

BILL ANALYSIS

Senate Research Center
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H.B. 2259
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Natural Resources
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Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In past sessions and as recently as the 80th Legislature, Regular Session, 2007, multiple pieces of legislation have been filed to address either surface clean-up issues or bonding and financial assurance for oil and gas wells. Both issues were the topics of interim studies. An industry working group, the Inactive Well Study Group, came together during the interim to discuss these topics and has identified inactive oil and natural gas wells as the nexus for addressing risk to both the Oil Field Clean-up Fund and for surface equipment complaints. The current system already handles "abandoned" or "orphaned" wells. "Active" wells do not pose problems, but "inactive" wells are a broad category with many potential risk factors and possible regulatory loopholes. Limiting changes to this category has now opened the door to discussing solutions in a new context. The complete proposal is intended to protect the Oil Field Clean-up Fund against future liability from inactive wells by raising accountability and responsibility of operations in a manner that balances risk and cost. The bill proposes a menu-style approach for achieving financial assurance, is critical for compliance, and provides flexibility for the operator to make a decision that best fits his or her business model, while reducing risk to the industry as a whole.

H.B. 2259 amends current law relating to the plugging of certain inactive oil or gas wells.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 2 (Sections 89.023, 89.028, and 89.029, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 89.002(a), Natural Resources Code, by amending Subdivision (7) and adding Subdivisions (9)-(13) to redefine "delinquent inactive well" and define "cost calculation for plugging an inactive well," "enhanced oil recovery project," "good faith claim," "inactive well," and "physical termination of electric lines to an inactive well."

SECTION 2. Amends Chapter 89, Natural Resources Code, by adding Subchapter B-1, as follows:

SUBCHAPTER B-1. PLUGGING OF CERTAIN INACTIVE WELLS

Sec. 89.021. **APPLICABILITY.** Provides that this subchapter does not apply to a bay or offshore well as defined by Railroad Commission of Texas (commission) rules.

Sec. 89.022. **PLUGGING OF INACTIVE WELLS REQUIRED.** (a) Requires an operator of an inactive well, except as provided by Section 89.023, on or before the date the operator is required to renew the operator's organization report required by Section 91.142 (Report to Commission), to plug the well in accordance with statutes and commission rules in effect at the time of plugging.

(b) Requires a person who assumes responsibility for the physical operation and control of an existing inactive well, notwithstanding Subsection (a), to satisfy the requirements of Sections 89.023(a)(1) (relating to an affirmation that complies with Section 89.029) and (4) (relating to certain documentation) not later than six months after the date the commission approves the initial form described by

Section 89.002(a)(2) (relating to the definition of "operator") and filed with the commission under which the person assumes responsibility for the well.

(c) Prohibits the commission from renewing or approving the organization report required by Section 91.142 for an operator that fails to comply with the requirements of this subchapter.

Sec. 89.023. EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL. (a) Authorizes the commission to grant an extension of the deadline for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of or renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes certain information.

(b) Prohibits an operator, notwithstanding Subsection (a), from obtaining an extension of the deadline for plugging an inactive well by complying with that subsection if the plugging of the well is otherwise required by commission rules or orders.

Sec. 89.024. ABEYANCE OF PLUGGING REPORT. (a) Provides that an abeyance of plugging report filed under Section 89.023(a)(4)(B) (relating to an abeyance of plugging report on a certain form approved by the commission) is valid for a period of not more than five years.

(b) Authorizes an abeyance of plugging report to cover more than one well in a field but prohibits the report from covering more than one field.

(c) Prohibits an abeyance of plugging report from being transferred to a new operator of an existing inactive well. Requires a new operator of an existing inactive well to file a new abeyance of plugging report or otherwise comply with the requirements of this subchapter on or before the deadline provided by Section 89.022(b). Provides that this subsection does not prohibit the transfer of an abeyance of plugging report in the event of a change of name of an operator.

(d) Requires an operator who files an abeyance of plugging report to pay an annual fee of \$100 for each well covered by the report. Requires that a fee collected under this section be deposited in the oil-field cleanup fund.

Sec. 89.025. ENHANCED OIL RECOVERY PROJECT. (a) Provides that for purposes of Section 89.023(a)(4)(C) (relating to a statement that the well is part of an enhanced oil recovery project), an inactive well is considered to be part of an enhanced oil recovery project if the well is located on a unit or lease or in a field associated with such a project.

(b) Prohibits a statement that an inactive well is part of an enhanced oil recovery project from being transferred to a new operator of an existing inactive well. Requires a new operator of an existing inactive well to file a new statement that the well is part of such a project or otherwise comply with the requirements of this subchapter on or before the deadline provided by Section 89.022(b). Provides that this subsection does not prohibit the transfer of a statement that a well is part of an enhanced oil recovery project in the event of a change of name of an operator.

Sec. 89.026. FLUID LEVEL OR HYDRAULIC PRESSURE TEST. (a) Provides that documentation filed under Section 89.023(a)(4)(D) (relating to documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted) of the results of a successful fluid level test is valid for a period of one year from the date of the test. Provides that documentation filed under that section of the results of a successful hydraulic pressure test is valid for a period of not more than five years from the date of the test.

(b) Requires the operator to notify the office of the commission oil and gas district in which an inactive well is located at least three days before the date the operator conducts a fluid level or hydraulic pressure test of the well and prohibits the operator from conducting the test without the approval of the office. Authorizes the commission to require that a test be witnessed by a commission employee.

(c) Authorizes documentation of the results of a successful fluid level or hydraulic pressure test to be transferred to a new operator of an existing inactive well.

(d) Requires an operator who files documentation described by Subsection (a) to pay an annual fee of \$50 for each well covered by the documentation. Requires that a fee collected under this section be deposited in the oil-field cleanup fund.

Sec. 89.027. SUPPLEMENTAL FINANCIAL ASSURANCE. (a) Provides that a supplemental bond, letter of credit, or cash deposit filed under Section 89.023(a)(4)(E) (relating to an application for an extension that includes a sufficient supplemental bond, letter of credit, or cash deposit) is in addition to any other financial assurance otherwise required of the operator or for the well.

(b) Prohibits a supplemental bond, letter of credit, or cash deposit from being transferred to a new operator of an existing inactive well. Requires a new operator of an existing inactive well to file a new supplemental bond, letter of credit, or cash deposit or otherwise comply with the requirements of this subchapter by the deadline provided by Section 89.022(b).

Sec. 89.028. ESCROW FUNDS. (a) Requires that escrow funds described by Section 89.023(a)(4)(F) (relating to an application for an extension that includes documentation of the deposit) be deposited with the commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

(b) Authorizes that escrow funds deposited with the commission be released only with the approval of the commission as prescribed by commission rule.

Sec. 89.029. AFFIRMATION REGARDING SURFACE REQUIREMENTS. (a) Requires that an application for an extension of the deadline for plugging an inactive well include a written affirmation containing certain information by the operator.

(b) Requires an operator of an inactive well to leave a clearly visible marker at the wellhead of the well.

(c) Requires the commission to adopt rules regulating the transfer of material described by Subsection (a)(2)(B) (relating to an abeyance of plugging report) and restricting its accumulation on an active lease.

(d) Provides that an operator may be eligible for a temporary extension of the deadline for plugging an inactive well or a temporary exemption from the requirements of Subsection (a) as provided by commission rule if the operator is unable to comply with the requirements of that subsection because of safety concerns or required maintenance of the well site and the operator includes with the application a written affirmation of the facts regarding the safety concerns or maintenance, notwithstanding Subsection (a).

(e) Provides that an operator may be eligible for an extension of the deadline for plugging a well without complying with Subsection (a)(2)(B) if the well is located on a unit or lease or in a field associated with an enhanced oil recovery project and the operator includes a statement in the written affirmation that the well is part of such a project. Provides that the exemption provided by this subsection applies only to the equipment required for the project.

(f) Requires the commission, notwithstanding the other provisions of this subchapter, to adopt rules providing for the phase-in of the duty to comply with Subsection (a)(2)(B) over a period of five years beginning September 1, 2010. Requires that the rules require the operators of one-fifth of the wells that are subject to that subsection in each year during the phase-in period to comply with that subsection.

Sec. 89.030. REVOCATION OF EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL. Authorizes the commission to revoke an extension of the deadline for plugging an inactive well granted under this subchapter if the commission determines, after notice and an opportunity for a hearing, that the applicant is ineligible for the extension under the commission's rules or orders.

SECTION 3. Amends Section 91.111(c), Natural Resources Code, to provide that the fund consists of fees collected under Sections 89.024 and 89.026. Makes a nonsubstantive change.

SECTION 4. (a) Requires the commission, not later than September 1, 2010, to be prepared to grant extensions of the deadline for plugging an inactive well under Subchapter B-1, Chapter 89, Natural Resources Code, as added by this Act.

(b) Makes application of this Act prospective to September 1, 2010.

SECTION 5. Effective date: September 1, 2009.

SUMMARY OF COMMITTEE CHANGES

(1) Amends H.B. 2259 by adding the following SECTION, appropriately numbered, and renumbering subsequent sections accordingly:

Sec. 91.019. STANDARDS FOR CONSTRUCTION, OPERATION , AND MAINTENANCE OF ELECTRICAL POWER LINES. Requires an operator to construct, operate, and maintain an electrical power line serving a well site or other surface facility employed in operations incident to oil and gas development and production in accordance with the National Electrical Code published by the National Fire Protection Association and adopted by the Texas Commission of Licensing and Regulation under Chapter 1305, Occupations Code.

(2) Amends SECTION 1 of the bill, in amended Section 89.002(a) Natural Resources Code, (engrossed version page 2, lines 13-18) by striking Subdivision (13), and substituting it to define "physically terminated electric service to the well's production site."