

SENATE AMENDMENTS

2nd Printing

By: Crownover, Hardcastle, Farabee, Chisum,
Gonzalez Toureilles, et al.

H.B. No. 2259

A BILL TO BE ENTITLED

AN ACT

relating to the plugging of certain inactive oil or gas wells.

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

SECTION 1. Section 89.002(a), Natural Resources Code, is amended by amending Subdivision (7) and adding Subdivisions (9), (10), (11), (12), and (13) to read as follows:

(7) "Delinquent inactive well" means an inactive ~~[unplugged] well [that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months and]~~ for which, after notice and opportunity for a hearing, the commission has not extended the plugging deadline.

(9) "Cost calculation for plugging an inactive well" means the commission's calculated cost for each foot of well depth plugged based on average actual plugging costs for wells reported by the commission for the preceding state fiscal year for the commission oil and gas division district in which the inactive well is located.

(10) "Enhanced oil recovery project":

(A) means:

(i) a commission-approved project that uses any process for the displacement of oil or other hydrocarbons from a reservoir other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process;

(ii) a certified project described by

1 Section 202.054, Tax Code; or

2 (iii) any other project approved by the
3 commission for enhanced oil recovery; and

4 (B) does not include a water disposal project.

5 (11) "Good faith claim" means a factually supported
6 claim based on a recognized legal theory to a continuing possessory
7 right in a mineral estate, such as evidence of a currently valid oil
8 and gas lease or a recorded deed conveying a fee interest in the
9 mineral estate.

10 (12) "Inactive well" means an unplugged well that has
11 had no reported production, disposal, injection, or other permitted
12 activity for a period of greater than 12 months.

13 (13) "Physical termination of electric lines to an
14 inactive well" means the disconnection of electric service to an
15 inactive well site at a point on the electric service lines most
16 distant from the production site toward the main supply line in a
17 manner that will not interfere with electrical supply to adjacent
18 operations, including cathodic protection units.

19 SECTION 2. Chapter 89, Natural Resources Code, is amended
20 by adding Subchapter B-1 to read as follows:

21 SUBCHAPTER B-1. PLUGGING OF CERTAIN INACTIVE WELLS

22 Sec. 89.021. APPLICABILITY. This subchapter does not apply
23 to a bay or offshore well as defined by commission rules.

24 Sec. 89.022. PLUGGING OF INACTIVE WELLS REQUIRED. (a)
25 Except as provided by Section 89.023, on or before the date the
26 operator is required to renew the operator's organization report
27 required by Section 91.142, an operator of an inactive well must

1 plug the well in accordance with statutes and commission rules in
2 effect at the time of plugging.

3 (b) Notwithstanding Subsection (a), a person who assumes
4 responsibility for the physical operation and control of an
5 existing inactive well must satisfy the requirements of Sections
6 89.023(a)(1) and (4) not later than six months after the date the
7 commission approves the initial form described by Section
8 89.002(a)(2) and filed with the commission under which the person
9 assumes responsibility for the well.

10 (c) The commission may not renew or approve the organization
11 report required by Section 91.142 for an operator that fails to
12 comply with the requirements of this subchapter.

13 Sec. 89.023. EXTENSION OF DEADLINE FOR PLUGGING INACTIVE
14 WELL. (a) The commission may grant an extension of the deadline
15 for plugging an inactive well if the operator maintains a current
16 organization report with the commission as required by Section
17 91.142 and if, on or before the date of renewal of the operator's
18 organization report as required by that section, the operator files
19 with the commission an application for an extension that includes:

20 (1) an affirmation that complies with Section 89.029;

21 (2) a statement that the well and associated
22 facilities are in compliance with all commission rules and orders;

23 (3) a statement that the operator has, and on request
24 will provide, evidence of a good faith claim to a continuing right
25 to operate the well; and

26 (4) at least one of the following:

27 (A) documentation that since the preceding date

1 that the operator's organization report was required to be renewed
2 the operator has plugged, or restored to active operation as
3 defined by commission rule, a number of inactive wells equal to or
4 greater than 10 percent of the number of inactive wells operated by
5 the operator on that date;

6 (B) an abeyance of plugging report on a form
7 approved by the commission that:

8 (i) is in the form of a certification signed
9 by a person licensed by the Texas Board of Professional Engineers or
10 the Texas Board of Professional Geoscientists;

11 (ii) includes:

12 (a) an affirmation by the licensed
13 person that the well has:

14 (1) a reasonable expectation of
15 economic value in excess of the cost of plugging the well for the
16 duration of the period covered by the report, based on the cost
17 calculation for plugging an inactive well; and

18 (2) a reasonable expectation of
19 being restored to a beneficial use that will prevent waste of oil or
20 gas resources that otherwise would not be produced if the well were
21 plugged; and

22 (b) appropriate documentation
23 demonstrating the basis for the affirmation of the well's future
24 utility; and

25 (iii) specifies the field and the covered
26 wells within that field in a format prescribed by the commission;

27 (C) a statement that the well is part of an

1 enhanced oil recovery project;

2 (D) if the operator of the well is not currently
3 otherwise required by commission rule or order to conduct a fluid
4 level or hydraulic pressure test of the well, documentation of the
5 results of a successful fluid level or hydraulic pressure test of
6 the well conducted in accordance with the commission's rules in
7 effect at the time the test is conducted;

8 (E) a supplemental bond, letter of credit, or
9 cash deposit sufficient for each well specified in the application
10 that:

11 (i) complies with the requirements of
12 Chapter 91; and

13 (ii) is of an amount at least equal to the
14 cost calculation for plugging an inactive well for each well
15 specified in the application;

16 (F) documentation of the deposit with the
17 commission each time the operator files an application of an amount
18 of escrow funds as prescribed by commission rule that equal at least
19 10 percent of the total cost calculation for plugging an inactive
20 well for each well specified in the application; or

21 (G) if the operator is a publicly traded entity:

22 (i) the following documents:

23 (a) a copy of the operator's federal
24 documents filed to comply with Financial Accounting Standards Board
25 Statement No. 143, Accounting for Asset Retirement Obligations; and

26 (b) an original, executed Uniform
27 Commercial Code Form 1 Financing Statement, filed with the

1 secretary of state, that:

2 (1) names the operator as the
3 "debtor" and the Railroad Commission of Texas as the "secured
4 creditor"; and

5 (2) specifies the funds covered
6 by the documents described by Sub-subparagraph (a) in the amount of
7 the cost calculation for plugging an inactive well for each well
8 specified in the application; or

9 (ii) a blanket bond in the amount of the
10 lesser of:

11 (a) the cost calculation for plugging
12 any inactive wells; or

13 (b) \$2 million.

14 (b) Notwithstanding Subsection (a), an operator may not
15 obtain an extension of the deadline for plugging an inactive well by
16 complying with that subsection if the plugging of the well is
17 otherwise required by commission rules or orders.

18 Sec. 89.024. ABEYANCE OF PLUGGING REPORT. (a) An abeyance
19 of plugging report filed under Section 89.023(a)(4)(B) is valid for
20 a period of not more than five years.

21 (b) An abeyance of plugging report may cover more than one
22 well in a field but may not cover more than one field.

23 (c) An abeyance of plugging report may not be transferred to
24 a new operator of an existing inactive well. A new operator of an
25 existing inactive well must file a new abeyance of plugging report
26 or otherwise comply with the requirements of this subchapter on or
27 before the deadline provided by Section 89.022(b). This subsection

1 does not prohibit the transfer of an abeyance of plugging report in
2 the event of a change of name of an operator.

3 (d) An operator who files an abeyance of plugging report
4 must pay an annual fee of \$100 for each well covered by the report.
5 A fee collected under this section shall be deposited in the
6 oil-field cleanup fund.

7 Sec. 89.025. ENHANCED OIL RECOVERY PROJECT. (a) For
8 purposes of Section 89.023(a)(4)(C), an inactive well is considered
9 to be part of an enhanced oil recovery project if the well is
10 located on a unit or lease or in a field associated with such a
11 project.

12 (b) A statement that an inactive well is part of an enhanced
13 oil recovery project may not be transferred to a new operator of an
14 existing inactive well. A new operator of an existing inactive well
15 must file a new statement that the well is part of such a project or
16 otherwise comply with the requirements of this subchapter on or
17 before the deadline provided by Section 89.022(b). This subsection
18 does not prohibit the transfer of a statement that a well is part of
19 an enhanced oil recovery project in the event of a change of name of
20 an operator.

21 Sec. 89.026. FLUID LEVEL OR HYDRAULIC PRESSURE TEST. (a)
22 Documentation filed under Section 89.023(a)(4)(D) of the results of
23 a successful fluid level test is valid for a period of one year from
24 the date of the test. Documentation filed under that section of the
25 results of a successful hydraulic pressure test is valid for a
26 period of not more than five years from the date of the test.

27 (b) The operator must notify the office of the commission

1 oil and gas division district in which an inactive well is located
2 at least three days before the date the operator conducts a fluid
3 level or hydraulic pressure test of the well and may not conduct the
4 test without the approval of the office. The commission may require
5 that a test be witnessed by a commission employee.

6 (c) Documentation of the results of a successful fluid level
7 or hydraulic pressure test may be transferred to a new operator of
8 an existing inactive well.

9 (d) An operator who files documentation described by
10 Subsection (a) must pay an annual fee of \$50 for each well covered
11 by the documentation. A fee collected under this section shall be
12 deposited in the oil-field cleanup fund.

13 Sec. 89.027. SUPPLEMENTAL FINANCIAL ASSURANCE. (a) A
14 supplemental bond, letter of credit, or cash deposit filed under
15 Section 89.023(a)(4)(E) is in addition to any other financial
16 assurance otherwise required of the operator or for the well.

17 (b) A supplemental bond, letter of credit, or cash deposit
18 may not be transferred to a new operator of an existing inactive
19 well. A new operator of an existing inactive well must file a new
20 supplemental bond, letter of credit, or cash deposit or otherwise
21 comply with the requirements of this subchapter by the deadline
22 provided by Section 89.022(b).

23 Sec. 89.028. ESCROW FUNDS. (a) Escrow funds described by
24 Section 89.023(a)(4)(F) must be deposited with the commission each
25 time an operator files an application for an extension of the
26 deadline for plugging an inactive well.

27 (b) Escrow funds deposited with the commission may be

1 released only with the approval of the commission as prescribed by
2 commission rule.

3 Sec. 89.029. AFFIRMATION REGARDING SURFACE REQUIREMENTS.

4 (a) An application for an extension of the deadline for plugging an
5 inactive well must include a written affirmation by the operator:

6 (1) that the operator has physically terminated
7 electric service to the well's production site; and

8 (2) stating the following, as applicable, if the
9 operator does not own the surface of the land on which the well is
10 located:

11 (A) if the well has been inactive for at least
12 five years but for less than 10 years as of the date of renewal of
13 the operator's organization report, that the operator has emptied
14 or purged of production fluids all piping, tanks, vessels, and
15 equipment associated with and exclusive to the well; or

16 (B) if the well has been inactive for at least 10
17 years as of the date of renewal of the operator's organization
18 report, that the operator has removed all surface process equipment
19 and related piping, tanks, tank batteries, pump jacks, headers, and
20 fences, as well as junk and trash as defined by commission rule,
21 associated with and exclusive to the well.

22 (b) An operator of an inactive well shall leave a clearly
23 visible marker at the wellhead of the well.

24 (c) The commission shall adopt rules regulating the
25 transfer of material described by Subsection (a)(2)(B) and
26 restricting its accumulation on an active lease.

27 (d) Notwithstanding Subsection (a), an operator may be

1 eligible for a temporary extension of the deadline for plugging an
2 inactive well or a temporary exemption from the requirements of
3 Subsection (a) as provided by commission rule if the operator is
4 unable to comply with the requirements of that subsection because
5 of safety concerns or required maintenance of the well site and the
6 operator includes with the application a written affirmation of the
7 facts regarding the safety concerns or maintenance.

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

15 (f) Notwithstanding the other provisions of this
16 subchapter, the commission shall adopt rules providing for the
17 phase-in of the duty to comply with Subsection (a)(2)(B) over a
18 period of five years beginning September 1, 2010. The rules must
19 require the operators of one-fifth of the wells that are subject to
20 that subsection in each year during the phase-in period to comply
21 with that subsection.

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

1 SECTION 3. Section 91.111(c), Natural Resources Code, is
2 amended to read as follows:

3 (c) The fund consists of:

4 (1) penalties imposed under Section 85.381 for
5 violation of a law, order, or rule relating to well plugging
6 requirements;

7 (2) proceeds from bonds and other financial security
8 required by this chapter and benefits under well-specific plugging
9 insurance policies described by Section 91.104(c) that are paid to
10 the state as contingent beneficiary of the policies, subject to the
11 refund provisions of Section 91.1091, if applicable;

12 (3) private contributions, including contributions
13 made under Section 89.084;

14 (4) expenses collected under Section 89.083;

15 (5) fees imposed under Section 85.2021;

16 (6) civil penalties collected for violations of
17 Chapter 89 or of rules or orders relating to plugging that are
18 adopted under this code;

19 (7) proceeds collected under Sections 89.085 and
20 91.115;

21 (8) interest earned on the funds deposited in the
22 fund;

23 (9) civil penalties or costs recovered under Section
24 91.457 or 91.459;

25 (10) oil and gas waste hauler permit application fees
26 collected under Section 29.015, Water Code;

27 (11) costs recovered under Section 91.113(f);

1 (12) hazardous oil and gas waste generation fees
2 collected under Section 91.605;

3 (13) oil-field cleanup regulatory fees on oil
4 collected under Section 81.116;

5 (14) oil-field cleanup regulatory fees on gas
6 collected under Section 81.117;

7 (15) fees for a reissued certificate collected under
8 Section 91.707;

9 (16) fees collected under Section 91.1013;

10 (17) fees collected under Section 89.088;

11 (18) penalties collected under Section 81.0531;

12 (19) fees collected under Section 91.142;

13 (20) fees collected under Section 91.654;

14 (21) costs recovered under Sections 91.656 and 91.657;

15 (22) two-thirds of the fees collected under Section
16 81.0521; [~~and~~]

17 (23) fees collected under Sections 89.024 and 89.026;
18 and

19 (24) legislative appropriations.

20 SECTION 4. (a) Not later than September 1, 2010, the
21 Railroad Commission of Texas shall be prepared to grant extensions
22 of the deadline for plugging an inactive well under Subchapter B-1,
23 Chapter 89, Natural Resources Code, as added by this Act.

24 (b) The change in law made by this Act applies only to the
25 renewal or approval of an organization report on or after September
26 1, 2010. The renewal or approval of an organization report before
27 September 1, 2010, is governed by the law as it existed immediately

1 before the effective date of this Act, and that law is continued in
2 effect for that purpose.

3 SECTION 5. This Act takes effect September 1, 2009.

ADOPTED

MAY 18 2009

Atty Gen
Secretary of the Senate



COMMITTEE AMENDMENT NO. 1

BY: *Duncan*

1 Amend H.B. No. 2259 (house engrossed version) by adding the
2 following SECTION to the bill, appropriately numbered, and
3 renumbering the subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter B, Chapter 91, Natural Resources
5 Code, is amended by adding Section 91.019 to read as follows:

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

ADOPTED

MAY 18 2009

Atay Spaw
Secretary of the Senate

COMMITTEE AMENDMENT NO. 2

BY: *Duncan*

1 Amend H.B. No. 2259 in SECTION 1 of the bill, in amended
2 Section 89.002(a), Natural Resources Code (engrossed version page
3 2, lines 13-18), by striking Subdivision (13) of the subsection and
4 substituting the following:

5 (13) "Physically terminated electric service to the
6 well's production site" means that electric service to an inactive
7 well site has been disconnected at a point on the electric service
8 lines most distant from the production site toward the main supply
9 line in a manner that will not interfere with electrical supply to
10 adjacent operations, including cathodic protection units.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB2259 by Crossover (Relating to the plugging of certain inactive oil or gas wells.), As Passed 2nd House

Estimated Two-year Net Impact to General Revenue Related Funds for HB2259, As Passed 2nd House: 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 <i>Oil-field Cleanup Acct</i> 145	Probable Revenue Gain/(Loss) from <i>Oil-field Cleanup Acct</i> 145
2010	(\$251,805)	\$0
2011	(\$1,956,598)	\$1,540,160
2012	(\$1,528,287)	\$1,540,160
2013	(\$1,528,287)	\$1,540,160
2014	(\$1,528,287)	\$1,540,160

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, and establishing seven options to obtain plugging exceptions.

The bill would add a new definitions for “cost calculation for plugging an inactive well” based on the average actual costs reported by the RRC for the preceding year, “inactive well” as the RRC's calculated cost for each foot of well depth plugged based on the average annual plugging costs for wells reported by the RRC for the preceding state fiscal year for the district in which the inactive well is located. The bill would define an "enhanced oil recovery project" as a RRC approved or certified enhanced recovery project. The bill would define "good faith claim as a factually-supported claim based on a recognized legal theory to a continuing possessory right in a mineral estate. The bill would define an "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, including cathodic protection units.

The bill would require well operators to plug inactive wells on or before the date the operator is required to renew its organization report unless the operator obtains a plugging extension under new provisions of the bill. It would require operators that assume control of existing inactive wells to satisfy the requirements of the bill relating to surface equipment and seven new options for obtaining a plugging extension for wells within six months of RRC approval of the certificates of compliance transferring the wells. The bill directs the RRC to grant a plugging extension for an inactive well if the operator maintains a current organization report and if, on or before the operator's organization report would have to be renewed, the operator provides an application that includes: 1) 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; 2) a statement that the well and associated facilities are in compliance with all RRC rules and orders; 3) a statement that the operator has and, on request, will provide, evidence of a good faith claim to a continuing right to operate the well, and 4) satisfaction of one of seven optional requirements.

The optional requirements set forth in the bill 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 the well, a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources if the well were otherwise plugged, and documentation demonstrating the basis for the well’s future utility; 3) a statement that the well is part of an enhanced oil recovery project; 4) if the operator of the well is not currently otherwise required by RRC rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation that the well has passed a fluid level test or hydraulic pressure test conducted in accordance with RRC rules; 5) posting a supplemental bond, letter of credit, or cash deposit sufficient for each well in an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application; 6) documentation of the deposit with the RRC each time the operator files an application of an amount of escrow 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 the operator's federal documents 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 part of an enhanced oil recovery project if the well is located on a unit or lease or in a field is associated with such a project. It does not allow for the transfer of documentation related to enhanced oil recovery projects to new operators. The bill would provide that a successful fluid test is valid for one year from the date of the test, and a successful hydraulic pressure test is valid for up to five years. The bill would require an operator filing documentation of the results of a successful fluid level or hydraulic pressure test to pay an annual fee of \$50 for each well covered by the documentation. The bill would require an operator to notify the RRC three days before an inactive well is to be tested and states that an operator would not be authorized to conduct such a test without RRC approval. The bill would provide that supplemental financial assurance for inactive wells is in addition to any other financial assurance requirements and is not transferable to a new operator of an existing well. A new operator would be required to file supplemental financial assurance within six months after transfer of a well.

The bill would establish requirements for the written affirmation regarding surface requirements to be submitted by the operator with an application for all plugging extensions if the operator also does not own the surface estate. The affirmation would be required to state that the operator has terminated electrical service to the well's production site, and that for all wells that have been inactive more than ten years as of the date of the renewal of the organization report, the operator has removed all surface equipment, junk and trash associated with the old well. The bill would require the RRC to adopt rules providing for the phase-in of the duty to comply with the surface equipment removal requirements for wells that have been inactive for more than 10 years.

The bill would provide for a temporary extension of the deadline for plugging an inactive well or temporary exemption from the surface equipment removal and electrical service termination requirements if an operator is unable to comply 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 could 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 of the organization report, 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.

The bill would specify that the Oil Field Cleanup Account No. 145 includes fees collected with the filing of an abeyance of plugging report and the fee collected with an application for an inactive well plugging extension for which the operator selects the fluid level/hydraulic pressure testing option proposed by the bill.

The bill would require operators to construct, operate, and maintain power lines serving well sites in accordance with the National Electrical Code.

Methodology

It is anticipated that RRC staff duties added by the bill would include review and processing of renewal forms, review of technical documentation, review of self-bonding options, review of evidence and preparation of complaints related to enforcement of the new requirements of the bill, providing notice to numerous parties, managing discovery, conducting the hearing, reviewing the record, analyzing the evidence, and preparing a proposal for a 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 \$251,805 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 \$1,956,598 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 \$1,540,160 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 the \$50 hydraulic pressure test fee would apply to approximately 7,000 wells, or 20 percent of those inactive wells over 25 years old, resulting in annual revenue of \$350,000; and 15 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, resulting in annual revenue of \$1,190,160.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, SD, SZ, ZS, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 13, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB2259 by Crossover (Relating to the plugging of certain inactive oil or gas wells.),
Committee Report 2nd House, As Amended

Estimated Two-year Net Impact to General Revenue Related Funds for HB2259, Committee Report 2nd House, As Amended: 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 <i>Oil-field Cleanup Acct</i> 145	Probable Revenue Gain/(Loss) from <i>Oil-field Cleanup Acct</i> 145
2010	(\$251,805)	\$0
2011	(\$1,956,598)	\$1,540,160
2012	(\$1,528,287)	\$1,540,160
2013	(\$1,528,287)	\$1,540,160
2014	(\$1,528,287)	\$1,540,160

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, and establishing seven options to obtain plugging exceptions.

The bill would add a new definitions for "cost calculation for plugging an inactive well" based on the average actual costs reported by the RRC for the preceding year, "inactive well" as the RRC's calculated cost for each foot of well depth plugged based on the average annual plugging costs for wells reported by the RRC for the preceding state fiscal year for the district in which the inactive well is located. The bill would define an "enhanced oil recovery project" as a RRC approved or certified enhanced recovery project. The bill would define "good faith claim as a factually-supported claim based on a recognized legal theory to a continuing possessory right in a mineral estate. The bill would define an "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, including cathodic protection units.

The bill would require well operators to plug inactive wells on or before the date the operator is required to renew its organization report unless the operator obtains a plugging extension under new provisions of the bill. It would require operators that assume control of existing inactive wells to satisfy the requirements of the bill relating to surface equipment and seven new options for obtaining a plugging extension for wells within six months of RRC approval of the certificates of compliance transferring the wells. The bill directs the RRC to grant a plugging extension for an inactive well if the operator maintains a current organization report and if, on or before the operator's organization report would have to be renewed, the operator provides an application that includes: 1) 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; 2) a statement that the well and associated facilities are in compliance with all RRC rules and orders; 3) a statement that the operator has and, on request, will provide, evidence of a good faith claim to a continuing right to operate the well, and 4) satisfaction of one of seven optional requirements.

The optional requirements set forth in the bill 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 the well, a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources if the well were otherwise plugged, and documentation demonstrating the basis for the well's future utility; 3) a statement that the well is part of an enhanced oil recovery project; 4) if the operator of the well is not currently otherwise required by RRC rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation that the well has passed a fluid level test or hydraulic pressure test conducted in accordance with RRC rules; 5) posting a supplemental bond, letter of credit, or cash deposit sufficient for each well in an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application; 6) documentation of the deposit with the RRC each time the operator files an application of an amount of escrow 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 the operator's federal documents 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 part of an enhanced oil recovery project if the well is located on a unit or lease or in a field is associated with such a project. It does not allow for the transfer of documentation related to enhanced oil recovery projects to new operators. The bill would provide that a successful fluid test is valid for one year from the date of the test, and a successful hydraulic pressure test is valid for up to five years. The bill would require an operator filing documentation of the results of a successful fluid level or hydraulic pressure test to pay an annual fee of \$50 for each well covered by the documentation. The bill would require an operator to notify the RRC three days before an inactive well is to be tested and states that an operator would not be authorized to conduct such a test without RRC approval. The bill would provide that supplemental financial assurance for inactive wells is in addition to any other financial assurance requirements and is not transferable to a new operator of an existing well. A new operator would be required to file supplemental financial assurance within six months after transfer of a well.

The bill would establish requirements for the written affirmation regarding surface requirements to be submitted by the operator with an application for all plugging extensions if the operator also does not own the surface estate. The affirmation would be required to state that the operator has terminated electrical service to the well's production site, and that for all wells that have been inactive more than ten years as of the date of the renewal of the organization report, the operator has removed all surface equipment, junk and trash associated with the old well. The bill would require the RRC to adopt rules providing for the phase-in of the duty to comply with the surface equipment removal requirements for wells that have been inactive for more than 10 years.

The bill would provide for a temporary extension of the deadline for plugging an inactive well or temporary exemption from the surface equipment removal and electrical service termination requirements if an operator is unable to comply 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 could 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 of the organization report, 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.

The bill would specify that the Oil Field Cleanup Account No. 145 includes fees collected with the filing of an abeyance of plugging report and the fee collected with an application for an inactive well plugging extension for which the operator selects the fluid level/hydraulic pressure testing option proposed by the bill.

The bill would require operators to construct, operate, and maintain power lines serving well sites in accordance with the National Electrical Code.

Methodology

It is anticipated that RRC staff duties added by the bill would include review and processing of renewal forms, review of technical documentation, review of self-bonding options, review of evidence and preparation of complaints related to enforcement of the new requirements of the bill, providing notice to numerous parties, managing discovery, conducting the hearing, reviewing the record, analyzing the evidence, and preparing a proposal for a 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 \$251,805 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 \$1,956,598 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 \$1,540,160 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 the \$50 hydraulic pressure test fee would apply to approximately 7,000 wells, or 20 percent of those inactive wells over 25 years old, resulting in annual revenue of \$350,000; and 15 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, resulting in annual revenue of \$1,190,160.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, SD, SZ, ZS, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB2259 by Crossover (Relating to the plugging of certain inactive oil or gas wells.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB2259, As Engrossed: 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 <i>Oil-field Cleanup Acct</i> 145	Probable Revenue Gain/(Loss) from <i>Oil-field Cleanup Acct</i> 145
2010	(\$251,805)	\$0
2011	(\$1,956,598)	\$1,540,160
2012	(\$1,528,287)	\$1,540,160
2013	(\$1,528,287)	\$1,540,160
2014	(\$1,528,287)	\$1,540,160

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, and establishing seven options to obtain plugging exceptions.

The bill would add a new definitions for “cost calculation for plugging an inactive well” based on the average actual costs reported by the RRC for the preceding year, “inactive well” as the RRC's calculated cost for each foot of well depth plugged based on the average annual plugging costs for wells reported by the RRC for the preceding state fiscal year for the district in which the inactive well is located. The bill would define an "enhanced oil recovery project" as a RRC approved or certified enhanced recovery project. The bill would define "good faith claim as a factually-supported claim based on a recognized legal theory to a continuing possessory right in a mineral estate. The bill would define an "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, including cathodic protection units.

The bill would require well operators to plug inactive wells on or before the date the operator is required to renew its organization report unless the operator obtains a plugging extension under new provisions of the bill. It would require operators that assume control of existing inactive wells to satisfy the requirements of the bill relating to surface equipment and seven new options for obtaining a plugging extension for wells within six months of RRC approval of the certificates of compliance transferring the wells. The bill directs the RRC to grant a plugging extension for an inactive well if the operator maintains a current organization report and if, on or before the operator's organization report would have to be renewed, the operator provides an application that includes: 1) 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; 2) a statement that the well and associated facilities are in compliance with all RRC rules and orders; 3) a statement that the operator has and, on request, will provide, evidence of a good faith claim to a continuing right to operate the well, and 4) satisfaction of one of seven optional requirements.

The optional requirements set forth in the bill 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 the well, a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources if the well were otherwise plugged, and documentation demonstrating the basis for the well’s future utility; 3) a statement that the well is part of an enhanced oil recovery project; 4) if the operator of the well is not currently otherwise required by RRC rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation that the well has passed a fluid level test or hydraulic pressure test conducted in accordance with RRC rules; 5) posting a supplemental bond, letter of credit, or cash deposit sufficient for each well in an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application; 6) documentation of the deposit with the RRC each time the operator files an application of an amount of escrow 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 the operator's federal documents 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 part of an enhanced oil recovery project if the well is located on a unit or lease or in a field is associated with such a project. It does not allow for the transfer of documentation related to enhanced oil recovery projects to new operators. The bill would provide that a successful fluid test is valid for one year from the date of the test, and a successful hydraulic pressure test is valid for up to five years. The bill would require an operator filing documentation of the results of a successful fluid level or hydraulic pressure test to pay an annual fee of \$50 for each well covered by the documentation. The bill would require an operator to notify the RRC three days before an inactive well is to be tested and states that an operator would not be authorized to conduct such a test without RRC approval. The bill would provide that supplemental financial assurance for inactive wells is in addition to any other financial assurance requirements and is not transferable to a new operator of an existing well. A new operator would be required to file supplemental financial assurance within six months after transfer of a well.

The bill would establish requirements for the written affirmation regarding surface requirements to be submitted by the operator with an application for all plugging extensions if the operator also does not own the surface estate. The affirmation would be required to state that the operator has terminated electrical service to the well's production site, and that for all wells that have been inactive more than ten years as of the date of the renewal of the organization report, the operator has removed all surface equipment, junk and trash associated with the old well. The bill would require the RRC to adopt rules providing for the phase-in of the duty to comply with the surface equipment removal requirements for wells that have been inactive for more than 10 years.

The bill would provide for a temporary extension of the deadline for plugging an inactive well or temporary exemption from the surface equipment removal and electrical service termination requirements if an operator is unable to comply 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 could 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 of the organization report, 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.

The bill would specify that the Oil Field Cleanup Account No. 145 includes fees collected with the filing of an abeyance of plugging report and the fee collected with an application for an inactive well plugging extension for which the operator selects the fluid level/hydraulic pressure testing option proposed by the bill.

Methodology

It is anticipated that RRC staff duties added by the bill would include review and processing of renewal forms, review of technical documentation, review of self-bonding options, review of evidence and preparation of complaints related to enforcement of the new requirements of the bill, providing notice to numerous parties, managing discovery, conducting the hearing, reviewing the record, analyzing the evidence, and preparing a proposal for a 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 \$251,805 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 \$1,956,598 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 \$1,540,160 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 the \$50 hydraulic pressure test fee would apply to approximately 7,000 wells, or 20 percent of those inactive wells over 25 years old, resulting in annual revenue of \$350,000; and 15 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, resulting in annual revenue of \$1,190,160.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, SD, SZ, ZS, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 17, 2009

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

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

IN RE: HB2259 by Crossover (Relating to the plugging of certain inactive oil or gas wells.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2259, Committee Report 1st House, Substituted: 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 <i>Oil-field Cleanup Acct</i> 145	Probable Revenue Gain/(Loss) from <i>Oil-field Cleanup Acct</i> 145
2010	(\$251,805)	\$0
2011	(\$1,956,598)	\$1,540,160
2012	(\$1,528,287)	\$1,540,160
2013	(\$1,528,287)	\$1,540,160
2014	(\$1,528,287)	\$1,540,160

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, and establishing seven options to obtain plugging exceptions.

The bill would add a new definitions for “cost calculation for plugging an inactive well” based on the average actual costs reported by the RRC for the preceding year, “inactive well” as the RRC's calculated cost for each foot of well depth plugged based on the average annual plugging costs for wells reported by the RRC for the preceding state fiscal year for the district in which the inactive well is located. The bill would define an "enhanced oil recovery project" as a RRC approved or certified enhanced recovery project. The bill would define "good faith claim as a factually-supported claim based on a recognized legal theory to a continuing possessory right in a mineral estate. The bill would define an "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, including cathodic protection units.

The bill would require well operators to plug inactive wells on or before the date the operator is required to renew its organization report unless the operator obtains a plugging extension under new provisions of the bill. It would require operators that assume control of existing inactive wells to satisfy the requirements of the bill relating to surface equipment and seven new options for obtaining a plugging extension for wells within six months of RRC approval of the certificates of compliance transferring the wells. The bill directs the RRC to grant a plugging extension for an inactive well if the operator maintains a current organization report and if, on or before the operator's organization report would have to be renewed, the operator provides an application that includes: 1) 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; 2) a statement that the well and associated facilities are in compliance with all RRC rules and orders; 3) a statement that the operator has and, on request, will provide, evidence of a good faith claim to a continuing right to operate the well, and 4) satisfaction of one of seven optional requirements.

The optional requirements set forth in the bill 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 the well, a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources if the well were otherwise plugged, and documentation demonstrating the basis for the well's future utility; 3) a statement that the well is part of an enhanced oil recovery project; 4) if the operator of the well is not currently otherwise required by RRC rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation that the well has passed a fluid level test or hydraulic pressure test conducted in accordance with RRC rules; 5) posting a supplemental bond, letter of credit, or cash deposit sufficient for each well in an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application; 6) documentation of the deposit with the RRC each time the operator files an application of an amount of escrow 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 the operator's federal documents 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 part of an enhanced oil recovery project if the well is located on a unit or lease or in a field is associated with such a project. It does not allow for the transfer of documentation related to enhanced oil recovery projects to new operators. The bill would provide that a successful fluid test is valid for one year from the date of the test, and a successful hydraulic pressure test is valid for up to five years. The bill would require an operator filing documentation of the results of a successful fluid level or hydraulic pressure test to pay an annual fee of \$50 for each well covered by the documentation. The bill would require an operator to notify the RRC three days before an inactive well is to be tested and states that an operator would not be authorized to conduct such a test without RRC approval. The bill would provide that supplemental financial assurance for inactive wells is in addition to any other financial assurance requirements and is not transferable to a new operator of an existing well. A new operator would be required to file supplemental financial assurance within six months after transfer of a well.

The bill would establish requirements for the written affirmation regarding surface requirements to be submitted by the operator with an application for all plugging extensions if the operator also does not own the surface estate. The affirmation would be required to state that the operator has terminated electrical service to the well's production site, and that for all wells that have been inactive more than ten years as of the date of the renewal of the organization report, the operator has removed all surface equipment, junk and trash associated with the old well. The bill would require the RRC to adopt rules providing for the phase-in of the duty to comply with the surface equipment removal requirements for wells that have been inactive for more than 10 years.

The bill would provide for a temporary extension of the deadline for plugging an inactive well or temporary exemption from the surface equipment removal and electrical service termination requirements if an operator is unable to comply 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 could 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 of the organization report, 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.

The bill would specify that the Oil Field Cleanup Account No. 145 includes fees collected with the filing of an abeyance of plugging report and the fee collected with an application for an inactive well plugging extension for which the operator selects the fluid level/hydraulic pressure testing option proposed by the bill.

Methodology

It is anticipated that RRC staff duties added by the bill would include review and processing of renewal forms, review of technical documentation, review of self-bonding options, review of evidence and preparation of complaints related to enforcement of the new requirements of the bill, providing notice to numerous parties, managing discovery, conducting the hearing, reviewing the record, analyzing the evidence, and preparing a proposal for a 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 \$251,805 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 \$1,956,598 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 \$1,540,160 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 the \$50 hydraulic pressure test fee would apply to approximately 7,000 wells, or 20 percent of those inactive wells over 25 years old, resulting in annual revenue of \$350,000; and 15 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, resulting in annual revenue of \$1,190,160.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, SZ, ZS, TL

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 Crossover (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 <i>Oil-field Cleanup Acct</i> 145	Probable Revenue Gain/(Loss) from <i>Oil-field Cleanup Acct</i> 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

