

1-1 By: Crossover (Senate Sponsor - Duncan) H.B. No. 3134  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on Natural  
1-4 Resources; May 17, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 May 17, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3134 By: Nichols

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the plugging of inactive oil and gas wells.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 89.022, Natural Resources Code, is  
1-13 amended by amending Subsection (b) and adding Subsections (d), (e),  
1-14 and (f) to read as follows:

1-15 (b) Notwithstanding Subsection (a), a person who assumes  
1-16 responsibility for the physical operation and control of an  
1-17 existing inactive well must satisfy the requirements of Sections  
1-18 89.023(a)(1) and (3) [~~(4)~~] not later than six months after the date  
1-19 the commission approves the initial form described by Section  
1-20 89.002(a)(2) and filed with the commission under which the person  
1-21 assumes responsibility for the well.

1-22 (d) Before the commission issues an order refusing to renew  
1-23 an operator's organization report under Subsection (c), an  
1-24 authorized commission employee or a person designated by the  
1-25 commission for that purpose must determine whether the operator has  
1-26 failed to comply with the requirements of this subchapter. If the  
1-27 authorized commission employee or designated person determines  
1-28 that the organization report does not qualify for renewal on that  
1-29 ground, the authorized commission employee or designated person  
1-30 must:

1-31 (1) notify the operator of the determination;  
1-32 (2) provide the operator with a written statement of  
1-33 the reasons the organization report does not qualify for renewal;  
1-34 and

1-35 (3) notify the operator that the operator has 90 days  
1-36 to comply with the requirements of this subchapter.

1-37 (e) After the expiration of the period specified by  
1-38 Subsection (d)(3), the authorized commission employee or  
1-39 designated person shall determine whether the organization report  
1-40 qualifies for renewal and notify the operator of the determination.  
1-41 If the authorized commission employee or designated person  
1-42 determines that the organization report does not qualify for  
1-43 renewal because the operator has continued to fail to comply with  
1-44 the requirements of this subchapter, the operator, not later than  
1-45 the 30th day after the date of the determination, may request a  
1-46 hearing regarding the determination. The operator shall pay the  
1-47 costs associated with a hearing requested under this subsection.

1-48 (f) If the commission determines following the hearing that  
1-49 the operator has failed to comply with the requirements of this  
1-50 subchapter or the operator fails to file a timely request for a  
1-51 hearing, the commission by order shall refuse to renew the  
1-52 organization report. The organization report remains in effect  
1-53 until the commission's order becomes final.

1-54 SECTION 2. Section 89.023(a), Natural Resources Code, is  
1-55 amended to read as follows:

1-56 (a) The commission may grant an extension of the deadline  
1-57 for plugging an inactive well if the operator maintains a current  
1-58 organization report with the commission as required by Section  
1-59 91.142 and if, on or before the date of renewal of the operator's  
1-60 organization report as required by that section, the operator files  
1-61 with the commission an application for an extension that includes:

1-62 (1) an affirmation that complies with Section 89.029;  
1-63 (2) [~~a statement that the well and associated~~

2-1 ~~facilities are in compliance with all commission rules and orders;~~  
2-2 [~~3~~] a statement that the operator has, and on  
2-3 request will provide, evidence of a good faith claim to a continuing  
2-4 right to operate the well; and  
2-5 (3) [~~4~~] at least one of the following:  
2-6 (A) documentation that since the preceding date  
2-7 that the operator's organization report was required to be renewed  
2-8 the operator has plugged, or restored to active operation as  
2-9 defined by commission rule, a number of inactive wells equal to or  
2-10 greater than 10 percent of the number of inactive wells operated by  
2-11 the operator on that date;  
2-12 (B) an abeyance of plugging report on a form  
2-13 approved by the commission that:  
2-14 (i) is in the form of a certification signed  
2-15 by a person licensed by the Texas Board of Professional Engineers or  
2-16 the Texas Board of Professional Geoscientists;  
2-17 (ii) includes:  
2-18 (a) an affirmation by the licensed  
2-19 person that the well has:  
2-20 (1) a reasonable expectation of  
2-21 economic value in excess of the cost of plugging the well for the  
2-22 duration of the period covered by the report, based on the cost  
2-23 calculation for plugging an inactive well; and  
2-24 (2) a reasonable expectation of  
2-25 being restored to a beneficial use that will prevent waste of oil or  
2-26 gas resources that otherwise would not be produced if the well were  
2-27 plugged; and  
2-28 (b) appropriate documentation  
2-29 demonstrating the basis for the affirmation of the well's future  
2-30 utility; and  
2-31 (iii) specifies the field and the covered  
2-32 wells within that field in a format prescribed by the commission;  
2-33 (C) a statement that the well is part of an  
2-34 enhanced oil recovery project;  
2-35 (D) if the operator of the well is not currently  
2-36 otherwise required by commission rule or order to conduct a fluid  
2-37 level or hydraulic pressure test of the well, documentation of the  
2-38 results of a successful fluid level or hydraulic pressure test of  
2-39 the well conducted in accordance with the commission's rules in  
2-40 effect at the time the test is conducted;  
2-41 (E) a supplemental bond, letter of credit, or  
2-42 cash deposit sufficient for each well specified in the application  
2-43 that:  
2-44 (i) complies with the requirements of  
2-45 Chapter 91; and  
2-46 (ii) is of an amount at least equal to the  
2-47 cost calculation for plugging an inactive well for each well  
2-48 specified in the application;  
2-49 (F) documentation of the deposit with the  
2-50 commission each time the operator files an application of an amount  
2-51 of escrow funds as prescribed by commission rule that equal at least  
2-52 10 percent of the total cost calculation for plugging an inactive  
2-53 well for each well specified in the application; or  
2-54 (G) if the operator is a publicly traded entity:  
2-55 (i) the following documents:  
2-56 (a) a copy of the operator's federal  
2-57 documents filed to comply with Financial Accounting Standards Board  
2-58 Statement No. 143, Accounting for Asset Retirement Obligations; and  
2-59 (b) an original, executed Uniform  
2-60 Commercial Code Form 1 Financing Statement, filed with the  
2-61 secretary of state, that:  
2-62 (1) names the operator as the  
2-63 "debtor" and the Railroad Commission of Texas as the "secured  
2-64 creditor"; and  
2-65 (2) specifies the funds covered  
2-66 by the documents described by Sub-subparagraph (a) in the amount of  
2-67 the cost calculation for plugging an inactive well for each well  
2-68 specified in the application; or  
2-69 (ii) a blanket bond in the amount of the

3-1 lesser of:

- 3-2 (a) the cost calculation for plugging
- 3-3 any inactive wells; or
- 3-4 (b) \$2 million.

3-5 SECTION 3. Section 89.024(a), Natural Resources Code, is  
3-6 amended to read as follows:

3-7 (a) An abeyance of plugging report filed under Section  
3-8 89.023(a)(3)(B) [~~89.023(a)(4)(B)~~] is valid for a period of not more  
3-9 than five years.

3-10 SECTION 4. Section 89.025(a), Natural Resources Code, is  
3-11 amended to read as follows:

3-12 (a) For purposes of Section 89.023(a)(3)(C)  
3-13 [~~89.023(a)(4)(C)~~], an inactive well is considered to be part of an  
3-14 enhanced oil recovery project if the well is located on a unit or  
3-15 lease or in a field associated with such a project.

3-16 SECTION 5. Section 89.026(a), Natural Resources Code, is  
3-17 amended to read as follows:

3-18 (a) Documentation filed under Section 89.023(a)(3)(D)  
3-19 [~~89.023(a)(4)(D)~~] of the results of a successful fluid level test  
3-20 is valid for a period of one year from the date of the  
3-21 test. Documentation filed under that section of the results of a  
3-22 successful hydraulic pressure test is valid for a period of not more  
3-23 than five years from the date of the test.

3-24 SECTION 6. Section 89.027(a), Natural Resources Code, is  
3-25 amended to read as follows:

3-26 (a) A supplemental bond, letter of credit, or cash deposit  
3-27 filed under Section 89.023(a)(3)(E) [~~89.023(a)(4)(E)~~] is in  
3-28 addition to any other financial assurance otherwise required of the  
3-29 operator or for the well.

3-30 SECTION 7. Section 89.028(a), Natural Resources Code, is  
3-31 amended to read as follows:

3-32 (a) Escrow funds described by Section 89.023(a)(3)(F)  
3-33 [~~89.023(a)(4)(F)~~] must be deposited with the commission each time  
3-34 an operator files an application for an extension of the deadline  
3-35 for plugging an inactive well.

3-36 SECTION 8. The changes in law made by this Act apply only to  
3-37 an organization report the renewal of which is pending as of the  
3-38 effective date of this Act or that is filed on or after the  
3-39 effective date of this Act.

3-40 SECTION 9. This Act takes effect immediately if it receives  
3-41 a vote of two-thirds of all the members elected to each house, as  
3-42 provided by Section 39, Article III, Texas Constitution. If this  
3-43 Act does not receive the vote necessary for immediate effect, this  
3-44 Act takes effect September 1, 2011.

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