

## **BILL ANALYSIS**

Senate Research Center  
88R20894 KBB-F

H.B. 4256  
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Finance  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, there are many leaking water wells all across West Texas. Those wells are leaking contaminated water, hydrogen sulfide, and radioactive materials. Occasionally, the water will bubble to the surface, causing livestock to drink toxic water, leading to exposure and death. For this reason, it is important to address these leaking water wells.

H.B. 4256 creates a leaking water well program in the Water Code that allows certain counties to apply for a grant to plug leaking water wells and prevent toxic water from rising to the surface. The program would administer \$40 million solely for the purpose of plugging these problematic wells.

[Note: While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

H.B. 4256 amends current law relating to the establishment of a grant program to plug leaking water wells in certain counties and makes an appropriation.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 28.106, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 28, Water Code, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. LEAKING WATER WELLS GRANT PROGRAM**

Sec. 28.101. DEFINITIONS. Defines "district," "fund," and "program."

Sec. 28.102. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies only to a district in a county that:

- (1) has a population of 16,000 or less; and
- (2) is adjacent to at least seven counties with populations of less than 15,000.

Sec. 28.103. LEAKING WATER WELLS FUND. (a) Provides that the leaking water wells fund (fund) is created as a fund in the state treasury outside the general revenue fund.

(b) Provides that the fund consists of:

- (1) money appropriated, credited, or transferred to the fund by the legislature;
- (2) gifts or grants contributed to the fund; and

(3) interest earned on deposits and investments of the fund.

(c) Provides that interest earned on money deposited to the credit of the fund is exempt from Section 404.071 (Disposition of Interest on Investments), Government Code. Requires that interest earned on money in the fund be retained in the fund.

(d) Authorizes the fund to be used only to implement the leaking water wells program (program) established under Section 28.104, including the costs of the program administration and operation.

Sec. 28.104. LEAKING WATER WELLS PROGRAM. Requires the Texas Natural Resource Conservation Commission (TNRCC) to establish and administer the leaking water wells program to plug leaking water wells. Requires TNRCC, under the program, to provide grants to districts for eligible projects to offset the cost of plugging leaking water wells.

Sec. 28.105. APPLICATION FOR GRANT. (a) Authorizes a district to apply for and receive a grant for an eligible project under the program.

(b) Requires that an application for a grant under this subchapter be made on a form provided by TNRCC and contain the information required by TNRCC.

Sec. 28.106. ELIGIBILITY OF PROJECTS FOR GRANTS; PRIORITIZATION. (a) Requires a district, to be eligible for a grant for a project, to:

(1) demonstrate that the project includes a leaking water well:

(A) that:

(i) is located within 2,000 feet of a drinking water well, a water well for livestock or irrigation, or a sensitive wildlife area; or

(ii) has seasonal or annual flow to the surface, or a hydrological connection to surface water, including a waterway, intermittent stream, or springs system; and

(B) of which:

(i) the plug, casing, completion interval, or general integrity is known by the district to be deficient; or

(ii) the completion interval is sufficiently proximate to other known intervals or pressurized zones with high concentrations of salinity, chlorides, sulfides, or other hazardous or toxic components;

(2) obtain any necessary approval from a surface owner for access to the property where the leaking water well is located; and

(3) as necessary and subject to Subsection (b), engage in a bid process to select and hire a contractor or subcontractor to perform the work.

(b) Provides that a contract for work on a project for which a grant is provided under the program, notwithstanding any other law:

(1) is required to be awarded to a contractor or subcontractor selected from a list of approved well pluggers maintained by the Railroad Commission of Texas (RRC); and

(2) is authorized to be awarded to the contractor or subcontractor whose bid or proposal the recipient of the grant determines provides the best value for the recipient based on the selection criteria published by the recipient.

(c) Requires TNRCC by rule to establish criteria for prioritizing projects eligible to receive a grant under the program.

Sec. 28.107. RESTRICTION ON USE OF GRANT. (a) Authorizes a recipient of a grant provided under the program to use the grant only to pay the cost of the project for which the grant is provided. Prohibits a recipient from using the grant to pay administrative costs associated with the project.

(b) Requires that a leaking water well plugged under the program be permanently plugged. Requires TNRCC, in consultation with RRC, to establish criteria for ensuring that a well is permanently plugged.

(c) Requires that the amount of a grant provided under the program that is not spent for the completion of a project be returned to TNRCC for deposit to the credit of the fund.

SECTION 2. Provides that the amount of \$40 million is appropriated from the general revenue fund to the Comptroller of Public Accounts of the State of Texas for the purpose of transferring that amount immediately to the credit of the fund, as created by this Act.

SECTION 3. Effective date: upon passage or September 1, 2023.