

## **BILL ANALYSIS**

C.S.H.B. 975  
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Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Abandoned or deteriorated water wells pose a threat to groundwater resources. Open wells allow contaminants to move through the well and enter an aquifer with no natural filtration by soils or geologic strata and may also allow water from deep aquifers that have a high salt content to contaminate shallow, fresh water aquifers. According to the 2000 interim report to the 77th Legislature by the House Committee on Natural Resources, an estimated 150,000 water wells drilled since 1965 are abandoned or deteriorated. Under current law, landowners or other persons who possess an abandoned or deteriorated well are required to plug or cap the well, but current law does not provide for the plugging of the wells when the landowner cannot be located or does not have sufficient funds. C.S.H.B. 975 creates a water well plugging account and authorizes the Texas Department of Licensing and Regulation (the department) to assess a fee for each new well and to deposit that fee in the account.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 2 (Section 1901.101(b), Occupations Code) and SECTION 3 (Section 1901.256, Subchapter F, Occupations Code) of this bill.

### **ANALYSIS**

C.S.H.B. 975 establishes the Water Well Plugging Account in the Occupations Code to be administered by the department. The legislation authorizes the department to assess a fee for each water well drilled in an amount determined by department rule and provides that the fee only applies to water wells for which the initial drilling operations begin on or after the date the department adopts these rules. The bill requires the department to deposit the fee to the credit of the water well plugging account (account), an account in the general revenue fund, that may be appropriated to the department only for the purpose of plugging abandoned or deteriorated wells. The account consists of five subaccounts corresponding to the five geographic areas established by department rule in SECTION 2 of the bill. The bill establishes that the fee shall be collected by geographic area and the fee for each well drilled in a geographic area shall be deposited to the credit of the subaccount established for that geographic area.

The bill prohibits the department from allocating more than 20 percent of the money in the subaccounts for administrative expenses of the department and designates 10 percent of the fee money in the account specifically for plugging high hazardous or high priority water wells anywhere in the state. The costs of plugging wells which are not high priority or hazardous must be billed only to the subaccount for the corresponding geographic area.

The bill authorizes the department to use the money in the account to plug an abandoned or deteriorated water well only if the department determines that the landowner or other person possessing the well cannot be located or does not have sufficient funds to plug the well as determined by criteria established by department rule. The bill provides that the account is exempt from provisions relating to Section 403.095, Government Code.

C.S.H.B. 975 also authorizes the department to transfer money to a groundwater conservation district (the district) to be used to plug abandoned or deteriorated wells that the department would be authorized to plug. Money allocated to the district may not exceed \$50 per well for administrative costs of the district.

#### **EFFECTIVE DATE**

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 975 modifies the original by adding language that outlines five geographic quadrants which will be used as a guide by the department to collect fees. The original did not designate quadrants. The substitute bill also specifies that fees collected on new water wells in a certain quadrant will be returned to that same quadrant for abandoned or deteriorated water well plugging purposes in that quadrant. The original allowed fees collected statewide to be used to plug any water well across the state.

The substitute also adds language allowing 10 percent of the total fees collected to be used to pay for the plugging of high priority or hazardous water wells across the state. Finally, the substitute adds language allowing the department to transfer money to groundwater conservation districts for the plugging of abandoned or deteriorated water wells in the district and caps the amount that may be used to cover administrative costs of the district.