



CONFERENCE COMMITTEE ON SB174 SUBSTITUTE TO SB174

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

This bill would authorize the State Oil and Gas Board to allow an oil or gas well to be converted into an alternative energy facility.

This bill would authorize the board to amalgamate rights to alternative energy resources under certain circumstances.

This bill would provide specifically for active and inactive facilities.

This bill would authorize the board to adopt rules and set fees for the conversion and operation of facilities.

This bill would also provide required conduct of facility operators.

Under existing law, the Commissioner of Conservation and Natural Resources may lease lands under the jurisdiction of the department for the exploration, development, and production of oil, gas, and other minerals.

This bill would add to the purposes for which the commissioner may lease these lands the exploration, development, and production of other energy sources and related uses.

This bill would also authorize the commissioner to modify the renewal and extension terms of these



29 leases.

30

31

32

A BILL

33

TO BE ENTITLED

34

AN ACT

35

36 Relating to natural resources; to authorize the State
37 Oil and Gas Board to regulate alternative energy wells and
38 associated operations and facilities, to adopt rules for
39 regulation of the operation and abandonment of alternative
40 energy wells and associated operations, to set fees and
41 charges to defray expenses of the board in relation to
42 regulation of alternative energy operations, to allow an oil
43 or gas well and associated infrastructure to be converted into
44 an alternative energy facility, to amalgamate alternative
45 energy rights for an alternative energy facility under certain
46 circumstances; to require alternative energy facility
47 operators to adhere to certain conduct; to amend Section
48 9-17-60, Code of Alabama 1975, to add the exploration and
49 production of energy sources and related uses to the purposes
50 for which the Commissioner of Conservation and Natural
51 Resources may lease state lands; and to authorize the
52 commissioner to modify such leases.

53 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

54 Section 1. (a) For purposes of this section, the
55 following terms have the following meanings:

56 (1) ALTERNATIVE ENERGY FACILITY or FACILITY. An



57 alternative energy well and associated infrastructure used for
58 developing, producing, or supporting alternative energy
59 resources.

60 (2) ALTERNATIVE ENERGY RESOURCES. a. The earth's
61 natural heat and the energy, in whatever form, which is below
62 the earth's surface and which is present in, results from, or
63 is created by, or which may be extracted from, the earth's
64 natural heat.

65 b. The term includes:

66 1. All products of geothermal processes and byproducts
67 derived therefrom such as indigenous steam, hot water, and hot
68 brines;

69 2. Steam, gases, hot water, and hot brines resulting
70 from water, gas, or other fluids artificially introduced into
71 geothermal formations;

72 3. Heat or other associated energy found in geothermal
73 formations; and

74 4. Other forms of energy, energy generation, energy
75 capture, energy storage, and related uses, including
76 hydropower derived from natural underground water flows or
77 from injecting water into lower pressure reservoirs with water
78 processed at the surface or by using the energy potential
79 between two subsurface formations within a wellbore.

80 c. The term does not include the heating and cooling
81 capacity of the earth which may be used for heating and
82 cooling buildings through an on-site heat pump or similar
83 on-site system.

84 (3) ALTERNATIVE ENERGY WELL. A well that has been



85 permitted pursuant to the board's authorization to produce or
86 support the production of alternative energy resources.

87 (b) (1) The State Oil and Gas Board, after providing
88 notice and a public hearing, may authorize the development and
89 operation of an alternative energy facility or the conversion
90 of an existing oil and gas well and associated infrastructure
91 into an alternative energy facility, so long as any
92 alternative energy well extends 5,000 feet or more below the
93 surface of the land, regardless of whether the land is
94 submerged.

95 (2) As determined by rule of the board, an applicant
96 seeking approval to operate an alternative energy facility
97 shall submit a petition fee, a well permit fee, and financial
98 security instruments specific to the proposed uses of the
99 alternative energy facility.

100 (c) An alternative energy facility operator shall do
101 all of the following:

102 (1) Adhere to all rules adopted by the board relating
103 to alternative energy wells and facilities.

104 (2) Make a good faith effort to obtain the consent of
105 all persons that own the facility's alternative energy
106 resources.

107 (3) Obtain the consent of persons that own not less
108 than 66 and two-thirds percent of the facility's alternative
109 energy resources.

110 (4) Upon an order of the board to amalgamate pursuant
111 to subsection (d), compensate all nonconsenting owners on
112 terms deemed equitable and reasonable by the board.



113 (5) Employ commercially reasonable efforts to limit the
114 adverse impacts to surface uses of lands owned by the
115 nonconsenting owners of the alternative energy resources of
116 the facility.

117 (6) If seeking approval to operate a facility within a
118 10-mile radius of a coal mine operation, obtain the written
119 consent of the coal mine operator and mineral owner with an
120 operation or mineral interest within the radius, provided
121 consent shall not be unreasonably withheld or delayed.

122 (d) Upon an alternative energy facility operator
123 obtaining the consent of persons that own not less than 66 and
124 two-thirds percent of a facility's alternative energy
125 resources, the board, after providing notice and a public
126 hearing, may enter an order to amalgamate and pool the
127 alternative energy resources owned by nonconsenting owners
128 into the facility.

129 (e)(1) The board shall require the owner or operator of
130 an alternative energy facility that has ceased alternative
131 energy production for 12 months or more to properly plug and
132 abandon the facility and take any other appropriate action as
133 deemed necessary by the board. When completed, the facility
134 shall be deemed abandoned.

135 (2) Upon the board's order approving the conversion of
136 an oil and gas well and associated infrastructure into an
137 alternative energy facility, the approved well shall not be
138 considered an inactive or abandoned oil or gas well.

139 (f) The board may adopt rules to administer this
140 section, including regulating the operation and abandonment of



141 alternative energy facilities and associated operations.

142 (g) The board may set fees and charges to defray
143 expenses incurred by the board in regulating alternative
144 energy facilities pursuant to this section. All well permit
145 fees, filing fees for petitions, and other fees paid to the
146 State Treasurer pursuant to this section shall be paid into
147 the Alabama State Oil and Gas Board Special Fund established
148 by Section 9-17-24, Code of Alabama 1975, and disbursed by the
149 State Treasurer upon warrants drawn by the Comptroller for the
150 purpose of defraying expenses incurred by the board in the
151 performance of its duties.

152 (h) Nothing in this section shall:

153 (1) Be construed to amend, repeal, enlarge, or
154 otherwise affect any provision of Title 37 of the Code of
155 Alabama 1975, including, but not limited to, Chapters 1, 4,
156 and 14 of that title;

157 (2) Notwithstanding the use of the term "hydropower,"
158 apply to any hydropower project that is subject to the
159 licensing jurisdiction of the Federal Energy Regulatory
160 Commission under Subchapter 1 of Chapter 12 of Title 16 of the
161 United States Code;

162 (3) Apply to coal mines or coal mining, or operations
163 related to coal mines or coal mining, except as provided in
164 subsection (c)(6); or

165 (4) Apply to active or prospective oil and natural gas
166 exploration and production or gas storage operations regulated
167 by the board pursuant to Articles 1, 3, or 6 of Chapter 17,
168 Title 9, Code of Alabama 1975, and any rules adopted by the



169 board pursuant these articles.

170 Section 2. Section 9-17-60, Code of Alabama 1975, is
171 amended to read as follows:

172 "§9-17-60

173 (a) The Commissioner of Conservation and Natural
174 Resources, on behalf of the state, is hereby authorized to
175 lease any lands or interest therein under the jurisdiction of
176 the Department of Conservation and Natural Resources for the
177 exploration, development, and production of oil, gas, ~~and~~
178 other minerals, energy sources and related uses, or any one or
179 more of them, on, in, and under such lands.

180 (b) The term "energy sources and related uses"
181 includes, but is not limited to, energy generation, energy
182 capture, energy storage, and transmission of geothermal
183 energy, solar energy, and hydropower.

184 (c) The commissioner may modify the renewal or
185 extension terms of a lease entered into pursuant to subsection
186 (a). If the lease under consideration is an existing lease
187 authorized under subsection (a), the commissioner's actions
188 and negotiations shall be exempt from the requirements of
189 Section 9-17-65. This subsection shall not be construed to
190 authorize the commissioner to sell any lands.

191 (d) Nothing in this section shall be construed to
192 amend, repeal, enlarge, or otherwise affect any provision of
193 Title 37, including, but not limited to, Chapters 1, 4, and 14
194 of that title."

195 Section 3. This act shall become effective immediately.