

By: Hegar

S.B. No. 655

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the abolition of the Railroad Commission of Texas, the
3 creation of the Texas Oil and Gas Commission, and the transfer of
4 the powers and duties of the railroad commission to the oil and gas
5 commission.

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

7 SECTION 1. The heading to Chapter 81, Natural Resources
8 Code, is amended to read as follows:

9 CHAPTER 81. TEXAS OIL AND GAS [~~RAILROAD~~] COMMISSION [~~OF TEXAS~~]

10 SECTION 2. Section 81.001, Natural Resources Code, is
11 amended to read as follows:

12 Sec. 81.001. DEFINITIONS. In this chapter:

13 (1) "Commission" means the Texas Oil and Gas
14 [~~Railroad~~] Commission [~~of Texas~~].

15 (2) "Commissioner" means the commissioner [~~any~~
16 ~~member~~] of the Texas Oil and Gas [~~Railroad~~] Commission [~~of Texas~~].

17 SECTION 3. Subchapter A, Chapter 81, Natural Resources
18 Code, is amended by adding Section 81.003 to read as follows:

19 Sec. 81.003. REFERENCE TO RAILROAD COMMISSION OF TEXAS OR
20 RAILROAD COMMISSIONER. A reference in law to:

21 (1) the Railroad Commission of Texas means the Texas
22 Oil and Gas Commission; and

23 (2) a railroad commissioner or a member of the
24 Railroad Commission of Texas means the commissioner of the Texas

1 Oil and Gas Commission.

2 SECTION 4. Section 81.01001, Natural Resources Code, as
3 effective April 1, 2011, is amended to read as follows:

4 Sec. 81.01001. SUNSET PROVISION. The Texas Oil and Gas
5 ~~[Railroad]~~ Commission ~~[of Texas]~~ is subject to Chapter 325,
6 Government Code (Texas Sunset Act). Unless continued in existence
7 as provided by that chapter, the commission is abolished September
8 1, 2023 ~~[2011]~~.

9 SECTION 5. Section 81.01002, Natural Resources Code, as
10 effective April 1, 2011, is amended to read as follows:

11 Sec. 81.01002. ELECTION AND TERM OF COMMISSIONER
12 ~~[CHAIRMAN]~~. (a) The commission is governed by ~~[commissioners~~
13 ~~shall elect]~~ one commissioner ~~[as the chairman]~~.

14 (b) The commissioner is elected for a term of four years.

15 SECTION 6. Section 81.01003, Natural Resources Code, as
16 effective April 1, 2011, is amended to read as follows:

17 Sec. 81.01003. QUALIFICATIONS FOR OFFICE. The ~~[A]~~
18 commissioner must be:

19 (1) a qualified voter under the constitution and laws;
20 and

21 (2) at least 25 years of age.

22 SECTION 7. Section 81.01004, Natural Resources Code, as
23 effective April 1, 2011, is amended to read as follows:

24 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF
25 CONDUCT, AND CONFLICT OF INTEREST. The ~~[A]~~ commissioner is subject
26 to the provisions of Chapter 572, Government Code, that apply to
27 elected officers, including the requirements governing personal

1 financial statements, standards of conduct, and conflicts of
2 interest.

3 SECTION 8. Subchapter B, Chapter 81, Natural Resources
4 Code, is amended by adding Section 81.010045 to read as follows:

5 Sec. 81.010045. CERTAIN POLITICAL CONTRIBUTIONS
6 RESTRICTED. (a) In this section, "political contribution" has the
7 meaning assigned by Section 251.001, Election Code.

8 (b) The commissioner may not knowingly accept a political
9 contribution given or offered with the intention that it be used in
10 connection with a campaign for or the holding of a statewide or
11 federal office, including the office of commissioner, except:

12 (1) beginning one year before the date of the next
13 general election at which the commissioner's office is filled; and

14 (2) ending on the 30th day before the date the first
15 regular legislative session of the commissioner's succeeding term
16 convenes.

17 (c) A person other than the commissioner may not knowingly
18 accept a political contribution given or offered with the intention
19 that it be used in connection with a campaign for the office of
20 commissioner, except:

21 (1) during the period:

22 (A) beginning one year before the date of the
23 next general election at which the commissioner's office is filled;
24 and

25 (B) ending on the 30th day before the date the
26 first regular legislative session of the commissioner's succeeding
27 term convenes; or

1 (2) during the period beginning on the date a vacancy
2 in the office of commissioner occurs and ending on the date that
3 vacancy is filled.

4 SECTION 9. Section 81.01005, Natural Resources Code, as
5 effective April 1, 2011, is amended to read as follows:

6 Sec. 81.01005. NAME AND SEAL. (a) The commission is
7 ~~[commissioners are]~~ known ~~[collectively]~~ as the "Texas Oil and Gas
8 ~~[Railroad]~~ Commission ~~[of Texas]~~."

9 (b) The seal of the commission contains a star of five
10 points with the words "Texas Oil and Gas ~~[Railroad]~~ Commission ~~[of~~
11 ~~Texas]~~" engraved on it.

12 SECTION 10. Section 81.01006, Natural Resources Code, as
13 effective April 1, 2011, is amended to read as follows:

14 Sec. 81.01006. PROCEDURAL RULES. The commissioner
15 ~~[commissioners]~~ may adopt all rules necessary for the commission's
16 government and proceedings.

17 SECTION 11. Section 81.01007, Natural Resources Code, as
18 effective April 1, 2011, is amended to read as follows:

19 Sec. 81.01007. SUPPLIES. The commissioner ~~[commissioners]~~
20 shall be furnished necessary furniture, stationery, supplies, and
21 expenses, to be paid for on the order of the governor.

22 SECTION 12. Section 81.01008, Natural Resources Code, as
23 effective April 1, 2011, is amended to read as follows:

24 Sec. 81.01008. PUBLIC HEARINGS ~~[SESSIONS]~~. The commission
25 may hold public hearings ~~[sessions]~~ at any place in this state when
26 considered necessary.

27 SECTION 13. Subsection (d), Section 81.01013, Natural

1 Resources Code, as effective April 1, 2011, is amended to read as
2 follows:

3 (d) The commission shall provide to the commissioner
4 [~~commissioners~~] and to agency employees, as often as necessary,
5 information regarding the requirements for office or employment
6 under this chapter, including information regarding a person's
7 responsibilities under applicable laws relating to standards of
8 conduct for state officers or employees.

9 SECTION 14. Section 81.01016, Natural Resources Code, as
10 effective April 1, 2011, is amended to read as follows:

11 Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The
12 commission shall develop and implement policies that clearly
13 separate the policy-making responsibilities of the commissioner
14 [~~commissioners~~] and the management responsibilities of the staff of
15 the commission.

16 SECTION 15. Section 81.017, Natural Resources Code, is
17 amended to read as follows:

18 Sec. 81.017. ADDITIONAL EMPLOYEES. The commission may
19 employ gaugers, inspectors, investigators, supervisors, and
20 clerical employees. These employees shall include a chief engineer
21 and a[7] chief petroleum engineer, [~~and an administrative chief,~~]
22 and their salaries shall be paid in the amounts provided in the
23 General Appropriations Act.

24 SECTION 16. Subsection (b), Section 81.018, Natural
25 Resources Code, is amended to read as follows:

26 (b) Warrants for expenses shall be issued only on duly
27 verified statements of the persons entitled to the funds and on

1 approval of the commissioner [~~chairman of the commission~~].

2 SECTION 17. Subsection (c), Section 81.0521, Natural
3 Resources Code, is amended to read as follows:

4 (c) Two-thirds of the proceeds from this fee, excluding
5 [~~including~~] any penalties collected in connection with the fee,
6 shall be deposited to the oil and gas regulation and [~~oil-field~~]
7 cleanup fund as provided by Section 81.067 [~~91.111~~].

8 SECTION 18. Subsections (c), (d), and (e), Section 81.0531,
9 Natural Resources Code, are amended to read as follows:

10 (c) In determining the amount of the penalty, the commission
11 shall consider the [~~permittee's history of previous violations, the~~
12 ~~seriousness of the violation, any hazard to the health or safety of~~
13 ~~the public, and the demonstrated good faith of the person charged.~~
14 ~~In determining the amount of the penalty for a violation of a~~
15 ~~provision of this title or a rule, order, license, permit, or~~
16 ~~certificate that relates to pipeline safety, the commission shall~~
17 ~~consider the~~] guidelines adopted under Subsection (d).

18 (d) The commission by rule shall adopt guidelines to be used
19 in determining the amount of the penalty [~~for a violation of a~~
20 ~~provision of this title or a rule, order, license, permit, or~~
21 ~~certificate that relates to pipeline safety~~]. The guidelines shall
22 include a penalty calculation worksheet that specifies the typical
23 penalty for certain violations, circumstances justifying
24 enhancement of a penalty and the amount of the enhancement, and
25 circumstances justifying a reduction in a penalty and the amount of
26 the reduction. The guidelines shall take into account:

27 (1) the permittee's history of previous violations,

1 including the number of previous violations;

2 (2) the seriousness of the violation and of any
3 pollution resulting from the violation;

4 (3) any hazard to the health or safety of the public;

5 (4) the degree of culpability;

6 (5) the demonstrated good faith of the person charged;

7 and

8 (6) any other factor the commission considers
9 relevant.

10 (e) A penalty collected under this section shall be
11 deposited to the credit of the general revenue [~~oil-field cleanup~~]
12 fund.

13 SECTION 19. Subsection (g), Section 81.056, Natural
14 Resources Code, is amended to read as follows:

15 (g) The commission may use money in the oil and gas
16 regulation and [~~oil-field~~] cleanup fund to implement this section.
17 The amount of money in the fund the commission may use for that
18 purpose may not exceed the amount of money in the fund that is
19 derived from fees collected under Section 91.142 from common
20 carriers or owners or operators of pipelines as determined annually
21 by the commission.

22 SECTION 20. The heading to Section 81.064, Natural
23 Resources Code, as effective April 1, 2011, is amended to read as
24 follows:

25 Sec. 81.064. POWERS OF [~~COMMISSIONER—OR~~] DESIGNATED
26 EMPLOYEE IN CASES BEFORE COMMISSION.

27 SECTION 21. Subsections (a) and (b), Section 81.064,

1 Natural Resources Code, as effective April 1, 2011, are amended to
2 read as follows:

3 (a) In a case before the commission, [~~a commissioner, or~~] an
4 authorized commission employee, designated by the commissioner
5 [~~commission~~] for that purpose, in the same manner as if the
6 commissioner [~~entire commission~~] were present, may:

- 7 (1) hold a hearing;
- 8 (2) conduct an investigation;
- 9 (3) make a record of a hearing or investigation for the
10 use and benefit of the commission;
- 11 (4) administer an oath;
- 12 (5) certify to an official act; and
- 13 (6) compel the attendance of a witness and the
14 production of papers, books, accounts, and other pertinent
15 documents and testimony.

16 (b) The record of a hearing or investigation made under this
17 section that is certified to by the [~~commissioner or~~] employee has
18 the same effect as if made before the commissioner [~~commission~~].
19 The commissioner [~~commission~~] shall determine a case in which the
20 record is made under this section in the same manner as if the
21 record had been made before the commissioner [~~commission~~].

22 SECTION 22. Subchapter C, Chapter 81, Natural Resources
23 Code, is amended by adding Sections 81.065, 81.066, 81.067, 81.068,
24 81.069, 81.070, and 81.071 to read as follows:

25 Sec. 81.065. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
26 RESOLUTION POLICY. (a) The commission shall develop and implement
27 a policy to encourage the use of:

1 (1) negotiated rulemaking procedures under Chapter
2 2008, Government Code, for the adoption of commission rules; and

3 (2) appropriate alternative dispute resolution
4 procedures under Chapter 2009, Government Code, to assist in the
5 resolution of internal and external disputes under the commission's
6 jurisdiction.

7 (b) The commission's procedures relating to alternative
8 dispute resolution must conform, to the extent possible, to any
9 model guidelines issued by the State Office of Administrative
10 Hearings for the use of alternative dispute resolution by state
11 agencies.

12 (c) The commission shall:

13 (1) coordinate the implementation of the policy
14 adopted under Subsection (a);

15 (2) provide training as needed to implement the
16 procedures for negotiated rulemaking or alternative dispute
17 resolution; and

18 (3) collect data concerning the effectiveness of those
19 procedures.

20 Sec. 81.066. ENFORCEMENT POLICY. (a) The commission by
21 rule shall adopt an enforcement policy to guide the employees of the
22 commission in evaluating violations of the provisions of this title
23 that pertain to safety or the prevention or control of pollution or
24 the provisions of a rule, order, license, permit, or certificate
25 that pertains to safety or the prevention or control of pollution
26 and is issued under this title.

27 (b) The enforcement policy adopted under this section must

1 include:

2 (1) a specific process for classifying violations

3 based on:

4 (A) the seriousness of any pollution resulting
5 from the violation; and

6 (B) any hazard to the health or safety of the
7 public; and

8 (2) standards to provide guidance to commission
9 employees on which violations may be dismissed once the permittee
10 comes into compliance and which violations must be forwarded for
11 enforcement.

12 (c) The standards adopted under Subsection (b)(2) must
13 require a commission employee to take into account the permittee's
14 history of previous violations in determining whether to dismiss a
15 violation once the permittee comes into compliance or forward the
16 violation for enforcement.

17 Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND.

18 (a) The oil and gas regulation and cleanup fund is created as a
19 special fund in the state treasury.

20 (b) The commission shall certify to the comptroller the date
21 on which the balance in the fund equals or exceeds \$20 million. The
22 oil-field cleanup regulatory fees on oil and gas shall not be
23 collected or required to be paid on or after the first day of the
24 second month following the certification, except that the
25 comptroller shall resume collecting the fees on receipt of a
26 commission certification that the fund has fallen below \$10
27 million. The comptroller shall continue collecting the fees until

1 collections are again suspended in the manner provided by this
2 subsection.

3 (c) The fund consists of:

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

9 (2) private contributions, including contributions
10 made under Section 89.084;

11 (3) expenses collected under Section 89.083;

12 (4) fees imposed under Section 85.2021;

13 (5) costs recovered under Section 91.457 or 91.459;

14 (6) proceeds collected under Sections 89.085 and
15 91.115;

16 (7) interest earned on the funds deposited in the
17 fund;

18 (8) oil and gas waste hauler permit application fees
19 collected under Section 29.015, Water Code;

20 (9) costs recovered under Section 91.113(f);

21 (10) hazardous oil and gas waste generation fees
22 collected under Section 91.605;

23 (11) oil-field cleanup regulatory fees on oil
24 collected under Section 81.116;

25 (12) oil-field cleanup regulatory fees on gas
26 collected under Section 81.117;

27 (13) fees for a reissued certificate collected under

1 Section 91.707;

2 (14) fees collected under Section 91.1013;

3 (15) fees collected under Section 89.088;

4 (16) fees collected under Section 91.142;

5 (17) fees collected under Section 91.654;

6 (18) costs recovered under Sections 91.656 and 91.657;

7 (19) two-thirds of the fees collected under Section
8 81.0521;

9 (20) fees collected under Sections 89.024 and 89.026;

10 (21) legislative appropriations; and

11 (22) any surcharges collected under Section 81.070.

12 (d) All revenues and balances in the oil and gas regulation
13 and cleanup fund created in this section are exempt from Section
14 403.095(b), Government Code.

15 Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP
16 FUND. Money in the oil and gas regulation and cleanup fund may be
17 used by the commission or its employees or agents for any purpose
18 related to the regulation of oil and gas development, including oil
19 and gas monitoring and inspections, oil and gas remediation, oil
20 and gas well plugging, public information and services related to
21 those activities, and administrative costs and state benefits for
22 personnel involved in those activities.

23 Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE
24 GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The
25 commission, through the legislative appropriations request
26 process, shall establish specific performance goals for the oil and
27 gas regulation and cleanup fund for the next biennium, including

1 goals for each quarter of each state fiscal year of the biennium for
2 the number of:

3 (1) orphaned wells to be plugged with state-managed
4 funds;

5 (2) abandoned sites to be investigated, assessed, or
6 cleaned up with state funds; and

7 (3) surface locations to be remediated.

8 (b) The commission shall provide quarterly reports to the
9 Legislative Budget Board that include:

10 (1) the following information with respect to the
11 period since the last report was provided as well as cumulatively:

12 (A) the amount of money deposited in the oil and
13 gas regulation and cleanup fund;

14 (B) the amount of money spent from the fund for
15 the purposes described by Subsection (a);

16 (C) the balance of the fund; and

17 (D) the commission's progress in meeting the
18 quarterly performance goals established under Subsection (a) and,
19 if the number of orphaned wells plugged with state-managed funds,
20 abandoned sites investigated, assessed, or cleaned up with state
21 funds, or surface locations remediated is at least five percent
22 less than the number projected in the applicable goal established
23 under Subsection (a), an explanation of the reason for the
24 variance; and

25 (2) any additional information or data requested in
26 writing by the Legislative Budget Board.

27 (c) The commission shall submit to the legislature and make

1 available to the public, annually, a report that reviews the extent
2 to which money provided under Section 81.067 has enabled the
3 commission to better protect the environment through oil-field
4 cleanup activities. The report must include:

5 (1) the performance goals established under
6 Subsection (a) for that state fiscal year, the commission's
7 progress in meeting those performance goals, and, if the number of
8 orphaned wells plugged with state-managed funds, abandoned sites
9 investigated, assessed, or cleaned up with state funds, or surface
10 locations remediated is at least five percent less than the number
11 projected in the applicable goal established under Subsection (a),
12 an explanation of the reason for the variance;

13 (2) the number of orphaned wells plugged with
14 state-managed funds, by region;

15 (3) the number of wells orphaned, by region;

16 (4) the number of inactive wells not currently in
17 compliance with commission rules, by region;

18 (5) the status of enforcement proceedings for all
19 wells in violation of commission rules and the period during which
20 the wells have been in violation, by region in which the wells are
21 located;

22 (6) the number of surface locations remediated, by
23 region;

24 (7) a detailed accounting of expenditures of money in
25 the fund for oil-field cleanup activities, including expenditures
26 for plugging of orphaned wells, investigation, assessment, and
27 cleaning up of abandoned sites, and remediation of surface

1 locations;

2 (8) the method by which the commission sets priorities
3 by which it determines the order in which orphaned wells are
4 plugged;

5 (9) a projection of the amount of money needed for the
6 next biennium for plugging orphaned wells, investigating,
7 assessing, and cleaning up abandoned sites, and remediating surface
8 locations; and

9 (10) the number of sites successfully remediated under
10 the voluntary cleanup program under Subchapter O, Chapter 91, by
11 region.

12 Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES.

13 (a) Except as provided by Subsection (b), the commission by rule
14 shall provide for the imposition of reasonable surcharges as
15 necessary on fees imposed by the commission that are required to be
16 deposited to the credit of the oil and gas regulation and cleanup
17 fund as provided by Section 81.067 in amounts sufficient to enable
18 the commission to recover the costs of performing the functions
19 specified by Section 81.068 from those fees and surcharges.

20 (b) The commission may not impose a surcharge on an
21 oil-field cleanup regulatory fee on oil collected under Section
22 81.116 or an oil-field cleanup regulatory fee on gas collected
23 under Section 81.117.

24 (c) The commission by rule shall establish a methodology for
25 determining the amount of a surcharge that takes into account:

26 (1) the time required for regulatory work associated
27 with the activity in connection with which the surcharge is

1 imposed;

2 (2) the number of individuals or entities from which
3 the commission's costs may be recovered;

4 (3) the effect of the surcharge on operators of all
5 sizes, as measured by the number of oil or gas wells operated;

6 (4) the balance in the oil and gas regulation and
7 cleanup fund; and

8 (5) any other factors the commission determines to be
9 important to the fair and equitable imposition of the surcharge.

10 (d) The commission shall collect a surcharge on a fee at the
11 time the fee is collected.

12 (e) A surcharge collected under this section shall be
13 deposited to the credit of the oil and gas regulation and cleanup
14 fund as provided by Section 81.067.

15 Sec. 81.071. POWERS AND DUTIES OF STATE OFFICE OF
16 ADMINISTRATIVE HEARINGS. (a) Notwithstanding any other law, the
17 State Office of Administrative Hearings shall conduct each
18 contested case hearing in an enforcement proceeding under a law
19 administered by the commission. A hearing must be conducted in
20 accordance with the rules and procedures adopted by the commission.

21 (b) The commission may delegate to the State Office of
22 Administrative Hearings the authority to make a final decision and
23 to issue findings of fact, conclusions of law, and other necessary
24 orders in a proceeding in which there is not a contested issue of
25 fact or law.

26 (c) The commission by rule shall define the procedures by
27 which it delegates final decision-making authority under

1 Subsection (b).

2 (d) For purposes of judicial review, an administrative law
3 judge's final decision under Subsection (b) has the same effect as a
4 final decision of the commission unless the commission requests
5 formal review of the decision.

6 SECTION 23. Section 81.115, Natural Resources Code, is
7 amended to read as follows:

8 Sec. 81.115. APPROPRIATIONS [PAYMENTS] TO COMMISSION FOR
9 OIL AND GAS REGULATION AND CLEANUP PURPOSES [OIL AND GAS DIVISION].
10 Money appropriated to the [~~oil and gas division of the~~] commission
11 under the General Appropriations Act for the purposes described by
12 Section 81.068 shall be paid from the oil and gas regulation and
13 cleanup fund [General Revenue Fund].

14 SECTION 24. Subsections (d) and (e), Section 81.116,
15 Natural Resources Code, are amended to read as follows:

16 (d) The comptroller shall suspend collection of the fee in
17 the manner provided by Section 81.067 [91.111]. The exemptions and
18 reductions set out in Sections 202.052, 202.054, 202.056, 202.057,
19 202.059, and 202.060, Tax Code, do not affect the fee imposed by
20 this section.

21 (e) Proceeds from the fee, excluding [including] any
22 penalties collected in connection with the fee, shall be deposited
23 to the oil and gas regulation and [oil-field] cleanup fund as
24 provided by Section 81.067 [91.111 of this code].

25 SECTION 25. Subsections (d) and (e), Section 81.117,
26 Natural Resources Code, are amended to read as follows:

27 (d) The comptroller shall suspend collection of the fee in

1 the manner provided by Section 81.067 [~~91.111~~]. The exemptions and
2 reductions set out in Sections 201.053, 201.057, 201.058, and
3 202.060, Tax Code, do not affect the fee imposed by this section.

4 (e) Proceeds from the fee, excluding [~~including~~] any
5 penalties collected in connection with the fee, shall be deposited
6 to the oil and gas regulation and [~~oil-field~~] cleanup fund as
7 provided by Section 81.067 [~~91.111 of this code~~].

8 SECTION 26. Subsection (d), Section 85.2021, Natural
9 Resources Code, is amended to read as follows:

10 (d) All fees collected under this section shall be deposited
11 in the oil and gas regulation and [~~state oil-field~~] cleanup fund.

12 SECTION 27. Subsection (d), Section 89.024, Natural
13 Resources Code, is amended to read as follows:

14 (d) An operator who files an abeyance of plugging report
15 must pay an annual fee of \$100 for each well covered by the report.
16 A fee collected under this section shall be deposited in the oil and
17 gas regulation and [~~oil-field~~] cleanup fund.

18 SECTION 28. Subsection (d), Section 89.026, Natural
19 Resources Code, is amended to read as follows:

20 (d) An operator who files documentation described by
21 Subsection (a) must pay an annual fee of \$50 for each well covered
22 by the documentation. A fee collected under this section shall be
23 deposited in the oil and gas regulation and [~~oil-field~~] cleanup
24 fund.

25 SECTION 29. Subsection (d), Section 89.048, Natural
26 Resources Code, is amended to read as follows:

27 (d) On successful plugging of the well by the well plugger,

1 the surface estate owner may submit documentation to the commission
2 of the cost of the well-plugging operation. The commission shall
3 reimburse the surface estate owner from money in the oil and gas
4 regulation and [~~oil-field~~] cleanup fund in an amount not to exceed
5 50 percent of the lesser of:

- 6 (1) the documented well-plugging costs; or
7 (2) the average cost incurred by the commission in the
8 preceding 24 months in plugging similar wells located in the same
9 general area.

10 SECTION 30. Subsection (j), Section 89.083, Natural
11 Resources Code, is amended to read as follows:

12 (j) Money collected in a suit under this section shall be
13 deposited in the oil and gas regulation and [~~state oil-field~~]
14 cleanup fund.

15 SECTION 31. Subsection (d), Section 89.085, Natural
16 Resources Code, is amended to read as follows:

17 (d) The commission shall deposit money received from the
18 sale of well-site equipment or hydrocarbons under this section to
19 the credit of the oil and gas regulation and [~~oil-field~~] cleanup
20 fund. The commission shall separately account for money and credit
21 received for each well.

22 SECTION 32. The heading to Section 89.086, Natural
23 Resources Code, is amended to read as follows:

24 Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND [~~THE~~
25 ~~OIL-FIELD~~] CLEANUP FUND.

26 SECTION 33. Subsections (a) and (h) through (k), Section
27 89.086, Natural Resources Code, are amended to read as follows:

1 (a) A person with a legal or equitable ownership or security
2 interest in well-site equipment or hydrocarbons disposed of under
3 Section 89.085 [~~of this code~~] may make a claim against the oil and
4 gas regulation and [~~oil-field~~] cleanup fund unless an element of
5 the transaction giving rise to the interest occurs after the
6 commission forecloses its statutory lien under Section 89.083.

7 (h) The commission shall suspend an amount of money in the
8 oil and gas regulation and [~~oil-field~~] cleanup fund equal to the
9 amount of the claim until the claim is finally resolved. If the
10 provisions of Subsection (k) [~~of this section~~] prevent suspension
11 of the full amount of the claim, the commission shall treat the
12 claim as two consecutively filed claims, one in the amount of funds
13 available for suspension and the other in the remaining amount of
14 the claim.

15 (i) A claim made by or on behalf of the operator or a
16 nonoperator of a well or a successor to the rights of the operator
17 or nonoperator is subject to a ratable deduction from the proceeds
18 or credit received for the well-site equipment to cover the costs
19 incurred by the commission in removing the equipment or
20 hydrocarbons from the well or in transporting, storing, or
21 disposing of the equipment or hydrocarbons. A claim made by a
22 person who is not an operator or nonoperator is subject to a ratable
23 deduction for the costs incurred by the commission in removing the
24 equipment from the well. If a claimant is a person who is
25 responsible under law or commission rules for plugging the well or
26 cleaning up pollution originating on the lease or if the claimant
27 owes a penalty assessed by the commission or a court for a violation

1 of a commission rule or order, the commission may recoup from or
2 offset against a valid claim an expense incurred by the oil and gas
3 regulation and [~~oil-field~~] cleanup fund that is not otherwise
4 reimbursed or any penalties owed. An amount recouped from,
5 deducted from, or offset against a claim under this subsection
6 shall be treated as an invalid portion of the claim and shall remain
7 suspended in the oil and gas regulation and [~~oil-field~~] cleanup
8 fund in the manner provided by Subsection (j) [~~of this section~~].

9 (j) If the commission finds that a claim is valid in whole or
10 in part, the commission shall pay the valid portion of the claim
11 from the suspended amount in the oil and gas regulation and
12 [~~oil-field~~] cleanup fund not later than the 30th day after the date
13 of the commission's decision. If the commission finds that a claim
14 is invalid in whole or in part, the commission shall continue to
15 suspend in the oil and gas regulation and [~~oil-field~~] cleanup fund
16 an amount equal to the invalid portion of the claim until the period
17 during which the commission's decision may be appealed has expired
18 or, if appealed, during the period the case is under judicial
19 review. If on appeal the district court finds the claim valid in
20 whole or in part, the commission shall pay the valid portion of the
21 claim from the suspended amount in the oil and gas regulation and
22 [~~oil-field~~] cleanup fund not later than 30 days after the date the
23 court's judgment becomes unappealable. On the date the
24 commission's decision is not subject to judicial review, the
25 commission shall release from the suspended amount in the oil and
26 gas regulation and [~~oil-field~~] cleanup fund the amount of the claim
27 held to be invalid.

1 (k) If the aggregate of claims paid and money suspended that
2 relates to well-site equipment or hydrocarbons from a particular
3 well equals the total of the actual proceeds and credit realized
4 from the disposition of that equipment or those hydrocarbons, the
5 oil and gas regulation and ~~[oil-field]~~ cleanup fund is not liable
6 for any subsequently filed claims that relate to the same equipment
7 or hydrocarbons unless and until the commission releases from the
8 suspended amount money derived from the disposition of that
9 equipment or those hydrocarbons. If the commission releases money,
10 then the commission shall suspend money in the amount of
11 subsequently filed claims in the order of filing.

12 SECTION 34. Subsection (b), Section 89.121, Natural
13 Resources Code, is amended to read as follows:

14 (b) Civil penalties collected for violations of this
15 chapter or of rules relating to plugging that are adopted under this
16 code shall be deposited in the general revenue ~~[state oil-field
17 cleanup]~~ fund.

18 SECTION 35. Subsection (c), Section 91.1013, Natural
19 Resources Code, is amended to read as follows:

20 (c) Fees collected under this section shall be deposited in
21 the oil and gas regulation and ~~[state oil-field]~~ cleanup fund.

22 SECTION 36. Section 91.108, Natural Resources Code, is
23 amended to read as follows:

24 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
25 refund provisions of Section 91.1091, if applicable, proceeds from
26 bonds and other financial security required pursuant to this
27 chapter and benefits under well-specific plugging insurance

1 policies described by Section 91.104(c) that are paid to the state
2 as contingent beneficiary of the policies shall be deposited in the
3 oil and gas regulation and [~~oil-field~~] cleanup fund and,
4 notwithstanding Sections 81.068 [~~91.112~~] and 91.113, may be used
5 only for actual well plugging and surface remediation.

6 SECTION 37. Subsection (a), Section 91.109, Natural
7 Resources Code, is amended to read as follows:

8 (a) A person applying for or acting under a commission
9 permit to store, handle, treat, reclaim, or dispose of oil and gas
10 waste may be required by the commission to maintain a performance
11 bond or other form of financial security conditioned that the
12 permittee will operate and close the storage, handling, treatment,
13 reclamation, or disposal site in accordance with state law,
14 commission rules, and the permit to operate the site. However, this
15 section does not authorize the commission to require a bond or other
16 form of financial security for saltwater disposal pits, emergency
17 saltwater storage pits (including blow-down pits), collecting
18 pits, or skimming pits provided that such pits are used in
19 conjunction with the operation of an individual oil or gas lease.
20 Subject to the refund provisions of Section 91.1091 [~~of this code~~],
21 proceeds from any bond or other form of financial security required
22 by this section shall be placed in the oil and gas regulation and
23 [~~oil-field~~] cleanup fund. Each bond or other form of financial
24 security shall be renewed and continued in effect until the
25 conditions have been met or release is authorized by the
26 commission.

27 SECTION 38. Subsections (a) and (f), Section 91.113,

1 Natural Resources Code, are amended to read as follows:

2 (a) If oil and gas wastes or other substances or materials
3 regulated by the commission under Section 91.101 are causing or are
4 likely to cause the pollution of surface or subsurface water, the
5 commission, through its employees or agents, may use money in the
6 oil and gas regulation and [oil-field] cleanup fund to conduct a
7 site investigation or environmental assessment or control or clean
8 up the oil and gas wastes or other substances or materials if:

9 (1) the responsible person has failed or refused to
10 control or clean up the oil and gas wastes or other substances or
11 materials after notice and opportunity for hearing;

12 (2) the responsible person is unknown, cannot be
13 found, or has no assets with which to control or clean up the oil and
14 gas wastes or other substances or materials; or

15 (3) the oil and gas wastes or other substances or
16 materials are causing the pollution of surface or subsurface water.

17 (f) If the commission conducts a site investigation or
18 environmental assessment or controls or cleans up oil and gas
19 wastes or other substances or materials under this section, the
20 commission may recover all costs incurred by the commission from
21 any person who was required by law, rules adopted by the commission,
22 or a valid order of the commission to control or clean up the oil and
23 gas wastes or other substances or materials. The commission by
24 order may require the person to reimburse the commission for those
25 costs or may request the attorney general to file suit against the
26 person to recover those costs. At the request of the commission,
27 the attorney general may file suit to enforce an order issued by the

1 commission under this subsection. A suit under this subsection may
2 be filed in any court of competent jurisdiction in Travis County.
3 Costs recovered under this subsection shall be deposited to the oil
4 and gas regulation and [~~oil-field~~] cleanup fund.

5 SECTION 39. Subsection (c), Section 91.264, Natural
6 Resources Code, is amended to read as follows:

7 (c) A penalty collected under this section shall be
8 deposited to the credit of the general revenue [~~oil-field cleanup~~]
9 fund [~~account~~].

10 SECTION 40. Subsection (b), Section 91.457, Natural
11 Resources Code, is amended to read as follows:

12 (b) If a person ordered to close a saltwater disposal pit
13 under Subsection (a) [~~of this section~~] fails or refuses to close the
14 pit in compliance with the commission's order and rules, the
15 commission may close the pit using money from the oil and gas
16 regulation and [~~oil-field~~] cleanup fund and may direct the attorney
17 general to file suits in any courts of competent jurisdiction in
18 Travis County to recover applicable penalties and the costs
19 incurred by the commission in closing the saltwater disposal pit.

20 SECTION 41. Subsection (c), Section 91.459, Natural
21 Resources Code, is amended to read as follows:

22 (c) Any [~~penalties or~~] costs recovered by the attorney
23 general under this subchapter shall be deposited in the oil and gas
24 regulation and [~~oil-field~~] cleanup fund.

25 SECTION 42. Subsection (e), Section 91.605, Natural
26 Resources Code, is amended to read as follows:

27 (e) The fees collected under this section shall be deposited

1 in the oil and gas regulation and [~~oil-field~~] cleanup fund.

2 SECTION 43. Subsection (e), Section 91.654, Natural
3 Resources Code, is amended to read as follows:

4 (e) Fees collected under this section shall be deposited to
5 the credit of the oil and gas regulation and [~~oil-field~~] cleanup
6 fund under Section 81.067 [~~91.111~~].

7 SECTION 44. Subsection (b), Section 91.707, Natural
8 Resources Code, is amended to read as follows:

9 (b) Fees collected under this section shall be deposited to
10 the oil and gas regulation and [~~oil-field~~] cleanup fund.

11 SECTION 45. Subchapter B, Chapter 102, Natural Resources
12 Code, is amended by adding Sections 102.0125 and 102.0165 to read as
13 follows:

14 Sec. 102.0125. WITHDRAWAL AND REFILEING OF APPLICATION.

15 (a) The commission by rule shall:

16 (1) provide procedures requiring an interested owner
17 who applies to the commission for the pooling of mineral interests
18 to give notice to the commission before withdrawing the application
19 if a hearing on the application has been scheduled; and

20 (2) require an applicant who refiles an application
21 that was withdrawn without proper notice as required by rules
22 adopted under Subdivision (1) to pay a filing fee that exceeds the
23 amount of any fee required for filing the initial application.

24 (b) Rules adopted under Subsection (a)(1) must specify the
25 deadline for giving notice of withdrawal of the application before
26 the hearing is held.

27 Sec. 102.0165. LOCATION OF HEARING. (a) At the request of

1 an interested party, the commission may hold the hearing on the
2 application in person or by telephone at a location in the vicinity
3 of the proposed unit.

4 (b) The commission may contract with another state agency to
5 hold hearings on applications for pooling of interests into a unit
6 under the provisions of this chapter in person or by telephone at
7 field offices of that agency.

8 SECTION 46. Subsection (a), Section 117.012, Natural
9 Resources Code, is amended to read as follows:

10 (a) The commission shall adopt rules that include:

11 (1) safety standards for and practices applicable to
12 the intrastate transportation of hazardous liquids or carbon
13 dioxide by pipeline and intrastate hazardous liquid or carbon
14 dioxide pipeline facilities; and

15 (2) [~~, including~~] safety standards related to the
16 prevention of damage to interstate and intrastate hazardous liquid
17 or carbon dioxide pipeline facilities [~~such a facility~~] resulting
18 from the movement of earth by a person in the vicinity of such a
19 [~~the~~] facility, other than movement by tillage that does not exceed
20 a depth of 16 inches.

21 SECTION 47. Subsection (q), Section 211.033, Natural
22 Resources Code, is amended to read as follows:

23 (q) A penalty collected under this section shall be remitted
24 to the comptroller for [~~the~~] deposit to the credit of the general
25 revenue [~~oil-field-cleanup~~] fund.

26 SECTION 48. Subsection (c), Section 52.092, Election Code,
27 is amended to read as follows:

1 (c) Statewide offices of the state government shall be
2 listed in the following order:

- 3 (1) governor;
- 4 (2) lieutenant governor;
- 5 (3) attorney general;
- 6 (4) comptroller of public accounts;
- 7 (5) commissioner of the General Land Office;
- 8 (6) commissioner of agriculture;
- 9 (7) ~~[railroad]~~ commissioner of the Texas Oil and Gas
10 Commission;
- 11 (8) chief justice, supreme court;
- 12 (9) justice, supreme court;
- 13 (10) presiding judge, court of criminal appeals;
- 14 (11) judge, court of criminal appeals.

15 SECTION 49. Section 756.126, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The
18 Texas Oil and Gas [Railroad] Commission [of Texas] shall adopt and
19 enforce safety standards and best practices, including those
20 described by 49 U.S.C. Section 6105 et seq., relating to the
21 prevention of damage by a person to a facility, including an
22 interstate or intrastate pipeline facility, under the jurisdiction
23 of the commission.

24 SECTION 50. Section 102.006, Utilities Code, is amended to
25 read as follows:

26 Sec. 102.006. POWERS AND DUTIES OF STATE OFFICE OF
27 ADMINISTRATIVE HEARINGS [IN CONTESTED CASES]. (a) The ~~[railroad]~~

1 ~~commission by rule shall provide for administrative hearings in~~
2 ~~contested cases to be conducted by one or more members of the~~
3 ~~railroad commission, by railroad commission hearings examiners, or~~
4 ~~by the utility division of the State Office of Administrative~~
5 ~~Hearings. The rules must provide for a railroad commission~~
6 ~~hearings examiner or the utility division of the] State Office of~~
7 Administrative Hearings shall [~~to~~] conduct each hearing in a
8 contested case under this subtitle [~~that is not conducted by one or~~
9 ~~more members of the railroad commission]~~. A hearing must be
10 conducted in accordance with the rules and procedures adopted by
11 the railroad commission.

12 (b) The railroad commission may delegate to [~~a railroad~~
13 ~~commission hearings examiner or to the utility division of]~~ the
14 State Office of Administrative Hearings the authority to make a
15 final decision and to issue findings of fact, conclusions of law,
16 and other necessary orders in a proceeding in which there is not a
17 contested issue of fact or law.

18 (c) The railroad commission by rule shall define the
19 procedures by which it delegates final decision-making authority
20 under Subsection (b) [~~to a railroad commission hearings examiner or~~
21 ~~to the utility division of the State Office of Administrative~~
22 ~~Hearings]~~.

23 (d) For purposes of judicial review, an administrative law
24 judge's [~~the~~] final decision [~~of a railroad commission hearings~~
25 ~~examiner or an administrative law judge of the State Office of~~
26 ~~Administrative Hearings in a matter delegated]~~ under Subsection (b)
27 has the same effect as a final decision of the railroad commission

1 unless [~~a member of~~] the commission requests formal review of the
2 decision.

3 ~~[(c) The State Office of Administrative Hearings shall~~
4 ~~charge the railroad commission a fixed annual rate for hearings~~
5 ~~conducted by the office under this section only if the legislature~~
6 ~~appropriates money for that purpose. If the legislature does not~~
7 ~~appropriate money for the payment of a fixed annual rate under this~~
8 ~~section, the State Office of Administrative Hearings shall charge~~
9 ~~the railroad commission an hourly rate of not more than \$90 per hour~~
10 ~~for hearings conducted by the office under this section.]~~

11 SECTION 51. Subsection (a), Section 121.201, Utilities
12 Code, is amended to read as follows:

13 (a) The railroad commission may:

14 (1) by rule prescribe or adopt safety standards for
15 the transportation of gas and for gas pipeline facilities,
16 including safety standards related to the prevention of damage to
17 an interstate or intrastate gas pipeline [~~such a~~] facility
18 resulting from the movement of earth by a person in the vicinity of
19 the facility, other than movement by tillage that does not exceed a
20 depth of 16 inches;

21 (2) by rule require an operator that does not file
22 operator organization information under Section 91.142, Natural
23 Resources Code, to provide the information to the commission in the
24 form of an application;

25 (3) by rule require record maintenance and reports;

26 (4) inspect records and facilities to determine
27 compliance with safety standards prescribed or adopted under

1 Subdivision (1);

2 (5) make certifications and reports from time to time;

3 (6) seek designation by the United States secretary of
4 transportation as an agent to conduct safety inspections of
5 interstate gas pipeline facilities located in this state; and

6 (7) by rule take any other requisite action in
7 accordance with 49 U.S.C. Section 60101 et seq., or a succeeding
8 law.

9 SECTION 52. Section 29.015, Water Code, is amended to read
10 as follows:

11 Sec. 29.015. APPLICATION FEE. With each application for
12 issuance, renewal, or material amendment of a permit, the applicant
13 shall submit to the railroad commission a nonrefundable fee of
14 \$100. Fees collected under this section shall be deposited in the
15 oil and gas regulation and ~~oil-field~~ cleanup fund.

16 SECTION 53. The following provisions of the Natural
17 Resources Code are repealed:

18 (1) Section 91.111;

19 (2) Section 91.112;

20 (3) Section 91.1135; and

21 (4) Subchapter I, Chapter 113.

22 SECTION 54. On the effective date of this Act:

23 (1) the oil-field cleanup fund and the alternative
24 fuels research and education fund are abolished;

25 (2) any money remaining in the oil-field cleanup fund
26 is transferred to the oil and gas regulation and cleanup fund;

27 (3) any money remaining in the alternative fuels

1 research and education fund is transferred to the undedicated
2 portion of the general revenue fund;

3 (4) any claim against the oil-field cleanup fund is
4 transferred to the oil and gas regulation and cleanup fund;

5 (5) any claim against the alternative fuels research
6 and education fund is transferred to the undedicated portion of the
7 general revenue fund;

8 (6) any amount required to be deposited to the credit
9 of the oil-field cleanup fund shall be deposited to the credit of
10 the oil and gas regulation and cleanup fund; and

11 (7) any amount required to be deposited to the credit
12 of the alternative fuels research and education fund shall be
13 deposited to the credit of the undedicated portion of the general
14 revenue fund.

15 SECTION 55. (a) On the effective date of this Act, the
16 member of the Railroad Commission of Texas who was most recently
17 elected to a six-year term as a member of that commission becomes
18 the initial commissioner of the Texas Oil and Gas Commission. The
19 initial commissioner serves until the person appointed by the
20 governor to serve as the commissioner under Subsection (b) of this
21 section takes office.

22 (b) As soon as possible after the effective date of this
23 Act, the governor shall appoint a person to serve as the
24 commissioner of the Texas Oil and Gas Commission for a term that
25 expires January 1, 2013. The governor may appoint as the
26 commissioner the person who becomes the initial commissioner under
27 Subsection (a) of this section.

1 (c) The office of commissioner of the Texas Oil and Gas
2 Commission exists for purposes of the primary and general election
3 in 2012.

4 (d) The initial elected commissioner of the Texas Oil and
5 Gas Commission shall be elected at the general election for state
6 and county officers in 2012 to serve a two-year term.

7 (e) The initial elected commissioner of the Texas Oil and
8 Gas Commission shall take office January 1, 2013.

9 SECTION 56. (a) On the effective date of this Act:

10 (1) the Texas Oil and Gas Commission is created;

11 (2) the Railroad Commission of Texas is abolished and
12 the terms of the members of the Railroad Commission of Texas serving
13 on that date expire;

14 (3) the powers, duties, functions, programs, and
15 activities of the Railroad Commission of Texas are transferred to
16 the Texas Oil and Gas Commission;

17 (4) an employee of the Railroad Commission of Texas
18 becomes an employee of the Texas Oil and Gas Commission;

19 (5) all obligations and contracts of the Railroad
20 Commission of Texas are transferred to the Texas Oil and Gas
21 Commission;

22 (6) all property and records in the custody of the
23 Railroad Commission of Texas and all funds appropriated by the
24 legislature to the Railroad Commission of Texas shall be
25 transferred to the Texas Oil and Gas Commission;

26 (7) all complaints, investigations, or contested
27 cases that are pending before the Railroad Commission of Texas, or

1 the governing body of the Railroad Commission of Texas, are
2 transferred without change in status to the Texas Oil and Gas
3 Commission;

4 (8) a rule or form adopted by the Railroad Commission
5 of Texas is a rule or form of the Texas Oil and Gas Commission and
6 remains in effect until altered by that commission;

7 (9) a reference in law to the Railroad Commission of
8 Texas means the Texas Oil and Gas Commission;

9 (10) a reference in law to a railroad commissioner or a
10 member of the Railroad Commission of Texas means the commissioner
11 of the Texas Oil and Gas Commission; and

12 (11) a license, permit, or certification in effect
13 that was issued by the Railroad Commission of Texas is continued in
14 effect as a license, permit, or certification of the Texas Oil and
15 Gas Commission.

16 (b) The abolition of the Railroad Commission of Texas and
17 the transfer of its powers, duties, functions, programs,
18 activities, obligations, rights, contracts, records, property,
19 funds, and employees as provided by this Act do not affect or impair
20 an act done, any obligation, right, order, permit, certificate,
21 rule, criterion, standard, or requirement existing, or any penalty
22 accrued under former law, and that law remains in effect for any
23 action concerning those matters.

24 SECTION 57. The Texas Oil and Gas Commission shall adopt a
25 timetable for phasing in the use of the name of the Texas Oil and Gas
26 Commission so as to minimize the fiscal impact of the change of name
27 of the entity responsible for performing the functions of the

1 Railroad Commission of Texas. Until January 1, 2012, to allow for
2 phasing in the use of the name of the Texas Oil and Gas Commission
3 and in accordance with the timetable established as required by
4 this section, the Texas Oil and Gas Commission may perform any act
5 authorized by law for the Railroad Commission of Texas as the
6 Railroad Commission of Texas or as the Texas Oil and Gas Commission
7 and any act of the Texas Oil and Gas Commission acting as the
8 Railroad Commission of Texas is an act of the Texas Oil and Gas
9 Commission.

10 SECTION 58. This Act takes effect September 1, 2011.