

BILL ANALYSIS

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S.B. 1378
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In past sessions and as recently as the 80th Legislature, Regular Session, 2007, multiple pieces of legislation have been filed to address either surface clean-up issues or bonding and financial assurance for oil and gas wells. Both issues were the topics of interim studies. An industry working group, the Inactive Well Study Group, came together during the interim to discuss these topics and has identified inactive oil and natural gas wells as the nexus for addressing risk to both the Oil Field Clean-up Fund and for surface equipment complaints. The current system already handles "abandoned" or "orphaned" wells. "Active" wells do not pose problems, but "inactive" wells are a broad category with many potential risk factors and possible regulatory loopholes. Limiting changes to this category has now opened the door to discussing solutions in a new context. The complete proposal is intended to protect the Oil Field Clean-up Fund against future liability from inactive wells by raising accountability and responsibility of operations in a manner that balances risk and cost. The bill proposes a menu-style approach for achieving financial assurance, is critical for compliance, and provides flexibility for the operator to make a decision that best fits his or her business model, while reducing risk to the industry as a whole.

As proposed, S.B. 1378 creates additional requirements necessary for the Railroad Commission of Texas to grant an extension of an inactive well's plugging deadline under Chapter 89 (Abandoned Wells), Natural Resources Code, addressing both financial and surface clean-up issues.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 89.002, Natural Resources Code, by amending Subdivision (7) and adding Subdivisions (9), (10), and (11), to redefine "delinquent inactive well" and define "cost calculation for plugging an inactive well," "inactive well," and "physical termination of electric lines to an inactive well."

SECTION 2. Amends Chapter 89, Natural Resources Code, by adding Subchapter B-1, as follows:

SUBCHAPTER B-1. PLUGGING OF INACTIVE WELLS

Sec. 89.021. **PLUGGING OF INACTIVE WELLS REQUIRED.** (a) Requires an operator of an inactive well, except as provided by Section 89.022, on or before the date the operator is required to renew the operator's organization report required by Section 91.142, to plug the well in accordance with statutes and commission rules in effect at the time of plugging.

(b) Prohibits a person from becoming a new operator of an existing inactive well without first satisfying the requirements of Section 89.022.

(c) Prohibits the Railroad Commission of Texas (railroad commission) from renewing or approving the organization report required by Section 91.142 for an operator that fails to comply with the requirements of this subchapter.

Sec. 89.022. EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL. (a) Requires the railroad commission to grant an extension of the deadline for plugging an inactive well if, on or before the date of initial approval or renewal of the operator's organization report required by Section 91.142, the operator files with the railroad commission an application for an extension that includes certain information.

(b) Prohibits an operator, notwithstanding Subsection (a)(2)(A), from obtaining an extension of the deadline for plugging an inactive well by complying with that section if the plugging of the well is otherwise required by railroad commission rules.

Sec. 89.023. ABEYANCE OF PLUGGING REPORT. (a) Provides that an abeyance of plugging report filed under Section 89.022(a)(2)(B) is valid for a period of not more than five years.

(b) Authorizes an abeyance of plugging report to cover more than one well in a field but prohibits the report from covering more than one field.

(c) Prohibits an abeyance of plugging report from being transferred to a new operator of an existing inactive well. Requires an operator, on becoming a new operator of an existing inactive well, to file a new abeyance of plugging report or otherwise comply with the requirements of this subchapter. Provides that this subsection does not prohibit the transfer of an abeyance of plugging report in the event of a change of name of an operator.

(d) Requires an operator who files an abeyance of plugging report to pay an annual fee of \$100 for each well covered by the report. Requires that a fee collected under this section be deposited in the oil-field cleanup fund.

Sec. 89.024. ENHANCED OIL RECOVERY PROJECT. (a) Provides that for purposes of Section 89.022(a)(2)(C), an inactive well is considered to be part of an enhanced oil recovery project if the well is associated with the project.

(b) Prohibits documentation that an inactive well is part of an enhanced oil recovery project described by Section 202.052(b) (relating to oil produced in this state from a new or expanded enhanced recovery project), Tax Code, from being transferred to a new operator of an existing inactive well. Requires an operator, on becoming a new operator of an existing inactive well, to file new documentation that the well is part of such a project or otherwise comply with the requirements of this subchapter.

Sec. 89.025. MECHANICAL INTEGRITY TEST. (a) Provides that documentation of the results of a successful fluid level or hydraulic pressure test filed under Section 89.022(a)(2)(D) is valid for a period of five years from the date of the test.

(b) Authorizes documentation of the results of a successful fluid level or hydraulic pressure test to be transferred to a new operator of an existing inactive well.

Sec. 89.026. SUPPLEMENTAL FINANCIAL ASSURANCE. (a) Provides that a supplemental bond, letter of credit, or cash deposit filed under Section 89.022(a)(2)(E) (relating to a supplemental bond, letter of credit, or cash deposit) is in addition to any other financial assurance otherwise required of the operator or for the well.

(b) Prohibits a supplemental bond, letter of credit, or cash deposit from being transferred to a new operator of an existing inactive well. Requires an operator, on becoming a new operator of an existing inactive well, to file a new supplemental bond, letter of credit, or cash deposit or otherwise comply with the requirements of this subchapter.

Sec. 89.027. ESCROW FUNDS. (a) Requires that escrow funds described by Section 89.022(a)(2)(F) (relating to documentation of escrow funds) be deposited with the railroad commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

(b) Authorizes escrow funds deposited with the railroad commission to be released only with the approval of the commission as prescribed by railroad commission rule.

Sec. 89.028. AFFIRMATION REGARDING SURFACE REQUIREMENTS. (a) Requires that an application for an extension of the deadline for plugging an inactive well include a written affirmation containing certain information by the operator.

(b) Provides that an operator is eligible for a temporary extension of the deadline for plugging an inactive well if the operator is unable to comply with the requirements of that subsection because of safety concerns or required maintenance of the well site and the operator includes with the application a written affirmation of the facts regarding the safety concerns or maintenance, notwithstanding Subsection (a).

(c) Provides that an operator is eligible for an extension of the deadline for plugging a well without complying with Subsection (a)(2)(B) (relating to an abeyance of plugging report) if the well is part of an enhanced oil recovery project described by Section 202.052(b), Tax Code, and the operator includes a statement in the written affirmation that the well is part of such a project. Provides that the exemption provided by this subsection applies only to the equipment required for the project.

Sec. 89.029. REVOCATION OF EXTENSION OF DEADLINE FOR PLUGGING INACTIVE WELL. Authorizes the railroad commission to revoke an extension of the deadline for plugging an inactive well granted under this subchapter if the railroad commission determines, after notice and an opportunity for a hearing, that the applicant is ineligible for the extension.

SECTION 3. Amends Section 91.111(c), Natural Resources Code, to provide that the fund consists of fees collected under Section 89.023. Makes a nonsubstantive change.

SECTION 4. (a) Requires the railroad commission, not later than September 1, 2010, to be prepared to grant extensions of the deadline for plugging an inactive well under Subchapter B-1, Chapter 89, Natural Resources Code, as added by this Act.

(b) Makes application of this Act prospective to September 1, 2010.

SECTION 5. Effective date: September 1, 2009.