

SUBJECT: Purpose and use of resources in the oil field cleanup fund

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 5 ayes — West, Farabee, Crownover, Gonzalez Toureilles, Howard
0 nays
2 absent — Corte, Crabb

WITNESSES: For — Morris Burns, Permian Basin Petroleum Association; Rusty Howell, Howell Oil and Gas; J.R. Hurd, Texas Independent Producers and Royalty Owners; John Miller; Julie Moore, Oilfield Cleanup Fund Advisory Committee; Kitty-Sue Schlink, Texas Land and Mineral Owners Association; Ben Sebree, Texas Oil and Gas Association; (*Registered, but did not testify*: Joe Abel; Wayne Hughes, Panhandle Producers and Royalty Owners Association; Kerry Knorpp, Bastob/Bivins Mineral, Masterson Ranches, Neal/Thompson Ranch, Brent Ranch, Bee Tree Mineral; Stan McDonald, Texas Independent Producers and Royalty Owners; Bill Stevens, Texas Alliance of Energy Producers).

Against — None

On — Victor Carrillo, Railroad Commission of Texas; Douglass Robison, Henry Petroleum, LP; Rex White; (*Registered, but did not testify*: Cyrus Reed, Lone Star Chapter of Sierra Club).

BACKGROUND: In 1991, the Oil Field Cleanup Fund (OFCF) was created by enactment of SB 1103 by Sims to deal with the burgeoning abandoned well problem. SB 1103 allowed the state, through the Railroad Commission (RRC), to increase its financial capacity to plug abandoned oil and gas wells and to remediate abandoned oil field sites throughout the state. The legislation replaced the previous Well Plugging Fund with the OFCF and increased the fund balance cap to \$10 million.

In 2001, enactment of SB 310 by Harris modified the OFCF by increasing several existing fees on the oil and gas industry and increased the OFCF balance cap from \$10 million to \$20 million. It increased funding in an attempt to increase the number of abandoned wells plugged each year. SB

310 also for the first time required mandatory financial assurance from anyone who operates or owns oil wells.

DIGEST:

CSHB 2984 would limit the RRC's use of funds from the OFCF to the plugging of orphaned wells, site assessment, investigation, and cleanup of orphaned sites.

The bill would define an orphaned site and an orphaned well and replace the term abandoned well with orphaned well in certain sections of Natural Resources Code, ch. 91.

The bill would remove from approved expenditures of the OFCF the administering or enforcing of permits, orders, and rules relating to the RRC's authority to prevent pollution in its normal course of business and under the OFCF. It also would remove funding for implementing the voluntary cleanup program. CSHB 2984 would limit the RRC's expenditure in administering the OFCF to 25 percent of the OFCF for purposes other than paying agents of the RRC to plug orphaned wells or remediate surface locations. Not less than 80 percent of the OFCF would be used to plug orphaned wells, and not more than 20 percent would be used in controlling or cleaning up oil and gas wastes at orphaned well sites. If these amounts were found to be insufficient to prevent or remediate the pollution of surface or subsurface water, the RRC could allocate a greater or lesser percentage of the OFCF.

Hazardous oil and gas waste fees and voluntary cleanup program fees no longer would be used to fund the OFCF but would be redirected for deposit in the general revenue fund.

The bill would take effect on September 1, 2005.

**SUPPORTERS
SAY:**

Since its creation, provisions for the use of funds from the OFCF have been expanded to provide for activities other than plugging and remediation of well sites. As a result, fewer wells are being plugged and sites being remediated. CSHB 2984 would clarify that the OFCF is to be used only for plugging orphaned wells and remediation of sites, with a maximum of 25 percent to be used for administrative costs.

The bill would maximize the number of wells plugged through the OFCF and better protect groundwater and surface water supplies. It would help clarify the purpose of the OFCF and its appropriate uses. The new funding

percentages would help ensure that the funds are not used for other activities by the RRC that would go against the original intent of the legislature.

OPPONENTS
SAY:

CSHB 2984 would have quite a few unintended negative consequences. The narrow scope of the work allowed under the bill would leave some safety and environmental problems without potential solutions. The RRC could work only on orphaned wells and sites. Under the strict definition, the RRC would have no funds to address, for example, a spill or a blowout where the operator refused, or was unable, to control the situation. Normally, several of these situations arise in any given year. The RRC needs to be able to address oil and gas-related environmental and safety issues even if the problem were not associated with an orphan well.

CSHB 2984 would result in the loss to the RRC of several million dollars each fiscal year. Without general revenue to replace funds that would no longer be available by the OFCF, important functions carried on by the RRC today and the employees that carry out those functions would have to be eliminated.

NOTES:

The substitute modified the original by adding a definition for an orphaned site and including the term in certain provisions. It also added a provision prohibiting the RRC from using more than 25 percent of the total amount of money in the fund in a fiscal year for a purpose other than paying agents of the RRC to plug orphaned wells or remediate surface locations.

The fiscal note reports a cost of \$6,267,954 through fiscal 2006-07. Because the cost to administer the OFCF is \$7.7 million per fiscal year, and no more than 25 percent of such costs could be paid out of the OFCF upon enactment of the bill, the fiscal note estimate assumes that the remaining \$3 million in fiscal 2006 and \$3.2 million in fiscal 2007 would have to be paid out of the general revenue fund.