas Supervisor, as ex officio secretary of the Oil and Gas Board, shall submit, within ten (10) days, after the convening of each session of the Legislature, to the Legislature a detailed report of all receipts, expenditures and balance on hand, of funds coming to the Oil and Gas Board from any source whatsoever.

(4) In the event that at any particular time, the Oil and Gas Conservation Fund contains an amount greater than Two Hundred Thousand Dollars ($200,000.00) more than the current fiscal year's estimated budget, the amount of the excess may be used by the board and at the board's discretion, to plug any oil or gas well, including any Class II well, in the state * * * <u>that</u> has been determined by the board to represent an imminent threat to the environment and * * * <u>that</u> has been determined by the board to be an "orphan" well.

(5) The board shall have the authority, in its discretion, to use whatever legal means available to it to attempt to collect any amounts so expended from any responsible party. Any amounts so collected shall be returned to the Oil and Gas Board's Emergency Plugging Fund created herein.

(6) Amounts of surplus in the Oil and Gas Conservation Fund of over Two Hundred Thousand Dollars ($200,000.00) shall be transferred to a separate special fund of the Oil and Gas Board to

be known as the Emergency Plugging Fund, for the proper plugging of wells pursuant to this section. The supervisor shall have the authority, and it shall be his duty to transfer any amounts in the Emergency Plugging Fund back to the Oil and Gas Conservation Fund in the event and to the extent to which the Oil and Gas Conservation Fund should at any time contain less than a Two Hundred Thousand Dollars ($200,000.00) surplus.

(7) For purposes of this section, orphan well means any oil or gas well in the state, including Class II wells, * * *that has not been properly plugged according to the requirements of the statutes, rules and regulations governing same and for which a responsible party such as an owner or operator cannot be located or for which, for whatever reason, there is no other party * * * that can be forced to plug the well.

(8) Upon request of the State Oil and Gas Supervisor and subject to the limitations set forth in Section 27-103-303(4), the Director of the Department of Finance and Administration may transfer funds from the Capital Expense Fund to the State Oil and Gas Board for the emergency plugging of any oil or gas well, including any Class II well, in the state that has been determined by the board to represent an imminent threat to the environment and that has been determined by the board to be an "orphan" well. This subsection (8) shall stand repealed from and after July 1, 2021. * * *

* * *

SECTION 4. Section 53-3-13, Mississippi Code of 1972, is amended as follows:

53-3-13. (1) Any person securing a permit to drill a well in search of oil or gas under the provisions of Section 53-3-11 shall pay to the Oil and Gas Supervisor a fee of Six Hundred Dollars ($600.00) upon and for the issuance of the permit. A lesser sum may be paid if the State Oil and Gas Board shall adopt a rule fixing the amount to be paid at a sum less than Six Hundred Dollars ($600.00). Any such permit, when issued and the fee paid thereon, shall be good for a period of one (1) year from the date thereof; and in the event drilling has commenced within one (1) year, the permit shall be good for the life of the well commenced, unless during the course of drilling or production the operator is changed. In the event a change of operators from that listed in the drilling permit is desired, the operator listed and the proposed new operator shall apply to the State Oil and Gas Board for authority to change operators on forms to be prescribed by order of the State Oil and Gas Board. The fee for such change of operators shall be One Hundred Dollars ($100.00) per change, or some lesser sum as may be fixed by order of the board.

(2) The State Oil and Gas Supervisor, as ex officio Secretary of the State Oil and Gas Board, shall remit to the State Treasurer all monies collected by reason of the assessments made, fixed and authorized under the provisions of subsection (1) of this section, and the State Treasurer shall deposit all such

monies in a special fund known as the "Oil and Gas Conservation Fund."

* * *

SECTION 5. Section 53-11-23, Mississippi Code of 1972, is amended as follows:

53-11-23. (1) (a) The board is authorized to adopt regulations within its jurisdiction to assess sequestration fees that shall be subject to the approval of the Legislature.

(b) Any monies collected shall be used exclusively: (i) to pay the expenses and other costs connected with administration and enforcement of this chapter and the rules, regulations and orders of the board pursuant to this chapter; and (ii) to fund the Carbon Dioxide Storage Fund established in this chapter.

(c) Any per-ton fee shall first be applied to the administration and enforcement costs of the board's activities required or authorized by this chapter, and any amount exceeding those costs shall be transferred to a separate special fund of the State Oil and Gas Board which is hereby created and is to be known as the Carbon Dioxide Storage Fund.

(d) Transfers to the Carbon Dioxide Storage Fund from the per-ton fees shall be made monthly. Transfers from excess funds collected under subsection (1)(c) of this section may be made at any time in the fiscal year that the board shall determine appropriate. At the beginning of the following fiscal year after

the transfer of the excess funds, the rate or rates to be collected under subsection (1)(c) of this section shall be reduced to reflect the excess from the prior year.

(e) When the balance in the Carbon Dioxide Storage Fund reaches or exceeds Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility, the board shall abate the per-ton fee, and may adjust the annual regulatory fee as prescribed herein. The abatement shall be effective at the beginning of the ensuing fiscal year. When the Carbon Dioxide Storage Fund is reduced below Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility, the per-ton fee shall again be imposed on all geologic storage operators until such time as the fund shall reach or exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility. The imposition of the per-ton fee shall be effective at the beginning of the ensuing fiscal year.

(f) Monies in the Carbon Dioxide Storage Fund created in this chapter may be used in the board's discretion but only if inadequate funds are available from responsible parties including the financial assurance funds provided in Section 53-11-27(2). Monies in the Carbon Dioxide Storage Fund shall only be used for oversight of geologic storage facilities after cessation of injection at the facility and release of the facility's performance bond or other assurance of performance and as shall be necessary or appropriate to satisfy the requirements of the

federal Safe Drinking Water Act, including, without limitation, matters with respect to closed facilities such as: (i) inspecting, testing and monitoring of the facility, including remaining surface facilities and wells; (ii) repairing mechanical problems associated with remaining wells and surface infrastructure; and (iii) repairing mechanical leaks at the facility.

(g) The Carbon Dioxide Storage Fund shall be used for the purposes set forth in this chapter and for no other governmental purposes, nor shall any portion of the fund ever be available to borrow from by any branch of government, it being the intent of the Legislature that this fund and its increments shall remain intact and inviolate. Any interest earned on monies in this fund shall remain in this fund and shall not lapse into the General Fund.

(2) To facilitate the proper administration of the Class VI underground injection control program within its jurisdiction, the commission is authorized to assess and collect fees from Class VI permit applicants for Class VI underground injection control wells permitted by the permit board. The commission is further authorized to promulgate rules and regulations for the assessment and collection of permit fees for Class VI underground injection control wells within its jurisdiction.

* * *

SECTION 6. Section 27-104-205, Mississippi Code of 1972, is amended as follows:

27-104-205. (1) From and after July 1, 2016, the expenses of the following enumerated state agencies shall be defrayed by appropriation of the Legislature from the State General Fund: the State Fire Marshal, the State Fire Academy, the Office of Secretary of State (not including the Preneed Contracts Loss Recovery Fund), the Mississippi Public Service Commission, the Mississippi Department of Information Technology Services, (not including the Mississippi Department of Information Technology Services Revolving Fund), the State Personnel Board, the Mississippi Department of Insurance (not including the Municipal Fire Protection Fund, Section 83-1-37, the County Volunteer Fire Department Fund, Section 83-1-39, and the Mississippi Propane Education and Research Fund, Section 75-57-119), the Mississippi Law Enforcement Officers' Minimum Standards Board, the Mississippi Gaming Commission, * * * the Mississippi Department of Revenue - License Tag, the Office of the State Public Defender, the Mississippi Workers' Compensation Commission (not including the Second Injury Trust Fund) and the Office of Attorney General. Beginning July 1, 2016, any fees, assessments or other revenues charged for the support of the above-named state agencies shall be deposited into the State General Fund, and any special fund or depository established within the State Treasury for the deposit of such fees, assessments or revenues shall be abolished and the

balance transferred to the State General Fund. Expenses heretofore drawn from such special funds or other depositories shall be drawn from the agencies General Fund Account.

(2) Beginning with the fiscal year ending June 30, 2016, the amount to be appropriated annually from the State General Fund for the support of each of the above-named state agencies shall not exceed the amount appropriated for such purpose in the preceding fiscal year, plus any increases in or additional fees, assessments or other charges authorized by act of the Legislature for the succeeding fiscal year.

(3) The provisions of this section shall not apply to any trust fund account that is maintained by any above-named agency.

(4) The provisions of this section shall not prohibit any of the above-named agencies from maintaining clearing accounts in approved depositories.

(5) The provisions of this section shall not apply to any trust fund accounts maintained by the Public Employees' Retirement System and protected under Section 272A of the Mississippi Constitution of 1890.

SECTION 7. Section 27-103-303, Mississippi Code of 1972, is amended as follows:

27-103-303. (1) There is created in the State Treasury a special fund, separate and apart from any other fund, to be designated the Capital Expense Fund.

(2) The Capital Expense Fund shall not be considered as a surplus or available funds when adopting a balanced budget as required by law. The State Treasurer shall invest all sums in the Capital Expense Fund not needed for the purposes provided for in this section in certificates of deposit, repurchase agreements and other securities as authorized in Section 27-105-33(d) or Section 7-9-103, as the State Treasurer may determine to yield the highest market rate available. Interest earned on this fund shall be deposited by the State Treasurer into the State General Fund.

(3) The Capital Expense Fund shall be used for capital expense needs, repair and renovation of state-owned properties and specific expenditures authorized by the Legislature. The Legislature shall designate those capital expense projects, repair and renovation projects and other authorized projects in an appropriation act passed by the Legislature, which shall direct the Director of the Department of Finance and Administration to administer the projects.

(4) In addition to the purposes specified in subsection (3) of this section, the Capital Expense Fund shall be used to provide funds for emergency repairs on state-owned buildings and, until July 1, 2021, for the emergency plugging of orphaned wells identified by the Oil and Gas Board, upon requisition of the Director of the Department of Finance and Administration. Whenever the director determines that funds are immediately needed for emergency repairs on state-owned buildings or the Oil and Gas

Board, through the State Oil and Gas Supervisor, has requested funds for the emergency plugging of orphaned wells identified by the board, he shall requisition the funds needed from the Capital Expense Fund, which shall be subject to the limitations set forth in this subsection. At the same time he makes the requisition, the director shall notify the Lieutenant Governor, the Speaker of the House of Representatives, the respective Chairmen of the Senate Appropriations Committee, the Senate Finance Committee, the House Appropriations Committee and the House Ways and Means Committee and the Legislative Budget Office of his determination of the need for the funds, the amount that he has requisitioned and where the funds will be used. If the amount requisitioned is available in the Capital Expense Fund, is not allocated for any specific projects as authorized in subsection (3) of this section and is within the limitations set forth below in this subsection, then the director may escalate the budget of the Bureau of Building, Grounds and Real Property Management or the Oil and Gas Board to use the full amount of the requisitioned funds for the emergency repairs or plugging of orphaned wells, and transfer that amount to the bureau or board for that purpose. If the amount requisitioned is more than the amount available in the Capital Expense Fund or above the limitations set forth below in this subsection, then the director may escalate the budget of the bureau or board to use the amount that is available within the limitations for the emergency repairs or plugging of orphaned

wells, and transfer that amount to the bureau or board for that purpose. The maximum amount that may be transferred from the Capital Expense Fund to the bureau or board for any single emergency shall be One Million Dollars ($1,000,000.00), and the maximum amount that may be transferred to the bureau or board for all emergencies during any fiscal year shall be Five Million Dollars ($5,000,000.00).

(5) Funds deposited in the Capital Expense Fund shall be used only for the purposes specified in this section, and as long as the provisions of this section remain in effect, no other expenditure, appropriation or transfer of funds in the Capital Expense Fund shall be made except by act of the Legislature making specific reference to the Capital Expense Fund as the source of those funds.

(6) Unexpended funds in the Capital Expense Fund at the end of a fiscal year shall not lapse into the State General Fund but shall remain in the fund for use under this section. Any funds appropriated from the Capital Expense Fund that are unexpended at the end of a fiscal year shall lapse into the Capital Expense Fund.

SECTION 8. This act shall take effect and be in force from and after its passage.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 29, 2019

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 28, 2019

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

April 16, 2019
10:22 AM