

House Bill 3134
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

(1) notify the operator of the determination;

(2) provide the operator with a written statement of the reasons the organization report does not qualify for renewal; and

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

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

(f) After the expiration of the period specified by Subsection (d)(3) as extended under Subsection (e), if applicable, the authorized commission employee or designated person shall

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

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

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

(1) notify the operator of the determination;

(2) provide the operator with a written statement of the reasons the organization report does not qualify for renewal; and

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

(e) After the expiration of the period specified by Subsection (d)(3), the authorized commission employee or designated person shall determine whether the organization report

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determine whether the organization report qualifies for renewal and notify the operator of the determination. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal because the operator has continued to fail to comply with the requirements of this subchapter, the operator, not later than the 30th day after the date of the determination, may request a hearing regarding the determination. The operator shall pay the costs associated with a hearing requested under this subsection.

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

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

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

- (1) an affirmation that complies with Section 89.029;
- (2) ~~[a statement that the well and associated facilities are in compliance with all commission rules and orders;~~
- ~~[(3)]~~ a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right to operate the well; and

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qualifies for renewal and notify the operator of the determination. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal because the operator has continued to fail to comply with the requirements of this subchapter, the operator, not later than the 30th day after the date of the determination, may request a hearing regarding the determination. The operator shall pay the costs associated with a hearing requested under this subsection.

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

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

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

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

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

(ii) includes:

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

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

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

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

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

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

(D) if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules

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in effect at the time the test is conducted;

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

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

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

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

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

(i) the following documents:

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

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

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

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

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

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

(b) \$2 million.

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

(a) An abeyance of plugging report filed under Section

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89.023(a)(3)(B) [~~89.023(a)(4)(B)~~] is valid for a period of not more than five years.

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

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

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

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

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

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

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

(a) Escrow funds described by Section 89.023(a)(3)(F)

SECTION 4. Same as House version.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. Same as House version.

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[89.023(a)(4)(F)] must be deposited with the commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

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

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

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

SECTION 9. Same as House version.

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