State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5350

04/11/2024 Authored by Lislegard and Skraba
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

A bill for an act

relating to natural resources; facilitating carbon sequestration and oil and gas exploration and production leases on state-owned land; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2022, sections 92.50, subdivision 1; 93.25, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 92; 93.

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

Section 1. Minnesota Statutes 2022, section 92.50, subdivision 1, is amended to read:

Subdivision 1. **Lease terms.** (a) The commissioner of natural resources may lease land under the commissioner's jurisdiction and control:

(1) to remove sand, gravel, clay, rock, marl, peat, and black dirt;

(2) to store ore, waste materials from mines, or rock and tailings from ore milling plants;

(3) for roads or railroads;

(4) to compensate the permanent school fund according to section 92.122; ~~or~~

(5) for geologic carbon sequestration; or

~~(5)~~ (6) for other uses consistent with the interests of the state.

(b) The commissioner shall offer the lease at public or private sale for an amount and under terms and conditions prescribed by the commissioner. Commercial leases for more than ten years and leases for removal of peat that cover 320 or more acres must be approved by the Executive Council.

(c) The lease term may not exceed 21 years except:

(1) leases of lands for storage sites for ore, waste materials from mines, or rock and tailings from ore milling plants or for the removal of peat for nonagricultural purposes may not exceed a term of 25 years; and

(2) leases for commercial purposes, including major resort, convention center, or recreational area purposes, may not exceed a term of 40 years.

(d) Leases must be subject to sale and leasing of the land for mineral purposes and contain a provision for cancellation for just cause at any time by the commissioner upon six months' written notice. A longer notice period, not exceeding three years, may be provided in leases for storing ore, waste materials from mines, or rock or tailings from ore milling plants. The commissioner may determine the terms and conditions, including the notice period, for cancellation of a lease for the removal of peat and commercial leases.

(e) Money received from leases under this section must be credited to the fund to which the land belongs.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[92.504] LEASING FOR GEOLOGIC CARBON SEQUESTRATION.**

Subdivision 1. **Authority to lease.** With the approval of the Executive Council, the commissioner of natural resources may enter into leases for geologic carbon sequestration on lands belonging to the state or in which the state has an interest.

Subd. 2. **Application.** An application for a lease under this section must be submitted to the commissioner of natural resources. The commissioner must prescribe the information to be included in the application. The applicant must submit with the application a certified check, cashier's check, or bank money order payable to the Department of Natural Resources in the sum of $100 as a fee for filing the application. The application fee must not be refunded under any circumstances. The right is reserved to the state to reject any or all applications for a lease.

Subd. 3. **Lease terms.** The commissioner must negotiate the terms of each lease entered into under this section on a case-by-case basis, taking into account the unique geological and environmental aspects of each proposal. The commissioner may require an applicant to provide financial assurance to ensure payment of any damages resulting from geologic carbon sequestration.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2022, section 93.25, subdivision 1, is amended to read:

Subdivision 1. **Leases.** The commissioner may issue leases to prospect for, mine, and remove or extract gas, oil, and minerals other than iron ore ~~upon~~ from any lands owned by the state, including trust fund lands, lands forfeited for nonpayment of taxes whether held in trust or otherwise, and lands otherwise acquired, and the beds of any waters belonging to the state. For purposes of this section, iron ore means iron-bearing material where the primary product is iron metal. For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon gases.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2022, section 93.25, subdivision 2, is amended to read:

Subd. 2. **Lease requirements.** All leases for nonferrous metallic minerals ~~or petroleum~~, gas, or oil must be approved by the Executive Council, and any other mineral lease issued pursuant to this section that covers 160 or more acres must be approved by the Executive Council. The rents, royalties, terms, conditions, and covenants of all such leases shall be fixed by the commissioner according to rules adopted by the commissioner, but no lease shall be for a longer term than 50 years, and all rents, royalties, terms, conditions, and covenants shall be fully set forth in each lease issued. No lease shall be canceled by the state for failure to meet production requirements prior to the 36th year of the lease. The rents and royalties shall be credited to the funds as provided in section 93.22. For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon gases.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. **[93.513] PROHIBITION ON COMMERCIAL EXTRACTION OF GAS OR OIL WITHOUT PERMIT.**

Except as provided in section 103I.681, a person must not engage in or carry out commercial extraction of gas or oil from consolidated or unconsolidated formations in the state unless the person has first obtained a permit for the commercial extraction of gas or oil from the commissioner of natural resources. Any permit under this section must be protective of natural resources and require a demonstration of control of the proposed extraction area through ownership, lease, or agreement. For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon gases.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. **[93.514] CARBON SEQUESTRATION AND GAS PRODUCTION RULEMAKING.**

(a) The following agencies may adopt rules governing geologic carbon sequestration, gas, or oil exploration or production, as applicable:

(1) the commissioner of the Pollution Control Agency may adopt or amend rules pertaining to both geologic carbon sequestration and gas production;

(2) the commissioner of health may adopt or amend rules pertaining to both geologic carbon sequestration and exploration of gas or oil;

(3) the Environmental Quality Board must consider whether new or amended rules are needed pertaining to environmental review for both geologic carbon sequestration and gas production;

(4) the commissioner of revenue may adopt rules pertaining to the taxation of both geologic carbon sequestration and gas production; and

(5) the commissioner of natural resources must adopt or amend rules pertaining to permitting and reclamation for geologic carbon sequestration and production of gas or oil.

(b) An agency adopting rules under this section must publish the notice of intent to adopt rules within 36 months of the effective date of this section. The 18-month time limit under section 14.125 does not apply to rules adopted under this section. For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon gases.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. **[93.516] LEASING TO PROSPECT FOR GAS AND OIL.**

Subdivision 1. **Authority to lease.** With the approval of the Executive Council, the commissioner of natural resources may enter into leases for gas or oil exploration and production from lands belonging to the state or in which the state has an interest. For purposes of this section, gas or oil exploration and production includes the exploration and production of nonpetroleum gas.

Subd. 2. **Application.** An application for a lease under this section must be submitted to the commissioner of natural resources. The commissioner must prescribe the information to be included in the application. The applicant must submit with the application a certified check, cashier's check, or bank money order payable to the Department of Natural Resources in the sum of $100 as a fee for filing the application. The application fee must not be refunded under any circumstances. The right is reserved to the state to reject any or all applications for an oil or gas lease.

Subd. 3. **Lease terms.** (a) The commissioner must negotiate the terms of each lease entered into under this section on a case-by-case basis, taking into account the unique geological and environmental aspects of each proposal. A lease entered into under this section must be consistent with the following:

(1) the primary term of the lease may not exceed five years plus the unexpired portion of the calendar year in which the lease is issued. The commissioner and applicant may negotiate the conditions by which the lease may be extended beyond the primary term, in whole or in part;

(2) a bonus consideration of not less than $15 per acre must be paid by the applicant to the Department of Natural Resources before the lease is executed;

(3) the commissioner of natural resources may require an applicant to provide financial assurance to ensure payment of any damages resulting from the production of gas or oil;

(4) the rental rates must not be less than $5 per acre per year for the unexpired portion of the calendar year in which the lease is issued and in years thereafter; and

(5) on leased minerals produced and sold by the lessee from the lease area, the lessee must pay a production royalty to the Department of Natural Resources of not less than 18.75 percent of the gross sales price of the product sold free on board at the delivery point, and the royalty must be credited as provided in section 93.22.

(b) For purposes of this section, "gross sales price" means the total consideration paid by the first purchaser that is not an affiliate of the lessee for gas or oil produced from the leased premises, except that:

(1) lessor's royalty bears its proportionate part of severance taxes actually paid by the lessee attributable to production from the leased premises;

(2) no royalty is payable on gas used on the leased premises for production operations or compression or dehydration of gas produced from the leased premises; and

(3) lessor's royalty bears lessor's proportionate part of any costs of transporting oil, gas, or liquid hydrocarbon products paid to any third party that is not an affiliate of the lessee.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. **GAS PRODUCTION TECHNICAL ADVISORY COMMITTEE.**

(a) The commissioner of natural resources must appoint a technical advisory committee to develop recommendations according to paragraph (c). The commissioner may appoint representatives from the following entities to the technical advisory committee:

(1) the Pollution Control Agency;

(2) the Environmental Quality Board;

(3) the Department of Health;

(4) the Department of Revenue;

(5) the University of Minnesota; and

(6) federal agencies.

(b) A majority of the members must be from state agencies, and all members must have expertise in at least one of the following areas: environmental review; air quality; water quality; taxation; mine permitting; mineral, gas, or oil exploration and development; well construction; or other areas related to gas or oil production.

(c) The technical advisory committee must make recommendations to the commissioner relating to the exploration of gas and oil in the state to guide the creation of a temporary regulatory framework that will govern permitting before the rules authorized in Minnesota Statutes, section 93.514, are adopted. The temporary framework must include recommendations that govern permitting requirements and processes, financial assurance, taxation, boring monitoring and inspection protocols, environmental review, and other topics that provide for gas extraction to be conducted in a manner that will reduce environmental impacts to the extent practicable, mitigate unavoidable impacts, and ensure that the extraction area is left in a condition that protects natural resources and minimizes the need for maintenance. Recommendations must include draft legislative language.

(d) By January 15, 2025, the commissioner must submit to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over environment recommendations for statutory and policy changes to facilitate gas and oil exploration and production in this state in a manner that benefits the people of Minnesota while adequately protecting the state's natural resources.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. **APPROPRIATIONS; CARBON SEQUESTRATION AND NONPETROLEUM GAS REGULATORY FRAMEWORK.**

(a) $750,000 in fiscal year 2024 is appropriated from the minerals management account in the natural resources fund to the commissioner of natural resources for the Gas Production Technical Advisory Committee. This is a onetime appropriation.

(b) $696,000 in fiscal year 2025 is appropriated from the minerals management account in the natural resources fund to the commissioner of natural resources to adopt a regulatory framework for subsurface mineral-based sequestration of carbon and nonpetroleum gas extraction in Minnesota and for rulemaking. The base amount for this appropriation is $0 in fiscal year 2028 and thereafter.

EFFECTIVE DATE. This section is effective the day following final enactment.