88R7367 ANG-D

By:  Goodwin H.B. No. 3840

A BILL TO BE ENTITLED

AN ACT

relating to the extension of the deadline for plugging certain inactive wells under the jurisdiction of the Railroad Commission of Texas.

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

SECTION 1.  Section 89.023, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (c), (d), and (e) to read as follows:

(a)  Subject to Subsection (c), the [~~The~~] commission may grant an extension of not more than five years of the deadline for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes:

(1)  an affirmation that complies with Section 89.029;

(2)  a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right to operate the well; [~~and~~]

(3)  at least one of the following:

(A)  documentation that since the preceding date that the operator's organization report was required to be renewed the operator has plugged, or restored to active operation as defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B)  an abeyance of plugging report on a form approved by the commission that:

(i)  is in the form of a certification signed by a person licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer or by the Texas Board of Professional Geoscientists;

(ii)  includes:

(a)  an affirmation by the licensed person that the well has:

(1)  a reasonable expectation of economic value in excess of the cost of plugging the well for the duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2)  a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b)  appropriate documentation demonstrating the basis for the affirmation of the well's future utility; and

(iii)  specifies the field and the covered wells within that field in a format prescribed by the commission;

(C)  a statement that the well is part of an enhanced oil recovery project;

(D)  if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted;

(E)  [~~a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:~~

[~~(i)  complies with the requirements of Chapter 91; and~~

[~~(ii)  is of an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application;~~

[~~(F)~~]  documentation of the deposit with the commission each time the operator files an application of an amount of escrow funds as prescribed by commission rule that equal at least 10 percent of the total cost calculation for plugging an inactive well for each well specified in the application; or

(F) [~~(G)~~]  if the operator is a publicly traded entity,[~~:~~

[~~(i)~~]  the following documents:

(i) [~~(a)~~]  a copy of the operator's federal documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations; and

(ii) [~~(b)~~]  an original, executed Uniform Commercial Code Form 1 Financing Statement, filed with the secretary of state, that:

(a) [~~(1)~~]  names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor"; and

(b) [~~(2)~~]  specifies the funds covered by the documents described by Subparagraph (i) [~~Sub-subparagraph (a)~~] in the amount at least equal to the applicable decommissioning cost estimate established by the commission under Subsection (a-1) for each well specified in the application; and

(4)  a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:

(A)  complies with the requirements of Chapter 91; and

(B)  is of an amount at least equal to the applicable decommissioning cost estimate established by the commission under Subsection (a-1) for each well specified in the application [~~of the cost calculation for plugging an inactive well for each well specified in the application; or~~

[~~(ii)  a blanket bond in the amount of the lesser of:~~

[~~(a)  the cost calculation for plugging any inactive wells; or~~

[~~(b)  $2 million~~].

(a-1)  Based on the information provided to the commission under Subsection (a-2), the commission shall establish decommissioning cost estimates for each oil and gas producing region of the state, as determined by the commission, annually and post the estimates on the commission's publicly accessible Internet website.

(a-2)  The commission shall require each operator to provide decommissioning cost information to the commission on an annual basis, including, for each well site:

(1)  the depth of the well;

(2)  the age of the well bore;

(3)  a summary explaining factors or complications related to the well or well site that may influence the cost of plugging or cleanup at the well site;

(4)  an estimated cost of materials and equipment necessary to plug the well bore and clean up the well site;

(5)  an estimated cost of labor necessary to plug the well bore, clean up the well site, and remove any equipment;

(6)  overhead expenses; and

(7)  whether the well bore or site has undergone reworking operations during the preceding year.

(c)  If an operator has previously obtained an extension of the deadline for plugging an inactive well of five years or more, the commission may only grant two additional one-year extensions.

(d)  The commission may deny a request for an extension of the deadline for plugging an inactive well if the operator has not demonstrated financial solvency.

(e)  Notwithstanding Section 89.021, this section applies to bay and offshore wells.

SECTION 2.  Section 89.027(a), Natural Resources Code, is amended to read as follows:

(a)  A supplemental bond, letter of credit, or cash deposit filed under Section 89.023(a)(4) [~~89.023(a)(3)(E)~~] is in addition to any other financial assurance otherwise required of the operator or for the well.

SECTION 3.  Section 89.028(a), Natural Resources Code, is amended to read as follows:

(a)  Escrow funds described by Section 89.023(a)(3)(E) [~~89.023(a)(3)(F)~~] must be deposited with the commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

SECTION 4.  (a) The changes in law made by this Act apply only to a person required to file a bond, letter of credit, or cash deposit under Section 89.023, Natural Resources Code, on or after the effective date of this Act. A person required to file a bond, letter of credit, or cash deposit under Section 89.023, Natural Resources Code, 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.

(b)  Notwithstanding Subsection (a), an operator of a well in existence on the effective date of this Act is not required to hold an individual bond that meets the requirements of Section 89.023, Natural Resources Code, as amended by this Act, until September 1, 2026. The law as it existed immediately before the effective date of this Act is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2023.