

By: Goodwin

H.B. No. 3840

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the extension of the deadline for plugging certain
3 inactive wells under the jurisdiction of the Railroad Commission of
4 Texas.

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

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

9 (a) Subject to Subsection (c), the ~~[The]~~ commission may
10 grant an extension of not more than five years of the deadline for
11 plugging an inactive well if the operator maintains a current
12 organization report with the commission as required by Section
13 91.142 and if, on or before the date of renewal of the operator's
14 organization report as required by that section, the operator files
15 with the commission an application for an extension that includes:

16 (1) an affirmation that complies with Section 89.029;
17 (2) a statement that the operator has, and on request
18 will provide, evidence of a good faith claim to a continuing right
19 to operate the well; ~~and~~

20 (3) at least one of the following:
21 (A) documentation that since the preceding date
22 that the operator's organization report was required to be renewed
23 the operator has plugged, or restored to active operation as
24 defined by commission rule, a number of inactive wells equal to or

1 greater than 10 percent of the number of inactive wells operated by
2 the operator on that date;

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

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

9 (ii) includes:

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

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

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

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

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

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

27 (D) if the operator of the well is not currently

1 otherwise required by commission rule or order to conduct a fluid
2 level or hydraulic pressure test of the well, documentation of the
3 results of a successful fluid level or hydraulic pressure test of
4 the well conducted in accordance with the commission's rules in
5 effect at the time the test is conducted;

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

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

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

14 ~~[(F)]~~ documentation of the deposit with the
15 commission each time the operator files an application of an amount
16 of escrow funds as prescribed by commission rule that equal at least
17 10 percent of the total cost calculation for plugging an inactive
18 well for each well specified in the application; or

19 (F) ~~[(C)]~~ if the operator is a publicly traded
20 entity, ~~[+~~

21 ~~[(i)]~~ the following documents:

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

26 (ii) ~~[(b)]~~ an original, executed Uniform
27 Commercial Code Form 1 Financing Statement, filed with the

1 secretary of state, that:

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

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

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

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

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

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

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

23 ~~[(b) \$2 million].~~

24 (a-1) Based on the information provided to the commission
25 under Subsection (a-2), the commission shall establish
26 decommissioning cost estimates for each oil and gas producing
27 region of the state, as determined by the commission, annually and

1 post the estimates on the commission's publicly accessible Internet
2 website.

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

6 (1) the depth of the well;

7 (2) the age of the well bore;

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

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

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

15 (6) overhead expenses; and

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

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

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

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

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

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

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

7 (a) Escrow funds described by Section 89.023(a)(3)(E)
8 [~~89.023(a)(3)(F)~~] must be deposited with the commission each time
9 an operator files an application for an extension of the deadline
10 for plugging an inactive well.

11 SECTION 4. (a) The changes in law made by this Act apply
12 only to a person required to file a bond, letter of credit, or cash
13 deposit under Section 89.023, Natural Resources Code, on or after
14 the effective date of this Act. A person required to file a bond,
15 letter of credit, or cash deposit under Section 89.023, Natural
16 Resources Code, before the effective date of this Act is governed by
17 the law as it existed immediately before the effective date of this
18 Act, and that law is continued in effect for that purpose.

19 (b) Notwithstanding Subsection (a), an operator of a well in
20 existence on the effective date of this Act is not required to hold
21 an individual bond that meets the requirements of Section 89.023,
22 Natural Resources Code, as amended by this Act, until September 1,
23 2026. The law as it existed immediately before the effective date
24 of this Act is continued in effect for that purpose.

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