

By: West

H.B. No. 2980

A BILL TO BE ENTITLED

AN ACT

relating to incentives for operators to assume regulatory responsibility for orphaned oil or gas wells; providing penalties.

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

SECTION 1. Section 81.116(d), Natural Resources Code, is amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 91.111 [~~of this code~~]. The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, [~~and~~] 202.059, and 202.060, Tax Code, do not affect the fee imposed by this section.

SECTION 2. Section 89.044, Natural Resources Code, is amended to read as follows:

Sec. 89.044. RIGHT TO ENTER ON LAND. (a) The commission or its employees or agents, the operator, or the nonoperator, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged.

(b) A prospective operator who has been authorized under Section 89.047 to conduct a surface inspection of a well, on proper identification, may enter the land of another for the sole purpose of conducting the inspection.

SECTION 3. Subchapter C, Chapter 89, Natural Resources Code, is amended by adding Section 89.047 to read as follows:

1 Sec. 89.047. ORPHANED WELL REDUCTION PROGRAM. (a) In this
2 section:

3 (1) "Depth of the well" means the vertical depth of a
4 well as measured in linear feet from the surface to the lowest
5 perforation of the casing of the well that is within the
6 commission-designated correlative interval for the field for which
7 the well is issued a permit.

8 (2) "Operator in good standing" means an operator who:

9 (A) has a commission-approved organization
10 report;

11 (B) is the designated operator of at least one
12 well within the jurisdiction of the commission;

13 (C) has filed with the commission under Section
14 91.104 a bond, letter of credit, or cash deposit in an amount
15 sufficient to qualify to operate one or more additional wells; and

16 (D) is not the subject of a commission or court
17 order regarding a violation of a commission rule with which the
18 operator has not complied or a complaint that has been docketed by
19 the commission alleging a violation of a commission rule.

20 (3) "Orphaned well" means a well:

21 (A) for which the commission has issued a permit;

22 (B) for which production of oil or gas or another
23 activity under the jurisdiction of the commission has not been
24 reported to the commission for the preceding 12 months; and

25 (C) whose operator has not had a
26 commission-approved organization report for the preceding four
27 months.

1 (4) "Producing well" means a well classified by the
2 commission as an oil or gas well in accordance with commission
3 rules.

4 (5) "Service well" means a well for which the
5 commission has issued a permit that is not a producing well. The
6 term includes an injection, disposal, or brine mining well.

7 (b) A person who is considering assumption of operatorship
8 and regulatory responsibility for an orphaned well may nominate the
9 well under consideration by filing a request on a form prescribed by
10 the commission notifying the commission that the person seeks
11 authority to conduct a surface inspection of the well to determine
12 whether the person desires to be designated by the commission as the
13 operator of the well.

14 (c) If the person is an operator in good standing and the
15 well is not already subject to a nomination, the commission shall
16 accept the nomination and issue a written confirmation to the
17 person of the person's authority to conduct a surface inspection of
18 the nominated well for a stated period not to exceed 30 days.

19 (d) A person to whom a confirmation is issued under
20 Subsection (c) may conduct a surface inspection of the well. The
21 person must deliver written notice to the owner of record of the
22 surface estate and any occupant of the tract on which the well is
23 located at least three days before the date of the inspection. The
24 notice must:

- 25 (1) identify the orphaned well;
26 (2) state the name, address, and telephone number of
27 the person;

1 (3) state the date the person intends to conduct the
2 surface inspection;

3 (4) state the name of at least one representative of
4 the person who will participate in the surface inspection; and

5 (5) state that the person intends to inspect the
6 orphaned well in accordance with this section for the purpose of
7 assessing the current status and viability of the well.

8 (e) In conducting a surface inspection of the orphaned well,
9 the person may visually inspect the well and all related equipment,
10 tanks, and other facilities and may conduct noninvasive testing
11 such as using a gauge to determine the pressure present at the
12 wellhead but may not produce oil or gas from the well, reenter the
13 well, pull tubing from or perform any other type of downhole work on
14 the well, conduct a salvage operation on the well, or remove any
15 tangible item from the wellsite.

16 (f) If the person files with the commission a factually
17 supported claim based on a recognized legal theory to a continuing
18 possessory right in the mineral estate accessed by the well, such as
19 evidence of a current oil and gas lease or a recorded deed conveying
20 a fee interest in the mineral estate, the commission shall
21 designate the person as the operator of the well. A person who is
22 designated as the operator of an orphaned well for purposes of this
23 section is entitled to receive:

24 (1) a nontransferable exemption from severance taxes
25 for all future production from the well as provided by Section
26 202.060, Tax Code; and

27 (2) a payment from the commission in an amount equal to

1 the depth of the well multiplied by 50 cents for each foot of well
2 depth if, not later than the third anniversary of the date the
3 commission designates the person as the operator of the well, the
4 person brings the well back into continuous active operation or
5 plugs the well in accordance with commission rules.

6 (g) A well is considered to be in continuous active
7 operation for purposes of Subsection (f)(2) if:

8 (1) the well is a producing well and the well has
9 produced at least 10 barrels of oil or 100 mcf of gas per month for
10 at least three consecutive months as shown in the records of the
11 commission and as authorized by a permit issued by the commission;
12 or

13 (2) the well is a service well and the well has been
14 used for the disposal or injection of oil and gas wastes or another
15 purpose related to the production of oil or gas for at least three
16 consecutive months as shown in the records of the commission and as
17 authorized by a permit issued by the commission.

18 (h) The commission shall make payments to operators under
19 Subsection (f)(2) annually in the same order the commission
20 determines the operators to be entitled to the payments. The
21 aggregate amount of payments in a state fiscal year under that
22 subsection may not exceed \$500,000. An operator may not receive:

23 (1) more than one payment under that subsection for
24 the same well; or

25 (2) payments under that subsection in a state fiscal
26 year in an amount that exceeds the amount of the bond, letter of
27 credit, or cash deposit the operator has filed with the commission

1 under Section 91.104.

2 (i) The commission may not designate a person as the
3 operator of an orphaned well for purposes of this section after
4 December 31, 2007.

5 SECTION 4. Section 91.112(a), Natural Resources Code, is
6 amended to read as follows:

7 (a) Money in the fund may be used by the commission or its
8 employees or agents for:

9 (1) conducting a site investigation or environmental
10 assessment to determine:

11 (A) the nature and extent of contamination caused
12 by oil and gas wastes or other substances or materials regulated by
13 the commission under Section 91.101; and

14 (B) the measures that should be taken to control
15 or clean up the wastes, substances, or materials described in
16 Paragraph (A);

17 (2) controlling or cleaning up oil and gas wastes or
18 other substances or materials regulated by the commission under
19 Section 91.101 that are causing or are likely to cause the pollution
20 of surface or subsurface water, consistent with Section 91.113;

21 (3) plugging abandoned wells and administering or
22 enforcing permits, orders, and rules relating to the commission's
23 authority to prevent pollution under this chapter, Chapter 89, or
24 any other law administered or enforced by the commission under
25 Title 3;

26 (4) implementing Subchapter N and enforcing rules,
27 orders, and permits adopted or issued under that subchapter;

1 (5) implementing the voluntary cleanup program under
2 Subchapter O; ~~and~~

3 (6) preparing the report required under Subsection
4 (b); and

5 (7) making payments to eligible operators under
6 Section 89.047.

7 SECTION 5. Section 201.053, Tax Code, is amended to read as
8 follows:

9 Sec. 201.053. GAS NOT TAXED. The tax imposed by this
10 chapter does not apply to gas:

11 (1) injected into the earth in this state, unless sold
12 for that purpose;

13 (2) produced from oil wells with oil and lawfully
14 vented or flared;

15 (3) used for lifting oil, unless sold for that
16 purpose; or

17 (4) produced in this state from a well that qualifies
18 under Section 202.056 or 202.060.

19 SECTION 6. Section 201.058(a), Tax Code, is amended to read
20 as follows:

21 (a) The exemptions described by Sections 202.056, 202.057,
22 ~~and~~ 202.059, and 202.060 apply to the taxes imposed by this
23 chapter as authorized by and subject to the certifications and
24 approvals required by those sections.

25 SECTION 7. Section 202.052(c), Tax Code, is amended to read
26 as follows:

27 (c) The exemptions described by Sections 202.056, and ~~and~~

1 202.059, and 202.060 apply to oil produced in this state from a well
2 that qualifies under Section 202.056, [~~or~~] 202.059, or 202.060,
3 subject to the certifications and approvals required by those
4 sections.

5 SECTION 8. Subchapter B, Chapter 202, Tax Code, is amended
6 by adding Section 202.060 to read as follows:

7 Sec. 202.060. EXEMPTION FOR OIL AND GAS FROM REACTIVATED
8 ORPHANED WELLS. (a) In this section:

9 (1) "Commission" means the Railroad Commission of
10 Texas.

11 (2) "Orphaned well" has the meaning assigned by
12 Section 89.047, Natural Resources Code.

13 (b) The commission shall issue a certificate to a person who
14 is designated by the commission under Section 89.047, Natural
15 Resources Code, as the operator of an orphaned well. The
16 certificate must identify the operator to whom and the well for
17 which the certificate is issued.

18 (c) Hydrocarbons produced from the well identified in the
19 certificate qualify for a severance tax exemption.

20 (d) The commission shall adopt all rules necessary to
21 administer this section.

22 (e) To qualify for the tax exemption provided by this
23 section, the person responsible for paying the tax must apply to the
24 comptroller. The application must include a copy of the
25 certificate issued by the commission. The comptroller shall
26 approve the application if the person demonstrates that the
27 hydrocarbon production is eligible for a tax exemption. The

1 comptroller may require a person applying for the tax exemption to
2 provide any relevant information necessary to administer this
3 section. The comptroller may establish procedures to comply with
4 this section.

5 (f) The exemption takes effect on the first day of the month
6 following the month in which the comptroller approves the
7 application.

8 (g) If the person to whom the certificate is issued ceases
9 to be the operator of the well as shown by the records of the
10 commission, the commission shall notify the comptroller. The
11 exemption expires on the date the notice is received.

12 (h) A person who makes or subscribes an application, report,
13 or other document and submits it to the commission to form the basis
14 for an application for a tax exemption under this section, knowing
15 that the application, report, or other document is untrue in a
16 material fact, is subject to the penalties imposed by Chapters 85
17 and 91, Natural Resources Code.

18 (i) A person is liable to the state for a civil penalty if
19 the person applies or attempts to apply the tax exemption
20 authorized by this section for a well after the person to whom the
21 certificate for the well was issued ceases to be the operator of the
22 well as shown by the records of the commission. The amount of the
23 penalty may not exceed the sum of:

24 (1) \$10,000; and

25 (2) the difference between the amount of taxes paid or
26 attempted to be paid and the amount of taxes due.

27 (j) The attorney general may recover a penalty under

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1 Subsection (i) in a suit brought on behalf of the state. Venue for
2 the suit is in Travis County.

3 SECTION 9. This Act takes effect January 1, 2006.