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AB-1167 Oil and gas: acquisition: bonding requirements. (2023-2024)

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Assembly Bill No. 1167

CHAPTER 359

An act to amend Sections 3202, 3204, and 3205.5 of, and to add Sections 3017 and 3205.8 to, the Public Resources Code, relating to oil and gas.

[Approved by Governor October 07, 2023. Filed with Secretary of State October 07, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1167, Wendy Carrillo. Oil and gas: acquisition: bonding requirements.

Existing law requires a person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, to submit to the State Oil and Gas Supervisor or a district deputy certain materials, including either an individual indemnity bond or a blanket indemnity bond in certain amounts. A violation of this law, or any related law concerning oil and gas, is a misdemeanor.

This bill would require a person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, except a well as specified, to instead file with the supervisor an individual indemnity bond for the well or production facility, or a blanket indemnity bond for multiple wells or production facilities, in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment, decommissioning of the facility, and site restoration, as provided. The bill would require the person to first submit a request to the supervisor for a determination of the amount of the bond required before completing the acquisition and prohibits the completion of the acquisition until the determination is received and the bond has been filed with the supervisor. The bill would also authorize the supervisor to approve other means of financial assurance in lieu of the individual indemnity bond or the blanket indemnity bond. Because the bill would impose a new bonding requirement for the acquisition of a well or production facility, it would expand the scope of a crime and thereby impose a state-mandated local program. The bill would require the Department of Conservation to post on its internet website the information on all indemnity bond determinations made by the supervisor, and to include for each determination the bond amount and calculations used. The bill would authorize the supervisor to approve a deposit, as provided, other than a deposit of money or bearer bonds or bearer notes, in lieu of the indemnity bond. The bill would require the supervisor to maintain records of all transfers recognized as complete, including all materials required to be provided by the new operator, and to make those records available on the Geologic Energy Management Division's internet website.

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. The Legislature finds and declares all of the following:

(a) As California transitions to a decarbonized economy, an increasing number of oil producing wells are becoming idle. There are approximately 107,000 active and idle oil and gas wells in the state, all of which will at some point end their productive life and will require plugging and abandonment and site restoration under existing law.

(b) Analysis performed in 2018 by the California Council on Science and Technology found that more than 5,000 wells in the state may already either be “orphaned” without a responsible party who can pay for plugging and abandonment, or be at high risk of being orphaned, resulting in a potential net liability to the state of \$500,000,000. The council’s analysis further found that more than 69,000 additional wells are economically marginal or idle, and hence could become orphaned wells in the future as their production declines or as they are acquired by financially weaker operators, or both.

(c) Well owners, including those who own idle and marginally producing wells, frequently transfer those wells to less solvent entities. These transfers increase the likelihood that public funds will be needed to pay for plugging and abandonment of those wells, because funds available through existing bonds are inadequate to pay the cost of plugging and abandonment of those wells. The council’s analysis concluded that while the average cost to remediate an onshore well is close to \$68,000, the average bond funding available per well is close to \$1,000.

SEC. 2. Section 3017 is added to the Public Resources Code, to read:

3017. (a) It is the intent of the Legislature that the oil and gas industry pay for all necessary costs of plugging and abandonment and site restoration of oil and gas wells.

(b) It is the intent of the legislature that, to minimize the risk that the state will be liable for costs of plugging and abandonment, no well be transferred to another owner until and unless a bond has been filed that would cover the full cost of plugging and abandonment and site restoration.

SEC. 3. Section 3202 of the Public Resources Code is amended to read:

3202. (a) A person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, shall, as soon as it is reasonably possible, but not later than the date when the acquisition of the well or production facility becomes final, notify the supervisor or the district deputy, in writing, of the person’s operation. The acquisition of a well or production facility shall not be recognized as complete by the supervisor or the district deputy until the new operator provides all of the following material:

- (1) The name and address of the person from whom the well or production facility was acquired.
- (2) The name and location of the well or production facility, and a description of the land upon which the well or production facility is situated.
- (3) The date when the acquisition becomes final.
- (4) The date when possession was or will be acquired.
- (5) An indemnity bond for each well as required pursuant to Section 3204, 3205, or 3205.8, as applicable.

(b) (1) Upon request of the supervisor, the new operator shall, within 15 days, provide to the division copies of the documents recorded with a governmental office involving the sale, assignment, transfer, conveyance, exchange, or other disposition of the well or production facility.

(2) If after reviewing the documents submitted pursuant to paragraph (1) the division determines additional documentation is needed to validate the sale, assignment, transfer, conveyance, exchange, or other disposition of the well or production facility, the division shall notify the new operator.

(3) Upon receiving notice pursuant to paragraph (2), the new operator shall, within 30 days, provide to the division documents necessary to identify the operator of the well or production facility. If the documents are not otherwise publicly available, the new operator may redact information from the documents before submitting them to the division if the division agrees the information is not relevant to identification of the current operator of the well or production facility.

(c) After notice is given pursuant to subdivision (a) and until another person acquires the well or production facility, the new operator shall notify the supervisor whether any of the rights have changed. That notification shall be in writing and occur every other year by July 1.

(d) The new operator shall also notify the supervisor within 30 days of any quitclaim of a well or production facility.

(e) The supervisor shall maintain records of all transfers recognized as complete pursuant to subdivision (a), including all materials required to be provided by the new operator under that subdivision, and shall make those records available on the division's internet website.

SEC. 4. Section 3204 of the Public Resources Code is amended to read:

3204. (a) An operator who, on or after January 1, 2018, engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing, of a well, shall file with the supervisor an individual indemnity bond for each well so drilled, redrilled, deepened, or permanently altered in the following amount:

(1) Twenty-five thousand dollars (\$25,000) for each well that is less than 10,000 feet deep.

(2) Forty thousand dollars (\$40,000) for each well that is 10,000 or more feet deep.

(b) The bond shall be filed with the supervisor at the time of the filing of the notice of intention to perform work on the well, as provided in Section 3203, or at the time of acquisition of the well, as provided in Section 3202. The bond shall be executed by the operator, as principal, and by an authorized surety company, as surety, on the condition that the principal named in the bond shall faithfully comply with all the provisions of this chapter, in drilling, redrilling, deepening, or permanently altering the casing in any well or wells covered by the bond, and shall secure the state against all losses, charges, and expenses incurred by it to obtain the compliance by the principal named in the bond.

(c) The conditions of the bond shall be stated in substantially the following language: "If the _____, the above bounden principal, shall well and truly comply with all the provisions of Division 3 (commencing with Section 3000) of the Public Resources Code and shall obey all lawful orders of the State Oil and Gas Supervisor or the district deputy or deputies, subject to subsequent appeal as provided in that division, and shall pay all charges, costs, and expenses incurred by the supervisor or the district deputy or deputies in respect of the well or wells or the property or properties of the principal, or assessed against the well or wells or the property or properties of the principal, in pursuance of the provisions of that division, then this obligation shall be void; otherwise, it shall remain in full force and effect."

SEC. 5. Section 3205.5 of the Public Resources Code is amended to read:

3205.5. In lieu of the indemnity bond required by Sections 3204, 3205, 3205.1, 3205.2, 3205.8, and 3206, a deposit may, with the written approval of the supervisor, be given pursuant to Article 7 (commencing with Section 995.710) of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure, other than a deposit of money or bearer bonds or bearer notes.

SEC. 6. Section 3205.8 is added to the Public Resources Code, to read:

3205.8. (a) (1) Notwithstanding any other provision of this chapter, a person who acquires the right to operate a well or production facility, by purchase, transfer, assignment, conveyance, exchange, or other disposition, except a well that has an average daily production level that exceeds 15 barrels of oil or 60,000 cubic feet of natural gas during the 12 months preceding the date of acquisition or a natural gas storage well, shall, as soon as possible, but not later than the date when the acquisition of the well or production facility becomes final, file with the supervisor an individual indemnity bond for the well or production facility, or a blanket indemnity bond for multiple wells or production facilities, in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment, decommissioning of the facility, and site restoration pursuant to Section 3208 and regulations implementing this chapter.

(2) A person who acquires the right to operate more than one well or production facility, by purchase, transfer, assignment, conveyance, exchange, or other disposition, or who operates more than one well or production facility may file with the supervisor one blanket indemnity bond to cover all the operations in any of its wells in the state in lieu of an individual indemnity bond for each operation. The blanket indemnity bond shall be executed by the operator, as principal, and by an authorized surety company, as surety, and shall be in substantially the same language and upon the same conditions as provided in Section 3204, except for the difference in the amount.

(b) A person who intends to acquire the right to operate a well or production facility, by purchase, transfer, assignment, conveyance, exchange, or other disposition, shall submit a request to the supervisor for a determination of the amount of the bond required pursuant to subdivision (a) before completing the acquisition and shall not complete the acquisition until the determination is received and the bond has been filed with the supervisor.

(c) The supervisor shall determine the amount of an individual indemnity bond required pursuant to subdivision (a) based on the supervisor's determination of the full costs of plugging and abandonment, decommissioning the facility, and site restoration using any reasonable method, including, but not limited to, consideration of the factors listed in subdivision (b) of Section 3205.3, or the

cost estimation criteria described in subdivision (b) of Section 3205.7, or consultation with a contractor to obtain an estimate of the cost to plug and abandon the wells, decommission the facility, and complete site restoration. The supervisor shall determine the amount of a blanket indemnity bond required pursuant to subdivision (a) based on the sum total of combining the costs from the same determinations as individual indemnity bonds for each well or production facility covered by the blanket indemnity bond.

(d) In lieu of the bond required to be provided pursuant to subdivision (a), the operator may, with the written approval of the supervisor, provide the required security through an equally effective means of financial assurance, which includes a deposit pursuant to Section 3205.5, an irrevocable letter of credit, or a fully funded trust fund, but does not include self-insurance or corporate guarantees. The required financial assurance may be obtained or funded by the transferor of the covered well.

(e) The department shall post on its internet website the information on all indemnity bond determinations made by the supervisor, and shall include for each determination the bond amount and calculations used.

SEC. 7. 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.