

OERB Statute

§52-288.1. Short title.

This act shall be known and may be cited as the "Oklahoma Energy Education and Marketing Act".

Added by Laws 1992, c. 257, § 1, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 1, eff. Oct. 1, 1993.

§52-288.2. Definitions.

As used in the Oklahoma Energy Education and Marketing Act, Section 288.1 et seq. of this title:

1. "Board" means the Oklahoma Energy Resources Board;
2. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity;
3. "Independent producer" means any person:
 - a. who produces oil or natural gas and is not engaged in refining or marketing of such products, or
 - b. who derives a majority of his or her oil- or natural gas-related income from working interest;
4. "Major oil company" means any person who produces oil or natural gas in the State of Oklahoma and who is a retailer as defined in IRS Code Sec. 613A (d) (2) or a refiner as defined in Sec. 613A (d) (4) of the Code or is a subsidiary, directly or indirectly, of a company that is classified as a major oil company as defined herein; and
5. "Qualified independent producer association" means an entity in existence as of January 1, 1992, that is organized and operating within the state, a majority of whose governing body are independent producers and which represents the independent oil or natural gas industry on a statewide basis.

Added by Laws 1992, c. 257, § 2, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 2, eff. Oct. 1, 1993; Laws 1996, c. 352, § 1; Laws 1997, c. 2, § 11, emerg. eff. Feb. 26, 1997.

NOTE: Laws 1996, c. 84, § 1 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997.

§52-288.3. Oklahoma Energy Resources Board.

There is hereby re-created until July 1, 2013, the Oklahoma Energy Resources Board which shall be subject to the provisions of the Oklahoma Sunset Law. The purpose of the Board is to coordinate a program designed to demonstrate to the general public the importance of the Oklahoma oil and natural gas exploration and production industry, to encourage the wise and efficient use of energy, to promote environmentally sound production methods and technologies, to develop existing supplies of Oklahoma's oil and natural gas resources, to support research and educational activities concerning the oil and natural gas exploration and production industry and to cause remediation of historical oilfield environmental problems.

Added by Laws 1992, c. 257, § 3, eff. Sept. 1, 1992. Amended by Laws 1992, c. 343, § 2, eff. Sept. 1, 1992; Laws 1993, c. 184, § 3, eff. Oct. 1, 1993; Laws 1996, c. 352, § 2; Laws 2001, c. 138, § 1; Laws 2007, c. 19, § 1.

§52-288.4. Board - Composition - Qualifications - Terms - Vacancies - Additional members - First meeting - Compensation and expenses.

A. The Oklahoma Energy Resources Board shall be composed of at least eighteen (18) members. The eighteen members shall be independent oil or natural gas producers, or representatives of major oil companies which do business in the state, six to be appointed by the Governor, six to be appointed by the President Pro Tempore of the Senate and six to be appointed by the Speaker of the House of Representatives. The Governor, President Pro Tempore and Speaker of the House of Representatives shall make appointments of independent producers from a list of names of independent producers which do business in the state submitted by qualified independent producer associations.

B. The members of the Board shall:

1. Be at least twenty-five (25) years of age; and
2. Have at least five (5) years of active experience in the oil or natural gas industry.

C. The initial term of office for independent producer members of the Board shall be as follows: six members for one (1) year, six members for two (2) years and six members for three (3) years.

For the initial appointments of independent producers, each appointing authority shall make two appointments for one-year terms, two appointments for two-year terms and two appointments for three-year terms. Thereafter, the terms of the independent producer members shall be for three (3) years.

D. The six independent producer members of the Board whose initial term of office is for one (1) year shall serve until October 1, 1993, at which time their terms shall expire and will be replaced by the members appointed to three-year terms under subsection E of this section.

E. On October 1, 1993, six members shall be appointed to the Board who represent major oil companies which do business in the state, two to be appointed by the Governor, two to be appointed by the President Pro Tempore of the Senate and two to be appointed by the Speaker of the House of Representatives. After October 1, 1993, the Board shall be composed of eighteen (18) members, twelve of which shall be independent producers and six shall be representatives of major oil companies.

F. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. The appointed members may be removed from office by a majority vote of the three appointing authorities in a manner as provided by law.

G. After October 1, 1993, the independent producer and major oil company members of the Board appointed pursuant to subsection A of this section may by majority vote appoint a maximum of three representatives from each of the following producer-related areas to serve as members of the Board: one member from a royalty owner association and two members representing crude oil purchasing companies. These additional members shall have full voting rights and privileges and will serve three-year terms. They may be removed from the Board by a majority vote of the independent producer and major oil company members of the Board appointed pursuant to subsection A of this section.

H. The Board shall at its first meeting elect one of its members as chairperson, who shall preside over meetings of the Board and perform such other duties as may be required by the Board. The first meeting of the Board shall be called by the Governor.

I. No member of the Board shall receive a salary for duties performed as a member of the Board however, members are eligible to receive reimbursement for expenses and travel reimbursement as provided for in the State Travel Reimbursement Act.

J. Members serving on the Board shall be eligible to serve on any other state board or commission if such member is otherwise qualified to hold such appointed office, notwithstanding the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

Added by Laws 1992, c. 257, § 4, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 4, emerg. eff. May 17, 1993; Laws 1995, c.

76, § 1, eff. July 1, 1995; Laws 1996, c. 352, § 4; Laws 1999, c. 317, § 4, emerg. eff. June 4, 1999.

§52-288.5. Board - Powers, duties and responsibilities.

The Oklahoma Energy Resources Board shall have the following powers, duties and responsibilities:

1. To administer and enforce the provisions of the Oklahoma Energy Education and Marketing Act;

2. To establish an office for the Board within the State of Oklahoma;

3. To elect a chairperson and whatever other officers may be necessary to direct operations of the Board;

4. To employ personnel as shall be deemed necessary to carry out the purpose and provisions of this act including but not limited to an attorney to provide legal assistance to the Board, and to prescribe their duties and fix their compensation;

5. To establish and administer the Energy Resources Revolving Fund;

6. To approve or disapprove the budget of the Board;

7. To promulgate rules as it deems necessary to carry out the provisions of this act;

8. To enter into contracts or agreements for studies, research projects, experimental work, supplies or other services to carry out the purposes of the Oklahoma Energy Education and Marketing Act, and incur those expenses necessary to carry out said purpose. Any such contract or agreement shall provide that:

a. the person entering the contract or agreement on behalf of the Board shall develop and submit to the Board a plan or project together with a budget or budgets that shows estimated costs to be incurred for the plan or project,

b. the person entering the contract or agreement shall keep accurate records of all of its transactions, account for funds received and expended, and make periodic reports to the Board of activities conducted, and such other reports as the Board may require;

9. To keep accurate records of all financial transactions performed pursuant to this act. These records shall be audited annually by an independent auditor and an annual report shall be compiled and presented to the Governor;

10. To cooperate with any private, local, state or national commission, organization, agency or group and to make contracts and agreements for joint programs beneficial to the oil industry;

11. To accept donations, grants, contributions and gifts from any public or private source and deposit such in the Energy Resources Revolving Fund;

12. To approve or disapprove the investment of any monies in the Energy Resources Revolving Fund pursuant to Section 288.10 of this title; and

13. To keep an accurate record of all assessments collected.

Added by Laws 1992, c. 257, § 5, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 5, eff. Oct. 1, 1993; Laws 1995, c. 76, § 2, eff. July 1, 1995.

§52-288.5A. Board - Funds for research and development of new technologies - Advisory committee.

A. In addition to the powers, duties and responsibilities assigned to the Oklahoma Energy Resources Board in Section 288.5 of Title 52 of the Oklahoma Statutes, the Board is authorized to administer the distribution of funds for research and development of new technologies in the oil and gas industry as provided in this act.

B. The Board shall create an advisory committee for the purpose of receiving and recommending to the Board proposals for projects designed to encourage new processes or technological advancements to sustain the oil and natural gas industry in the future for the benefit of the citizens of this state.

C. The Advisory Committee for Sustaining Oklahoma's Energy Resources may be made up of any number of members the Board deems necessary and appropriate and the Board shall select one member of the Energy Resources Board to serve as the chair of the advisory committee. Members of the advisory committee shall be appointed by the chair of the advisory committee and approved by a majority of the Board and shall include the Secretary of Energy, or a designee. Advisory committee members shall serve at the pleasure of the Board. The Board may establish terms of office and any qualifications, requirements or conditions it deems appropriate for members of the advisory committee. The Board shall strive to select representatives of all facets of the oil and natural gas industry, and the University of Oklahoma, Oklahoma State University and the University of Tulsa, in addition to any other interested higher education institutions and governmental entities charged with duties and authority over relevant areas. No member of the advisory committee shall receive a salary for duties performed as a member of the advisory committee; however, members may be eligible to receive reimbursement for necessary and actual travel expenses as provided for in the State Travel

Reimbursement Act if approved by the Board. Members appointed to serve on the advisory committee shall be eligible to serve on any other state board or commission if such member is otherwise qualified to hold such appointed office, notwithstanding the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

D. The Board is authorized to accept appropriations, donations, grants, contributions and gifts from any public or private source for the purpose of implementing the provisions of this act. The Board shall deposit such funds in the revolving fund created in Section 2 of this act.

E. The Board is authorized to promulgate rules as necessary to implement the provisions of this act.

Added by Laws 2008, c. 309, § 1, emerg. eff. June 2, 2008.

§52-288.5B. Sustaining Oklahoma's Energy Resources Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Energy Resources Board to be designated the "Sustaining Oklahoma's Energy Resources Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies transferred to the Oklahoma Energy Resources Board to further the purposes of this act from any public appropriations and donations, grants, contributions or gifts from any public or private source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Energy Resources Board for the purpose of encouraging and funding research and development of new technologies in the oil and natural gas industry. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Added by Laws 2008, c. 309, § 2, emerg. eff. June 2, 2008.

§52-288.6. Board - Annual meeting - Regular meeting - Quorum - Additional meeting - Appointment of Director.

A. There shall be an annual meeting of the Board at which the annual report and proposed budget will be presented. The Board shall, at the call of the chairperson, hold at least three other regular meetings each year. The chairperson shall establish the time, a manner and place of all meetings and shall provide notice of such meetings. A majority of the members of the Board shall constitute a quorum for the transaction of any business. In addition, the Board shall determine the

circumstances under which additional meetings of the Board may be held.

B. The Board may appoint a Director who shall carry out the provisions of the Oklahoma Energy Education and Marketing Act. The Director shall not be one of the appointed Board members.

Added by Laws 1992, c. 257, § 6, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 6, eff. Oct. 1, 1993.

§52-288.7. Energy Resources Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Energy Resources Board to be designated the "Energy Resources Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received by the Oklahoma Energy Resources Board from assessments received and collected pursuant to Section 288.8A of this title, donations, grants, contributions and gifts from any public or private source. The Board may expend funds as provided for by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Of the monies collected and not refunded pursuant to Sections 288.8A and 288.9A of this title, a minimum of fifty percent (50%) of said monies collected, including a prorated share of administrative costs incurred from the effective date of this act, and not subsequently refunded, shall be expended on environmental cleanup and remediation projects related to oil and gas pollution authorized by the Board from a priority list of projects submitted by the Oklahoma Corporation Commission or, only in the absence of Corporation Commission jurisdiction, projects submitted by other appropriate state agencies.

C. None of the monies collected and not refunded pursuant to Sections 288.8A and 288.9A of this title shall be used for travel expenses of any member of the Oklahoma Legislature.

Added by Laws 1992, c. 257, § 7, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 7, eff. Oct. 1, 1993; Laws 1996, c. 352, § 4.

§52-288.8. Repealed by Laws 1993, c. 184, § 11, emerg. eff. May 17, 1993.

§52-288.8A. Levy of assessment - Remitting - Rate - Collection.

A. To fund the activities of the Oklahoma Energy Resources Board, an assessment shall be levied in the amount of one-tenth of one percent (1/10 of 1%) of the gross revenues received at the wellhead for oil, natural gas, casinghead gas or condensate

produced from each well in the State of Oklahoma except for production exempt from the payment of gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes.

B. The assessment levied by subsection A of this section shall be deducted from the proceeds of production by the person remitting gross production tax to the Oklahoma Tax Commission pursuant to Section 1001 of Title 68 of the Oklahoma Statutes. Such assessment shall be remitted to the Oklahoma Tax Commission in the same manner as is provided by law for the payment of gross production tax. Provided, the person remitting the assessment may remit cumulative amounts of Twenty-five Dollars (\$25.00) or less quarterly. To defray the costs of receiving and depositing the assessments levied by this section, the Oklahoma Tax Commission shall retain Two Thousand Dollars (\$2,000.00) per month of the assessments received for deposit in the Oklahoma Tax Commission Revolving Fund created pursuant to Section 113 of Title 68 of the Oklahoma Statutes. The remaining monies received by the Oklahoma Tax Commission pursuant to this section shall be deposited in the Energy Resources Revolving Fund.

C. The Board shall be responsible for taking appropriate legal actions to collect any assessment which is not paid or is not properly paid. The Oklahoma Tax Commission shall not be responsible for collecting any assessment not remitted to the Oklahoma Tax Commission for deposit in the Energy Resources Revolving Fund. The Oklahoma Tax Commission shall report to the Board any information it obtains regarding failure of any person to properly pay the assessment due, including any documentation it may have of such failure.

Added by Laws 1993, c. 184, § 8, eff. Oct. 1, 1993. Amended by Laws 1996, c. 352, § 5.

§52-288.9. Repealed by Laws 1993, c. 184, § 11, emerg. eff. May 17, 1993.

§52-288.9A. Refunds.

A. Any person subject to the assessment levied by Section 288.8A of this title may request a refund as provided in this section of the assessment paid on production for the preceding calendar year. Upon compliance with the provisions of this section and rules promulgated by the Board to implement this section, the Board shall refund to each person requesting a refund of the amount of the assessment paid by or on behalf of such person during the preceding calendar year. Refunds will include interest earned at the rate equal to the average United States Treasury bill rate of the preceding calendar year as certified by the State Treasurer.

B. The request for a refund of the assessment paid on production for the preceding calendar year must be made during the first three (3) calendar months following the calendar year for which the refund is requested. Failure to request a refund during this period shall terminate the right of any person to receive a refund for the assessment paid on production for the preceding calendar year. The Board shall give notice of the availability of the refund through press releases, paid advertisements placed in the newspaper with the largest general circulation in each county in the state and such other means as it deems appropriate.

C. Each person requesting a refund shall execute an affidavit showing the amount of refund requested, and the affiant was the owner of the production for which the refund is requested. Each person requesting a refund shall submit supporting evidence demonstrating the gross revenues, net to the person's revenue interest, received for oil, natural gas, casinghead gas or condensate in Oklahoma. The Board may verify, principally through the use of audits, the accuracy of the request for refund. In verifying the accuracy of a request for refund, the Board shall exercise its authority in a manner that will reduce, to the extent practicable and appropriate, the burden on persons providing the information to the Board.

D. No company or person who requests a refund under this section shall be eligible to serve or have a representative serve as a member of the Board.

Added by Laws 1993, c. 184, § 9, eff. Oct. 1, 1993. Amended by Laws 1996, c. 352, § 6.

§52-288.10. Repealed by Laws 1993, c. 184, § 11, emerg. eff. May 17, 1993.

§52-288.11. Investment of funds - Utilizing funds to influence governmental action or policy.

A. The Board may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any state, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

B. The Board shall be prohibited from utilizing any funds collected through the assessment procedure outlined in Section 8 of this act, for the purpose of influencing governmental action or policy, with the exception of recommending amendments to this act, and for the purpose of obtaining state or federal funding

for the activities of the Sustaining Oklahoma's Energy Resources Advisory Committee.

Added by Laws 1992, c. 257, § 11, eff. Sept. 1, 1992. Amended by Laws 2008, c. 309, § 3, emerg. eff. June 2, 2008.

§52-288.12. Act not to preempt or supersede other state or national programs - Application to rules and amendment of rules - Support of national program.

Nothing in this act may be construed to preempt or supersede any other program relating to oil or natural gas promotion or marketing organized and operated under the laws of the State of Oklahoma or the United States. The provisions of this act applicable to the rules shall be applicable to amendments to the rules. In the event of the establishment of a national program for an assessment on oil or natural gas production, the Board, by majority vote, may elect to designate up to a maximum of fifty percent (50%) of the funds collected under this act to such a national program in lieu of an additional assessment as may be required by such national program.

Added by Laws 1992, c. 257, § 12, eff. Sept. 1, 1992. Amended by Laws 1993, c. 184, § 10, eff. Oct. 1, 1993; Laws 1996, c. 352, § 7.