

By: Crownover

H.B. No. 3134

Substitute the following for H.B. No. 3134:

By: Craddick

C.S.H.B. No. 3134

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the plugging of inactive oil and gas wells.

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

4 SECTION 1. Section 89.022, Natural Resources Code, is
5 amended by amending Subsection (b) and adding Subsections (d), (e),
6 (f), and (g) to read as follows:

7 (b) Notwithstanding Subsection (a), a person who assumes
8 responsibility for the physical operation and control of an
9 existing inactive well must satisfy the requirements of Sections
10 89.023(a)(1) and (3) [~~(4)~~] not later than six months after the date
11 the commission approves the initial form described by Section
12 89.002(a)(2) and filed with the commission under which the person
13 assumes responsibility for the well.

14 (d) Before the commission issues an order refusing to renew
15 an operator's organization report under Subsection (c), an
16 authorized commission employee or a person designated by the
17 commission for that purpose must determine whether the operator has
18 failed to comply with the requirements of this subchapter. If the
19 authorized commission employee or designated person determines
20 that the organization report does not qualify for renewal on that
21 ground, the authorized commission employee or designated person
22 must:

23 (1) notify the operator of the determination;

24 (2) provide the operator with a written statement of

1 the reasons the organization report does not qualify for renewal;
2 and

3 (3) notify the operator that the operator has 90 days
4 to comply with the requirements of this subchapter.

5 (e) The authorized commission employee or designated person
6 may grant the operator an additional 45 days to comply with the
7 requirements of this subchapter for good cause shown.

8 (f) After the expiration of the period specified by
9 Subsection (d)(3) as extended under Subsection (e), if applicable,
10 the authorized commission employee or designated person shall
11 determine whether the organization report qualifies for renewal and
12 notify the operator of the determination. If the authorized
13 commission employee or designated person determines that the
14 organization report does not qualify for renewal because the
15 operator has continued to fail to comply with the requirements of
16 this subchapter, the operator, not later than the 30th day after the
17 date of the determination, may request a hearing regarding the
18 determination. The operator shall pay the costs associated with a
19 hearing requested under this subsection.

20 (g) If the commission determines following the hearing that
21 the operator has failed to comply with the requirements of this
22 subchapter or the operator fails to file a timely request for a
23 hearing, the commission by order shall refuse to renew the
24 organization report. The organization report remains in effect
25 until the commission's order becomes final.

26 SECTION 2. Section 89.023(a), Natural Resources Code, is
27 amended to read as follows:

1 (a) The commission may grant an extension of the deadline
2 for plugging an inactive well if the operator maintains a current
3 organization report with the commission as required by Section
4 91.142 and if, on or before the date of renewal of the operator's
5 organization report as required by that section, the operator files
6 with the commission an application for an extension that includes:

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

8 (2) [~~a statement that the well and associated~~
9 ~~facilities are in compliance with all commission rules and orders;~~

10 [~~(3)~~] a statement that the operator has, and on
11 request will provide, evidence of a good faith claim to a continuing
12 right to operate the well; and

13 (3) [~~(4)~~] at least one of the following:

14 (A) documentation that since the preceding date
15 that the operator's organization report was required to be renewed
16 the operator has plugged, or restored to active operation as
17 defined by commission rule, a number of inactive wells equal to or
18 greater than 10 percent of the number of inactive wells operated by
19 the operator on that date;

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

22 (i) is in the form of a certification signed
23 by a person licensed by the Texas Board of Professional Engineers or
24 the Texas Board of Professional Geoscientists;

25 (ii) includes:

26 (a) an affirmation by the licensed
27 person that the well has:

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

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

9 (b) appropriate documentation
10 demonstrating the basis for the affirmation of the well's future
11 utility; and

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

14 (C) a statement that the well is part of an
15 enhanced oil recovery project;

16 (D) if the operator of the well is not currently
17 otherwise required by commission rule or order to conduct a fluid
18 level or hydraulic pressure test of the well, documentation of the
19 results of a successful fluid level or hydraulic pressure test of
20 the well conducted in accordance with the commission's rules in
21 effect at the time the test is conducted;

22 (E) a supplemental bond, letter of credit, or
23 cash deposit sufficient for each well specified in the application
24 that:

25 (i) complies with the requirements of
26 Chapter 91; and

27 (ii) is of an amount at least equal to the

1 cost calculation for plugging an inactive well for each well
2 specified in the application;

3 (F) documentation of the deposit with the
4 commission each time the operator files an application of an amount
5 of escrow funds as prescribed by commission rule that equal at least
6 10 percent of the total cost calculation for plugging an inactive
7 well for each well specified in the application; or

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

9 (i) the following documents:

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

13 (b) an original, executed Uniform
14 Commercial Code Form 1 Financing Statement, filed with the
15 secretary of state, that:

16 (1) names the operator as the
17 "debtor" and the Railroad Commission of Texas as the "secured
18 creditor"; and

19 (2) specifies the funds covered
20 by the documents described by Sub-subparagraph (a) in the amount of
21 the cost calculation for plugging an inactive well for each well
22 specified in the application; or

23 (ii) a blanket bond in the amount of the
24 lesser of:

25 (a) the cost calculation for plugging
26 any inactive wells; or

27 (b) \$2 million.

1 SECTION 3. Section 89.024(a), Natural Resources Code, is
2 amended to read as follows:

3 (a) An abeyance of plugging report filed under Section
4 89.023(a)(3)(B) [~~89.023(a)(4)(B)~~] is valid for a period of not more
5 than five years.

6 SECTION 4. Section 89.025(a), Natural Resources Code, is
7 amended to read as follows:

8 (a) For purposes of Section 89.023(a)(3)(C)
9 [~~89.023(a)(4)(C)~~], an inactive well is considered to be part of an
10 enhanced oil recovery project if the well is located on a unit or
11 lease or in a field associated with such a project.

12 SECTION 5. Section 89.026(a), Natural Resources Code, is
13 amended to read as follows:

14 (a) Documentation filed under Section 89.023(a)(3)(D)
15 [~~89.023(a)(4)(D)~~] of the results of a successful fluid level test
16 is valid for a period of one year from the date of the
17 test. Documentation filed under that section of the results of a
18 successful hydraulic pressure test is valid for a period of not more
19 than five years from the date of the test.

20 SECTION 6. Section 89.027(a), Natural Resources Code, is
21 amended to read as follows:

22 (a) A supplemental bond, letter of credit, or cash deposit
23 filed under Section 89.023(a)(3)(E) [~~89.023(a)(4)(E)~~] is in
24 addition to any other financial assurance otherwise required of the
25 operator or for the well.

26 SECTION 7. Section 89.028(a), Natural Resources Code, is
27 amended to read as follows:

1 (a) Escrow funds described by Section 89.023(a)(3)(F)
2 [~~89.023(a)(4)(F)~~] must be deposited with the commission each time
3 an operator files an application for an extension of the deadline
4 for plugging an inactive well.

5 SECTION 8. The changes in law made by this Act apply only to
6 the renewal of an organization report on or after the effective date
7 of this Act. The renewal of an organization report before the
8 effective date of this Act is governed by the law as it existed
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose.

11 SECTION 9. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2011.