88R8005 JAM-F

By:  Blanco S.B. No. 1686

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Section 81.067(c), Natural Resources Code, is 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 Section 91.113(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;

(26)  fees collected under Section 81.071; [~~and~~]

(27)  money collected under Section 81.021; and

(28)  fees collected under Section 89.0475.

SECTION 2.  Section 89.002(a), Natural Resources Code, is amended by adding Subdivision (14) to read as follows:

(14)  "Operator affected by an orphaned well" means:

(A)  an operator of an oil or gas well that accesses a productive horizon also accessed by an orphaned well; or

(B)  an operator of an oil or gas well with a good faith claim to access a productive horizon also accessed by an orphaned well.

SECTION 3.  Section 89.044(a), Natural Resources Code, is amended to read as follows:

(a)  The commission [~~or its employees or agents~~], the operator, an operator affected by an orphaned well, [~~or~~] the nonoperator, or an employee or agent of one of those persons, on proper identification, may enter the land of another for the purpose of plugging or replugging a well that has not been properly plugged. An action to prevent the entry of land of another for the purpose of plugging or replugging a well that has not been properly plugged may not be sustained against a person authorized by this subsection to enter the land for that purpose.

SECTION 4.  The heading to Section 89.047, Natural Resources Code, is amended to read as follows:

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

SECTION 5.  Subchapter C, Chapter 89, Natural Resources Code, is amended by adding Section 89.0475 to read as follows:

Sec. 89.0475.  REDUCTION AND PLUGGING OF ORPHANED WELLS: OPERATORS DESIGNATED BEGINNING IN 2024. (a) In this section, "operator in good standing" and "orphaned well" have the meanings assigned by Section 89.047.

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

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

(2)  a completed certificate of compliance; and

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

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

(d)  A person who is designated as the operator of an orphaned well on or after January 1, 2024, is entitled to receive:

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

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

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

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

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

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

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

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

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

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

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

(1)  the documented well-plugging costs; or

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

(g)  The commission shall make payments to persons under Subsection (d)(3) annually in the same order the commission determines the persons to be entitled to the payments. The aggregate amount of payments in a state fiscal year under Subsection (d)(3) may not exceed $500,000. The commission may, in its discretion, make a payment to a person under Subsection (d)(3) in the fiscal year following the fiscal year in which the well was plugged. A person may not receive:

(1)  more than one payment under Subsection (d)(3) for the same well; or

(2)  cumulative payments in an amount that exceeds the amount of the bond, letter of credit, or cash deposit the person has filed with the commission under Section 91.104.

(h)  The commissioner shall include wells plugged under this section in:

(1)  the commission's well-plugging performance metrics; and

(2)  any monthly report produced by the commission relating to well-plugging activity.

SECTION 6.  The heading to Section 89.048, Natural Resources Code, is amended to read as follows:

Sec. 89.048.  PLUGGING OF WELL BY SURFACE ESTATE OWNER OR AFFECTED OPERATOR.

SECTION 7.  Section 89.048, Natural Resources Code, is amended by amending Subsections (b), (c), and (d) and adding Subsections (c-1) and (d-1) to read as follows:

(b)  The owner of an interest in the surface estate of a tract of land on which an orphaned well is located or an operator affected by an orphaned well may contract with a commission-approved well plugger to plug the well.

(c)  If the surface estate owner or an operator affected by an orphaned well enters into a contract under Subsection (b), the surface estate owner, operator affected by an orphaned well, or well plugger shall:

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

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

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

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

(c-1)  On satisfaction of commission requirements, the commission shall issue to a surface estate owner, operator affected by an orphaned well, or well plugger, regardless of whether the person has a good faith claim to the mineral estate accessed by an orphaned well, a certificate of compliance and transportation authority or similar authorization showing the person's assumption of control of the well under Subsection (c)(2) for the purpose of plugging or replugging the well.

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

(1)  the documented well-plugging costs; or

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

(d-1)  The commissioner shall include wells plugged under this section in:

(1)  the commission's well-plugging performance metrics; and

(2)  any monthly report produced by the commission relating to well-plugging activity.

SECTION 8.  Sections 202.060(b) and (c), Tax Code, are amended to read as follows:

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

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

SECTION 9.  This Act takes effect January 1, 2024.