

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

1 collected under Section 29.015, Water Code;
2 (9) costs recovered under Sections [~~Section~~]
3 91.113(f) and 91.1133(f);
4 (10) hazardous oil and gas waste generation fees
5 collected under Section 91.605;
6 (11) oil-field cleanup regulatory fees on oil
7 collected under Section 81.116;
8 (12) oil-field cleanup regulatory fees on gas
9 collected under Section 81.117;
10 (13) fees for a reissued certificate collected under
11 Section 91.707;
12 (14) fees collected under Section 91.1013;
13 (15) fees collected under Section 89.088;
14 (16) fees collected under Section 91.142;
15 (17) fees collected under Section 91.654;
16 (18) costs recovered under Sections 91.656 and 91.657;
17 (19) fees collected under Section 81.0521;
18 (20) fees collected under Sections 89.024 and 89.026;
19 (21) legislative appropriations;
20 (22) any surcharges collected under Section 81.070;
21 (23) fees collected under Section 91.0115;
22 (24) fees collected under Subchapter E, Chapter 121,
23 Utilities Code;
24 (25) fees collected under Section 27.0321, Water Code;
25 [~~and~~]
26 (26) fees collected under Section 81.071; and
27 (27) [~~(26)~~] money collected under Section 81.021.

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

3 (d) This subsection applies only to a pipeline operator
4 described by Section 91.1133. A pipeline operator shall file an
5 additional bond, letter of credit, or cash deposit in an amount
6 equal to \$1,000 for each mile of pipeline, conditioned that the
7 pipeline operator will comply with the requirements of Section
8 91.1133(a).

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

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

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

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

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

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

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

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

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

23 SECTION 4. Sections [91.109](#)(d) and 91.1133, Natural
24 Resources Code, as added by this Act, apply only to a person
25 required to file a bond or other form of financial security on or
26 after the effective date of this Act. A person required to file a
27 bond or other form of financial security under Section [91.109](#),

1 Natural Resources Code, before the effective date of this Act or who
2 completes the installation of a pipeline before the effective date
3 of this Act is governed by the law as it existed immediately before
4 the effective date of this Act, and that law is continued in effect
5 for that purpose.

6 SECTION 5. Chapter 91, Natural Resources Code, is amended
7 by adding Subchapter B-1 to read as follows:

8 SUBCHAPTER B-1. DUTIES RELATING TO PIPELINES

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

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

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

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

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

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

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