

By: Guillen

H.B. No. 4367

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the reduction and plugging of orphaned oil and gas
3 wells; providing for the imposition of a fee and an exemption from
4 certain taxes and fees.

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

6 SECTION 1. Section 81.067(c), Natural Resources Code, is
7 amended to read as follows:

8 (c) The fund consists of:

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

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

16 (3) expenses collected under Section 89.083;

17 (4) fees imposed under Section 85.2021;

18 (5) costs recovered under Section 91.457 or 91.459;

19 (6) proceeds collected under Sections 89.085 and
20 91.115;

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

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

- 1 (9) costs recovered under Section 91.113(f);
- 2 (10) hazardous oil and gas waste generation fees
- 3 collected under Section 91.605;
- 4 (11) oil-field cleanup regulatory fees on oil
- 5 collected under Section 81.116;
- 6 (12) oil-field cleanup regulatory fees on gas
- 7 collected under Section 81.117;
- 8 (13) fees for a reissued certificate collected under
- 9 Section 91.707;
- 10 (14) fees collected under Section 91.1013;
- 11 (15) fees collected under Section 89.088;
- 12 (16) fees collected under Section 91.142;
- 13 (17) fees collected under Section 91.654;
- 14 (18) costs recovered under Sections 91.656 and 91.657;
- 15 (19) fees collected under Section 81.0521;
- 16 (20) fees collected under Sections 89.024 and 89.026;
- 17 (21) legislative appropriations;
- 18 (22) any surcharges collected under Section 81.070;
- 19 (23) fees collected under Section 91.0115;
- 20 (24) fees collected under Subchapter E, Chapter 121,
- 21 Utilities Code;
- 22 (25) fees collected under Section 27.0321, Water Code;
- 23 (26) fees collected under Section 81.071; ~~and~~
- 24 (27) money collected under Section 81.021; and
- 25 (28) fees collected under Section 89.0475.

26 SECTION 2. The heading to Section 89.047, Natural Resources
27 Code, is amended to read as follows:

1 Sec. 89.047. ORPHANED WELL REDUCTION PROGRAM: OPERATORS
2 DESIGNATED IN 2006 OR 2007.

3 SECTION 3. Subchapter C, Chapter 89, Natural Resources
4 Code, is amended by adding Section 89.0475 to read as follows:

5 Sec. 89.0475. REDUCTION AND PLUGGING OF ORPHANED WELLS:
6 OPERATORS DESIGNATED BEGINNING IN 2022. (a) In this section,
7 "operator in good standing" and "orphaned well" have the meanings
8 assigned by Section 89.047.

9 (b) The commission shall designate a person who is an
10 operator in good standing as the operator of an orphaned well if the
11 person files with the commission:

12 (1) a factually supported claim based on a recognized
13 legal theory to a continuing possessory right in the mineral estate
14 accessed by the well, such as evidence of a current oil and gas
15 lease or a recorded deed conveying a fee interest in the mineral
16 estate;

17 (2) a completed certificate of compliance; and

18 (3) a nonrefundable fee in the amount of \$250.

19 (c) A fee collected under Subsection (b)(3) shall be
20 deposited to the credit of the oil and gas regulation and cleanup
21 fund.

22 (d) A person who is designated as the operator of an
23 orphaned well on or after January 1, 2022, is entitled to receive:

24 (1) a nontransferable exemption from severance taxes
25 for production from the well as provided by Section 202.060, Tax
26 Code, until the fifth anniversary of the date the commission
27 designates the person as the operator of the well;

1 (2) a nontransferable exemption from the fees provided
2 by Sections 81.116 and 81.117 for production from the well until the
3 fifth anniversary of the date the commission designates the person
4 as the operator of the well; and

5 (3) a payment from the commission in the amount
6 described by Subsection (f) using money from the oil and gas
7 regulation and cleanup fund.

8 (e) A person who is designated as the operator of an
9 orphaned well is entitled to a payment under Subsection (d)(3) only
10 if:

11 (1) not later than the first anniversary of the date
12 the commission designates the person as the operator of the well:

13 (A) the person plugs the well in accordance with
14 commission rules; or

15 (B) the commission approves the application of
16 the owner of the surface estate of the tract of land on which the
17 well is located to condition the well for fresh water production and
18 the person designated as the operator of the well plugs the well in
19 accordance with commission rules up to the base of the usable
20 quality water stratum; and

21 (2) not later than the end of the state fiscal year
22 following the state fiscal year in which the person plugs the well,
23 the person submits to the commission:

24 (A) a request for reimbursement for plugging the
25 well; and

26 (B) documentation of the cost of plugging the
27 well.

1 (f) The amount to which a person is entitled under
2 Subsection (d)(3) is equal to 50 percent of the lesser of:

- 3 (1) the documented well-plugging costs; or
4 (2) the average cost incurred by the commission in the
5 preceding 24 months in plugging similar wells located in the same
6 county or general area.

7 (g) The commission shall make payments to persons under
8 Subsection (d)(3) annually in the same order the commission
9 determines the persons to be entitled to the payments. The
10 aggregate amount of payments in a state fiscal year under
11 Subsection (d)(3) may not exceed \$500,000. A person may not
12 receive:

- 13 (1) more than one payment under Subsection (d)(3) for
14 the same well; or
15 (2) cumulative payments in an amount that exceeds the
16 amount of the bond, letter of credit, or cash deposit the person has
17 filed with the commission under Section 91.104.

18 SECTION 4. The heading to Section 89.048, Natural Resources
19 Code, is amended to read as follows:

20 Sec. 89.048. PLUGGING OF WELL BY SURFACE ESTATE OWNER OR
21 AFFECTED PERSON.

22 SECTION 5. Section 89.048, Natural Resources Code, is
23 amended by adding Subsection (b-1) and amending Subsections (c) and
24 (d) to read as follows:

25 (b-1) On approval by the commission, a person affected by an
26 orphaned well, including a person who does not have a good faith
27 claim to the mineral estate accessed by the well, may act as an

1 agent of the commission to contract with a well plugger to plug the
2 well.

3 (c) If the surface estate owner or affected person enters
4 into a contract under Subsection (b) or (b-1), as applicable, the
5 well plugger shall:

6 (1) not later than the 15th [~~30th~~] day before the date
7 the well is plugged, mail notice of its intent to plug the well to
8 the operator of the well at the operator's address as shown by the
9 records of the commission;

10 (2) assume responsibility for the physical operation
11 and control of the well as shown by a form the person files with the
12 commission and the commission approves;

13 (3) file a bond, letter of credit, or cash deposit
14 covering the well as required by Section 91.107; and

15 (4) plug the well in accordance with commission rules.

16 (d) On successful plugging of the well by the well plugger,
17 the surface estate owner or affected person may submit
18 documentation to the commission of the cost of the well-plugging
19 operation. The commission shall reimburse the surface estate owner
20 or affected person from money in the oil and gas regulation and
21 cleanup fund in an amount not to exceed 50 percent of the lesser of:

22 (1) the documented well-plugging costs; or

23 (2) the average cost incurred by the commission in the
24 preceding 24 months in plugging similar wells located in the same
25 county or general area.

26 SECTION 6. Sections 202.060(b) and (c), Tax Code, are
27 amended to read as follows:

1 (b) The commission shall issue a certificate to a person who
2 is designated by the commission under Section [89.047](#) or 89.0475,
3 Natural Resources Code, as the operator of an orphaned well. The
4 certificate must identify the operator to whom and the well for
5 which the certificate is issued.

6 (c) Hydrocarbons produced from the well identified in the
7 certificate qualify for a severance tax exemption for the period
8 described by Section [89.047](#) or 89.0475, Natural Resources Code, as
9 applicable.

10 SECTION 7. This Act takes effect January 1, 2022.