

Regular Session, 2010

SENATE BILL NO. 173

BY SENATOR N. GAUTREAUX

NATURAL RESOURCES DEPT. Authorizes the Oilfield Site Restoration Commission to issue bonds for remediation and restoration of certain oilfield sites. (7/1/10)

1 AN ACT

2 To enact R.S. 30:83(F)(8) and 83.1, relative to the Oilfield Site Restoration Commission; to
3 authorize the commission to issue revenue bonds for certain purposes; to provide
4 relative to the requirements and limitations for issuance of revenue bonds by the
5 commission; to authorize the Department of Natural Resources to execute certain
6 documents; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 30:83(F)(8) and 83.1 are hereby enacted to read as follows:

9 §83. Oilfield Site Restoration Commission; Department of Natural Resources

10 * * *

11 F. The powers of the commission shall be limited to the following:

12 * * *

13 **(8) Issue revenue bonds and any necessary or proper ancillary**
14 **instruments in connection with issuance of the bonds.**

15 * * *

16 **§83.1 Authorization of bonds**

17 **A.(1) On and after July 1, 2010, the commission shall exist as a public**

1 trust and public corporation organized and existing by, under, and pursuant to
2 the provisions of the Louisiana Public Trust Act, whose beneficiary is the state
3 of Louisiana, and is authorized, in its discretion, to issue revenue bonds, notes,
4 certificates, or other evidences of indebtedness, hereafter, "the bonds,"
5 pursuant to the provisions of the Louisiana Public Trust Act, as provided for in
6 R.S. 9:2341 through 2347.

7 (2) The commission may issue revenue bonds in order to obtain funds
8 for the expeditious remediation and restoration of oilfield sites on state owned
9 lands and water bottoms, and to fund the cost of issuance, credit enhancements,
10 or other obligations related to the issuance of such bonds.

11 (3) The bonds and any necessary or proper ancillary instruments shall
12 be secured by an irrevocable pledge and dedication of all monies collected,
13 derived from, or received in connection with R.S. 30:86(D), except site specific
14 trust account monies as identified in R.S. 30:86(D)(6) and R.S. 30:88, without
15 a pledge of the full faith and credit of the state, hereinafter referred to as
16 "revenues."

17 (4) The bonds shall be entitled to priorities on the revenues of the
18 Department of Natural Resources as provided for in a loan agreement, trust
19 indenture, or other instrument.

20 B.(1) When any bonds have been issued and secured in accordance with
21 the provisions of this Section, neither the commission, the department, the state,
22 nor any other entity may act to impair any obligation or contract for the benefit
23 of the holders of the bonds or discontinue or decrease any fee, rate, or other
24 revenue in anticipation of the collection of which the bonds have been issued
25 until all of the bonds have been retired as to principal and interest or
26 irrevocable provision otherwise made for their complete redemption and
27 payment in principal, interest, and redemption premium, if any, and the
28 complete payment of all amounts due under the trust agreement pursuant to
29 which the bonds are issued. There is hereby vested in the holders from time to

1 time of such bonds a contract right in the provisions of this Paragraph.

2 (2) Any pledge of revenues for the security of the bonds shall be valid
3 and binding from the time the pledge is made and shall be subject to the lien of
4 such pledge without any physical delivery thereof or further act, and the lien of
5 any such pledge shall be valid and binding as against all parties having claims
6 of any kind in tort, contract, or otherwise against the state or the department
7 whether or not such parties have notice thereof. Any trust agreement by which
8 a pledge is created need not be filed or recorded except in the official records
9 of the department and of the State Bond Commission.

10 (3) The deputy secretary, or the undersecretary, is hereby authorized on
11 behalf of the department to execute loan agreements, reimbursement
12 agreements, investment agreements, bond purchase agreements, and all
13 documents as may be necessary to carry out and comply with the provisions
14 thereof and the provisions of this Section, and is further authorized to take any
15 and all further actions and execute and deliver all other documents as may be
16 necessary in connection with the issuance of any bonds, notes, certificates,
17 reimbursement obligations, or other evidences of indebtedness referred to in
18 this Section. The provisions of R.S. 9:2347(J) shall not apply to bonds or any
19 contractual obligation, including the pledge of state funds, to be undertaken or
20 incurred in connection therewith.

21 (4) The department is authorized to create funds or accounts for the
22 deposit of the revenues or the proceeds of the bonds including state funds
23 described above or other revenues and monies pledged in connection therewith
24 or respect thereto.

25 (5) The department and the commission are authorized to enter into any
26 and all agreements or contracts, execute any and all instruments, and do and
27 perform any and all acts necessary, convenient, or desirable for the issuance of
28 the bonds or to carry out any power expressly given in this Section.

29 C. Notwithstanding any provision of law to the contrary, any revenues

1 **received by the department pledged to the repayment of any bonds issued in**
 2 **accordance with this Section may be collected and disbursed in accordance with**
 3 **the documents pursuant to which the bonds were issued.**

4 Section 2. This Act shall become effective on July 1, 2010.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by J. W. Wiley.

DIGEST

Present law provides for the creation of the Oilfield Site Restoration Commission within the office of the secretary of the Dept. of Natural Resources. Further provides for the powers of the commission.

Proposed law retains present law but adds the power for the commission to issue revenue bonds and any necessary ancillary instruments in connection with issuance of revenue bonds, in order to obtain funds for the expeditious remediation and restoration of oilfield sites on state owned lands and water bottoms, and to fund the cost of issuance, credit enhancements, or other obligations related to the issuance of such bonds.

Proposed law provides that on and after July 1, 2010, the commission shall exist as a public trust and public corporation whose beneficiary is the state of La.

Proposed law requires the revenue bonds and any necessary or proper ancillary instruments to be secured by an irrevocable pledge and dedication of all monies collected, derived from, or received in connection with the Oilfield Site Restoration Fund, without a pledge of the full faith and credit of the state. Further requires the bonds to be entitled to priorities on the revenues of the DNR as provided in a loan agreement, trust indenture, or other instrument.

Proposed law provides that when any bonds have been issued and secured in accordance with present law, neither the commission, the DNR, the state, nor any other entity may act to impair any obligation or contract for the benefit of the holders of the bonds or discontinue or decrease any fee, rate, or other revenue in anticipation of the collection of which the bonds have been issued until all of the bonds have been retired as to principal and interest or irrevocable provision otherwise made for their complete redemption and payment in principal, interest, and redemption premium, if any, and the complete payment of all amounts due under the trust agreement pursuant to which the bonds are issued.

Proposed law provides that any pledge of revenues for the security of the bonds will be valid and binding from the time the pledge is made and will be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge will be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the state or the department whether or not such parties have notice thereof. Further provides that any trust agreement by which a pledge is created need not be filed or recorded except in the official records of the DNR and of the State Bond Commission.

Proposed law allows the deputy secretary or the undersecretary of DNR to execute loan agreements, reimbursement agreements, investment agreements, bond purchase agreements, and all documents as may be necessary to carry out and comply with proposed law, and is further authorized to take any and all further actions and execute and deliver all other documents as may be necessary in connection with the issuance of any bonds, notes, certificates, reimbursement obligations, or other evidences of indebtedness.

Proposed law provides that the provisions of R.S. 9:2347(J) will not apply to bonds or any

contractual obligation, including the pledge of state funds.

Proposed law authorizes DNR to create funds or accounts for the deposit of the revenues or the proceeds of the bonds including state funds described above or other revenues and monies pledged.

Proposed law authorizes DNR and the commission to enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts necessary, convenient, or desirable for the issuance of the bonds or to carry out any power expressly given in proposed law.

Proposed law provides that any revenues received by DNR pledged to the repayment of any bonds issued may be collected and disbursed in accordance with the documents pursuant to which the bonds were issued.

Effective July 1, 2010.

(Adds R.S. 30:83(F)(8) and 83.1)