By:  Zwiener H.B. No. 4423

A BILL TO BE ENTITLED

AN ACT

relating to surface remediation and the restoration of land disturbed by the installation of a pipeline.

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

SECTION 1.  Section 81.067(c), Natural Resources Code, as amended by Chapters 57 (H.B. 1818), 72 (S.B. 1422), and 324 (S.B. 1488), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(c)  The fund consists of:

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

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

(3)  expenses collected under Section 89.083;

(4)  fees imposed under Section 85.2021;

(5)  costs recovered under Section 91.457 or 91.459;

(6)  proceeds collected under Sections 89.085 and 91.115;

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

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

(9)  costs recovered under Sections [~~Section~~] 91.113(f) and 91.1133(f);

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

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

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

(13)  fees for a reissued certificate collected under Section 91.707;

(14)  fees collected under Section 91.1013;

(15)  fees collected under Section 89.088;

(16)  fees collected under Section 91.142;

(17)  fees collected under Section 91.654;

(18)  costs recovered under Sections 91.656 and 91.657;

(19)  fees collected under Section 81.0521;

(20)  fees collected under Sections 89.024 and 89.026;

(21)  legislative appropriations;

(22)  any surcharges collected under Section 81.070;

(23)  fees collected under Section 91.0115;

(24)  fees collected under Subchapter E, Chapter 121, Utilities Code;

(25)  fees collected under Section 27.0321, Water Code; [~~and~~]

(26)  fees collected under Section 81.071; and

(27) [~~(26)~~]  money collected under Section 81.021.

SECTION 2.  Section 91.109, Natural Resources Code, is amended by adding Subsection (d) to read as follows:

(d)  This subsection applies only to a pipeline operator described by Section 91.1133. A pipeline operator shall file an additional bond, letter of credit, or cash deposit in an amount equal to $1,000 for each mile of pipeline, conditioned that the pipeline operator will comply with the requirements of Section 91.1133(a).

SECTION 3.  Subchapter D, Chapter 91, Natural Resources Code, is amended by adding Section 91.1133 to read as follows:

Sec. 91.1133.  SURFACE REMEDIATION BY PIPELINE OPERATOR OR COMMISSION. (a) A pipeline operator required to file an organization report under Section 91.142 who is not involved in an activity that is associated with the ownership or operation of wells and is not listed in Section 91.109(b)(1) shall, after the installation of the pipeline, promptly restore to its former condition of usefulness land that is owned by a person other than the pipeline operator and is disturbed by the installation of the pipeline.

(b)  The commission may use money in the oil and gas regulation and cleanup fund to restore to its former condition of usefulness land that is disturbed by the installation of a pipeline and is owned by a person other than a pipeline operator if the landowner requests that the commission restore the land and the pipeline operator:

(1)  has failed or refused to restore the land after notice and opportunity for hearing; or

(2)  is unknown, cannot be found, or has no assets with which to restore the land.

(c)  The commission or its employees or agents, on proper identification, may enter the land of another for the purpose of restoring land under this section.

(d)  Restoration of land by the commission under this section does not prevent the commission from seeking penalties or other relief provided by law from the pipeline operator.

(e)  The commission and its employees are not liable for any damages arising from an act or omission if the act or omission is part of a good-faith effort to carry out this section.

(f)  If the commission restores land under this section, the commission may recover all costs incurred by the commission from the pipeline operator. The commission by order may require the pipeline operator to reimburse the commission for those costs or may request the attorney general to file suit against the pipeline operator to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the oil and gas regulation and cleanup fund.

SECTION 4.  Sections 91.109(d) and 91.1133, Natural Resources Code, as added by this Act, apply only to a person required to file a bond or other form of financial security on or after the effective date of this Act. A person required to file a bond or other form of financial security under Section 91.109, Natural Resources Code, before the effective date of this Act or who completes the installation of a pipeline 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 5.  Chapter 91, Natural Resources Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. DUTIES RELATING TO PIPELINES

Sec. 91.031.  APPLICABILITY. This subchapter applies only to pipelines under the jurisdiction of the commission's pipeline safety and regulatory program.

Sec. 91.032.  RESTORATION OF DISTURBED LAND. A pipeline operator is entitled to install, maintain, and operate a pipeline only if the pipeline operator ensures that land owned by a person other than the pipeline operator that is used for agricultural purposes or set aside for the preservation of wildlife and is disturbed by the installation, maintenance, or operation of the pipeline is promptly restored to its former condition of usefulness after the installation, maintenance, or operation of the pipeline facility is complete.

SECTION 6.  Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0421 to read as follows:

Sec. 26.0421.  PIPELINE EASEMENT MONITORING. (a) The commission shall establish a program to monitor the restoration of grading of land in pipeline right-of-way easements to protect water quality in this state and ensure that soil composition in the area of the easement remains consistent.

(b)  The commission may collaborate with the Railroad Commission of Texas as needed for the purposes of this section.

SECTION 7.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7.  This Act takes effect September 1, 2019.