

By: Keffer of Eastland

H.B. No. 34

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to financial security requirements for certain persons  
3 performing operations within the jurisdiction of the Railroad  
4 Commission of Texas.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Effective September 1, 2004, Section 85.2021,  
7 Natural Resources Code, is amended to read as follows:

8 Sec. 85.2021. DRILLING PERMIT FEE. (a) With each  
9 application or materially amended application for a permit to  
10 drill, deepen, plug back, or reenter a well, the applicant shall  
11 submit to the commission a nonrefundable fee of:

12 (1) \$200 if the total depth of the well is 2,000 feet  
13 or less;

14 (2) \$225 if the total depth of the well is greater than  
15 2,000 feet but less than or equal to 4,000 feet;

16 (3) \$250 if the total depth of the well is greater than  
17 4,000 feet but less than or equal to 9,000 feet; or

18 (4) \$300 if the total depth of the well is greater than  
19 9,000 feet.

20 (b) An applicant shall submit an additional nonrefundable  
21 fee of \$200 when a Rule 37 spacing or a Rule 38 density exception  
22 review is requested [~~required~~].

23 (c) An applicant shall submit an additional nonrefundable  
24 fee of \$150 when requesting that the commission expedite the

1 application for a permit to drill, deepen, plug back, or reenter a  
2 well.

3 (d) With each application for an extension of time to plug a  
4 well pursuant to commission rules, an applicant shall submit to the  
5 commission a nonrefundable fee of \$300, unless the applicant has  
6 filed a bond, letter of credit, or cash deposit under Section  
7 91.104(b)(1), (2), or (3).

8 (e) All fees collected under this section shall be deposited  
9 in the state oil-field cleanup fund.

10 SECTION 2. Section 91.104, Natural Resources Code, is  
11 amended to read as follows:

12 Sec. 91.104. BONDS AND ALTERNATE FORMS OF FINANCIAL  
13 SECURITY. (a) The commission shall require a bond or an alternate  
14 form of financial security to be filed with the commission as  
15 provided by Subsection (b) [~~of this section~~].

16 (b) A person required to file a bond or alternate form of  
17 financial security under Section 91.103 may choose to file:

18 (1) an individual bond as provided under Section  
19 91.1041;

20 (2) a blanket bond as provided under Section 91.1042;

21 (3) a letter of credit or cash deposit in the same  
22 amount as required for an individual bond under Section 91.1041 or a  
23 blanket bond under Section 91.1042;

24 (4) a nonrefundable annual fee of \$1,000, if[+]

25 [~~(A) the commission determines that individual~~  
26 ~~and blanket bonds as specified by Subdivisions (1) and (2) are not~~  
27 ~~obtainable at reasonable prices, and~~

1           ~~[(B)]~~ the person states and commission records  
2 confirm that the person has ~~[can demonstrate to the commission]~~ an  
3 acceptable record of compliance with all commission rules, orders,  
4 licenses, permits, or certificates that relate to safety or the  
5 prevention or control of pollution for the previous 48 months and  
6 the person and, if a firm, partnership, joint stock association,  
7 corporation, or other organization, its officers, directors,  
8 general partners, or owners of more than 25 percent ownership  
9 interest or any trustee:

10           (A) ~~[(i)]~~ has no outstanding violations of such  
11 commission rules, orders, licenses, permits, or certificates;

12           (B) ~~[(ii)]~~ has paid all administrative, civil,  
13 and criminal penalties, if any, relating to any violation of such  
14 commission rules, orders, licenses, permits, or certificates; and

15           (C) ~~[(iii)]~~ has paid all reimbursements of any  
16 costs and expenses incurred by the commission in relation to any  
17 violation of such commission rules, orders, licenses, permits, or  
18 certificates; ~~[or]~~

19           (5) a nonrefundable annual fee equal to seven ~~[12-1/2]~~  
20 percent of the bond that otherwise would be required; or

21           (6) if the person operates one or more wells, another  
22 form of financial security authorized by rules adopted by the  
23 commission under Subsection (b-1).

24           (b-1) The commission by rule may authorize a person who  
25 operates one or more wells to file a form of financial security  
26 other than those provided by Subsections (b)(1)-(5), including  
27 insurance. The rules must require the security to be in an amount

1 sufficient to ensure the plugging of the person's wells.

2 (c) A person who chooses to file a form of financial  
3 security other than a bond, letter of credit, or cash deposit shall  
4 also submit a fee of \$300 for each application to extend the time to  
5 plug a well in accordance with Section 85.2021. A person may not be  
6 required to file a bond, letter of credit, or cash deposit as a  
7 condition of receiving an extension under that section.

8 (d) This subsection does not apply to the operation of bay  
9 or offshore wells or the storage, handling, treatment, reclamation,  
10 or disposal of oil and gas waste. A person who engages in more than  
11 one activity or operation for which a bond or alternate form of  
12 financial security is required under this subchapter is not  
13 required to file a separate bond or alternate form of financial  
14 security for each activity or operation in which the person is  
15 engaged. The person is required to file a bond or alternate form of  
16 financial security only in the amount required for the activity or  
17 operation in which the person engages for which a bond or alternate  
18 form of financial security in the greatest amount is required. The  
19 bond or alternate form of financial security filed covers all of the  
20 activities and operations for which a bond or alternate form of  
21 financial security is required under this subchapter.

22 SECTION 3. Effective September 1, 2004, Section 91.104,  
23 Natural Resources Code, is amended to read as follows:

24 Sec. 91.104. BONDS AND ALTERNATE FORMS OF FINANCIAL  
25 SECURITY. (a) The commission shall require a bond or an alternate  
26 form of financial security to be filed with the commission as  
27 provided by Subsection (b) [~~of this section~~].

1 (b) A person required to file a bond or alternate form of  
2 financial security under Section 91.103 who is an inactive operator  
3 or who operates one or more wells must, at the time of filing or  
4 renewing an organization report required by Section 91.142, [may  
5 ~~choose to]~~ file:

6 (1) an individual bond as provided under Section  
7 91.1041;

8 (2) a blanket bond as provided under Section 91.1042;

9 (3) a letter of credit or cash deposit in the same  
10 amount as required for an individual bond under Section 91.1041 or a  
11 blanket bond under Section 91.1042;

12 (4) a nonrefundable annual fee ~~[of \$1,000, if:~~

13 ~~[(A) the commission determines that individual~~  
14 ~~and blanket bonds as specified by Subdivisions (1) and (2) are not~~  
15 ~~obtainable at reasonable prices; and~~

16 ~~[(B) the person can demonstrate to the commission~~  
17 ~~an acceptable record of compliance with all commission rules,~~  
18 ~~orders, licenses, permits, or certificates that relate to safety or~~  
19 ~~the prevention or control of pollution for the previous 48 months~~  
20 ~~and the person and, if a firm, partnership, joint stock~~  
21 ~~association, corporation, or other organization, its officers,~~  
22 ~~directors, general partners, or owners of more than 25 percent~~  
23 ~~ownership interest or any trustee:~~

24 ~~[(i) has no outstanding violations of such~~  
25 ~~commission rules, orders, licenses, permits, or certificates;~~

26 ~~[(ii) has paid all administrative, civil,~~  
27 ~~and criminal penalties, if any, relating to any violation of such~~

1 ~~commission rules, orders, licenses, permits, or certificates; and~~  
2 ~~[(iii) has paid all reimbursements of any~~  
3 ~~costs and expenses incurred by the commission in relation to any~~  
4 ~~violation of such commission rules, orders, licenses, permits, or~~  
5 ~~certificates; or~~

6 ~~[(5) a nonrefundable annual fee]~~ equal to:

7 (A) eight [12-1/2] percent of the bond that  
8 otherwise would be required if the financial security is required  
9 to be filed before September 1, 2005;

10 (B) nine percent of the bond that otherwise would  
11 be required if the financial security is required to be filed on or  
12 after September 1, 2005, and before September 1, 2006; and

13 (C) 10 percent of the bond that otherwise would  
14 be required if the financial security is required to be filed on or  
15 after September 1, 2006; or

16 (5) if the person operates one or more wells, another  
17 form of financial security authorized by rules adopted by the  
18 commission under Subsection (b-1).

19 (b-1) The commission by rule may authorize a person who  
20 operates one or more wells to file a form of financial security  
21 other than those provided by Subsections (b)(1)-(4), including  
22 insurance. The rules must require the security to be in an amount  
23 sufficient to ensure the plugging of the person's wells.

24 (c) A person who chooses to file a form of financial  
25 security other than a bond, letter of credit, or cash deposit shall  
26 also submit a fee of \$300 for each application to extend the time to  
27 plug a well in accordance with Section 85.2021. A person may not be

1 required to file a bond, letter of credit, or cash deposit as a  
2 condition of receiving an extension under that section.

3 (d) This subsection does not apply to the operation of bay  
4 or offshore wells or the storage, handling, treatment, reclamation,  
5 or disposal of oil and gas waste. A person who engages in more than  
6 one activity or operation for which a bond or alternate form of  
7 financial security is required under this subchapter is not  
8 required to file a separate bond or alternate form of financial  
9 security for each activity or operation in which the person is  
10 engaged. The person is required to file a bond or alternate form of  
11 financial security only in the amount required for the activity or  
12 operation in which the person engages for which a bond or alternate  
13 form of financial security in the greatest amount is required. The  
14 bond or alternate form of financial security filed covers all of the  
15 activities and operations for which a bond or alternate form of  
16 financial security is required under this subchapter.

17 SECTION 4. Section 91.1042, Natural Resources Code, is  
18 amended to read as follows:

19 Sec. 91.1042. BLANKET BOND. (a) A person required to file  
20 a bond or alternate form of financial security under Section 91.103  
21 who operates wells may file a blanket bond to cover all wells and  
22 operations for which a bond or alternate form of financial security  
23 is required as follows:

24 (1) a person who operates at least one well but not  
25 more than 10 wells [~~10 or fewer wells or performs other operations~~]  
26 shall file a \$15,000 [~~\$25,000~~] blanket bond;

27 (2) a person who operates more than 10 but fewer than

1 25 [~~100~~] wells shall file a \$35,000 [~~\$50,000~~] blanket bond; [~~and~~]

2 (3) a person who operates 25 [~~100~~] or more wells but  
3 fewer than 100 wells shall file a \$50,000 [~~\$250,000~~] blanket bond;

4 (4) a person who operates 100 or more wells but fewer  
5 than 150 wells shall file a \$100,000 blanket bond;

6 (5) a person who operates 150 or more wells but fewer  
7 than 200 wells shall file a \$175,000 blanket bond; and

8 (6) a person who operates 200 or more wells shall file  
9 a \$250,000 blanket bond.

10 (b) Notwithstanding Subsection (a), the commission by rule  
11 shall set the amount of the bond for an operator of bay or offshore  
12 wells at a reasonable amount that exceeds the amount provided by  
13 Subsection (a)(1), (2), [~~or~~] (3), (4), (5), or (6), as applicable.

14 SECTION 5. Section 91.107, Natural Resources Code, is  
15 amended to read as follows:

16 Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT.  
17 Notwithstanding Section 91.104, if an active or inactive well is  
18 transferred, sold, or assigned by its operator, the commission  
19 shall require the party acquiring the well to provide financial  
20 security by means of a [~~file a new~~] bond, letter of credit, or cash  
21 deposit in an appropriate amount as provided by Section  
22 91.104(b)(1), (2), or (3), and the financial security of the prior  
23 operator shall continue to be required and to remain in effect, and  
24 the commission may not approve the transfer of operatorship, until  
25 a [~~the new~~] bond, letter of credit, or cash deposit is provided or  
26 the commission determines that the bond, letter of credit, or cash  
27 deposit previously submitted to the commission by the person



1 acquiring the well complies with this subchapter. A transfer of a  
2 well from one entity to another entity under common ownership is a  
3 transfer for purposes of this section.

4 SECTION 6. The following provisions are repealed:

5 (1) Section 1, H.B. No. 942, Acts of the 78th  
6 Legislature, Regular Session, 2003;

7 (2) Section 91.109(c), Natural Resources Code, as  
8 added by Section 2, H.B. No. 942, Acts of the 78th Legislature,  
9 Regular Session, 2003;

10 (3) Section 91.109(c), Natural Resources Code, as  
11 added by Section 3, H.B. No. 942, Acts of the 78th Legislature,  
12 Regular Session, 2003; and

13 (4) Sections 10, 18, 20, 22, 24, and 27, Chapter 1233,  
14 Acts of the 77th Legislature, Regular Session, 2001.

15 SECTION 7. The changes in law made by this Act apply only to  
16 a person required to file a bond or alternate form of financial  
17 security under Section 91.103, 91.107, or 91.109, Natural Resources  
18 Code, on or after the effective date of this Act. A person required  
19 to file a bond or alternate form of financial security under Section  
20 91.103, 91.107, or 91.109, Natural Resources Code, before the  
21 effective date of this Act is governed by the law as it existed  
22 immediately before the effective date of this Act, and that law is  
23 continued in effect for that purpose.

24 SECTION 8. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect on the 91st day after the last day of the  
2 legislative session.