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SB-1295 Oil and gas: hazardous or deserted wells and facilities: labor standards: expenditure limits: reports. (2021-2022)

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Senate Bill No. 1295

CHAPTER 844

An act to amend Sections 3108, 3206.3, and 3258 of, and to add Article 2.3 (commencing with Section 3125) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1295, Limón. Oil and gas: hazardous or deserted wells and facilities: labor standards: expenditure limits: reports.

Existing law establishes the Geologic Energy Management Division in the Department of Conservation, under the direction of the State Oil and Gas Supervisor, to regulate the drilling, operation, maintenance, and abandonment of oil or gas wells in the state. Existing law establishes the Oil, Gas, and Geothermal Administrative Fund in the State Treasury for expenditure by certain public entities in connection with various activities relating to oil and gas operations, as specified.

Existing law authorizes the supervisor to order certain operations to be carried out on any property in the vicinity of which, or on which, is located any well or facility that the supervisor determines to be a hazardous well, an idle-deserted well, a hazardous facility, or a deserted facility, as specified. Existing law also establishes and requires the division to administer and manage the Oil and Gas Environmental Remediation Account in the Oil, Gas, and Geothermal Administrative Fund. Existing law requires moneys in the account to be used, upon appropriation by the Legislature, to plug and abandon oil and gas wells, decommission attendant facilities, or otherwise remediate sites that the supervisor determines could pose a danger to life, health, water quality, wildlife, or natural resources, as specified.

Existing law prohibits the division from expending more than \$3,000,000 in any one fiscal year, for the 2018–19 fiscal year to the 2021–22 fiscal year, inclusive, and, commencing with the 2022–23 fiscal year, no more than \$5,000,000 in any one fiscal year from the Oil, Gas, and Geothermal Administrative Fund for those purposes related to hazardous wells, idle-deserted wells, hazardous facilities, and deserted facilities.

This bill would instead prohibit the division from expending, commencing with the 2022–23 fiscal year, more than \$5,000,000, and, in addition, (1) the amount actually expended by the division in the preceding fiscal year, not to exceed \$7,500,000, from the dedicated General Fund appropriation for the 2022–23 fiscal year for the purposes of plugging and abandoning wells, decommissioning facilities, and site remediation, and (2) the amount actually expended by the division in the preceding fiscal year, not to exceed \$7,500,000, from the dedicated General Fund appropriation for the 2023–24 fiscal year, only if there is a dedicated General Fund appropriation for the 2023–24 fiscal year for the purposes of plugging and abandoning wells, decommissioning facilities, and site remediation. The bill would also require the Controller, commencing with the 2023–24 fiscal year, in any fiscal year that the division makes expenditures that are less than the amount appropriated, to transfer from the Oil, Gas, and Geothermal Administrative Fund to the Oil and Gas Environmental Remediation Account an amount equal to the difference between what was appropriated and what was expended by the division for that fiscal year, unless there is more than

\$200,000,000 in the account. The bill would also provide that the expenditure limits in these provisions do not apply to funds received by the Oil, Gas, and Geothermal Administrative Fund pursuant to a federal grant authorized under the federal Infrastructure Investment and Jobs Act.

Existing law defines “public works,” for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds. Existing law further requires that, except as specified, not less than the general prevailing rate of per diem wages be paid to workers employed on public works and imposes misdemeanor penalties for a willful violation of this requirement.

This bill would deem all work to plug and abandon wells, decommission production facilities, or otherwise remediate well sites that is undertaken, funded, or financed by the division, as specified, and performed by outside contractors to be public work for which prevailing wages are required to be paid. The bill would require, not later than June 30, 2024, the California Workforce Development Board to consult with the division in developing and implementing the Oil and Gas Well Capping Pilot initiative established pursuant to the Budget Act of 2022 to assist state-registered apprenticeship programs in creating curriculum for training apprentices and to upskill journeypersons on well capping projects. The bill would require the division, when contracting on or after January 1, 2028, for the performance of construction, alteration, demolition, installation, repair, or work to ensure that all entities selected for these projects enter into a project labor agreement, as defined, that will bind all of the contractors performing work on the project. The bill would also require, for contracts that are awarded, extended, or renewed on or after January 1, 2028, and for specified work performed by contractors licensed by the Contractors State License Board, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites, that contractors and any subcontractors at every tier use a skilled and trained workforce, as defined, to perform all work within an apprenticeable occupation, as defined, in the building and construction trades, as defined. The bill would require the division to develop a procurement process to group multiple projects, as specified. The bill would also make other changes relating to workforce development. Because the willful violation of prevailing wage requirements when engaged in these public works projects would result in the imposition of misdemeanor penalties, this bill would impose a state-mandated local program.

Existing law requires the supervisor to make public, on or before the first day of October of each year, a report in writing showing, among other things, the total amounts of oil and gas produced in each county in the state during the previous calendar year and the total cost of the division for the previous fiscal year.

This bill would also require the supervisor to include in the report on the total cost of the division for the previous fiscal year an accounting of any General Fund moneys appropriated and used for plugging and abandonment of wells, decommissioning of facilities, and site remediation, or appropriated and used to facilitate those activities.

Existing law requires the supervisor, only until July 1, 2026, to prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year, as specified.

This bill would instead make that requirement operative indefinitely.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3108 of the Public Resources Code is amended to read:

3108. (a) On or before the first day of October of each year the supervisor shall make public, for the benefit of all interested persons, a report in writing showing:

(1) The total amounts of oil and gas produced in each county in the state during the previous calendar year.

(2) The total cost of the division for the previous fiscal year, including an accounting of any General Fund moneys appropriated and used for plugging and abandonment of wells, decommissioning of facilities, and site remediation, or appropriated and used to facilitate those activities.

(3) The total amount delinquent and uncollected from any assessments or charges levied pursuant to this chapter.

(b) The report shall also include such other information as the supervisor deems advisable.

SEC. 2. Article 2.3 (commencing with Section 3125) is added to Chapter 1 of Division 3 of the Public Resources Code, to read:

Article 2.3. Oil, Gas, and Geothermal Administrative Fund: Labor Standards for Funding

3125. All work to plug and abandon wells, decommission production facilities, or otherwise remediate well sites that is undertaken, funded, or financed by the division pursuant to Section 3226 or 3255 and performed by outside contractors is public work for which prevailing wages shall be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

3125.1. (a) Not later than June 30, 2024, the California Workforce Development Board shall consult with the division in developing and implementing the Oil and Gas Well Capping Pilot initiative established pursuant to the Budget Act of 2022 to assist state-registered apprenticeship programs in creating curriculum for training apprentices and to upskill journeypersons on well capping projects.

(b) The division and other public agencies that receive funds from the Oil, Gas, and Geothermal Administrative Fund pursuant to this chapter shall consult and coordinate with the California Workforce Development Board when promoting or seeking to improve workforce education and training programs for incumbent and entry-level workers that support or advance high-quality work performance and increase priority populations' access to high-quality jobs associated with projects involving the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites pursuant to Section 3226 or 3255.

(c) In developing and implementing workforce development programs to support projects involving the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites pursuant to Section 3226 or 3255, the board, division, and other public agencies shall align with the principles and practices of the high road, high road training partnerships, and high road construction careers as defined in subdivisions (r) to (t), inclusive, of Section 14005 of the Unemployment Insurance Code.

3125.2. (a) The division, with assistance from the Labor and Workforce Development Agency, shall develop a procurement process to group multiple projects involving the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites pursuant to Section 3226 or 3255, to use project labor agreements under which to deliver those projects.

(b) The division, when contracting on or after January 1, 2028, for the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites pursuant to Section 3226 or 3255, shall ensure that all entities selected for these projects enter into a project labor agreement that will bind all of the contractors performing work on the project. For purposes of this section, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

3125.3. (a) This section applies only to work performed by contractors licensed by the Contractors State License Board under contracts for the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites, pursuant to Section 3226 or 3255, that are awarded, extended, or renewed on or after January 1, 2028.

(b) The division, when contracting for the performance of construction, alteration, demolition, installation, repair, or work, including the plugging, and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites pursuant to Section 3226 or 3255, shall require that contractors and any subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(c) The requirements of this section are satisfied if all contractors and subcontractors for the performance of construction, alteration, demolition, installation, repair, or work, including the plugging and abandonment of wells, decommissioning of production facilities, or otherwise remediating well sites, are required to become bound to a multicraft project labor agreement that expressly requires each contractor and subcontractor performing the work to use a skilled and trained workforce. For purposes of this subdivision, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

SEC. 3. Section 3206.3 of the Public Resources Code is amended to read:

3206.3. (a) (1) Notwithstanding Section 10231.5 of the Government Code, on or before July 1, 2019, and annually thereafter, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year. The report shall include all of the following:

(A) A list of all idle and long-term idle wells in the state by American Petroleum Institute identification number and indicating the operator, field, and pool.

(B) A list of all wells whose idle or long-term idle status changed in the preceding year by American Petroleum Institute identification number with the disposition and current status of each well.

(C) A list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. Idle and long-term idle wells that have become orphan wells shall be identified in the list. For the purposes of this report, an orphan well is a well that has no party responsible for it, leaving the state to plug and abandon it.

(D) A list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans.

(E) Any additional relevant information as determined by the supervisor.

(2) The report shall be made publicly available and an electronic version shall be available on the division's internet website.

(b) For the report due on or before July 1, 2022, and each report thereafter, the division shall do both of the following:

(1) Conduct inspections of production facilities attendant to long-term idle wells to ensure compliance with the requirements of this chapter. Information summarizing violations and pertinent findings in these inspections shall be included in the applicable report required to be prepared and transmitted pursuant to subdivision (a).

(2) Identify idle wells by the American Petroleum Institute identification number that are registered to an operator and that have met the definition of an idle well for three years where neither the required annual fee has been paid or the well is part of a valid idle well management plan on file with the supervisor pursuant to subdivision (a) of Section 3206.

(c) For the report due on or before July 1, 2023, and each report thereafter, the division shall provide a description of activities undertaken by the division's collections unit established pursuant to Section 3243. This description shall include the number of operators and amounts of idle well fees collected by the collections unit in the preceding year, the criteria, including timelines, used by the collections unit to determine a well or attendant facility is deserted, and the amount of costs recovered from operators or responsible parties for work ordered by the supervisor or undertaken by the division. Information related to the division's use of liens, including, but not limited to, the number of wells and facilities eligible to be subject to a lien, the number of liens placed by the supervisor, and the number of liens released by the supervisor, shall also be provided.

(d) Information on how to access the plans described in subparagraph (D) of paragraph (1) of subdivision (a) shall be made readily available on the division's internet website.

(e) The division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 4. Section 3258 of the Public Resources Code is amended to read:

3258. (a) The division shall not make expenditures from the Oil, Gas, and Geothermal Administrative Fund pursuant to this article that exceed the following sum any one fiscal year:

(1) Three million dollars (\$3,000,000), commencing on July 1, 2018, for the 2018–19 fiscal year, and continuing for three fiscal years thereafter.

(2) Commencing with the 2022–23 fiscal year, and each fiscal year thereafter, five million dollars (\$5,000,000). In addition to that amount, both of the following amounts:

(A) The amount actually expended by the division in the preceding fiscal year, not to exceed seven million five hundred thousand dollars (\$7,500,000), from the dedicated General Fund appropriation for the 2022–23 fiscal year for the purposes of plugging and abandoning wells, decommissioning facilities, and site remediation pursuant to this article.

(B) The amount actually expended by the division in the preceding fiscal year, not to exceed seven million five hundred thousand dollars (\$7,500,000), from the dedicated General Fund appropriation for the 2023–24 fiscal year, only if there is a dedicated General Fund appropriation for the 2023–24 fiscal year for the purposes of plugging and abandoning wells, decommissioning facilities, and site remediation pursuant to this article.

(b) (1) The expenditure limits of subdivision (a) also apply to expenditures by the division from the Oil, Gas, and Geothermal Administrative Fund pursuant to Section 3226, unless the division obtains a lien against real or personal property of the operator. If the division obtains a lien against real or personal property of greater value than the amount of the expenditure, then the

amount of the expenditure shall not count against the expenditure limit of subdivision (a). If the division obtains a lien against real or personal property of lesser value than the amount of the expenditure, then only the difference between the amount of the expenditure and the value of the property counts against the expenditure limit of subdivision (a). Any moneys recovered by the division pursuant to Section 3226 shall be deposited in the Oil and Gas Environmental Remediation Account, unless the moneys are recovered against expenditures that have been or will be made from the Hazardous and Idle-Deserted Well Abatement Fund.

(2) (A) Commencing with the 2023–24 fiscal year, in any fiscal year that the division makes expenditures that are less than the amount appropriated pursuant to subdivision (a), the Controller shall transfer from the Oil, Gas, and Geothermal Administrative Fund to the Oil and Gas Environmental Remediation Account, established pursuant to Section 3261, an amount equal to the difference between what was appropriated and what was expended pursuant to this article by the division for that fiscal year, unless there is more than two hundred million dollars (\$200,000,000) in the account.

(B) Upon the order of the Department of Finance, the Controller shall transfer the unexpended amount from the Oil, Gas, and Geothermal Administrative Fund to the Oil and Gas Environmental Remediation Account.

(c) Moneys expended pursuant to this article shall be used exclusively for plugging and abandoning hazardous or idle-deserted wells, decommissioning hazardous or deserted facilities, or otherwise remediating well sites of hazardous or idle-deserted wells.

(d) The division shall develop criteria for determining the priority of plugging and abandoning hazardous or idle-deserted wells and decommissioning hazardous or deserted facilities to be remediated pursuant to this article and performing work pursuant to Section 3226. The criteria shall consider the information required to be reported pursuant to subdivision (d). The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to the development of criteria by the division pursuant to this subdivision.

(e) (1) (A) On April 1, 2021, the department shall report to the Legislature on the number of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, the estimated costs of abandoning and decommissioning those wells and facilities, and a timeline for future abandonment and decommissioning of those wells and facilities with a specific schedule of goals. By April 1, 2022, the department shall report to the Legislature the location of the applicable wells and facilities, including the county in which they are located, if the information is not otherwise included in the April 1, 2021, report described in this paragraph.

(B) As part of the report required in subparagraph (A), the department shall provide recommendations to the Legislature for improving and optimizing the involvement of local agencies in the process of plugging and abandoning wells and decommissioning facilities. In drafting these recommendations, the department shall consider factors unique to each of the division's districts, and shall consult with local agencies in developing recommendations.

(C) In collecting the information for the report required in subparagraph (A), the division shall conduct field inspections of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities and include information in the report from the field inspections that can be used to prioritize those wells and facilities in the specific schedule of goals.

(2) On October 1, 2023, and annually thereafter, the department shall provide to the Legislature an update on the report required in paragraph (1) that describes the total costs, average costs per well and facility, the number of wells plugged and abandoned, the number of facilities decommissioned, the total number of projects completed, and any additional wells and facilities identified by the department requiring abandonment or decommissioning. The update shall include the location, including the county, of applicable wells, facilities, and projects identified in the report.

(3) The report and update to the report required to be submitted under this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(4) The expenditure limits in this section do not apply to funds received by the Oil, Gas, and Geothermal Administrative Fund pursuant to a federal grant authorized under the federal Infrastructure Investment and Jobs Act (Public Law 117-58).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.