

By: Duncan

S.B. No. 1408

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;

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 indicates and commission
2 records confirm that the person has ~~[can demonstrate to the~~
3 ~~commission]~~ an acceptable record of compliance with all commission
4 rules, orders, licenses, permits, or certificates that relate to
5 safety or the prevention or control of pollution for the previous 48
6 months and the person and, if a firm, partnership, joint stock
7 association, corporation, or other organization, its officers,
8 directors, general partners, or owners of more than 25 percent
9 ownership 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 the amount of
20 the bond that otherwise would be required multiplied by the lesser
21 of:

22 (A) the sum of four percent plus the prime
23 interest rate prevailing late in the year preceding the year in
24 which the fee is due; or

25 (B) 12 ~~[12-1/2]~~ percent ~~[of the bond that~~
26 ~~otherwise would be required]~~.

27 (c) A person who chooses to file a form of financial

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

6 (d) The commission by rule shall establish the method for
7 determining the prime interest rate for purposes of Subsection
8 (b)(5)(A).

9 SECTION 3. Effective January 1, 2006, Section 91.104,
10 Natural Resources Code, is amended to read as follows:

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

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

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

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

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

23 (4) a nonrefundable annual fee equal to the amount of
24 the bond that otherwise would be required multiplied by the lesser
25 of the sum of one percent plus the prime interest rate prevailing
26 late in the year preceding the year in which the fee is due or 10
27 percent [~~of \$1,000~~], if:

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

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

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

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

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

22 (5) a nonrefundable annual fee equal to the amount of
23 the bond that otherwise would be required multiplied by the lesser
24 of:

25 (A) the sum of four percent plus the prime
26 interest rate prevailing late in the year preceding the year in
27 which the fee is due; or

1 (B) 12 [~~12-1/2~~] percent [~~of the bond that~~
2 ~~otherwise would be required~~].

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

9 (d) The commission by rule shall establish the method for
10 determining the prime interest rate for purposes of Subsections
11 (b)(4) and (5)(A).

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

14 Sec. 91.1042. BLANKET BOND. (a) A person required to file
15 a bond or alternate form of financial security under Section 91.103
16 may file a blanket bond to cover all wells and operations for which
17 a bond or alternate form of financial security is required as
18 follows:

19 (1) a person who operates 10 or fewer wells or performs
20 other operations shall file a \$15,000 [~~\$25,000~~] blanket bond;

21 (2) a person who operates more than 10 but fewer than
22 25 [~~100~~] wells shall file a \$30,000 [~~\$50,000~~] blanket bond; [~~and~~]

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

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

27 (5) a person who operates 150 or more wells but fewer

1 than 200 wells shall file a \$175,000 blanket bond; and

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

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

8 (c) The commission may require a person described by
9 Subsection (a)(6) to file a supplemental bond in addition to the
10 bond required under Subsection (a)(6) or (b) if the commission
11 determines that such a requirement is appropriate in that case and
12 the amount computed by dividing the number of wells operated by the
13 person that are inactive by the number of wells operated by the
14 person that are active is more than 0.75.

15 (d) The amount of a supplemental bond under Subsection (c)
16 is equal to the amount of the bond required under Subsection (a)(6)
17 or (b), multiplied by the inactive well ratio factor, which is:

18 (1) one if the amount computed by dividing the number
19 of wells operated by the person that are inactive by the number of
20 wells operated by the person that are active is not more than 0.9;
21 or

22 (2) two if the amount computed by dividing the number
23 of wells operated by the person that are inactive by the number of
24 wells operated by the person that are active is more than 0.9.

25 (e) Notwithstanding Subsection (d), if the commission
26 requires a supplemental bond under Subsection (c), the commission
27 may require a bond in an amount equal to the sum of:

1 (1) the amount determined under Subsection (d); and

2 (2) the amount computed by multiplying:

3 (A) the amount of the bond required under
4 Subsection (a)(6) or (b); times

5 (B) the sum of the low production factor, the
6 compliance factor, and the inactive well number factor prescribed
7 by this section.

8 (f) The low production factor is:

9 (1) one if the average production of all of the active
10 and inactive wells operated by the person that have not been plugged
11 is more than one-quarter of a barrel of oil equivalent per day but
12 not more than one-half of a barrel of oil equivalent per day; or

13 (2) two if the average production of all of the active
14 and inactive wells operated by the person that have not been plugged
15 is not more than one-quarter of a barrel of oil equivalent per day.

16 (g) The compliance factor is one if the person does not have
17 an acceptable record of compliance for the preceding 48 months with
18 regard to safety and the prevention or control of pollution.

19 (h) The inactive well number factor is:

20 (1) one if the person operates 100 or more but fewer
21 than 200 inactive wells;

22 (2) two if the person operates 200 or more but fewer
23 than 300 inactive wells; or

24 (3) three if the person operates 300 or more inactive
25 wells.

26 SECTION 5. Effective September 1, 2004, Section 91.1042(a),
27 Natural Resources Code, is amended to read as follows:

1 (a) A person required to file a bond or alternate form of
2 financial security under Section 91.103 may file a blanket bond to
3 cover all wells [~~and operations~~] for which a bond or alternate form
4 of financial security is required as follows:

5 (1) a person who operates 10 or fewer wells [~~or~~
6 ~~performs other operations~~] shall file a \$15,000 [~~\$25,000~~] blanket
7 bond;

8 (2) a person who operates more than 10 but fewer than
9 25 [~~100~~] wells shall file a \$30,000 [~~\$50,000~~] blanket bond; [~~and~~]

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

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

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

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

18 SECTION 6. Section 91.107, Natural Resources Code, is
19 amended to read as follows:

20 Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT.
21 Notwithstanding Section 91.104, if an active or inactive well is
22 transferred, sold, or assigned by its operator, the commission
23 shall require the party acquiring the well to file a new bond,
24 letter of credit, or cash deposit in an appropriate amount as
25 provided by Section 91.104(b)(1), (2), or (3) and, if applicable,
26 Section 91.1042(c), and the financial security of the prior
27 operator shall continue to be required and to remain in effect, and

1 the commission may not approve the transfer of operatorship, until
2 the new bond, letter of credit, or cash deposit is provided or the
3 commission determines that the bond, letter of credit, or cash
4 deposit previously submitted to the commission by the person
5 acquiring the well complies with this subchapter. A transfer of a
6 well from one entity to another entity under common ownership is a
7 transfer for purposes of this section.

8 SECTION 7. Effective September 1, 2004, Section 91.109,
9 Natural Resources Code, is amended to read as follows:

10 Sec. 91.109. FINANCIAL SECURITY FOR PERSONS INVOLVED IN
11 ACTIVITIES OTHER THAN OPERATION OF WELLS [~~DISPOSAL SITE BOND~~]. (a)

12 A person applying for or acting under a commission permit to store,
13 handle, treat, reclaim, or dispose of oil and gas waste may be
14 required by the commission to maintain a performance bond or other
15 form of financial security conditioned that the permittee will
16 operate and close the storage, handling, treatment, reclamation, or
17 disposal site in accordance with state law, commission rules, and
18 the permit to operate the site. However, this section does not
19 authorize the commission to require a bond or other form of
20 financial security for saltwater disposal pits, emergency
21 saltwater storage pits (including blow-down pits), collecting
22 pits, or skimming pits provided that such pits are used in
23 conjunction with the operation of an individual oil or gas lease.
24 Subject to the refund provisions of Section 91.1091 of this code,
25 proceeds from any bond or other form of financial security required
26 by this section shall be placed in the oil-field cleanup fund. Each
27 bond or other form of financial security shall be renewed and

1 continued in effect until the conditions have been met or release is
2 authorized by the commission.

3 (b) In addition to the financial security requirements of
4 Subsection (a) and Section 91.104(b), a person required to file a
5 bond or alternate form of financial security under Section 91.103
6 who is involved in activities other than the operation of wells must
7 file a bond, letter of credit, or cash deposit at the time of filing
8 or renewing an organization report required by Section 91.142 in an
9 amount equal to:

10 (1) \$250,000; or

11 (2) a lesser amount determined by the commission if
12 the person is able to demonstrate that the risk associated with an
13 operation or group of operations warrants a lesser amount.

14 SECTION 8. Sections 10, 18, 20, 22, 24, 27, and 29, Chapter
15 1233, Acts of the 77th Legislature, Regular Session, 2001, are
16 repealed.

17 SECTION 9. (a) This Act takes effect September 1, 2003.

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