

**SUBJECT:** Deposit of certain fees and penalties to the Oilfield Cleanup Fund

**COMMITTEE:** Energy Resources — favorable, with amendment

**VOTE:** 6 ayes — R. Lewis, Hawley, Driver, West, Williams, Woolley  
0 nays  
3 absent — Crabb, Merritt, Wilson

**WITNESSES:** For — None  
Against — None  
On — Tony Garza and Kathy Pyka, Texas Railroad Commission

**BACKGROUND:** The Texas Railroad Commission (TRC) plugs abandoned oil and gas wells in cases when the operator or other responsible person cannot be found or the operator cannot pay for plugging. TRC is also responsible for remediating sites that could pollute surface and subsurface water resources. In 1991, the Legislature created the self-replenishing Oilfield Cleanup Fund to pay for TRC's environmental programs. Most of the fund's revenues come from drilling permit fees, oil and gas violation fees, a 5/16-cent-per-barrel fee on oil produced in Texas, and a 1/30-cent-per-thousand-cubic-feet fee on natural gas produced in Texas.

**DIGEST:** HB 3444, as amended, would allow the following penalties and fees to be deposited to the credit of the Oilfield Cleanup Fund:

- ! administrative penalties assessed by the TRC for violations of safety and pollution rules, as authorized by Natural Resources Code, sec. 81.0531;
- ! fees paid to expedite the application for a drilling permit; and
- ! fees paid to apply for a fluid injection-well permit.

The bill would take effect September 1, 1999, and would apply to affected penalties or fees collected on or after that date.

**SUPPORTERS  
SAY:**

The downturn in oil and gas prices has forced many small producers to shut in or abandon their wells. This has placed greater demands on TRC's cleanup program and on the cleanup fund. With fewer working wells paying the fees that fuel the fund, additional sources of revenue are needed to ensure that the fund has enough resources to cover its projected workload.

HB 3444 would allow several additional fees, now deposited in general revenue, to be deposited to the credit of the cleanup fund, adding about \$700,000 per year. These are appropriate fees to include in the fund. TRC typically assesses administrative penalties for violations of pollution-control rules. All drilling permit fees now are deposited into the fund except for the expedited application fee, which is paid on top of the regular fee, and the fluid injection-well permit fee. Fluid injection wells often involve surface water discharge applications, the fees for which already are deposited into the cleanup fund.

Crediting these fees to the cleanup fund would reduce funds available to general revenue, but this would be a worthwhile investment. Before the cleanup fund was created, all TRC environmental programs were funded from general revenue.

The activities that rely on the fund reduce the risk of environmental problems due to unplugged, abandoned wells. Such wells endanger water resources, especially aquifers. TRC uses the fund to investigate sites, assess environmental consequences, and pursue remedies in an efficient and cost-effective manner. In fiscal 1998, the fund paid for the plugging of 1,604 wells and the cleanup of 281 polluted sites. If TRC were unable to plug a well that eventually seeped into an aquifer, the cleanup costs to the state and the public could be enormous.

**OPPONENTS  
SAY:**

The Oilfield Cleanup Fund should be augmented by fees placed on imported oil rather than by diverting fees from the general revenue fund. A fee assessed by the General Land Office (GLO) on imported oil, currently 2 cents per barrel, has generated about \$12 million per year since its creation in 1991. Increasing this fee would generate enough revenue to ensure that TRC could meet demands placed on its cleanup programs while preserving general revenue.

Instead of simply increasing funds for this program, the Legislature should explore ways of improving the coordination of the three state agencies — TRC, GLO, and the Texas Natural Resource Conservation Commission — that administer environmental cleanup and oil-spill response programs.

NOTES:

The committee amendment deleted a section of the original bill that would have repealed current law sunseting the oil and gas production fees. This section is no longer necessary because the governor has signed into law SB 115 by Brown, enacted earlier this session, which repealed the sunset of the oil and gas production fees.

The companion bill, SB 1403 by Fraser, has been left pending in the Senate Natural Resources Committee.