8-6-2014

Congress Approves Secondary Laws to Implement Energy Reforms

Carlos Navarro

Follow this and additional works at: https://digitalrepository.unm.edu/sourcemex

Recommended Citation

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in SourceMex by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.
The Mexican Congress has taken one of the final steps needed to enact the energy-sector reforms approved at the end of 2013. The original reforms opened the energy sector to private participation (SourceMex, Dec. 18, 2013). During July and early August, the Senate and the Chamber of Deputies approved secondary laws to implement the energy reform, including the revisions and modifications made in each chamber. The set of initiatives has been sent to President Enrique Peña Nieto for his signature.

As expected, each measure was approved with overwhelming support from the governing Partido Revolucionario Institucional (PRI), the pro-business Partido Acción Nacional (PAN), and two allied smaller parties, the Partido Verde Ecologista de México (PVEM) and the Partido Nueva Alianza (PANAL).

The nay votes came from legislators affiliated with center-left parties. The Partido de la Revolución Democrática (PRD) and the Movimiento Regeneración Nacional (Morena) continue efforts to reverse the reforms via a citizen referendum and by seeking a ruling from the Suprema Corte de Justicia de la Nación (SCJN) that would declare the reforms unconstitutional (SourceMex, Oct. 16, 2013, and March 19, 2014). The PRD and Morena agree on the need for a referendum but are working separately because of political differences (SourceMex, July 30, 2014).

**Government to assume pension liabilities for PEMEX, CFE**

The biggest task for the Chamber of Deputies and the Senate was developing legislative initiatives to address an obstacle that could prevent the state-run oil company PEMEX and electric utility (Comisión Federal de Electricidad, CFE) from competing on global markets: the huge pension liabilities owed to retirees of the companies.

"We knew about this already. Many experts had warned us that the PEMEX pensions would cause problems," columnist Leo Zuckermann wrote in the daily newspaper Excélsior. "On one hand, the work force was growing rapidly, and, on the other hand, collective bargaining contracts had resulted in generous pensions. The projections on what the pensions would cost increased rapidly every day. To make matters worse, [PEMEX] had not amassed the financial reserves to pay the bounty."

The pension payments owed to PEMEX retirees and soon-to-be retirees are estimated at close to 1.35 trillion pesos (US$100 billion), while those owed to CFE retirees total about 500 billion pesos (US $37.7 billion).

To address this problem, the Congress approved separate laws, the Ley de Hidrocarburos and the Ley de Industria Eléctrica, which require the federal government to assume part of the pension liabilities of PEMEX and the CFE.
Critics suggest that taxpayers could ultimately be footing the bill for the government’s move to assume pension liabilities. Zuckermann says covering PEMEX pensions would cost Mexican taxpayers about 11,000 pesos each (US$830) if the money were to come from the federal budget.

Center-left legislators likened the move to have the government assume the pensions of PEMEX and the CFE to the controversial bank-rescue plan in the 1990s, which created the Fondo Bancario de Protección al Ahorro, FOBAPROA). The measure was intended to keep banks liquid following the devaluation of the peso and an ensuing economic crisis (SourceMex, June 7, 1995, and Nov. 19, 1997). Some FOBAPROA transactions were later found to involve fraud and corruption (SourceMex, Oct. 17, 2001). Because of some similarities with the 1990s, center-left legislators have described the move to have the government assume the pension liabilities as "Pemexproa" or "Fobamex."

"We have not even finished paying for the last FOBAPROA, and now we want to create another one?" asked PRD Deputy Miguel Alonso Raya. "We are responsible for these reforms and need to develop strong safeguards. Otherwise, we would be creating reforms that would only serve to enrich a few individuals and not serve in the best interests of our nation."

The Peña Nieto administration offered reassurances that the changes would not have an impact on public finances, since the liabilities are already public debt. "The pension liabilities of PEMEX are part of the public debt because PEMEX is a company that is 100% public," Finance Secretary Luis Videgaray said in a radio interview.

In the same interview, Videgaray reiterated the goals of the reforms regarding PEMEX. "One of the main objectives of the energy reform is to strengthen Petróleos Mexicanos to equip the company to better compete in an open market," said the finance secretary. "The current proposal accomplishes exactly that, taking care of one of the most serious financial weaknesses that PEMEX would have to face in the future."

PEMEX and the CFE do not get off scot free, however, as the legislation approved by Congress requires the two companies to develop a plan in the next year to reform their pension systems.

"Just as we gave PEMEX and the CFE autonomy to make decisions on administration and budget, we required a commitment from the companies to transform themselves internally and the relationship that they have with their workers," said Deputy Marco Antonio Bernal, chair of the energy committee (Comisión de Energía) in the lower house.

Bernal, a member of the governing PRI, reiterated Videgaray’s comments that the federal budget was not being used to provide funds for the rescue of the pension funds.

"Still, he did not clarify where the federal government would obtain the 700 billion pesos [US $52.8 billion] required to pay its portion of the PEMEX and CFE pensions," said the weekly news magazine Proceso.

Some analysts suggest the PEMEX pensions were a tool used by the PRI to keep the powerful petroleum workers union (Sindicato de Trabajadores Petroleros de la República Mexicana, STPRM) on its side. "It's no secret that the disproportionate growth in PEMEX's labor liabilities has been tied to collective contracts designed to manipulate union leaderships with purposes of clientelism and corruption," said a recent analysis from Centro de Investigación para el Desarrollo A.C. (CIDAC).
STPRM leaders point out, however, that PEMEX failed to set aside money that workers contributed for their pensions. "Government officials did not create a fund and instead used the resources from pensions for other purposes," said STPRM secretary-general Ricardo Aldana. "They spent what did not belong to them.

Part of the problem is that PEMEX has long been used as an instrument to fund the federal government, with oil and related taxes providing for close to one-third of federal budget revenue. Several attempts were made through the years to allow the company to keep a larger share of its revenues to fund its own operations (SourceMex, July 20, 2005, and Sept. 19, 2007), but the changes did little to reduce the government's overall reliance on PEMEX to fund the treasury.

Other changes that the Congress approved during passage of the secondary laws include approval of small payments to landowners for oil or gas produced on their property and an increase in the amount of money from oil that will be transferred to state and municipal governments. Legislators also removed a clause that ruled out worker profit-sharing by oil companies.

Financial flexibility for PEMEX
The Congress believes that the latest reforms, which greatly reduce PEMEX's tax liability to the government, will provide the company with a significant amount of financial flexibility and greater control of its resources.

The energy reforms are expected to solve some of the oil company’s production problems by bringing fresh investment into the energy sector, particularly in areas where PEMEX lacks the capital and technology to launch key projects such as deepwater oil exploration and drilling and extraction of gas from shale deposits in northern Mexico.

PEMEX is still projected to remain the biggest producer of oil and gas in the country in the near term, although production has been falling steadily in recent years from a peak of 3.4 million barrels per day in 2004 to about 2.5 million bpd in recent years. The forecast for this year is 2.44 million bpd, Gustavo Hernández, director of the PEMEX subsidiary Pemex Exploración y Producción (PEP), recently told potential investors.

By some estimates, the new investment could help boost Mexico’s overall oil production by about 500,000 bpd by 2018 and as much as 1 million bpd by 2025.

New opportunities, problems in exploiting natural gas
Some analysts believe that one of the key investments will come in infrastructure to transport natural gas. "The gas pipelines are a key to the energy reforms," financial columnist José Yuste wrote in Excélsior. "Natural gas is the fuel that is most used in generating electrical power."

"Gas is 25% more expensive in Mexico than in other countries, even though this resource is present in our subsoil. We are not able to extract it, and we don’t have the network of gas pipelines to transport it," noted Jorge Fernández Menéndez, also an Excélsior columnist. "Instead, what we do is buy liquefied gas from other countries. Then we have to pay for transportation and also for the cost of converting it from its liquefied form to gas."

Fernández Menéndez said the cost of electricity would go down if more gas were available domestically. "Our thermoelectric plants are not able to use gas because the fuel is in short supply," said the columnist.
The new investments could result in renewed efforts to extract the supplies of natural gas in the shale fields in northern Mexico. Critics contend, however, that the effort could result in major environmental damage, as a process known as fracking would be required to reach the gas.

Fracking involves pumping a pressurized fluid—usually composed of water, sand, and chemicals—into a shale formation to create a fracture in the rock layer and release trapped petroleum or natural gas. The process would not only pollute the land with chemicals but also require large quantities of water.

"Aquifers are overexploited, and there is very little water for human consumption and agricultural activities," said Alfonso Ramírez Cuéllar, president of the agricultural debtors’ rights organization El Barzón. [Peso-dollar conversions in this article are based on the Interbank rate in effect on Aug. 6, 2014, reported at 13.25 pesos per US$1.00.]

-- End --