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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
04/26/2024 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to natural resources; providing for gas or oil exploration and production
1.3 leases and permits on state-owned land; creating advisory committee; authorizing
1.4 rulemaking; requiring a report; appropriating money; amending Minnesota Statutes
1.5 2022, section 93.25, subdivisions 1, 2; proposing coding for new law in Minnesota
1.6 Statutes, chapter 93.

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

1.8 Section 1. Minnesota Statutes 2022, section 93.25, subdivision 1, is amended to read:

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

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

1.17 Subd. 2. Lease requirements. All leases for nonferrous metallic minerals or petroleum,
1.18 gas, or oil must be approved by the Executive Council, and any other mineral lease issued
1.19 pursuant to this section that covers 160 or more acres must be approved by the Executive
1.20 Council. The rents, royalties, terms, conditions, and covenants of all such leases shall must
1.21 be fixed by the commissioner according to rules adopted by the commissioner, but no lease
1.22 shall be for a longer term than 50 years, and all rents, royalties, terms, conditions, and
1.23 covenants shall must be fully set forth in each lease issued. No nonferrous metallic mineral

2.1 lease shall be canceled by the state for failure to meet production requirements prior to the
2.2 36th year of the lease. The rents and royalties ~~shall~~ must be credited to the funds as provided
2.3 in section 93.22. For purposes of this section, "gas" includes both hydrocarbon and
2.4 nonhydrocarbon gases.

2.5 Sec. 3. **[93.513] PROHIBITION ON PRODUCTION OF GAS OR OIL WITHOUT**
2.6 **PERMIT.**

2.7 Subdivision 1. **Permit required.** Except as provided in section 103I.681, a person must
2.8 not engage in or carry out production of gas or oil from consolidated or unconsolidated
2.9 formations in the state unless the person has first obtained a permit for the production of
2.10 gas or oil from the commissioner of natural resources. Any permit under this section must
2.11 be protective of natural resources and require a demonstration of control of the extraction
2.12 area through ownership, lease, or agreement. For purposes of this section, "gas" includes
2.13 both hydrocarbon and nonhydrocarbon gases. For purposes of this section, "production"
2.14 includes extraction and beneficiation of gas or oil.

2.15 Subd. 2. **Moratorium.** Until rules are adopted under section 93.514, a permit authority
2.16 may not grant a permit necessary for the production of gas or oil unless the permit authority
2.17 has been given legislative approval to issue the permit.

2.18 Sec. 4. **[93.514] GAS AND OIL PRODUCTION RULEMAKING.**

2.19 (a) The following agencies may adopt rules governing gas and oil exploration or
2.20 production, as applicable:

2.21 (1) the commissioner of the Pollution Control Agency may adopt or amend rules
2.22 regulating air emissions; water discharges, including stormwater management; and storage
2.23 tanks as they pertain to gas and oil production;

2.24 (2) the commissioner of health may adopt or amend rules on groundwater and surface
2.25 water protection, exploratory boring construction, drilling registration and licensure, and
2.26 inspections as they pertain to the exploration and appraisal of gas and oil resources;

2.27 (3) the Environmental Quality Board may adopt or amend rules to establish mandatory
2.28 categories for environmental review as they pertain to gas and oil production;

2.29 (4) the commissioner of natural resources must adopt or amend rules pertaining to the
2.30 conversion of an exploratory boring to a production well, pooling, spacing, unitization, well
2.31 abandonment, siting, financial assurance, and reclamation for the production of gas and oil;
2.32 and

3.1 (5) the commissioner of labor and industry may adopt or amend rules to protect workers
3.2 from exposure and other potential hazards from gas and oil production.

3.3 (b) An agency adopting rules under this section must publish the notice of intent to adopt
3.4 rules within 24 months of the effective date of this section. The 18-month time limit under
3.5 section 14.125 does not apply to rules adopted under this section.

3.6 (c) For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon
3.7 gases. "Production" includes extraction and beneficiation of gas or oil from consolidated
3.8 or unconsolidated formations in the state.

3.9 (d) Any grant of rulemaking authority in this section is in addition to existing rulemaking
3.10 authority and does not replace, impair, or interfere with any existing rulemaking authority.

3.11 **Sec. 5. [93.516] GAS AND OIL LEASING.**

3.12 Subdivision 1. **Authority to lease.** (a) With the approval of the Executive Council, the
3.13 commissioner of natural resources may enter into leases for gas or oil exploration and
3.14 production from lands belonging to the state or in which the state has an interest.

3.15 (b) For purposes of this section, "gas or oil exploration and production" includes the
3.16 exploration and production of both hydrocarbon and nonhydrocarbon gases, including noble
3.17 gases. "Noble gases" means a group of gases that includes helium, neon, argon, krypton,
3.18 xenon, radon, and oganesson. "Production" includes extraction and beneficiation of gas or
3.19 oil from consolidated or unconsolidated formations in the state.

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

3.27 Subd. 3. **Lease terms.** The commissioner must negotiate the terms of each lease entered
3.28 into under this section on a case-by-case basis, taking into account the unique geological
3.29 and environmental aspects of each proposal, control of adjacent lands, and the best interests
3.30 of the state. A lease entered into under this section must be consistent with the following:

3.31 (1) the primary term of the lease may not exceed five years plus the unexpired portion
3.32 of the calendar year in which the lease is issued. The commissioner and applicant may

4.1 negotiate the conditions by which the lease may be extended beyond the primary term, in
4.2 whole or in part;

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

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

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

4.9 (5) on gas and oil produced and sold by the lessee from the lease area, the lessee must
4.10 pay a production royalty to the Department of Natural Resources of not less than 18.75
4.11 percent of the gross sales price of the product sold free on board at the delivery point, and
4.12 the royalty must be credited as provided in section 93.22. For purposes of this section, "gross
4.13 sales price" means the total consideration paid by the first purchaser that is not an affiliate
4.14 of the lessee for gas or oil produced from the leased premises.

4.15 **Sec. 6. MINNESOTA GAS AND OIL RESOURCES TECHNICAL ADVISORY**
4.16 **COMMITTEE.**

4.17 (a) The commissioner of natural resources must appoint a Minnesota Gas and Oil
4.18 Resources Technical Advisory Committee to develop recommendations according to
4.19 paragraph (c). The commissioner may appoint representatives from the following entities
4.20 to the technical advisory committee:

4.21 (1) the Pollution Control Agency;

4.22 (2) the Environmental Quality Board;

4.23 (3) the Department of Health;

4.24 (4) the Department of Revenue;

4.25 (5) the Office of the Attorney General;

4.26 (6) the University of Minnesota; and

4.27 (7) federal agencies.

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

5.1 (c) Members of the technical advisory committee may not be registered lobbyists.

5.2 (d) The technical advisory committee must make recommendations to the commissioner
5.3 relating to the production of gas and oil in the state to guide the creation of a temporary
5.4 regulatory framework that will govern permitting before the rules authorized in Minnesota
5.5 Statutes, section 93.514, are adopted. The temporary framework must include
5.6 recommendations on statutory and policy changes that govern permitting requirements and
5.7 processes, financial assurance, taxation, boring monitoring and inspection protocols,
5.8 environmental review, and other topics that provide for gas and oil production to be
5.9 conducted in a manner that will reduce environmental impacts to the extent practicable,
5.10 mitigate unavoidable impacts, and ensure that the production area is restored to a condition
5.11 that protects natural resources and minimizes harm and that any ongoing maintenance
5.12 required to protect natural resources is provided. The temporary framework must consider
5.13 public testimony from stakeholders and Tribes, and the committee must hold at least one
5.14 public meeting on this topic. Recommendations must include draft legislative language.

5.15 (e) By January 15, 2025, the commissioner must submit to the chairs and ranking minority
5.16 members of the legislative committees and divisions with jurisdiction over environment
5.17 recommendations for statutory and policy changes to facilitate gas and oil exploration and
5.18 production in this state and to support the issuance of temporary permits issued under the
5.19 temporary framework in a manner that benefits the people of Minnesota while adequately
5.20 protecting the state's natural resources.

5.21 (f) For purposes of this section, "gas" includes both hydrocarbon and nonhydrocarbon
5.22 gases. For purposes of this section, "production" includes extraction and beneficiation from
5.23 consolidated or unconsolidated formations in the state.

5.24 **Sec. 7. APPROPRIATIONS; NONPETROLEUM GAS REGULATORY**
5.25 **FRAMEWORK.**

5.26 (a) \$768,000 in fiscal year 2024 is appropriated from the minerals management account
5.27 in the natural resources fund to the commissioner of natural resources for the Minnesota
5.28 Gas and Oil Resources Technical Advisory Committee in section 6. This is a onetime
5.29 appropriation and is available until June 30, 2027.

5.30 (b) \$2,406,000 in fiscal year 2024 is appropriated from the minerals management account
5.31 in the natural resources fund to the commissioner of natural resources to adopt a regulatory
5.32 framework for gas and oil production in Minnesota and for rulemaking. This appropriation
5.33 is available until June 30, 2027.

6.1 Sec. 8. **EFFECTIVE DATE.**

6.2 Sections 1 to 7 are effective the day following final enactment.