
UNFINISHED BUSINESS

Bill No: SB 47
Author: Limón (D), et al.
Amended: 9/3/21
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 6-2, 4/13/21
AYES: Laird, Allen, Eggman, Hertzberg, Limón, Stern
NOES: Jones, Grove
NO VOTE RECORDED: Hueso

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 25-10, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Cortese, Dodd, Durazo, Eggman,
Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire,
Min, Newman, Portantino, Roth, Skinner, Stern, Wieckowski, Wiener
NOES: Bates, Borgeas, Bradford, Dahle, Grove, Jones, Nielsen, Ochoa Bogh,
Rubio, Wilk
NO VOTE RECORDED: Caballero, Hurtado, Melendez, Pan, Umberg

ASSEMBLY FLOOR: 52-21, 9/8/21 - See last page for vote

SUBJECT: Oil and gas: hazardous and idle-deserted wells and production
facilities: expenditure limitations: updated reports

SOURCE: Author

DIGEST: This bill increases the annual expenditure limit from the Oil, Gas and Geothermal Administration Fund, the principal source of funding for the Geologic Energy Management Division from a production fee assessed on oil and gas production in the state, for the plugging and abandonment of hazardous or idle-deserted wells to \$5 million.

Assembly Amendments remove a provision to retain unspent funds, clarify the accounting of liens, require a report be annually updated and its sunset removed, and add chaptering out amendments, among other things.

ANALYSIS:

Existing law:

- 1) Establishes the Geologic Energy Management Division (CalGEM) in the Department of Conservation. CalGEM regulates oil and gas production in the state, and CalGEM's leader is the State Oil and Gas Supervisor (supervisor).
- 2) Provides that the purposes of the state's oil and gas conservation laws include protecting public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state.
 - a) The supervisor shall coordinate with other state agencies and others to further the goals of the California Global Warming Solutions Act of 2006 and to help support the state's clean energy goals. (Public Resources Code (PRC) §3011)
- 3) Directs the supervisor to so supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, as specified, so as to prevent, as far as possible, damage to life, health, property, and natural resources, as provided. (PRC §3106)
- 4) Classifies oil and gas wells based upon their use.
 - a) An idle well is a well that is not in use, and has not been in use for at least 24 consecutive months, as specified. (PRC §3008)
 - b) An idle well that has no operator or other responsible party to pay for its costs becomes an "idle-deserted" or "orphan" well, which is then the responsibility of the state to plug and abandon. (PRC §3251, §3206.3)
 - c) Long-term idle wells are those wells that have been idle for at least eight years. (PRC §3008)
- 5) Holds the current operator, or the previous operator, as provided, of an orphan well that produced oil, gas, or other hydrocarbons or was used for injection,

responsible for the proper plugging and abandonment of the well or the decommissioning of idle-deserted production facilities. (PRC §3237)

- 6) Authorizes the supervisor to order the plugging and abandonment, or decommissioning of a hazardous or idle-deserted well or facility, as specified. (PRC §3251, §3255)
- 7) Provides that if a person fails to pay any charge or penalty imposed under the state's law for oil and gas conservation when it is due and payable, that the amount unpaid, including penalties and interest and related costs, shall be a perfected and enforceable state tax lien, as provided. (PRC §3423)
- 8) Requires an operator to either file with the supervisor certain annual idle well fees per well that increase the longer the well has been idle, or file an idle well management plan with the supervisor that eliminates between 4% - 6% of the long-term idle wells each year. Failure to pay idle well fees or file a plan is sufficient evidence for the well to be considered legally deserted.
- 9) Prohibits CalGEM from expending more than \$3 million in any one fiscal year from FY 2018 - 2019 to FY 2021-2022, inclusive, for plugging and abandoning and decommissioning hazardous and idle-deserted wells, and hazardous or deserted facilities from the Oil, Gas and Geothermal Administration Fund (OGGAF).
 - a) OGGAF is funded by fees paid by oil and gas well operators based upon the amount of oil and/or natural gas they produce annually, and is the principal source of funding for CalGEM.
 - b) As of FY 2022-2023, the \$3 million is reduced to \$1 million. (PRC §3258).
- 10) Requires the department or the supervisor to provide certain reports to the Legislature regarding idle and long-term idle wells.
 - a) On April 1, 2021, the department is required to issue a report to the Legislature that includes the number of hazardous wells and facilities, idle-deserted wells and deserted facilities remaining, the estimated costs of abandoning and decommissioning those wells and facilities and related information, among other things. (PRC §3258)
 - b) On October 1, 2023, the department is required to provide an update to the April 1, 2021 report that describes the total costs, average costs and number of wells and facilities addressed, projects completed, and other related information. (PRC §3258)

This bill increases the annual expenditure limit from OGGAF, the principal source of funding for CalGEM from a production fee assessed on oil and gas production in the state, for the plugging and abandonment of hazardous or idle-deserted wells to \$5 million annually, among other things. Specifically, this bill:

- 1) Increases the amount that CalGEM can spend to plug and abandon hazardous or idle-deserted wells and decommission hazardous or deserted facilities from OGGAF to \$5 million annually starting with FY 2022-2023 and continuing thereafter, as provided. Clarifies the treatment of expenditures towards this amount where CalGEM has a lien against the real or personal property of the operator, as specified.
 - a) These monies are additionally authorized for remediating the well sites of hazardous or idle-deserted wells.
- 2) Provides that the report regarding hazardous and idle-deserted wells and deserted facilities, among other related matters, due on October 1, 2023, becomes an annual report, as specified.
- 3) Makes additional technical and clarifying changes, and includes a chaptering out amendment with SB 84 (Hurtado, 2021).

Background

According to data obtained from CalGEM's website, there are approximately 125,000 active and idle oil and gas wells in the state (2021 data) and related production facilities located in over 180 oil and gas fields. Of these wells, about 78,000 are active, and 47,500 are idle.

CalGEM has multiple methods – once a well and/or related production facility has been identified as orphan, deserted and/or hazardous – to fund plugging and abandonment and/or decommissioning. These include any existing and available indemnity bond or other financial surety provided by an operator covering that well or facility, seeking funds from a previous operator, as applicable, and using certain moneys available from three separate accounts – OGGAF, certain idle well fees deposited in the Hazardous and Idle-Deserted Well Abatement Fund (HIDWAF), and from the OGER account.

At CalGEM's request, the California Council on Science and Technology (CCST) investigated the status of the state's oil and gas wells in order to estimate the potential cost to the state should these wells become orphaned. The CCST report was released in January 2020. The CCST report suggested that there were about 5,540 wells that were either likely to be orphaned or at high risk of becoming

orphaned soon. The potential liability to the state was estimated to be roughly \$500 million net for these two categories alone, and could be much higher if additional wells became orphaned.

As of June 30, 2020, the HIDWAF account had a balance of over \$13 million. The Department of Finance subsequently made a temporary loan of \$10 million from that account to the General Fund as steps were taken to address the pandemic.

Additional discussion of this bill can be found in the Senate Natural Resources and Water Committee's bill analysis.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- 1) Potential ongoing costs of \$4 million annually due to increasing the annual spending authority for CalGEM to plug deserted wells (OGGAF).
- 2) CalGEM estimates costs of \$1,318,000 in the first year and \$1,095,000 ongoing for six positions and limited-term contract authority to administer and oversee the increased spending on plugging and abandonment of hazardous or idle-deserted wells. First year costs include \$150,000 to contract with experts to conduct financial investigations and set up appropriate forensic accounting practices (OGGAF).
- 3) OGGAF is funded by fees on oil and natural gas produced in California. Any state costs supported by OGGAF are recovered from operators of oil and gas wells.

SUPPORT: (Verified 9/2/21)

1000 Grandmothers for Future Generations
350 Bay Area Action
350 Butte County
350 Conejo/San Fernando Valley
350 Humboldt
350 Sacramento
350 Silicon Valley
350 South Bay Los Angeles
350 Ventura County Climate Hub
Alliance of Nurses for Healthy Environments
Audubon California
Ban SUP (Single Use Plastics)

California Coastal Protection Network
California Interfaith Power & Light
California League of Conservation Voters
Center for Biological Diversity
Change Begins With Me
Citizens' Climate Lobby – Ventura Chapter
Clean Water Action
Climate 911
Climate First: Replacing Oil & Gas
Climate Health Now
Conejo Climate Coalition
County of Los Angeles
County of Santa Barbara
County of Ventura
Earthjustice
East Valley Indivisibles
Environmental Defense Center
Environmental Working Group
Families Advocating for Chemical & Toxins Safety
Feminists in Action
Food & Water Watch
FracTracker Alliance
Greenpeace USA
Indivisible Alta Pasadena
Indivisible CA – 33
Indivisible CA – 37
Indivisible CA – 43
Indivisible California Green Team
Indivisible Media City Burbank
Indivisible Sacramento
Indivisible San Pedro
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Stanislaus
Indivisible Together We Will Los Gatos
Indivisible Ventura
Interfaith Climate Action Network of Contra Costa County
Livermore Indivisible
Long Beach 350
Long Beach Alliance for Clean Energy

Los Padres Forestwatch
Mi Familia Vota
Natural Resources Defense Council
Normal Heights Indivisible
Orinda Progressive Action Alliance
Progressive Democrats of the Santa Monica Mountains
Project Super Bloom
Rodeo Citizens Association
Rooted in Resistance (Indivisible)
San Diego 350
San Francisco Bay Physicians for Social Responsibility
Santa Barbara County Action Network
Santa Barbara Standing Rock Coalition
Sierra Club California
SoCal 350 Climate Action
South Coast Interfaith Council
Sunflower Alliance
Sunrise Movement LA
Surfrider Foundation
Take Back Our Planet
The Climate Reality Project
Voices for Progress

OPPOSITION: (Verified 9/2/21)

California Independent Petroleum Association
California State Association of Electrical Workers
California State Pipe Trades Council
International Association of Sheet Metal, Air, Rail and Transportation Workers,
Sheet Metal Workers' Local Union No. 104
State Building and Construction Trades Council of California
Western States Petroleum Association

ARGUMENTS IN SUPPORT: According to the author, “[w]ithout a responsible operator, taxpayers will be the funding source of last resort for environmental remediation. The 2018 California Council on Science and Technology Report estimated California might already have 5,540 wells without a viable operator, resulting in taxpayer costs ranging from \$500 million to billions of dollars. These wells are hazardous both to surrounding communities and the environment.

“SB 47 will increase CalGEM’s annual spending authority to plug deserted wells from \$3 million to \$5 million.

“SB 47 is a significant step to ensure that the oil and gas industry pays from the remediation of hazards that the industry has historically left behind and those the State and taxpayers continue to inherit.”

ARGUMENTS IN OPPOSITION: The California Independent Petroleum Association (CIPA) writing in opposition notes that the state has HIDWAF, the existing annual expenditure authority from OGGAF and recent changes in law have provided for additional bonding authority to CalGEM to help fund orphan well and facilities.

CIPA continues by stating that its members “believe that the current body of law surrounding remediating orphaned wells is working well and does not need to be modified. Instead, the state needs to fully reimburse the HIDWAF and allow CalGEM to do its job of remediating orphaned wells using the money oil producers have paid towards this important effort.”

The Western States Petroleum Association notes that CalGEM has expended fewer funds recently to address orphan wells than it could have, and proposes that the \$5 million statutory annual cap be reduced to \$3 million.

ASSEMBLY FLOOR: 52-21, 9/8/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Choi, Megan Dahle, Daly, Davies, Fong, Frazier, Gallagher, Grayson, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Chen, Cooper, Cunningham, Flora, Gipson, Gray, Blanca Rubio

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9/8/21 22:24:39

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