

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2065

Page 1, line 1, replace "section 15-05-09.1 and" with "a new subdivision to subsection 2 of section 28-32-01 and"

Page 1, line 2, remove "the authority of the board of university and school lands to lease lands"

Page 1, line 3, remove "under its control for the underground storage of oil or gas and"

Page 1, line 3, after the second "the" insert "definition of an administrative agency and the"

Page 1, line 5, after "gas" insert "; and to amend and reenact sections 15-05-09 and 15-05-10 of the North Dakota Century Code, relating to oil and gas leases and royalties from oil leases"

Page 1, replace lines 7 through 13 with:

"SECTION 1. AMENDMENT. Section 15-05-09 of the North Dakota Century Code is amended and reenacted as follows:

15-05-09. Leases for oil, gas, and other products.

The board of university and school lands may lease any lands under its control believed to contain oil, gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, ~~or colloidal or other clays, or other naturally occurring elements and their compounds,~~ and may make and establish rules and regulations for development ~~and, drilling, and mining~~ operations.

SECTION 2. AMENDMENT. Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil and gas leases - Rents from other leases - Rules.

Oil and gas leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty shall be not less than twelve and one-half percent of the gross output of oil from the lands leased. Oil and gas leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. ~~Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays issued by the board under section 15-05-09 for products other than oil and gas must be made by the board in such annual payments provide for adequate rental payments and other provisions as are determined by the board. The board may adopt rules regarding annual rental payments and royalties under this section.~~

SECTION 3. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The industrial commission with respect to an appeal for the determination of equitable compensation under chapter 38-25."

Page 1, line 17, replace "section" with "chapter"

Page 1, line 19, after "2." insert "\"Equitable compensation\" means just compensation and includes any damages allowed under chapter 38-11.1.

3."

Page 1, line 21, replace "3." with "4."

Page 1, line 23, replace "4." with "5."

Page 2, line 3, replace "5." with "6."

Page 2, line 5, replace "6." with "7."

Page 2, line 6, replace "7." with "8. \"Prevent waste\" means the locating, spacing, drilling, equipping, operating, or producing of any oil or gas storage well or facility in a manner that increases the quantity of oil or gas stored, or which decreases unnecessary loss or destruction of oil or gas.

9."

Page 2, line 10, replace "8." with "10."

Page 2, line 13, replace "9." with "11."

Page 2, line 16, replace "10." with "12."

Page 2, line 20, replace "11." with "13."

Page 2, after line 20, insert:

"14. \"Waste\" means the inefficient storing of oil or gas."

Page 2, line 23, after "chapter" insert "when necessary to prevent waste, to protect correlative rights of the mineral and surface estate, or to effect greater ultimate storage and recovery of oil and gas"

Page 3, line 9, replace "for good cause" with "if required to comply with applicable federal law"

Page 3, line 19, replace "Notice" with "Written notice"

Page 3, line 19, replace "given" with "mailed"

Page 3, line 19, after "owner" insert "of record"

Page 3, line 21, after the underscored period insert "The notice of hearing must be mailed to an owner's last known address."

Page 3, line 23, replace "given" with "mailed"

Page 3, line 24, after the first "owner" insert "of record"

Page 3, line 24, after the second "owner" insert "of record"

Page 3, line 27, replace "given" with "mailed"

Page 3, line 27, after "owner" insert "of record"

Page 3, line 28, after "owner" insert "of record"

Page 4, line 2, replace "given" with "mailed"

Page 4, line 2, after "owner" insert "of record"

Page 4, line 19, after "space" insert "unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, if so the percentage in the order required to pool the mineral interests prevails as to the percentage of pore space owners from whom the storage operator must obtain consent"

Page 4, line 21, after "leases" insert "unless the percentage required to unitize the oil and gas unit is otherwise provided for by order of the commission before August 1, 2021, if so the percentage in the order prevails"

Page 5, line 13, after "16." insert "The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

17. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

18."

Page 5, line 25, replace "fifty-five" with "sixty"

Page 6, line 13, after "13." insert "The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

14. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

15."

Page 6, line 27, replace "fifty-five" with "sixty"

Page 7, line 13, after "14." insert "The method of underground storage is reasonably necessary to effectively carry on the joint effort, will prevent waste, protect correlative rights of the mineral and surface estate, and, with reasonable probability, will result in the increased storage and recovery of more oil and gas.

15. The time, conditions, and method by which the storage facility must be dissolved and the facility's affairs wound up. A storage facility may be

dissolved ten years after the storage facility permit is issued upon a petition to the commission by the pore space owners and mineral owners that are credited with at least the percentage of interest of the pore space required to ratify the storage facility amalgamation agreement, and a subsequent hearing and order by the commission.

16."

Page 7, line 18, after "storage" insert "if the minimum percentage of consent is obtained as specified in this chapter. Any pore space owner who does not have responsibility over the construction, management, supervision, or control of the storage facility operations is not liable for money damages for personal or other property damages proximately caused by the operations"

Page 8, after line 3, insert:

"38-25-11. Appeal for determination of equitable compensation.

1. A nonconsenting surface or pore space owner may appeal the commission's decision on the amount of equitable compensation owed to that owner for use of the owner's surface or pore space. The appeal must be taken to the district court for the county where the property affected by the order is located unless the property is located in or underlies more than one county, then the appeal may be taken to the district court for any county in which the property is located.
2. The owner shall file the notice of appeal with the district court within sixty days of notice of the commission's decision.
 - a. The notice of appeal must specify the compensation determination appealed from and describe the real property valued.
 - b. The notice of appeal also must be served on the storage operator by certified mail.
3. In a proceeding in district court under this section, the amount of equitable compensation must be made by a jury, unless a jury is waived by the owner.
 - a. The appeal may be noticed for trial and tried as in the case of a civil action and the court may direct issues to be framed, and require other parties to be joined and to plead therein when necessary for the proper determination of equitable compensation.
 - b. The owner shall present evidence, has the burden of proof, and has the right to an opening and closing statement.
 - c. The amount of equitable compensation must be reassessed de novo and apportion the same as the evidence and justice may require.
4. The remedy provided in this section is cumulative and does not replace the right to appeal under section 38-08-14 or chapter 28-32.
 - a. An appeal under this section is limited to the amount of equitable compensation owed to a nonconsenting surface or pore space owner whose property is being amalgamated under this chapter.

- b. The commission's decision remains in effect when an appeal is taken under this section."

Page 8, line 4, replace "**38-25-11**" with "**38-25-12**"

Renumber accordingly