

By: Hegar
(Keffler)

S.B. No. 655

Substitute the following for S.B. No. 655:

By: Keffler

C.S.S.B. No. 655

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation, functions, and name of the Railroad
3 Commission of Texas.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Chapter 81, Natural Resources
6 Code, is amended to read as follows:

7 CHAPTER 81. TEXAS OIL AND GAS [~~RAILROAD~~] COMMISSION [~~OF TEXAS~~]

8 SECTION 2. Section 81.001, Natural Resources Code, is
9 amended to read as follows:

10 Sec. 81.001. DEFINITIONS. In this chapter:

11 (1) "Commission" means the Texas Oil and Gas
12 [~~Railroad~~] Commission [~~of Texas~~].

13 (2) "Commissioner" means any member of the Texas Oil
14 and Gas [~~Railroad~~] Commission [~~of Texas~~].

15 SECTION 3. Subchapter A, Chapter 81, Natural Resources
16 Code, is amended by adding Section 81.003 to read as follows:

17 Sec. 81.003. TEXAS OIL AND GAS COMMISSION. (a) The Railroad
18 Commission of Texas is renamed the Texas Oil and Gas Commission.

19 (b) A reference in law to:

20 (1) the Railroad Commission of Texas means the Texas
21 Oil and Gas Commission; and

22 (2) a railroad commissioner or a member of the
23 Railroad Commission of Texas means a member of the Texas Oil and Gas
24 Commission.

1 SECTION 4. Section 81.01001, Natural Resources Code, is
2 amended to read as follows:

3 Sec. 81.01001. SUNSET PROVISION. The Texas Oil and Gas
4 ~~Railroad~~ Commission ~~of Texas~~ is subject to Chapter 325,
5 Government Code (Texas Sunset Act). Unless continued in existence
6 as provided by that chapter, the commission is abolished September
7 1, 2023 ~~2011~~.

8 SECTION 5. Subchapter B, Chapter 81, Natural Resources
9 Code, is amended by adding Section 81.010015 to read as follows:

10 Sec. 81.010015. ELECTION AND TERMS OF COMMISSIONERS;
11 CHAIRMAN. (a) The commission is composed of three commissioners
12 elected at the general election for state and county officers.

13 (b) Commissioners serve staggered terms of six years, with
14 the term of one commissioner expiring December 31 of each
15 even-numbered year.

16 (c) The commissioner elected at the general election in 2012
17 and every sixth year after that year serves as the chairman of the
18 commission.

19 (d) The designation of the office of chairman of the
20 commission under Subsection (c) identifies the office for all
21 purposes, including identification on official ballots for primary
22 and general elections.

23 SECTION 6. Sections 81.01002 and 81.01004, Natural
24 Resources Code, are amended to read as follows:

25 Sec. 81.01002. DUTIES OF CHAIRMAN. The ~~commissioners~~
26 ~~shall elect one commissioner as the~~ chairman of the commission
27 shall ensure that the commission executes and implements the

1 commission's administrative duties and responsibilities.

2 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF
3 CONDUCT, [AND] CONFLICT OF INTEREST, AND DISCLOSURE OF REASON FOR
4 RECUSAL. (a) A commissioner is subject to the provisions of Chapter
5 572, Government Code, that apply to elected officers, including the
6 requirements governing personal financial statements, standards of
7 conduct, and conflicts of interest.

8 (b) A commissioner who voluntarily recuses the commissioner
9 from a commission decision because the commissioner has a material
10 interest in the matter shall disclose the material interest in
11 writing.

12 SECTION 7. Subchapter B, Chapter 81, Natural Resources
13 Code, is amended by adding Sections 81.010045 and 81.010046 to read
14 as follows:

15 Sec. 81.010045. CERTAIN POLITICAL CONTRIBUTIONS
16 RESTRICTED. (a) In this section, "political contribution" has the
17 meaning assigned by Section 251.001, Election Code.

18 (b) A commissioner may not knowingly accept a political
19 contribution given or offered with the intention that it be used in
20 connection with a campaign for or the holding of a statewide or
21 federal office, other than the office of commissioner.

22 (c) A commissioner may not knowingly accept a political
23 contribution given or offered with the intention that it be used in
24 connection with a campaign for the office of commissioner, except:

25 (1) beginning one year before the date of the next
26 general election at which any commissioner's office is filled; and
27 (2) ending on the 30th day before the date the first

1 regular legislative session after that general election convenes.

2 (d) A person other than a commissioner may not knowingly
3 accept a political contribution given or offered with the intention
4 that it be used in connection with a campaign for the office of
5 commissioner, except:

6 (1) during the period:

7 (A) beginning one year before the date of the
8 next general election at which any commissioner's office is filled;
9 and

10 (B) ending on the 30th day before the date the
11 first regular legislative session after that general election
12 convenes; or

13 (2) during the period beginning on the date a vacancy
14 in the office of commissioner occurs and ending on the date that
15 vacancy is filled.

16 Sec. 81.010046. AUTOMATIC RESIGNATION. If a person who is a
17 member of the commission announces the person's candidacy, or in
18 fact becomes a candidate, in any general, special, or primary
19 election for any office of profit or trust under the laws of this
20 state or the United States other than the office of commissioner at
21 any time when the unexpired term of the office then held by the
22 person exceeds one year, that announcement or that candidacy
23 constitutes an automatic resignation of the office of commissioner.

24 SECTION 8. Sections 81.01005, 81.01008, and 81.017, Natural
25 Resources Code, are amended to read as follows:

26 Sec. 81.01005. NAME AND SEAL. (a) The commissioners are
27 known collectively as the "Texas Oil and Gas [Railroad] Commission

1 [of Texas]."

2 (b) The seal of the commission contains a star of five
3 points with the words "Texas Oil and Gas [Railroad] Commission [of
4 Texas]" engraved on it.

5 Sec. 81.01008. PUBLIC HEARINGS [~~SESSIONS~~]. The commission
6 may hold public hearings [~~sessions~~] at any place in this state when
7 considered necessary.

8 Sec. 81.017. ADDITIONAL EMPLOYEES. The commission may
9 employ personnel necessary to perform its duties [~~gaugers~~,
10 ~~inspectors, investigators, supervisors, and clerical employees.~~
11 ~~These employees shall include a chief engineer, chief petroleum~~
12 ~~engineer, and an administrative chief, and their salaries shall be~~
13 ~~paid in the amounts provided in the General Appropriations Act.~~].

14 SECTION 9. Section 81.0521(c), Natural Resources Code, is
15 amended to read as follows:

16 (c) The [~~Two-thirds of the~~] proceeds from this fee,
17 excluding [~~including~~] any penalties collected in connection with
18 the fee, shall be deposited to the credit of the oil and gas
19 regulation and [~~oil-field~~] cleanup fund [~~as provided by Section~~
20 ~~91.111~~].

21 SECTION 10. Sections 81.0531(c), (d), and (e), Natural
22 Resources Code, are amended to read as follows:

23 (c) In determining the amount of the penalty, the commission
24 shall consider the [~~permittee's history of previous violations, the~~
25 ~~seriousness of the violation, any hazard to the health or safety of~~
26 ~~the public, and the demonstrated good faith of the person charged.~~
27 ~~In determining the amount of the penalty for a violation of a~~

1 ~~provision of this title or a rule, order, license, permit, or~~
2 ~~certificate that relates to pipeline safety, the commission shall~~
3 ~~consider the~~ guidelines adopted under Subsection (d).

4 (d) The commission by rule shall adopt guidelines to be used
5 in determining the amount of the penalty ~~[for a violation of a~~
6 ~~provision of this title or a rule, order, license, permit, or~~
7 ~~certificate that relates to pipeline safety]~~. The guidelines shall
8 include a penalty calculation worksheet that specifies the typical
9 penalty for certain violations, circumstances justifying
10 enhancement of a penalty and the amount of the enhancement, and
11 circumstances justifying a reduction in a penalty and the amount of
12 the reduction. The guidelines shall take into account:

13 (1) the permittee's history of previous violations,
14 including the number of previous violations;

15 (2) the seriousness of the violation and of any
16 pollution resulting from the violation;

17 (3) any hazard to the health or safety of the public;

18 (4) the degree of culpability;

19 (5) the demonstrated good faith of the person charged;
20 and

21 (6) any other factor the commission considers
22 relevant.

23 (e) A penalty collected under this section shall be
24 deposited to the credit of the general revenue ~~[oil field cleanup]~~
25 fund.

26 SECTION 11. Section 81.056(g), Natural Resources Code, is
27 amended to read as follows:

8 SECTION 12. Subchapter C, Chapter 81, Natural Resources
9 Code, is amended by adding Sections 81.065, 81.066, 81.067, 81.068,
10 81.069, 81.070, and 81.071 to read as follows:

11 Sec. 81.065. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
12 RESOLUTION POLICY. (a) The commission shall develop and implement
13 a policy to encourage the use of:

20 (b) The commission's procedures relating to alternative
21 dispute resolution must conform, to the extent possible, to any
22 model guidelines issued by the State Office of Administrative
23 Hearings for the use of alternative dispute resolution by state
24 agencies.

25 (c) The commission shall:

1 (2) provide training as needed to implement the
2 procedures for negotiated rulemaking or alternative dispute
3 resolution; and

4 (3) collect data concerning the effectiveness of those
5 procedures.

6 (d) The commission's alternative dispute resolution
7 procedures do not apply to the resolution of an informal complaint
8 described by Section 81.058 or filed under Section 85.065.

9 Sec. 81.066. ENFORCEMENT POLICY. (a) The commission by
10 rule shall adopt an enforcement policy to guide the employees of the
11 commission in evaluating violations of the provisions of this title
12 that pertain to safety or the prevention or control of pollution or
13 the provisions of a rule, order, license, permit, or certificate
14 that pertains to safety or the prevention or control of pollution
15 and is issued under this title.

16 (b) The enforcement policy adopted under this section must
17 include:

18 (1) a specific process for classifying violations
19 based on:

20 (A) the seriousness of any pollution resulting
21 from the violation; and

22 (B) any hazard to the health or safety of the
23 public; and

24 (2) standards to provide guidance to commission
25 employees on which violations may be dismissed once the permittee
26 comes into compliance and which violations must be forwarded for
27 enforcement.

1 (c) The standards adopted under Subsection (b)(2) must
2 require a commission employee to take into account the permittee's
3 history of previous violations in determining whether to dismiss a
4 violation once the permittee comes into compliance or forward the
5 violation for enforcement.

6 Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND.
7 (a) The oil and gas regulation and cleanup fund is created as a
8 special fund in the state treasury.

9 (b) The commission shall certify to the comptroller the date
10 on which the balance in the fund equals or exceeds \$20 million. The
11 oil-field cleanup regulatory fees on oil and gas may not be
12 collected or required to be paid on or after the first day of the
13 second month following the certification, except that the
14 comptroller shall resume collecting the fees on receipt of a
15 commission certification that the fund has fallen below \$10
16 million. The comptroller shall continue collecting the fees until
17 collections are again suspended in the manner provided by this
18 subsection.

19 (c) The fund consists of:
20 (1) proceeds from bonds and other financial security
21 required by this chapter and benefits under well-specific plugging
22 insurance policies described by Section 91.104(c) that are paid to
23 the state as contingent beneficiary of the policies, subject to the
24 refund provisions of Section 91.1091, if applicable;
25 (2) private contributions, including contributions
26 made under Section 89.084;
27 (3) expenses collected under Section 89.083;

1 and cleanup fund created in this section are exempt from Section
2 403.095(b), Government Code.

3 Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP
4 FUND. Money in the oil and gas regulation and cleanup fund may be
5 used by the commission or its employees or agents for any purpose
6 related to the regulation of oil and gas development, including oil
7 and gas monitoring and inspections, oil and gas remediation, oil
8 and gas well plugging, public information and services related to
9 those activities, and administrative costs and state benefits for
10 personnel involved in those activities.

11 Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE
12 GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The
13 commission, through the legislative appropriations request
14 process, shall establish specific performance goals for the oil and
15 gas regulation and cleanup fund for the next fiscal biennium,
16 including goals for each quarter of each state fiscal year of the
17 fiscal biennium for the number of:

18 (1) orphaned wells to be plugged with state-managed
19 funds;

20 (2) abandoned sites to be investigated, assessed, or
21 cleaned up with state funds; and

22 (3) surface locations to be remediated.

23 (b) The commission shall provide quarterly reports to the
24 Legislative Budget Board and the Oil and Gas Regulation and Cleanup
25 Fund Advisory Committee that include:

26 (1) the following information with respect to the
27 period since the last report was provided as well as cumulatively:

5 (C) the balance of the fund;

6 (D) the commission's progress in meeting the
7 quarterly performance goals established under Subsection (a) and,
8 if the number of orphaned wells plugged with state-managed funds,
9 abandoned sites investigated, assessed, or cleaned up with state
10 funds, or surface locations remediated is at least five percent
11 less than the number projected in the applicable goal established
12 under Subsection (a), an explanation of the reason for the
13 variance;

23 (c) The commission shall submit to the legislature and the
24 Oil and Gas Regulation and Cleanup Fund Advisory Committee and make
25 available to the public annually a report that reviews the extent to
26 which money provided under Section 81.067 has enabled the
27 commission to better protect the environment through oil-field

1 cleanup activities. The report must include:

2 (1) the performance goals established under
3 Subsection (a) for that state fiscal year, the commission's
4 progress in meeting those performance goals, and, if the number of
5 orphaned wells plugged with state-managed funds, abandoned sites
6 investigated, assessed, or cleaned up with state funds, or surface
7 locations remediated is at least five percent less than the number
8 projected in the applicable goal established under Subsection (a),
9 an explanation of the reason for the variance;

10 (2) the number of orphaned wells plugged with
11 state-managed funds, by region;

12 (3) the number of wells orphaned, by region;

13 (4) the number of inactive wells not currently in
14 compliance with commission rules, by region;

15 (5) the status of enforcement proceedings for all
16 wells in violation of commission rules and the period during which
17 the wells have been in violation, by region in which the wells are
18 located;

19 (6) the number of surface locations remediated, by
20 region;

21 (7) a detailed accounting of expenditures of money in
22 the fund for oil-field cleanup activities, including expenditures
23 for plugging of orphaned wells, investigation, assessment, and
24 cleaning up of abandoned sites, and remediation of surface
25 locations;

26 (8) the method by which the commission sets priorities
27 by which it determines the order in which orphaned wells are

1 plugged;

2 (9) a projection of the amount of money needed for the
3 next fiscal biennium for plugging orphaned wells, investigating,
4 assessing, and cleaning up abandoned sites, and remediating surface
5 locations; and

6 (10) the number of sites successfully remediated under
7 the voluntary cleanup program under Subchapter O, Chapter 91, by
8 region.

9 Sec. 81.070. OIL AND GAS REGULATION AND CLEANUP FUND
10 ADVISORY COMMITTEE. (a) In this section, "committee" means the Oil
11 and Gas Regulation and Cleanup Fund Advisory Committee.

12 (b) The committee is composed of 10 members as follows:

13 (1) one member of the senate appointed by the
14 lieutenant governor;

15 (2) the presiding officer of the house committee with
16 primary jurisdiction over matters affecting energy resources;

17 (3) one public member appointed by the governor;

18 (4) one member appointed by the lieutenant governor
19 from the academic field of geology or economics;

20 (5) one member appointed by the speaker of the house of
21 representatives from the academic field of geology or economics;
22 and

23 (6) the executive officer, or a person designated by
24 the executive officer, of each of the following organizations:

25 (A) the Texas Oil & Gas Association;

26 (B) the Texas Independent Producers and Royalty

27 Owners Association;

1 (C) the Panhandle Producers & Royalty Owners
2 Association;
3 (D) the Permian Basin Petroleum Association; and
4 (E) the Texas Alliance of Energy Producers.

5 (c) An appointed member of the committee serves at the will
6 of the authority that appointed the member.

7 (d) The committee shall:

10 (2) monitor the effectiveness of the oil and gas
11 regulation and cleanup fund, including by reviewing the reports
12 submitted to the committee under Sections 81.069(b) and (c).

13 (e) The commission shall provide quarterly reports to the
14 committee and the Legislative Budget Board that include:

19 (B) the amount of money spent

23 (E) the number of sites remediated with money

26 (2) any additional information or data requested in
27

1 (f) The committee may:

2 (1) submit to the commission comments of the committee
3 regarding proposed rules relating to the oil and gas regulation and
4 cleanup fund; and

5 (2) request reports and other information from the
6 commission as necessary to implement this section.

7 (g) Not later than November 15 of each even-numbered year,
8 the committee shall report to the governor, lieutenant governor,
9 and speaker of the house of representatives on the committee's
10 activities. The report must include:

11 (1) an analysis of any problems with the
12 administration of the oil and gas regulation and cleanup fund; and

13 (2) recommendations for any legislation needed to
14 address any problems identified with the administration of the fund
15 or otherwise needed to further the purposes of the fund.

16 Sec. 81.071. IMPOSITION OF SURCHARGES ON FEES. (a) Except
17 as provided by Subsection (b), the commission by rule shall provide
18 for the imposition of reasonable surcharges as necessary on fees
19 imposed by the commission that are required to be deposited to the
20 credit of the oil and gas regulation and cleanup fund in amounts
21 sufficient to enable the commission to recover the costs of
22 performing the functions specified by Section 81.068 from those
23 fees and surcharges.

24 (b) The commission may not impose a surcharge on an
25 oil-field cleanup regulatory fee on oil collected under Section
26 81.116 or an oil-field cleanup regulatory fee on gas collected
27 under Section 81.117.

1 (c) The commission by rule shall establish a methodology for
2 determining the amount of a surcharge that takes into account:

3 (1) the time required for regulatory work associated
4 with the activity in connection with which the surcharge is
5 imposed;

6 (2) the number of individuals or entities from which
7 the commission's costs may be recovered;

8 (3) the effect of the surcharge on operators of all
9 sizes, as measured by the number of oil or gas wells operated;

10 (4) the balance in the oil and gas regulation and
11 cleanup fund; and

12 (5) any other factors the commission determines to be
13 important to the fair and equitable imposition of the surcharge.

14 (d) The commission shall collect a surcharge on a fee at the
15 time the fee is collected.

16 (e) A surcharge collected under this section shall be
17 deposited to the credit of the oil and gas regulation and cleanup
18 fund.

19 SECTION 13. Section 81.115, Natural Resources Code, is
20 amended to read as follows:

21 Sec. 81.115. APPROPRIATIONS [PAYMENTS] TO COMMISSION FOR
22 OIL AND GAS REGULATION AND CLEANUP PURPOSES [OIL AND GAS DIVISION].
23 Money appropriated to the [oil and gas division of the] commission
24 under the General Appropriations Act for the purposes described by
25 Section 81.068 shall be paid from the oil and gas regulation and
26 cleanup fund, except that the legislature may supplement money
27 appropriated from that fund with money appropriated from the

1 General Revenue Fund.

2 SECTION 14. Sections 81.116(d) and (e), Natural Resources
3 Code, are amended to read as follows:

4 (d) The comptroller shall suspend collection of the fee in
5 the manner provided by Section 81.067 [~~91.111~~]. The exemptions and
6 reductions set out in Sections 202.052, 202.054, 202.056, 202.057,
7 202.059, and 202.060, Tax Code, do not affect the fee imposed by
8 this section.

9 (e) Proceeds from the fee, excluding [~~including~~] any
10 penalties collected in connection with the fee, shall be deposited
11 to the credit of the oil and gas regulation and [~~oil-field~~] cleanup
12 fund [~~as provided by Section 91.111 of this code~~].

13 SECTION 15. Sections 81.117(d) and (e), Natural Resources
14 Code, are amended to read as follows:

15 (d) The comptroller shall suspend collection of the fee in
16 the manner provided by Section 81.067 [~~91.111~~]. The exemptions and
17 reductions set out in Sections 201.053, 201.057, 201.058, and
18 202.060, Tax Code, do not affect the fee imposed by this section.

19 (e) Proceeds from the fee, excluding [~~including~~] any
20 penalties collected in connection with the fee, shall be deposited
21 to the credit of the oil and gas regulation and [~~oil-field~~] cleanup
22 fund [~~as provided by Section 91.111 of this code~~].

23 SECTION 16. Section 85.2021(d), Natural Resources Code, is
24 amended to read as follows:

25 (d) All fees collected under this section shall be deposited
26 in the oil and gas regulation and [~~state oil-field~~] cleanup fund.

27 SECTION 17. Section 89.024(d), Natural Resources Code, is

1 amended to read as follows:

2 (d) An operator who files an abeyance of plugging report
3 must pay an annual fee of \$100 for each well covered by the report.
4 A fee collected under this section shall be deposited in the oil and
5 gas regulation and [oil-field] cleanup fund.

6 SECTION 18. Section 89.026(d), Natural Resources Code, is
7 amended to read as follows:

8 (d) An operator who files documentation described by
9 Subsection (a) must pay an annual fee of \$50 for each well covered
10 by the documentation. A fee collected under this section shall be
11 deposited in the oil and gas regulation and [oil-field] cleanup
12 fund.

13 SECTION 19. Section 89.048(d), Natural Resources Code, is
14 amended to read as follows:

15 (d) On successful plugging of the well by the well plugger,
16 the surface estate owner may submit documentation to the commission
17 of the cost of the well-plugging operation. The commission shall
18 reimburse the surface estate owner from money in the oil and gas
19 regulation and [oil-field] cleanup fund in an amount not to exceed
20 50 percent of the lesser of:

21 (1) the documented well-plugging costs; or
22 (2) the average cost incurred by the commission in the
23 preceding 24 months in plugging similar wells located in the same
24 general area.

25 SECTION 20. Section 89.083(j), Natural Resources Code, is
26 amended to read as follows:

27 (j) Money collected in a suit under this section shall be

1 deposited in the oil and gas regulation and ~~[state oil-field]~~
2 cleanup fund.

3 SECTION 21. Section 89.085(d), Natural Resources Code, is
4 amended to read as follows:

5 (d) The commission shall deposit money received from the
6 sale of well-site equipment or hydrocarbons under this section to
7 the credit of the oil and gas regulation and ~~[oil-field]~~ cleanup
8 fund. The commission shall separately account for money and credit
9 received for each well.

10 SECTION 22. The heading to Section 89.086, Natural
11 Resources Code, is amended to read as follows:

12 Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND ~~[THE]~~
13 ~~OIL-FIELD]~~ CLEANUP FUND.

14 SECTION 23. Sections 89.086(a), (h), (i), (j), and (k),
15 Natural Resources Code, are amended to read as follows:

16 (a) A person with a legal or equitable ownership or security
17 interest in well-site equipment or hydrocarbons disposed of under
18 Section 89.085 ~~[of this code]~~ may make a claim against the oil and
19 gas regulation and ~~[oil-field]~~ cleanup fund unless an element of
20 the transaction giving rise to the interest occurs after the
21 commission forecloses its statutory lien under Section 89.083.

22 (h) The commission shall suspend an amount of money in the
23 oil and gas regulation and ~~[oil-field]~~ cleanup fund equal to the
24 amount of the claim until the claim is finally resolved. If the
25 provisions of Subsection (k) ~~[of this section]~~ prevent suspension
26 of the full amount of the claim, the commission shall treat the
27 claim as two consecutively filed claims, one in the amount of funds

1 available for suspension and the other in the remaining amount of
2 the claim.

3 (i) A claim made by or on behalf of the operator or a
4 nonoperator of a well or a successor to the rights of the operator
5 or nonoperator is subject to a ratable deduction from the proceeds
6 or credit received for the well-site equipment to cover the costs
7 incurred by the commission in removing the equipment or
8 hydrocarbons from the well or in transporting, storing, or
9 disposing of the equipment or hydrocarbons. A claim made by a
10 person who is not an operator or nonoperator is subject to a ratable
11 deduction for the costs incurred by the commission in removing the
12 equipment from the well. If a claimant is a person who is
13 responsible under law or commission rules for plugging the well or
14 cleaning up pollution originating on the lease or if the claimant
15 owes a penalty assessed by the commission or a court for a violation
16 of a commission rule or order, the commission may recoup from or
17 offset against a valid claim an expense incurred by the oil and gas
18 regulation and [oil-field] cleanup fund that is not otherwise
19 reimbursed or any penalties owed. An amount recouped from,
20 deducted from, or offset against a claim under this subsection
21 shall be treated as an invalid portion of the claim and shall remain
22 suspended in the oil and gas regulation and [oil-field] cleanup
23 fund in the manner provided by Subsection (j) ~~[of this section]~~.

24 (j) If the commission finds that a claim is valid in whole or
25 in part, the commission shall pay the valid portion of the claim
26 from the suspended amount in the oil and gas regulation and
27 ~~[oil-field]~~ cleanup fund not later than the 30th day after the date

1 of the commission's decision. If the commission finds that a claim
2 is invalid in whole or in part, the commission shall continue to
3 suspend in the oil and gas regulation and ~~[oil-field]~~ cleanup fund
4 an amount equal to the invalid portion of the claim until the period
5 during which the commission's decision may be appealed has expired
6 or, if appealed, during the period the case is under judicial
7 review. If on appeal the district court finds the claim valid in
8 whole or in part, the commission shall pay the valid portion of the
9 claim from the suspended amount in the oil and gas regulation and
10 ~~[oil-field]~~ cleanup fund not later than 30 days after the date the
11 court's judgment becomes unappealable. On the date the
12 commission's decision is not subject to judicial review, the
13 commission shall release from the suspended amount in the oil and
14 gas regulation and ~~[oil-field]~~ cleanup fund the amount of the claim
15 held to be invalid.

16 (k) If the aggregate of claims paid and money suspended that
17 relates to well-site equipment or hydrocarbons from a particular
18 well equals the total of the actual proceeds and credit realized
19 from the disposition of that equipment or those hydrocarbons, the
20 oil and gas regulation and ~~[oil-field]~~ cleanup fund is not liable
21 for any subsequently filed claims that relate to the same equipment
22 or hydrocarbons unless and until the commission releases from the
23 suspended amount money derived from the disposition of that
24 equipment or those hydrocarbons. If the commission releases money,
25 then the commission shall suspend money in the amount of
26 subsequently filed claims in the order of filing.

27 SECTION 24. Section 89.121(b), Natural Resources Code, is

1 amended to read as follows:

2 (b) Civil penalties collected for violations of this
3 chapter or of rules relating to plugging that are adopted under this
4 code shall be deposited in the general revenue ~~state oil-field~~
5 ~~cleanup~~ fund.

6 SECTION 25. Section 91.1013(c), Natural Resources Code, is
7 amended to read as follows:

8 (c) Fees collected under this section shall be deposited in
9 the oil and gas regulation and ~~state oil-field~~ cleanup fund.

10 SECTION 26. Section 91.108, Natural Resources Code, is
11 amended to read as follows:

12 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
13 refund provisions of Section 91.1091, if applicable, proceeds from
14 bonds and other financial security required pursuant to this
15 chapter and benefits under well-specific plugging insurance
16 policies described by Section 91.104(c) that are paid to the state
17 as contingent beneficiary of the policies shall be deposited in the
18 oil and gas regulation and ~~oil-field~~ cleanup fund and,
19 notwithstanding Sections 81.068 ~~91.112~~ and 91.113, may be used
20 only for actual well plugging and surface remediation.

21 SECTION 27. Section 91.109(a), Natural Resources Code, is
22 amended to read as follows:

23 (a) A person applying for or acting under a commission
24 permit to store, handle, treat, reclaim, or dispose of oil and gas
25 waste may be required by the commission to maintain a performance
26 bond or other form of financial security conditioned that the
27 permittee will operate and close the storage, handling, treatment,

1 reclamation, or disposal site in accordance with state law,
2 commission rules, and the permit to operate the site. However, this
3 section does not authorize the commission to require a bond or other
4 form of financial security for saltwater disposal pits, emergency
5 saltwater storage pits (including blow-down pits), collecting
6 pits, or skimming pits provided that such pits are used in
7 conjunction with the operation of an individual oil or gas lease.
8 Subject to the refund provisions of Section 91.1091 [~~of this code~~],
9 proceeds from any bond or other form of financial security required
10 by this section shall be placed in the oil and gas regulation and
11 [~~oil-field~~] cleanup fund. Each bond or other form of financial
12 security shall be renewed and continued in effect until the
13 conditions have been met or release is authorized by the
14 commission.

15 SECTION 28. Sections 91.113(a) and (f), Natural Resources
16 Code, are amended to read as follows:

17 (a) If oil and gas wastes or other substances or materials
18 regulated by the commission under Section 91.101 are causing or are
19 likely to cause the pollution of surface or subsurface water, the
20 commission, through its employees or agents, may use money in the
21 oil and gas regulation and [~~oil-field~~] cleanup fund to conduct a
22 site investigation or environmental assessment or control or clean
23 up the oil and gas wastes or other substances or materials if:

24 (1) the responsible person has failed or refused to
25 control or clean up the oil and gas wastes or other substances or
26 materials after notice and opportunity for hearing;

27 (2) the responsible person is unknown, cannot be

1 found, or has no assets with which to control or clean up the oil and
2 gas wastes or other substances or materials; or

3 (3) the oil and gas wastes or other substances or
4 materials are causing the pollution of surface or subsurface water.

5 (f) If the commission conducts a site investigation or
6 environmental assessment or controls or cleans up oil and gas
7 wastes or other substances or materials under this section, the
8 commission may recover all costs incurred by the commission from
9 any person who was required by law, rules adopted by the commission,
10 or a valid order of the commission to control or clean up the oil and
11 gas wastes or other substances or materials. The commission by
12 order may require the person to reimburse the commission for those
13 costs or may request the attorney general to file suit against the
14 person to recover those costs. At the request of the commission,
15 the attorney general may file suit to enforce an order issued by the
16 commission under this subsection. A suit under this subsection may
17 be filed in any court of competent jurisdiction in Travis County.
18 Costs recovered under this subsection shall be deposited to the
19 credit of the oil and gas regulation and [oil-field] cleanup fund.

20 SECTION 29. Section 91.264(c), Natural Resources Code, is
21 amended to read as follows:

22 (c) A penalty collected under this section shall be
23 deposited to the credit of the general revenue ~~[oil-field cleanup]~~
24 fund ~~[account]~~.

25 SECTION 30. Section 91.457(b), Natural Resources Code, is
26 amended to read as follows:

27 (b) If a person ordered to close a saltwater disposal pit

1 under Subsection (a) [~~of this section~~] fails or refuses to close the
2 pit in compliance with the commission's order and rules, the
3 commission may close the pit using money from the oil and gas
4 regulation and [oil-field] cleanup fund and may direct the attorney
5 general to file suits in any courts of competent jurisdiction in
6 Travis County to recover applicable penalties and the costs
7 incurred by the commission in closing the saltwater disposal pit.

8 SECTION 31. Section 91.459(c), Natural Resources Code, is
9 amended to read as follows:

10 (c) Any [~~penalties or~~] costs recovered by the attorney
11 general under this subchapter shall be deposited in the oil and gas
12 regulation and [oil-field] cleanup fund.

13 SECTION 32. Section 91.605(e), Natural Resources Code, is
14 amended to read as follows:

15 (e) The fees collected under this section shall be deposited
16 in the oil and gas regulation and [oil-field] cleanup fund.

17 SECTION 33. Section 91.654(e), Natural Resources Code, is
18 amended to read as follows:

19 (e) Fees collected under this section shall be deposited to
20 the credit of the oil and gas regulation and [oil-field] cleanup
21 fund [~~under Section 91.111~~].

22 SECTION 34. Section 91.707(b), Natural Resources Code, is
23 amended to read as follows:

24 (b) Fees collected under this section shall be deposited to
25 the credit of the oil and gas regulation and [oil-field] cleanup
26 fund.

27 SECTION 35. Subchapter B, Chapter 102, Natural Resources

1 Code, is amended by adding Sections 102.0125 and 102.0165 to read as
2 follows:

3 Sec. 102.0125. WITHDRAWAL AND REFILING OF APPLICATION.

4 (a) The commission by rule shall:

5 (1) provide procedures requiring an interested owner
6 who applies to the commission for the pooling of mineral interests
7 to give notice to the commission before withdrawing the application
8 if a hearing on the application has been scheduled; and

9 (2) require an applicant who refiles an application
10 that was withdrawn without proper notice as required by rules
11 adopted under Subdivision (1) to pay a filing fee that exceeds the
12 amount of any fee required for filing the initial application.

13 (b) Rules adopted under Subsection (a)(1) must specify the
14 deadline for giving notice of withdrawal of the application before
15 the hearing is held.

16 Sec. 102.0165. LOCATION OF HEARING. (a) At the request of
17 an interested party, the commission may hold the hearing on the
18 application in person or by telephone at a location in the vicinity
19 of the proposed unit.

20 (b) The commission may contract with another state agency to
21 hold hearings on applications for pooling of interests into a unit
22 under the provisions of this chapter in person or by telephone at
23 field offices of that agency.

24 SECTION 36. Section 117.012(a), Natural Resources Code, is
25 amended to read as follows:

26 (a) The commission shall adopt rules that include:

27 (1) safety standards for and practices applicable to

1 the intrastate transportation of hazardous liquids or carbon
2 dioxide by pipeline and intrastate hazardous liquid or carbon
3 dioxide pipeline facilities; and

4 (2) ~~[including]~~ safety standards related to the
5 prevention of damage to interstate and intrastate hazardous liquid
6 or carbon dioxide pipeline facilities ~~[such a facility]~~ resulting
7 from the movement of earth by a person in the vicinity of such a
8 ~~[the]~~ facility, other than movement by tillage that does not exceed
9 a depth of 16 inches.

10 SECTION 37. Section 211.033(q), Natural Resources Code, is
11 amended to read as follows:

12 (q) A penalty collected under this section shall be remitted
13 to the comptroller for ~~[the]~~ deposit to the credit of the general
14 revenue ~~[oil-field cleanup]~~ fund.

15 SECTION 38. Section 52.092(c), Election Code, is amended to
16 read as follows:

17 (c) Statewide offices of the state government shall be
18 listed in the following order:

19 (1) governor;
20 (2) lieutenant governor;
21 (3) attorney general;
22 (4) comptroller of public accounts;
23 (5) commissioner of the General Land Office;
24 (6) commissioner of agriculture;
25 (7) chairman of the Texas Oil and Gas Commission;
26 (8) [railroad] commissioner of the Texas Oil and Gas
27 Commission;

1 (9) [(-8)] chief justice, supreme court;
2 (10) [(-9)] justice, supreme court;
3 (11) [(-10)] presiding judge, court of criminal
4 appeals;
5 (12) [(-11)] judge, court of criminal appeals.

6 SECTION 39. Section 756.126, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The
9 Texas Oil and Gas [Railroad] Commission [of Texas] shall adopt and
10 enforce safety standards and best practices, including those
11 described by 49 U.S.C. Section 6105 et seq., relating to the
12 prevention of damage by a person to a facility, including an
13 interstate or intrastate pipeline facility, under the jurisdiction
14 of the commission.

15 SECTION 40. Section 121.201(a), Utilities Code, is amended
16 to read as follows:

17 (a) The railroad commission may:

18 (1) by rule prescribe or adopt safety standards for
19 the transportation of gas and for gas pipeline facilities,
20 including safety standards related to the prevention of damage to
21 an interstate or intrastate gas pipeline [such a] facility
22 resulting from the movement of earth by a person in the vicinity of
23 the facility, other than movement by tillage that does not exceed a
24 depth of 16 inches;

25 (2) by rule require an operator that does not file
26 operator organization information under Section 91.142, Natural
27 Resources Code, to provide the information to the commission in the

1 form of an application;

2 (3) by rule require record maintenance and reports;

3 (4) inspect records and facilities to determine

4 compliance with safety standards prescribed or adopted under

5 Subdivision (1);

6 (5) make certifications and reports from time to time;

7 (6) seek designation by the United States secretary of

8 transportation as an agent to conduct safety inspections of

9 interstate gas pipeline facilities located in this state; and

10 (7) by rule take any other requisite action in

11 accordance with 49 U.S.C. Section 60101 et seq., or a succeeding

12 law.

13 SECTION 41. Section 29.015, Water Code, is amended to read

14 as follows:

15 Sec. 29.015. APPLICATION FEE. With each application for

16 issuance, renewal, or material amendment of a permit, the applicant

17 shall submit to the railroad commission a nonrefundable fee of

18 \$100. Fees collected under this section shall be deposited in the

19 oil and gas regulation and [oil-field] cleanup fund.

20 SECTION 42. The following provisions of the Natural

21 Resources Code are repealed:

22 (1) Section 91.111;

23 (2) Section 91.112;

24 (3) Section 91.1135; and

25 (4) Subchapter I, Chapter 113.

26 SECTION 43. On the effective date of this Act:

27 (1) the oil-field cleanup fund and the alternative

1 fuels research and education fund are abolished;

2 (2) any money remaining in the oil-field cleanup fund
3 is transferred to the oil and gas regulation and cleanup fund;

4 (3) any money remaining in the alternative fuels
5 research and education fund is transferred to the undedicated
6 portion of the general revenue fund;

7 (4) any claim against the oil-field cleanup fund is
8 transferred to the oil and gas regulation and cleanup fund;

9 (5) any claim against the alternative fuels research
10 and education fund is transferred to the undedicated portion of the
11 general revenue fund;

12 (6) any amount required to be deposited to the credit
13 of the oil-field cleanup fund shall be deposited to the credit of
14 the oil and gas regulation and cleanup fund; and

15 (7) any amount required to be deposited to the credit
16 of the alternative fuels research and education fund shall be
17 deposited to the credit of the undedicated portion of the general
18 revenue fund.

19 SECTION 44. (a) Effective January 1, 2012:

20 (1) the name of the Railroad Commission of Texas is
21 changed to the Texas Oil and Gas Commission, and all powers, duties,
22 rights, and obligations of the Railroad Commission of Texas are the
23 powers, duties, rights, and obligations of the Texas Oil and Gas
24 Commission;

25 (2) a member of the Railroad Commission of Texas is a
26 member of the Texas Oil and Gas Commission;

27 (3) the chairman of the Railroad Commission of Texas

1 is the chairman of the Texas Oil and Gas Commission; and
2 (4) any appropriation to the Railroad Commission of
3 Texas is an appropriation to the Texas Oil and Gas Commission.

4 (b) Effective January 1, 2012:

5 (1) a reference in law to the Railroad Commission of
6 Texas is a reference to the Texas Oil and Gas Commission; and
7 (2) a reference in law to a railroad commissioner or a
8 member of the Railroad Commission of Texas is a reference to a
9 member of the Texas Oil and Gas Commission.

10 (c) The Texas Oil and Gas Commission is the successor to the
11 Railroad Commission of Texas in all respects. All personnel,
12 equipment, data, documents, facilities, contracts, items, other
13 property, rules, decisions, and proceedings of or involving the
14 Railroad Commission of Texas are unaffected by the change in the
15 name of the agency.

16 (d) The Railroad Commission of Texas shall adopt a timetable
17 for phasing in the change of the agency's name so as to minimize the
18 fiscal impact of the name change. Until January 1, 2012, to allow
19 for phasing in the change of the agency's name and in accordance
20 with the timetable established as required by this section, the
21 agency may perform any act authorized by law for the Railroad
22 Commission of Texas as the Railroad Commission of Texas or as the
23 Texas Oil and Gas Commission. Any act of the Railroad Commission of
24 Texas acting as the Texas Oil and Gas Commission on or after the
25 effective date of this Act and before January 1, 2012, is an act of
26 the Railroad Commission of Texas.

27 (e) The change in law made by this Act does not affect the

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1 election of the chairman of the Texas Oil and Gas Commission before
2 the general election in 2012.

3 (f) The office of chairman of the Texas Oil and Gas
4 Commission exists for purposes of the primary and general election
5 in 2012.

6 SECTION 45. This Act takes effect September 1, 2011.