

**SUBJECT:** Fund to pay for plugging abandoned or deteriorated water wells

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 7 ayes — Puente, Callegari, Campbell, R. Cook, Geren, Hamilton, Hope  
0 nays  
2 absent — Hardcastle, Wolens

**WITNESSES:** For — Bonnie J. Conner, City of San Antonio; Scott Halty, San Antonio Water System; Mike Mahoney, Texas Association of Groundwater Districts and Evergreen Underground Water Conservation District  
  
Against — None  
  
On — Richard Bowers, North Plains Groundwater Conservation District; Harvey Everheart, Mesa Underground Water Conservation District; William H. Kuntz Jr., Texas Department of Licensing and Regulation; Lee Parham, Texas Department of Licensing and Regulation

**BACKGROUND:** Occupations Code, ch. 1901 governs the licensing and regulation of water well drillers. Sec. 1901.255 requires a driller who knows of an abandoned or deteriorated water well to notify the owner of the well that it must be plugged to avoid injury or pollution. The well owner must plug the abandoned or deteriorated well within 180 days of notification about its condition and submit a report indicating amelioration of the problem to the Texas Commission of Licensing and Regulation, which governs the Texas Department of Licensing and Regulation (TDLR). Under this section a well is “abandoned” if it is not in use, and “deteriorated” if it is likely to cause water pollution.  
  
As provided by sec. 1901.053(a), TDLR collects a fee from each applicant who receives a license to become a water well driller. This fee is deposited into a dedicated general revenue account, which pays for activities mandated by ch. 1901.

Section 1901.101 stipulates that the nine-member Texas Water Well Drillers Advisory Council oversee regulation of drillers. Six of the members of this council must be well drillers, one of whom is selected from the state at large. Representatives from each of five Texas regions — the Gulf Coast area, the Trans-Pecos area, the Central Texas Area, the Northeast Texas area, and the Panhandle-South Plains area — must fill the remaining five slots.

**DIGEST:**

CSHB 975 would create a new water well plugging account in the general revenue fund to pay for plugging abandoned or deteriorated wells when the owners of those wells either could not be found or could not afford to pay for the plugging themselves. TDLR would establish criteria to determine whether a well owner possessed sufficient assets to plug a deteriorating well. The account would be exempt from Government Code, sec. 403.095, which makes money collected for a purpose that exceeds the amount appropriated available for general governmental purposes.

The account would be funded by a fee assessed each time a new well was drilled and could be used only for the purpose of plugging abandoned or deteriorated wells. TDLR would set the fee by rule, and it would apply only to a well for which drilling began on or after the date set by TDLR when its rules were adopted.

The account would consist of five subaccounts corresponding to the five geographic areas from which advisory council members are drawn. Fees originating in one of the geographic areas would be deposited into the subaccount of that area, and 70 percent of the fees in that subaccount would have to be used for plugging wells in the corresponding geographic area. Of the remaining amount in each subaccount, no more than 20 percent could be used for the department's administrative costs and no more than 10 percent could be used to plug high priority or hazardous wells anywhere in the state.

TDLR could transfer money in a subaccount to a groundwater conservation district so that the district could plug one or more abandoned or deteriorated wells that TDLR otherwise might plug through the water well plugging account. A groundwater conservation district could spend no more than \$50 of the money transferred on administrative costs for the district.

The bill would amend Occupations Code, sec. 1901.101(b) to require TDLR to codify in its rules the five geographic areas on which the subaccounts and council membership are based, which currently are specified only in statute. The bill also would state that the new water well plugging account would be separate from the existing account authorized under sec. 1901.053(a)

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

By providing TDLR with the necessary funds to plug abandoned and deteriorated wells, CSHB 975 would address pressing environmental and safety problems for the state. An interim study by the House Natural Resources Committee in 2000 found that there are likely more than 150,000 abandoned and deteriorated wells across Texas. Given the scope and seriousness of this problem, the state needs a way to fund the plugging of wells that otherwise would remain improperly maintained.

Plugging abandoned wells would safeguard the state's water resources, since abandoned wells are environmental hazards for citizens who rely on aquifers for potable water. A well is a direct conduit to the aquifer below, and surface contaminants can enter the aquifer directly without the natural geologic filtration that otherwise would occur. In addition to the potential contamination of groundwater from neglected wells, an overflowing artesian well wastes water. Also, children and animals can be injured or killed by falling into uncapped wells, a safety hazard that this bill would enable the state to remedy.

The funding mechanism in CSHB 975 adequately and fairly would assess fees for the water well plugging program. Although current state law requires landowners to plug abandoned wells, no funds to plug these wells exist when the landowner is absent or insolvent. Thus, abandoned wells often remain unplugged. A separate account is needed to provide a method for plugging abandoned wells. It is logical that the money for such an account come from fees assessed on the drilling of new wells, since a certain percentage of new wells someday will become abandoned. CSHB 975 would grant latitude to TDLR to determine this fee in order to simplify the process and ensure oversight by the Texas Water Well Drillers Advisory Council.

The Legislative Budget Board estimates that administration of the plugging program would require only three additional FTEs and would be covered entirely by fees. The flat fee required by CSHB 975 would be less costly to administer than a fee assessed as a percentage of the drilling cost.

Several regional groundwater conservation districts already have well-plugging programs in place, and CSHB 975 would enable TDLR to benefit from expertise of those districts. TDLR would be able to transfer funds to a groundwater district for plugging activities if the department determined that a groundwater district could execute a well plugging more efficiently. Further, HB 975 would prohibit a groundwater district from spending more than \$50 transferred from this fund on administrative costs.

**OPPONENTS  
SAY:**

It is not appropriate to require drillers to pay fees on new water wells in order to fund clean up of abandoned and deteriorated wells. This bill would financially burden drillers for a problem for which they are not responsible.

**OTHER  
OPPONENTS  
SAY:**

While the problem of abandoned wells demands attention by the state, CSHB 975 would provide too much latitude to TDLR in setting fees on new wells to fund the plugging program. The bill should set guidelines for the amount of the fee, such as a percentage of the cost to drill a new well, to ensure that drillers would not be charged excessively.

**NOTES:**

The committee substitute differs from the bill as introduced by requiring that most of the money collected in one of the state's five geographic districts would remain in that district and that 10 percent of the money collected in each district could be used to pay for plugging high priority or hazardous wells across the state. The substitute would require TDLR to codify the five geographic areas outlined in Section 1901.101(b) by department rule and would allow TDLR to transfer funds to groundwater conservation districts for plugging activities.

Rep. Puente has authored a similar bill in each the two previous legislative sessions, both of which died in committee.