

2018 Regular Session

SENATE BILL NO. 377

BY SENATOR ALLAIN

MINERALS. Establishes procedures for review of future utility of well sites that have been inactive for more than ten years. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 30:21(B)(2)(a) and (b) and to enact R.S. 30:9.3, relative to the
3 office of conservation; to establish procedures for review of future utility of well
4 sites that have been inactive for more than ten years; to provide for procedures,
5 terms, rules, conditions, and requirements; to provide an exception to time
6 requirements; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 30:21(B)(2)(a) and (b) are hereby amended and reenacted and R.S.
9 30:9.3 is hereby enacted to read as follows:

10 **§9.3. Plugging of inactive wells; appeal**

11 **A. For the purposes of this Section, the following terms shall have the**
12 **following meanings:**

13 **(1) "Inactive well" means an unplugged well that has been spud or has**
14 **been equipped with cemented casing and that has had no reported production,**
15 **disposal, injection, or other permitted activity for a period of greater than six**
16 **months and is not part of an approved production program.**

17 **(2) "Office" means the office of conservation.**

1 (3) "Operator" means the current operator of record for the inactive
2 well according to the office records.

3 (4) "Owner" means the owner, as listed on the parish tax roll, of the land
4 encompassing the surface location of the inactive well, or the owner's lessee.

5 B.(1) If an inactive well is designated as being inactive with future utility
6 by the operator for a period of ten years or more and that well is neither
7 scheduled to be plugged and abandoned on a plan approved by the
8 commissioner nor covered under an approved production program, then the
9 owner may request in writing that the office determine whether the inactive well
10 has future utility.

11 (2) Within thirty days of receipt of such a request, the commissioner
12 shall notify the operator of the request.

13 (3) The operator shall submit to the office a written justification
14 including any evidence he deems necessary to prove that the well has future
15 utility within ninety days of receipt of the notice from the office.

16 (4) The office shall review the operator's written justification and
17 determine whether the inactive well has future utility.

18 (5) Within ten days of a final determination by the office, the office shall
19 submit the operator's written justification and the office's final determination
20 to the owner. If the office determines the well has no future utility, the owner
21 shall have ten days from receipt of the justification and determination to
22 request in writing the well be plugged and abandoned.

23 (6) If the owner requests the well be plugged and abandoned, then within
24 ninety days from the owner request, the operator shall submit a plan to the
25 office to plug and abandon the well.

26 (7) The commissioner may approve the plan of plugging and
27 abandonment submitted by the operator that shall include any revisions the
28 commissioner deems necessary.

29 (8) The operator shall plug the well in accordance with and within the

1 time frame set forth in the plan of plugging and abandonment approved by the
2 commissioner.

3 (9) The operator or the owner may appeal the office's determination and
4 shall have the right to a public hearing if requested in writing within thirty days
5 of notification of the office's determination. The written request shall suspend
6 the office's determination until after a hearing before an administrative law
7 judge or hearing officer. The hearing shall be in accordance with Part A of
8 Chapter 13-B of Title 49 of the Revised Statutes of 1950, comprised of R.S.
9 49:991 through 999.1, and the Administrative Procedure Act.

10 C.(1) If, in the determination of the commissioner, the office is unable to
11 carry out any of the responsibilities set forth in this Section within ninety days
12 of a request or submission due to lack of sufficient personnel or funding, then
13 the commissioner may delay such responsibilities. In such event, the
14 commissioner shall notify the operator and owner of such a determination and
15 provide an estimate of when the office plans to carry out such responsibility.

16 (2) After notification described in Paragraph (1) of this Subsection, if the
17 owner insists on an expedited determination, he may donate or any person on
18 the owner's behalf may donate an amount determined by the commissioner to
19 be placed in the Oil and Gas Regulatory Fund to defray the costs of an
20 expedited determination. The office shall follow the procedure set forth in R.S.
21 30:4(Q) to expedite the determination.

22 D. The provisions of this Section shall not preclude an operator from
23 pursuing a contractual claim for reimbursement of costs of the plugging and
24 abandonment of the well from any owner as defined in R.S. 30:3.

25 E. The commissioner shall adopt rules and regulations in accordance
26 with the Administrative Procedure Act to implement the provisions of this
27 Section, including but not limited to defining the term "future utility" and
28 establishing the factors to be considered when making the determination of
29 future utility.

1 * * *

2 §21. Fees and charges of the commissioner of conservation; revisions; exceptions;
3 collections; Oil and Gas Regulatory Fund; creation; amounts;
4 requirements

5 B. * * *

6 (2)(a) There is hereby established a special fund in the state treasury to be
7 known as the Oil and Gas Regulatory Fund, hereafter referred to as the "fund". After
8 deposit in the Bond Security and Redemption Fund and after a sufficient amount is
9 allocated from that fund to pay all the obligations secured by the full faith and credit
10 of the state that become due and payable within each fiscal year, the treasurer shall
11 pay into the fund an amount equal to the monies generated from collection of the
12 fees provided for in this Title, R.S. 40:1749.11 et seq., or Title 47 of the Louisiana
13 Revised Statutes of 1950, the rules and regulations promulgated thereunder, any
14 fines and civil penalties or any other provision of law relative to fees, fines, or civil
15 penalties attributable to the office of conservation, **donations**, and fifty percent of
16 any annual assessment paid by an operator who chooses not to plug a well classified
17 as inactive with the remainder being deposited into the Oilfield Site Restoration
18 Fund.

19 (b) The monies credited to the fund shall be appropriated by the legislature
20 and dedicated solely to the use of the office of conservation for the regulation of the
21 oil and gas industry and other industries under the jurisdiction of the office of
22 conservation and shall be used solely for the purposes of that program. **The monies**
23 **credited to the fund generated from donations shall be used to determine future**
24 **utility in accordance with the rules and regulations adopted by the**
25 **commissioner pursuant to R.S. 30:9.3. The monies credited to the fund**
26 **generated from the annual assessment paid by an operator who chooses not to**
27 **plug a well classified as inactive shall be used to fund those employees of the**
28 **department tasked for activities associated with monitoring inactive wells,**
29 **inspecting inactive wells, determining future utility of inactive wells, ensuring**

- (8) The operator plugs the well in accordance with and within the time frame set forth in the plan of plugging and abandonment approved by the commissioner.
- (9) The operator or the owner may appeal the office's determination to the division of administrative law.

Proposed law provides that if the office is unable to carry out any of the responsibilities set forth in proposed law within 90 days of a request or submission due to lack of sufficient personnel or funding, then the commissioner may delay such responsibilities and notify the operator and owner of such a delay and provide an estimate of when the office plans to carry out its responsibility.

Proposed law provides that after notification that the commissioner has delayed the determination, and the owner insists on an expedited determination, the owner or anyone on his behalf may donate an amount determined by the commissioner to be placed in the Oil and Gas Regulatory Fund to defray the costs of an expedited determination. Proposed law requires the office to follow the procedure set forth in present law to expedite the determination.

Proposed law shall not preclude an operator from pursuing a contractual claim for reimbursement of costs of the plugging and abandonment of the well from any owner.

Proposed law requires the commissioner to adopt rules and regulations in accordance with the APA to implement the provisions of proposed law, including but not limited to defining the term "future utility" and establishing the factors to be considered when making the determination of future utility.

Proposed law requires the monies credited to the Oil and Gas Regulatory Fund generated from donations to be used to determine future utility pursuant to proposed law. Provides that monies credited to the fund from the annual assessment paid by an operator who chooses not to plug a well classified as inactive shall be used to fund department employees who are tasked for activities associated with monitoring inactive wells, ensuring the proper plugging of inactive wells, or preventing such wells from being declared orphaned without being covered by financial security or a site-specific trust fund.

Effective August 1, 2018.

(Amends R.S. 30:21(B)(2)(a) and (b); adds R.S. 30:9.3)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Defines the term "inactive well".
2. Changes appeals of a determination from district court to division of administrative law.
3. Adds provision that if after notification that the commissioner has delayed the determination, and the owner insists on an expedited determination, the owner may donate an amount determined by the commissioner to be placed in the Oil and Gas Regulatory Fund to defray the costs of an expedited determination.
4. Requires the commissioner to adopt rules and regulations in accordance with the APA.

5. Requires the monies credited to the Oil and Gas Regulatory Fund generated from donations and any annual assessment paid by an operator who chooses not to plug a well classified as inactive to be used to monitor and determine future utility of inactive wells.

Senate Floor Amendments to engrossed bill

1. Provides that in 10 days of a final determination by the office, the office submits the operator's written justification and the office's final determination to the owner. If the office determines the well has no future utility, the owner has 10 days to request that the well be plugged and abandoned.
2. If the owner requests the well be plugged and abandoned, then within 90 days the operator submits a plan to the office to do so.
3. Provides that proposed law shall not preclude an operator from pursuing a contractual claim for reimbursement of costs of the plugging and abandonment of the well from any owner.
4. Requires the monies credited to the Oil and Gas Regulatory Fund generated from donations to be used to determine future utility pursuant to proposed law.
5. Provides that monies credited to the fund from the annual assessment paid by an operator who chooses not to plug a well classified as inactive shall be used to fund department employees who are tasked for activities associated with monitoring inactive wells, ensuring the proper plugging of inactive wells, or preventing such wells from being declared orphaned without being covered by financial security or a site-specific trust fund.
6. Makes technical changes.