

1-1 By: Ogden S.B. No. 1584
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on Finance; April 26, 2011,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 14, Nays 0; April 26, 2011, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 1584 By: Ogden

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to state fiscal matters related to natural resources and
1-10 the environment.

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

1-12 ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF CHARGES
1-13 GENERALLY

1-14 SECTION 1.01. This article applies to any state agency that
1-15 receives an appropriation under Article VI of the General
1-16 Appropriations Act.

1-17 SECTION 1.02. Notwithstanding any other statute of this
1-18 state, each state agency to which this article applies is
1-19 authorized to reduce or recover expenditures by:

1-20 (1) consolidating any reports or publications the
1-21 agency is required to make and filing or delivering any of those
1-22 reports or publications exclusively by electronic means;

1-23 (2) extending the effective period of any license,
1-24 permit, or registration the agency grants or administers;

1-25 (3) entering into a contract with another governmental
1-26 entity or with a private vendor to carry out any of the agency's
1-27 duties;

1-28 (4) adopting additional eligibility requirements for
1-29 persons who receive benefits under any law the agency administers
1-30 to ensure that those benefits are received by the most deserving
1-31 persons consistent with the purposes for which the benefits are
1-32 provided;

1-33 (5) providing that any communication between the
1-34 agency and another person and any document required to be delivered
1-35 to or by the agency, including any application, notice, billing
1-36 statement, receipt, or certificate, may be made or delivered by
1-37 e-mail or through the Internet; and

1-38 (6) adopting and collecting fees or charges to cover
1-39 any costs the agency incurs in performing its lawful functions.

1-40 ARTICLE 2. FISCAL MATTERS CONCERNING ANIMAL HEALTH REGULATION

1-41 SECTION 2.01. Section 161.060, Agriculture Code, is amended
1-42 to read as follows:

1-43 Sec. 161.060. AUTHORITY TO SET AND COLLECT [INSPECTION]
1-44 FEES. The commission by rule may set and collect a fee for any
1-45 service provided [charge a fee, as provided by commission rule, for
1-46 an inspection made] by the commission, including:

1-47 (1) the inspection of animals or facilities;

1-48 (2) the testing of animals for disease;

1-49 (3) obtaining samples from animals for disease
1-50 testing;

1-51 (4) disease eradication and treatment efforts;

1-52 (5) services related to the transport of livestock;

1-53 (6) control and eradication of ticks and other pests;
1-54 and

1-55 (7) any other service for which the commission incurs
1-56 a cost.

1-57 ARTICLE 3. FISCAL MATTERS REGARDING PETROLEUM INDUSTRY REGULATION

1-58 SECTION 3.01. Subsection (b), Section 26.3574, Water Code,
1-59 is amended to read as follows:

1-60 (b) A fee is imposed on the delivery of a petroleum product
1-61 on withdrawal from bulk of that product as provided by this
1-62 subsection. Each operator of a bulk facility on withdrawal from
1-63 bulk of a petroleum product shall collect from the person who orders

2-1 the withdrawal a fee in an amount determined as follows:

2-2 (1) \$3.75 for each delivery into a cargo tank having a
2-3 capacity of less than 2,500 gallons [~~for the state fiscal year~~
2-4 ~~beginning September 1, 2007, through the state fiscal year ending~~
2-5 ~~August 31, 2011~~];

2-6 (2) \$7.50 for each delivery into a cargo tank having a
2-7 capacity of 2,500 gallons or more but less than 5,000 gallons [~~for~~
2-8 ~~the state fiscal year beginning September 1, 2007, through the~~
2-9 ~~state fiscal year ending August 31, 2011~~];

2-10 (3) \$11.75 for each delivery into a cargo tank having a
2-11 capacity of 5,000 gallons or more but less than 8,000 gallons [~~for~~
2-12 ~~the state fiscal year beginning September 1, 2007, through the~~
2-13 ~~state fiscal year ending August 31, 2011~~];

2-14 (4) \$15.00 for each delivery into a cargo tank having a
2-15 capacity of 8,000 gallons or more but less than 10,000 gallons [~~for~~
2-16 ~~the state fiscal year beginning September 1, 2007, through the~~
2-17 ~~state fiscal year ending August 31, 2011~~]; and

2-18 (5) \$7.50 for each increment of 5,000 gallons or any
2-19 part thereof delivered into a cargo tank having a capacity of 10,000
2-20 gallons or more [~~for the state fiscal year beginning September 1,~~
2-21 ~~2007, through the state fiscal year ending August 31, 2011~~].

2-22 ARTICLE 4. FISCAL MATTERS REGARDING FUNDING FOR STATE SITES

2-23 SECTION 4.01. Chapter 11, Parks and Wildlife Code, is
2-24 amended by adding Subchapter J-1 to read as follows:

2-25 SUBCHAPTER J-1. FOR-PROFIT PARTNERSHIPS

2-26 Sec. 11.221. DEFINITIONS. In this subchapter:

2-27 (1) "Official corporate partner" means a for-profit
2-28 entity that:

2-29 (A) is designated an official corporate partner
2-30 by the department;

2-31 (B) works with the department to raise funds for
2-32 state site operations and maintenance; and

2-33 (C) is selected as provided under Section 11.222.
2-34

2-35 (2) "State site" means a state park, natural area, or
2-36 historic site under the jurisdiction of the department.

2-37 Sec. 11.222. SELECTION; CONTRACT. (a) Subject to
2-38 commission approval, the department may select a for-profit entity
2-39 as an official corporate partner.

2-40 (b) The department may contract with an official corporate
2-41 partner to raise funds for state site operations and maintenance.

2-42 Sec. 11.223. GIFTS AND GRANTS; FUND-RAISING. (a) To raise
2-43 funds for state site operations and maintenance, an official
2-44 corporate partner may accept contributions, gifts, grants, and
2-45 promotional campaign proceeds on behalf of the department. The
2-46 department shall ensure that an official corporate partner
2-47 transfers the contributions, gifts, grants, and promotional
2-48 campaign proceeds to the department as soon as possible.

2-49 (b) The department may contract with an official corporate
2-50 partner to conduct joint promotional campaigns or other
2-51 fund-raising efforts conducted by the department to raise funds for
2-52 state site operations and maintenance.

2-53 Sec. 11.224. USE OF FUNDS. Money received by the department
2-54 under this subchapter, including money received under a contract or
2-55 licensing or other agreement or as a gift or grant, may be used only
2-56 for state site operations and maintenance.

2-57 Sec. 11.225. RULES. The commission shall adopt rules to
2-58 implement this subchapter, including rules that establish
2-59 guidelines or best practices for official corporate partners.

2-60 SECTION 4.02. Subchapter A, Chapter 13, Parks and Wildlife
2-61 Code, is amended by adding Sections 13.0151 and 13.0155 to read as
2-62 follows:

2-63 Sec. 13.0151. STATE PARK PASSES. (a) The department may
2-64 contract with any entity the department considers appropriate to
2-65 sell state park passes in any of the entity's retail locations.

2-66 (b) The commission may adopt rules to implement this
2-67 section.

2-68 Sec. 13.0155. USE OF PARKS AND WILDLIFE DEPARTMENT BRAND.
2-69 (a) The department may contract with any entity the department
2-69 considers appropriate to use the Parks and Wildlife Department

3-1 brand in exchange for licensing fees paid by the entity to the
3-2 department.

3-3 (b) The department shall use the licensing fees received
3-4 under Subsection (a) only for the operation and maintenance of
3-5 state sites as defined by Section 11.221.

3-6 (c) The commission may adopt rules to implement this
3-7 section.

3-8 SECTION 4.03. Subchapter B, Chapter 13, Parks and Wildlife
3-9 Code, is amended by adding Section 13.103 to read as follows:

3-10 Sec. 13.103. ADVERTISING. The commission by rule may
3-11 assess and limit commercial advertising in state parks, natural
3-12 areas, historic sites, or other sites under the jurisdiction of the
3-13 department to preserve the integrity of the sites and to minimize
3-14 distractions that may interfere with the enjoyment of the sites by
3-15 visitors.

3-16 ARTICLE 5. FISCAL MATTERS REGARDING PARKS AND WILDLIFE DEPARTMENT

3-17 SECTION 5.01. Subchapter D, Chapter 502, Transportation
3-18 Code, is amended by adding Section 502.1747 to read as follows:

3-19 Sec. 502.1747. VOLUNTARY CONTRIBUTION TO PARKS AND WILDLIFE
3-20 DEPARTMENT. (a) When a person registers or renews the
3-21 registration of a motor vehicle under this chapter, the person may
3-22 contribute \$5 or more to the Parks and Wildlife Department.

3-23 (b) The county assessor-collector shall send any
3-24 contribution made under this section to the comptroller for credit
3-25 to the Parks and Wildlife Department. Money received by the Parks
3-26 and Wildlife Department under this section may be used only for the
3-27 operation and maintenance of state parks, historic sites, or
3-28 natural areas under the jurisdiction of the Parks and Wildlife
3-29 Department.

3-30 ARTICLE 6. FISCAL MATTERS CONCERNING OIL AND GAS REGULATION

3-31 SECTION 6.01. Subsection (c), Section 81.0521, Natural
3-32 Resources Code, is amended to read as follows:

3-33 (c) Two-thirds of the proceeds from this fee, excluding
3-34 [including] any penalties collected in connection with the fee,
3-35 shall be deposited to the oil and gas regulation and [oil-field]
3-36 cleanup fund as provided by Section 81.067 [91.111].

3-37 SECTION 6.02. Subchapter C, Chapter 81, Natural Resources
3-38 Code, is amended by adding Sections 81.067 through 81.070 to read as
3-39 follows:

3-40 Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND.

3-41 (a) The oil and gas regulation and cleanup fund is created as an
3-42 account in the general revenue fund of the state treasury.

3-43 (b) The commission shall certify to the comptroller the date
3-44 on which the balance in the fund equals or exceeds \$20 million. The
3-45 oil-field cleanup regulatory fees on oil and gas shall not be
3-46 collected or required to be paid on or after the first day of the
3-47 second month following the certification, except that the
3-48 comptroller shall resume collecting the fees on receipt of a
3-49 commission certification that the fund has fallen below \$10
3-50 million. The comptroller shall continue collecting the fees until
3-51 collections are again suspended in the manner provided by this
3-52 subsection.

3-53 (c) The fund consists of:

3-54 (1) proceeds from bonds and other financial security
3-55 required by this chapter and benefits under well-specific plugging
3-56 insurance policies described by Section 91.104(c) that are paid to
3-57 the state as contingent beneficiary of the policies, subject to the
3-58 refund provisions of Section 91.1091, if applicable;

3-59 (2) private contributions, including contributions
3-60 made under Section 89.084;

3-61 (3) expenses collected under Section 89.083;

3-62 (4) fees imposed under Section 85.2021;

3-63 (5) costs recovered under Section 91.457 or 91.459;

3-64 (6) proceeds collected under Sections 89.085 and
3-65 91.115;

3-66 (7) interest earned on the funds deposited in the
3-67 fund;

3-68 (8) oil and gas waste hauler permit application fees
3-69 collected under Section 29.015, Water Code;

4-1 (9) costs recovered under Section 91.113(f);
 4-2 (10) hazardous oil and gas waste generation fees
 4-3 collected under Section 91.605;
 4-4 (11) oil-field cleanup regulatory fees on oil
 4-5 collected under Section 81.116;
 4-6 (12) oil-field cleanup regulatory fees on gas
 4-7 collected under Section 81.117;
 4-8 (13) fees for a reissued certificate collected under
 4-9 Section 91.707;
 4-10 (14) fees collected under Section 91.1013;
 4-11 (15) fees collected under Section 89.088;
 4-12 (16) fees collected under Section 91.142;
 4-13 (17) fees collected under Section 91.654;
 4-14 (18) costs recovered under Sections 91.656 and 91.657;
 4-15 (19) two-thirds of the fees collected under Section
 4-16 81.0521;
 4-17 (20) fees collected under Sections 89.024 and 89.026;
 4-18 (21) legislative appropriations; and
 4-19 (22) any surcharges collected under Section 81.070.
 4-20 Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP
 4-21 FUND. Money in the oil and gas regulation and cleanup fund may be
 4-22 used by the commission or its employees or agents for any purpose
 4-23 related to the regulation of oil and gas development, including oil
 4-24 and gas monitoring and inspections, oil and gas remediation, oil
 4-25 and gas well plugging, public information and services related to
 4-26 those activities, and administrative costs and state benefits for
 4-27 personnel involved in those activities.
 4-28 Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE
 4-29 GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The
 4-30 commission, through the legislative appropriations request
 4-31 process, shall establish specific performance goals for the oil and
 4-32 gas regulation and cleanup fund for the next biennium, including
 4-33 goals for each quarter of each state fiscal year of the biennium for
 4-34 the number of:
 4-35 (1) orphaned wells to be plugged with state-managed
 4-36 funds;
 4-37 (2) abandoned sites to be investigated, assessed, or
 4-38 cleaned up with state funds; and
 4-39 (3) surface locations to be remediated.
 4-40 (b) The commission shall provide quarterly reports to the
 4-41 Legislative Budget Board that include:
 4-42 (1) the following information with respect to the
 4-43 period since the last report was provided as well as cumulatively:
 4-44 (A) the amount of money deposited in the oil and
 4-45 gas regulation and cleanup fund;
 4-46 (B) the amount of money spent from the fund for
 4-47 the purposes described by Subsection (a);
 4-48 (C) the balance of the fund; and
 4-49 (D) the commission's progress in meeting the
 4-50 quarterly performance goals established under Subsection (a) and,
 4-51 if the number of orphaned wells plugged with state-managed funds,
 4-52 abandoned sites investigated, assessed, or cleaned up with state
 4-53 funds, or surface locations remediated is at least five percent
 4-54 less than the number projected in the applicable goal established
 4-55 under Subsection (a), an explanation of the reason for the
 4-56 variance; and
 4-57 (2) any additional information or data requested in
 4-58 writing by the Legislative Budget Board.
 4-59 (c) The commission shall submit to the legislature and make
 4-60 available to the public, annually, a report that reviews the extent
 4-61 to which money provided under Section 81.067 has enabled the
 4-62 commission to better protect the environment through oil-field
 4-63 cleanup activities. The report must include:
 4-64 (1) the performance goals established under
 4-65 Subsection (a) for that state fiscal year, the commission's
 4-66 progress in meeting those performance goals, and, if the number of
 4-67 orphaned wells plugged with state-managed funds, abandoned sites
 4-68 investigated, assessed, or cleaned up with state funds, or surface
 4-69 locations remediated is at least five percent less than the number

- 5-1 projected in the applicable goal established under Subsection (a),
- 5-2 an explanation of the reason for the variance;
- 5-3 (2) the number of orphaned wells plugged with
- 5-4 state-managed funds, by region;
- 5-5 (3) the number of wells orphaned, by region;
- 5-6 (4) the number of inactive wells not currently in
- 5-7 compliance with commission rules, by region;
- 5-8 (5) the status of enforcement proceedings for all
- 5-9 wells in violation of commission rules and the period during which
- 5-10 the wells have been in violation, by region in which the wells are
- 5-11 located;
- 5-12 (6) the number of surface locations remediated, by
- 5-13 region;
- 5-14 (7) a detailed accounting of expenditures of money in
- 5-15 the fund for oil-field cleanup activities, including expenditures
- 5-16 for plugging of orphaned wells, investigation, assessment, and
- 5-17 cleaning up of abandoned sites, and remediation of surface
- 5-18 locations;
- 5-19 (8) the method by which the commission sets priorities
- 5-20 by which it determines the order in which orphaned wells are
- 5-21 plugged;
- 5-22 (9) a projection of the amount of money needed for the
- 5-23 next biennium for plugging orphaned wells, investigating,
- 5-24 assessing, and cleaning up abandoned sites, and remediating surface
- 5-25 locations; and
- 5-26 (10) the number of sites successfully remediated under
- 5-27 the voluntary cleanup program under Subchapter O, Chapter 91, by
- 5-28 region.

5-29 Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES.

5-30 (a) Except as provided by Subsection (b), the commission by rule

5-31 shall provide for the imposition of reasonable surcharges as

5-32 necessary on fees imposed by the commission that are required to be

5-33 deposited to the credit of the oil and gas regulation and cleanup

5-34 fund as provided by Section 81.067 in amounts sufficient to enable

5-35 the commission to recover the costs of performing the functions

5-36 specified by Section 81.068 from those fees and surcharges.

5-37 (b) The commission may not impose a surcharge on an

5-38 oil-field cleanup regulatory fee on oil collected under Section

5-39 81.116 or an oil-field cleanup regulatory fee on gas collected

5-40 under Section 81.117.

5-41 (c) The commission by rule shall establish a methodology for

5-42 determining the amount of a surcharge that takes into account:

5-43 (1) the time required for regulatory work associated

5-44 with the activity in connection with which the surcharge is

5-45 imposed;

5-46 (2) the number of individuals or entities from which

5-47 the commission's costs may be recovered;

5-48 (3) the effect of the surcharge on operators of all

5-49 sizes, as measured by the number of oil or gas wells operated;

5-50 (4) the balance in the oil and gas regulation and

5-51 cleanup fund; and

5-52 (5) any other factors the commission determines to be

5-53 important to the fair and equitable imposition of the surcharge.

5-54 (d) The commission shall collect a surcharge on a fee at the

5-55 time the fee is collected.

5-56 (e) A surcharge collected under this section shall be

5-57 deposited to the credit of the oil and gas regulation and cleanup

5-58 fund as provided by Section 81.067.

5-59 SECTION 6.03. Section 81.115, Natural Resources Code, is

5-60 amended to read as follows:

5-61 Sec. 81.115. APPROPRIATIONS [~~PAYMENTS~~] TO COMMISSION FOR

5-62 OIL AND GAS REGULATION AND CLEANUP PURPOSES [~~DIVISION~~]. Money

5-63 appropriated to the [~~oil and gas division of the~~] commission under

5-64 the General Appropriations Act for the purposes described by

5-65 Section 81.068 shall be paid from the oil and gas regulation and

5-66 cleanup fund [~~General Revenue Fund~~].

5-67 SECTION 6.04. Subsections (d) and (e), Section 81.116,

5-68 Natural Resources Code, are amended to read as follows:

5-69 (d) The comptroller shall suspend collection of the fee in

6-1 the manner provided by Section 81.067 [~~91.111~~]. The exemptions and
 6-2 reductions set out in Sections 202.052, 202.054, 202.056, 202.057,
 6-3 202.059, and 202.060, Tax Code, do not affect the fee imposed by
 6-4 this section.

6-5 (e) Proceeds from the fee, excluding [~~including~~] any
 6-6 penalties collected in connection with the fee, shall be deposited
 6-7 to the oil and gas regulation and [oil-field] cleanup fund as
 6-8 provided by Section 81.067 [~~91.111 of this code~~].

6-9 SECTION 6.05. Subsections (d) and (e) Section 81.117,
 6-10 Natural Resources Code, are amended to read as follows:

6-11 (d) The comptroller shall suspend collection of the fee in
 6-12 the manner provided by Section 81.067 [~~91.111~~]. The exemptions and
 6-13 reductions set out in Sections 201.053, 201.057, 201.058, and
 6-14 202.060, Tax Code, do not affect the fee imposed by this section.

6-15 (e) Proceeds from the fee, excluding [~~including~~] any
 6-16 penalties collected in connection with the fee, shall be deposited
 6-17 to the oil and gas regulation and [oil-field] cleanup fund as
 6-18 provided by Section 81.067 [~~91.111 of this code~~].

6-19 SECTION 6.06. Subsection (d), Section 85.2021, Natural
 6-20 Resources Code, is amended to read as follows:

6-21 (d) All fees collected under this section shall be deposited
 6-22 in the oil and gas regulation and [state-oil-field] cleanup fund.

6-23 SECTION 6.07. Subsection (d), Section 89.024, Natural
 6-24 Resources Code, is amended to read as follows:

6-25 (d) An operator who files an abeyance of plugging report
 6-26 must pay an annual fee of \$100 for each well covered by the report.
 6-27 A fee collected under this section shall be deposited in the oil and
 6-28 gas regulation and [oil-field] cleanup fund.

6-29 SECTION 6.08. Subsection (d), Section 89.026, Natural
 6-30 Resources Code, is amended to read as follows:

6-31 (d) An operator who files documentation described by
 6-32 Subsection (a) must pay an annual fee of \$50 for each well covered
 6-33 by the documentation. A fee collected under this section shall be
 6-34 deposited in the oil and gas regulation and [oil-field] cleanup
 6-35 fund.

6-36 SECTION 6.09. Subsection (d), Section 89.048, Natural
 6-37 Resources Code, is amended to read as follows:

6-38 (d) On successful plugging of the well by the well plugger,
 6-39 the surface estate owner may submit documentation to the commission
 6-40 of the cost of the well-plugging operation. The commission shall
 6-41 reimburse the surface estate owner from money in the oil and gas
 6-42 regulation and [oil-field] cleanup fund in an amount not to exceed
 6-43 50 percent of the lesser of:

6-44 (1) the documented well-plugging costs; or
 6-45 (2) the average cost incurred by the commission in the
 6-46 preceding 24 months in plugging similar wells located in the same
 6-47 general area.

6-48 SECTION 6.10. Subsection (j), Section 89.083, Natural
 6-49 Resources Code, is amended to read as follows:

6-50 (j) Money collected in a suit under this section shall be
 6-51 deposited in the oil and gas regulation and [state-oil-field]
 6-52 cleanup fund.

6-53 SECTION 6.11. Subsection (d), Section 89.085, Natural
 6-54 Resources Code, is amended to read as follows:

6-55 (d) The commission shall deposit money received from the
 6-56 sale of well-site equipment or hydrocarbons under this section to
 6-57 the credit of the oil and gas regulation and [oil-field] cleanup
 6-58 fund. The commission shall separately account for money and credit
 6-59 received for each well.

6-60 SECTION 6.12. The heading to Section 89.086, Natural
 6-61 Resources Code, is amended to read as follows:

6-62 Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND [THE
 6-63 OIL-FIELD] CLEANUP FUND.

6-64 SECTION 6.13. Subsections (a) and (h) through (k), Section
 6-65 89.086, Natural Resources Code, are amended to read as follows:

6-66 (a) A person with a legal or equitable ownership or security
 6-67 interest in well-site equipment or hydrocarbons disposed of under
 6-68 Section 89.085 [~~of this code~~] may make a claim against the oil and
 6-69 gas regulation and [oil-field] cleanup fund unless an element of

7-1 the transaction giving rise to the interest occurs after the
7-2 commission forecloses its statutory lien under Section 89.083.

7-3 (h) The commission shall suspend an amount of money in the
7-4 oil and gas regulation and [oil-field] cleanup fund equal to the
7-5 amount of the claim until the claim is finally resolved. If the
7-6 provisions of Subsection (k) [~~of this section~~] prevent suspension
7-7 of the full amount of the claim, the commission shall treat the
7-8 claim as two consecutively filed claims, one in the amount of funds
7-9 available for suspension and the other in the remaining amount of
7-10 the claim.

7-11 (i) A claim made by or on behalf of the operator or a
7-12 nonoperator of a well or a successor to the rights of the operator
7-13 or nonoperator is subject to a ratable deduction from the proceeds
7-14 or credit received for the well-site equipment to cover the costs
7-15 incurred by the commission in removing the equipment or
7-16 hydrocarbons from the well or in transporting, storing, or
7-17 disposing of the equipment or hydrocarbons. A claim made by a
7-18 person who is not an operator or nonoperator is subject to a ratable
7-19 deduction for the costs incurred by the commission in removing the
7-20 equipment from the well. If a claimant is a person who is
7-21 responsible under law or commission rules for plugging the well or
7-22 cleaning up pollution originating on the lease or if the claimant
7-23 owes a penalty assessed by the commission or a court for a violation
7-24 of a commission rule or order, the commission may recoup from or
7-25 offset against a valid claim an expense incurred by the oil and gas
7-26 regulation and [oil-field] cleanup fund that is not otherwise
7-27 reimbursed or any penalties owed. An amount recouped from,
7-28 deducted from, or offset against a claim under this subsection
7-29 shall be treated as an invalid portion of the claim and shall remain
7-30 suspended in the oil and gas regulation and [oil-field] cleanup
7-31 fund in the manner provided by Subsection (j) [~~of this section~~].

7-32 (j) If the commission finds that a claim is valid in whole or
7-33 in part, the commission shall pay the valid portion of the claim
7-34 from the suspended amount in the oil and gas regulation and
7-35 [oil-field] cleanup fund not later than the 30th day after the date
7-36 of the commission's decision. If the commission finds that a claim
7-37 is invalid in whole or in part, the commission shall continue to
7-38 suspend in the oil and gas regulation and [oil-field] cleanup fund
7-39 an amount equal to the invalid portion of the claim until the period
7-40 during which the commission's decision may be appealed has expired
7-41 or, if appealed, during the period the case is under judicial
7-42 review. If on appeal the district court finds the claim valid in
7-43 whole or in part, the commission shall pay the valid portion of the
7-44 claim from the suspended amount in the oil and gas regulation and
7-45 [oil-field] cleanup fund not later than 30 days after the date the
7-46 court's judgment becomes unappealable. On the date the
7-47 commission's decision is not subject to judicial review, the
7-48 commission shall release from the suspended amount in the oil and
7-49 gas regulation and [oil-field] cleanup fund the amount of the claim
7-50 held to be invalid.

7-51 (k) If the aggregate of claims paid and money suspended that
7-52 relates to well-site equipment or hydrocarbons from a particular
7-53 well equals the total of the actual proceeds and credit realized
7-54 from the disposition of that equipment or those hydrocarbons, the
7-55 oil and gas regulation and [oil-field] cleanup fund is not liable
7-56 for any subsequently filed claims that relate to the same equipment
7-57 or hydrocarbons unless and until the commission releases from the
7-58 suspended amount money derived from the disposition of that
7-59 equipment or those hydrocarbons. If the commission releases money,
7-60 then the commission shall suspend money in the amount of
7-61 subsequently filed claims in the order of filing.

7-62 SECTION 6.14. Subsection (b), Section 89.121, Natural
7-63 Resources Code, is amended to read as follows:

7-64 (b) Civil penalties collected for violations of this
7-65 chapter or of rules relating to plugging that are adopted under this
7-66 code shall be deposited in the general revenue [state oil-field
7-67 cleanup] fund.

7-68 SECTION 6.15. Subsection (c), Section 91.1013, Natural
7-69 Resources Code, is amended to read as follows:

8-1 (c) Fees collected under this section shall be deposited in
8-2 the oil and gas regulation and ~~state oil-field~~ cleanup fund.

8-3 SECTION 6.16. Section 91.108, Natural Resources Code, is
8-4 amended to read as follows:

8-5 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
8-6 refund provisions of Section 91.1091, if applicable, proceeds from
8-7 bonds and other financial security required pursuant to this
8-8 chapter and benefits under well-specific plugging insurance
8-9 policies described by Section 91.104(c) that are paid to the state
8-10 as contingent beneficiary of the policies shall be deposited in the
8-11 oil and gas regulation and ~~oil-field~~ cleanup fund and,
8-12 notwithstanding Sections 81.068 [~~91.112~~] and 91.113, may be used
8-13 only for actual well plugging and surface remediation.

8-14 SECTION 6.17. Subsection (a), Section 91.109, Natural
8-15 Resources Code, is amended to read as follows:

8-16 (a) A person applying for or acting under a commission
8-17 permit to store, handle, treat, reclaim, or dispose of oil and gas
8-18 waste may be required by the commission to maintain a performance
8-19 bond or other form of financial security conditioned that the
8-20 permittee will operate and close the storage, handling, treatment,
8-21 reclamation, or disposal site in accordance with state law,
8-22 commission rules, and the permit to operate the site. However, this
8-23 section does not authorize the commission to require a bond or other
8-24 form of financial security for saltwater disposal pits, emergency
8-25 saltwater storage pits (including blow-down pits), collecting
8-26 pits, or skimming pits provided that such pits are used in
8-27 conjunction with the operation of an individual oil or gas lease.
8-28 Subject to the refund provisions of Section 91.1091 [~~of this code~~],
8-29 proceeds from any bond or other form of financial security required
8-30 by this section shall be placed in the oil and gas regulation and
8-31 ~~oil-field~~ cleanup fund. Each bond or other form of financial
8-32 security shall be renewed and continued in effect until the
8-33 conditions have been met or release is authorized by the
8-34 commission.

8-35 SECTION 6.18. Subsections (a) and (f), Section 91.113,
8-36 Natural Resources Code, are amended to read as follows:

8-37 (a) If oil and gas wastes or other substances or materials
8-38 regulated by the commission under Section 91.101 are causing or are
8-39 likely to cause the pollution of surface or subsurface water, the
8-40 commission, through its employees or agents, may use money in the
8-41 oil and gas regulation and ~~oil-field~~ cleanup fund to conduct a
8-42 site investigation or environmental assessment or control or clean
8-43 up the oil and gas wastes or other substances or materials if:

8-44 (1) the responsible person has failed or refused to
8-45 control or clean up the oil and gas wastes or other substances or
8-46 materials after notice and opportunity for hearing;

8-47 (2) the responsible person is unknown, cannot be
8-48 found, or has no assets with which to control or clean up the oil and
8-49 gas wastes or other substances or materials; or

8-50 (3) the oil and gas wastes or other substances or
8-51 materials are causing the pollution of surface or subsurface water.

8-52 (f) If the commission conducts a site investigation or
8-53 environmental assessment or controls or cleans up oil and gas
8-54 wastes or other substances or materials under this section, the
8-55 commission may recover all costs incurred by the commission from
8-56 any person who was required by law, rules adopted by the commission,
8-57 or a valid order of the commission to control or clean up the oil and
8-58 gas wastes or other substances or materials. The commission by
8-59 order may require the person to reimburse the commission for those
8-60 costs or may request the attorney general to file suit against the
8-61 person to recover those costs. At the request of the commission,
8-62 the attorney general may file suit to enforce an order issued by the
8-63 commission under this subsection. A suit under this subsection may
8-64 be filed in any court of competent jurisdiction in Travis County.
8-65 Costs recovered under this subsection shall be deposited to the oil
8-66 and gas regulation and ~~oil-field~~ cleanup fund.

8-67 SECTION 6.19. Subsection (c), Section 91.264, Natural
8-68 Resources Code, is amended to read as follows:

8-69 (c) A penalty collected under this section shall be

9-1 deposited to the credit of the general revenue [~~oil-field cleanup~~
9-2 fund [~~account~~].

9-3 SECTION 6.20. Subsection (b), Section 91.457, Natural
9-4 Resources Code, is amended to read as follows:

9-5 (b) If a person ordered to close a saltwater disposal pit
9-6 under Subsection (a) [~~of this section~~] fails or refuses to close the
9-7 pit in compliance with the commission's order and rules, the
9-8 commission may close the pit using money from the oil and gas
9-9 regulation and [~~oil-field~~] cleanup fund and may direct the attorney
9-10 general to file suits in any courts of competent jurisdiction in
9-11 Travis County to recover applicable penalties and the costs
9-12 incurred by the commission in closing the saltwater disposal pit.

9-13 SECTION 6.21. Subsection (c), Section 91.459, Natural
9-14 Resources Code, is amended to read as follows:

9-15 (c) Any [~~penalties or~~] costs recovered by the attorney
9-16 general under this subchapter shall be deposited in the oil and gas
9-17 regulation and [~~oil-field~~] cleanup fund.

9-18 SECTION 6.22. Subsection (e), Section 91.605, Natural
9-19 Resources Code, is amended to read as follows:

9-20 (e) The fees collected under this section shall be deposited
9-21 in the oil and gas regulation and [~~oil-field~~] cleanup fund.

9-22 SECTION 6.23. Subsection (e), Section 91.654, Natural
9-23 Resources Code, is amended to read as follows:

9-24 (e) Fees collected under this section shall be deposited to
9-25 the credit of the oil and gas regulation and [~~oil-field~~] cleanup
9-26 fund under Section 81.067 [~~91.111~~].

9-27 SECTION 6.24. Subsection (b), Section 91.707, Natural
9-28 Resources Code, is amended to read as follows:

9-29 (b) Fees collected under this section shall be deposited to
9-30 the oil and gas regulation and [~~oil-field~~] cleanup fund.

9-31 SECTION 6.25. Section 29.015, Water Code, is amended to
9-32 read as follows:

9-33 Sec. 29.015. APPLICATION FEE. With each application for
9-34 issuance, renewal, or material amendment of a permit, the applicant
9-35 shall submit to the railroad commission a nonrefundable fee of
9-36 \$100. Fees collected under this section shall be deposited in the
9-37 oil and gas regulation and [~~oil-field~~] cleanup fund.

9-38 SECTION 6.26. The following provisions of the Natural
9-39 Resources Code are repealed:

- 9-40 (1) Section 91.111; and
- 9-41 (2) Section 91.112.

9-42 SECTION 6.27. On the effective date of this article:

- 9-43 (1) the oil-field cleanup fund is abolished;
- 9-44 (2) any money remaining in the oil-field cleanup fund
9-45 is transferred to the oil and gas regulation and cleanup fund;
- 9-46 (3) any claim against the oil-field cleanup fund is
9-47 transferred to the oil and gas regulation and cleanup fund; and
- 9-48 (4) any amount required to be deposited to the credit
9-49 of the oil-field cleanup fund shall be deposited to the credit of
9-50 the oil and gas regulation and cleanup fund.

9-51 ARTICLE 7. EFFECTIVE DATE

9-52 SECTION 7.01. This Act takes effect September 1, 2011.

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