

BILL ANALYSIS

Senate Research Center
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S.B. 1249
By: Carona
Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Department of Licensing and Regulation (TDLR) is charged with licensing well drillers and pump installers. In addition, TDLR regulates certain practices of well drillers and pump installers including logging wells, marking rigs, and completing wells. For this reason, TDLR has a responsibility to ensure that abandoned, deteriorated, or otherwise problematic wells are properly repaired or sealed off so as to prevent the spread of pollution to clean water and to reduce other threats to public health and safety.

The notification requirements and subsequent mitigation obligations came under scrutiny as a result of a recent court case, *TDLR v. Hazelwood*. This case revealed weaknesses in statute, stemming from two problems. First, under the current statute, if a driller finds water that is injurious to vegetation, land, or other water, then the responsibility of ensuring that the applicable well is cured falls solely on the driller as opposed to the well owner. Second, the current statute does not clearly define what makes a well "complete" or "completed" as it relates to the various stages of the drilling process.

In order to ensure that problematic wells are addressed promptly, S.B. 1249 requires well drillers and pump installers to notify TDLR and the landowner upon identifying a problematic well and shortens the time period within which a landowner must correct a problematic well in compliance with TDLR standards. S.B. 1249 also requires well drillers, pump installers, and landowners to submit a report detailing the corrective action taken to address a problematic well to the board of directors of an applicable groundwater conservation district and TDLR within 10 days of the event.

As proposed, S.B. 1249 amends current law relating to plugging, capping, repairing, or completing certain wells.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 8 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1901.254, Occupations Code, as follows:

Sec. 1901.254. New heading: NOTICE REGARDING INJURIOUS WATER, DETERIORATED WELL, OR ABANDONED WELL. (a) Requires a driller to notify the Texas Department of Licensing and Regulation (TDLR) and the landowner or person having a well drilled that a well is required to be plugged, capped, repaired, or properly completed, as appropriate, in order to avoid injury or pollution on encountering water injurious to vegetation, land, or other water, a deteriorated well, or an abandoned well, rather than requiring a driller to notify TDLR and the landowner or person having a well drilled on encountering water injurious to vegetation, land, or other water and determining that the well must be plugged, repaired, or properly completed in order to avoid injury or pollution. Makes nonsubstantive changes.

(b) Requires a driller to give the notice required under Subsection (a) not later than the fifth day after encountering the injurious water, deteriorated well, or abandoned well, rather than requires the driller to ensure that the well is plugged, repaired, or properly completed under standards and procedures adopted by the Texas Commission of Licensing and Regulation (TCLR). Makes a nonsubstantive change.

(c) Defines "abandoned well," "deteriorated well," and "properly completed" in this section.

SECTION 2. Amends the heading to Section 1901.255, Occupations Code, to read as follows:

Sec. 1901.255. PLUGGING, CAPPING, REPAIRING, OR PROPERLY COMPLETING WATER WELL; REPORT.

SECTION 3. Amends Section 1901.255(a), Occupations Code, by adding Subdivision (3), to define "properly complete."

SECTION 4. Amends Section 1901.255, Occupations Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires a landowner or other person having a well drilled who encounters water injurious to vegetation, land, or other water or a landowner or other person who possesses a deteriorated well to have the well plugged, capped, repaired, or properly completed, as appropriate, under standards and procedures adopted by TCLR not later than the 30th day after receiving notice under Section 1901.254, or becoming aware of the existence of the injurious water or deteriorated well, rather than requiring a landowner or other person who possesses an abandoned or deteriorated well learns of its condition, not later than the 180th day after the date, to have the well plugged or capped under standards and procedures adopted by TCLR. Makes a nonsubstantive change.

(c-1) Requires a landowner or other person who possesses an abandoned well to have the well plugged, capped, repaired, or properly completed, as appropriate, under standards and procedures adopted by TCLR not later than the 90th day after receiving notice under Section 1901.254, or becoming aware of the existence of the abandoned well.

(d) Requires a driller, licensed pump installer, or well owner who plugs, caps, repairs, or properly completes the well, not later than the 10th day after the date a well is plugged, capped, repaired, or properly completed, as appropriate, in accordance with Subsection (c) or (c-1) to submit a report to certain entities, including TDLR, rather than requiring a driller, licensed pump installer, or well owner who plugs an abandoned or deteriorated well, not later than the 30th day after the date the well is plugged, to submit a plugging report to certain entities, including the executive director of TDLR (executive director). Makes a nonsubstantive change.

SECTION 5. Amends Section 1902.252, Occupations Code, as follows:

Sec. 1902.252. New heading: NOTICE REGARDING INJURIOUS WATER, DETERIORATED WELL, OR ABANDONED WELL. (a) Requires an installer to notify TDLR and the landowner or person having a pump installed or repaired that a well is required to be plugged, capped, repaired, or properly completed, as appropriate, on encountering water injurious to vegetation, land, or other water, a deteriorated well, or an abandoned well. Makes nonsubstantive changes.

(b) Requires an installer to give the notice required under Subsection (a) not later than the fifth day after encountering the injurious water, deteriorated well, or abandoned well, rather than requires the installer, to avoid injury or pollution, to repair or properly complete the well under standards and procedures adopted by TCLR.

(c) Defines "abandoned well," "deteriorated well," and "properly completed" in this section.

SECTION 6. Amends Subchapter F, Chapter 1902, Occupations Code, by adding Section 1902.2525, as follows:

Sec. 1902.2525. PLUGGING, CAPPING, REPAIRING, OR PROPERLY COMPLETING WATER WELL; REPORT. (a) Defines "abandoned well," "deteriorated well," and "properly completed" in this section.

(b) Requires a landowner or other person having a pump installed who encounters water injurious to vegetation, land, or other water or a landowner or other person who possesses a deteriorated well to have the well plugged, capped, repaired, or properly completed, as appropriate, under standards and procedures adopted by TCLR not later than the 30th day after receiving notice under Section 1902.252, or becoming aware of the existence of the injurious water or deteriorated well.

(c) Requires a landowner or other person who possesses an abandoned well to have the well plugged, capped, repaired, or properly completed, as appropriate, under standards and procedures adopted by TCLR not later than the 90th day after, receiving notice under Section 1902.252, or becoming aware of the existence of the abandoned well.

(d) Requires an installer or well owner who plugs, caps, repairs, or properly completes the well, not later than the 10th day after the date a well is plugged, capped, repaired, or properly completed, as appropriate, in accordance with Subsection (b) or (c), to submit a report to the board of directors of the groundwater conservation district in which the well is located, if the well is located in the boundaries of a groundwater conservation district, and TDLR.

SECTION 7. Repealers: Sections 1901.255(b) (requiring a driller who knows of an abandoned or deteriorated well to notify the landowner or person who possesses the well that the well is required to be plugged or capped to avoid injury or pollution) and (e) (requiring TDLR or groundwater conservation district in which the well is located to furnish plugging report forms on request, and requires the executive director to prescribe the content of the forms), Occupations Code.

Repealer: Section 1902.253 (Notice Regarding Abandoned or Deteriorated Well), Occupations Code.

SECTION 8. Requires TCLR, not later than March 31, 2014, to adopt the rules, standards, or procedures necessary to implement this Act.

SECTION 9. Makes application of the change in law made by this Act in Chapters 1901 and 1902, Occupations Code, prospective.

SECTION 10. Effective date: September 1, 2013.