LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 25, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2259** by Crownover (Relating to the plugging of inactive oil or gas wells.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2259, As Introduced: an impact of $0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	$0
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *Oil-field Cleanup Acct* 145	Probable Revenue Gain/(Loss) from *Oil-field Cleanup Acct* 145
2010	($221,055)	$0
2011	($1,909,209)	$2,181,960
2012	($1,502,423)	$2,181,960
2013	($1,477,030)	$2,181,960
2014	($1,447,030)	$2,181,960

Fiscal Year	Change in Number of State Employees from FY 2009
2010	0.0
2011	20.0
2012	20.0
2013	20.0
2014	20.0

Fiscal Analysis

The bill would require the Railroad Commission (RRC) to change existing standards and implement a new plugging extension permitting process for inactive oil and gas wells by establishing mandatory surface equipment removal requirements, amending current requirements related to fluid level and mechanical integrity tests to make them optional, and establishing seven options to obtain plugging exceptions.

The bill would add new definitions for “cost calculation of plugging an inactive well” based on the average actual costs reported by the RRC for the preceding year, “inactive well” as an unplugged well with no reported production, disposal, injection or other permitted activity for more than 12 months, and, “physical termination of electric lines to an inactive well” as disconnecting electrical service to an inactive well site without inferring with electric supply to adjacent production sites.

The bill would require well operators to plug inactive wells unless the operator obtains a plugging extension under new provisions of the bill. It would preclude operators from acquiring existing inactive wells without first satisfying new requirements created by the bill. The bill directs the RRC to grant a plugging extension for an inactive well if: 1) the operator provides an affirmation that it has complied with surface requirements including the termination of electrical service, emptying and purging of all pipes, tanks and vessels for inactive wells more than five years old, but less than ten years old, and removal of all surface equipment for inactive wells more than ten years old, subject to exceptions for safety and required maintenance; and 2) satisfaction of one of seven optional requirements.

The optional requirements would include: 1) documentation of plugging or otherwise bringing into compliance with RRC rules 10 percent of the inactive wells identified at the time of the operator’s last renewal of its organization report; 2) filing an abeyance of plugging report signed by a licensed engineer or geoscientist stating that the well has a reasonably certain expectation of economic value in excess of the cost calculation for plugging an inactive well and documentation demonstrating the basis for the well’s future utility; 3) documentation that the well is part of an enhanced oil recovery project as defined by Section 202.052(b) of the Tax Code; 4) documentation that the well has passed a fluid level test or hydraulic pressure test conducted in accordance with Commission rules; 5) posting a supplemental bond in the amount at least equal to the cost calculation for plugging an inactive well; 6) establishing an escrow account with funds equal to at least 10 percent of the total cost calculation for plugging each well specified in the application; and, 7) for publicly traded companies, providing copies of required documentation related to asset retirement obligations, and naming the Commission as a “secured creditor” with respect to the funds.

The bill would establish requirements for Abeyance of Plugging Reports and provide that they remain valid for a maximum of five years, that they may cover multiple wells in the same field, that they are not transferable to a new operator, and that the operator pay an annual fee of $100 for each well covered. The fee would be deposited in the General Revenue-Dedicated Oil Field Cleanup Fund No. 145.

The bill would provide that an inactive well is considered to be part of an enhanced oil recovery project if the well is associated with the project. It does not allow for the transfer of documentation related to enhanced oil recovery projects to new operators. The bill would establish requirements for the written affirmation regarding surface requirements to be submitted by the operator for all plugging extensions including the termination of electrical service for all inactive wells, emptying and purging of all pipes, tanks and vessels for inactive wells more than five years old, but less than ten years old, and removal of all surface equipment for inactive wells more than ten years old, subject to exceptions for safety and required maintenance.

The bill would provide for a temporary extension of the deadline for plugging an inactive well if the operator is unable to comply with the surface facility requirements 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. In addition, an operator would be eligible for an extension of the deadline for plugging a well even if the well has been inactive for at least 10 years as of the date of renewal, but the operator has not removed all surface equipment, etc. or has transferred that material to or allowed it to accumulate on an active lease if the well is part of an enhanced oil recovery project, and the operator includes a statement in the written affirmation that the well is part of such a project.

Methodology

It is anticipated that RRC staff duties added by the bill would include review of evidence and preparation of complaints related to enforcement of the new requirements, providing notice to numerous parties, managing discovery, conducting the hearing, reviewing the record, analyzing the evidence and preparing a proposal for decision related to enforcement of the new requirements. Additionally, the duties of the hearings examiners would include conducting hearings related to the administrative denial of permit applications. Examiners would be required to review the record, analyze the evidence, and prepare a proposal for decision, related to the appeal of any administrative denial of an application for a plugging exception.

This estimate assumes 50 to 100 requests for plugging exceptions that would be denied by the RRC. Upon the administrative denial of a request for a plugging exception, it is anticipated that the majority of the applicants would request a hearing. RRC staff would be required to review records, analyze evidence, and prepare a proposal for decision related to the appeal of any administrative denial of an application for a plugging extension. This estimate also assumes that there would be 25 to 50 referrals of violations of RRC rules related to the new surface equipment removal requirements by the Commission District Office to Austin for the institution of enforcement proceedings. This would require additional evidence review, the provision of notice to numerous parties, the management of discovery, preparation for enforcement hearings, and participation in the administrative hearing process until an order is entered and becomes final.

Because the bill would only apply to renewals of organization reports on or after September 1, 2010, most costs to the RRC would begin in fiscal year 2011. The agency expects that it would need $221,055 in fiscal year 2010 for programming changes. Beginning in 2011, an additional 20.0 FTEs would be needed for the activities outlined above. This estimate assumes those costs would be paid out of the Oil Field Cleanup Account No. 145. Costs to the RRC would total $1,909,209 in fiscal year 2011, and include one-time costs, then drop to around $1.5 million in future years as shown in the table above.

The RRC estimates that an additional $2,181,960 in revenue to the Oil Field Cleanup Account No. 145 per fiscal year beginning in fiscal year 2011. This estimate is based on the assumption that 27.5 percent of operators of approximately 80,000 wells annually would chose the option for the $100 fee for a permit application associated with an abeyance of plugging report.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, WK, ZS, TL