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House BILL NO. 80

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW ON THE FORFEITURE OF BONDS FOR PERFORMANCE OF THE DUTY TO PROPERLY PLUG EACH DRY OR ABANDONED WELL; AND AMENDING SECTIONS 82-11-123 AND 82-11-162, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-123, MCA, is amended to read:

"82-11-123. Requirements for oil and gas operations. Subject to the administrative control of the department under 2-15-121, the board shall require:

- (1) identification of ownership of oil or gas wells, producing properties, and tanks;
- (2) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well locations, and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and ordinary core analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period of 6 months following completion of those wells;
- (3) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt, or brackish water;
- (4) the restoration of surface lands to their previous grade and productive capability after a well is plugged or a seismographic shot hole has been ~~utilized~~ used and necessary measures to prevent adverse hydrological effects from the well or hole, unless the surface owner agrees in writing, with the approval of the board or its representatives, to a different plan of restoration;
- (5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for performance of the duty to properly plug each dry or abandoned well. The bond ~~may be forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned well and~~ may not be canceled or absolved:



HB 80
INTRODUCED BILL

- 1 (a) if the well fails to produce oil or gas in commercial quantities, until:
- 2 (i) the board determines that the well is properly plugged and abandoned as provided in the board's
- 3 rules; or
- 4 (ii) the requirements of 82-11-163 are met; or
- 5 (b) ~~if the well is completed after June 30, 1989,~~ until the owner notifies the board that the well
- 6 is producing oil and gas in commercial quantities and meets the requirements of 82-11-162₂,
- 7 (6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity
- 8 and quality of oil and gas;
- 9 (7) that ~~every~~ each person who produces, transports, or stores oil or gas or injects or disposes of
- 10 water in this state shall make available within this state for a period of 5 years complete and accurate
- 11 records of the quantities. The records must be available for examination by the board or its employees at
- 12 all reasonable times. The person shall file with the board reports as it may prescribe with respect to
- 13 quantities, transportations, and storages of the oil, gas, or water; and
- 14 (8) the installation, use, and maintenance of monitoring equipment or methods in the operation of
- 15 class II injection wells."
- 16

17 **Section 2.** Section 82-11-162, MCA, is amended to read:

18 **"82-11-162. Release of producing oil or gas well from drilling bond -- fee.** Upon receipt of

19 notification by the owner on a form prescribed by the board, payment by the owner of \$125, and proof

20 from the owner that a well ~~completed after June 30, 1989,~~ is producing oil or gas in commercial quantities

21 and is subject to the tax under 15-38-104, the board shall release and absolve the owner of the well from

22 the bond required under 82-11-123."

23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0080, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

This bill would alter the manner in which an oil and gas operator's bond could be forfeited for noncompliance of properly plugging and abandoning a well. The legislation would also allow existing producing wells to be released from an operator's bond upon payment of a \$125 one-time fee.

ASSUMPTIONS:

1. Approximately 6400 wells were reported as producing in the third quarter of calendar year 1994 to the Board of Oil and Gas Conservation.
2. The oil and gas production damage mitigation account would accrue \$800,000 if the operators of all 6400 wells requested to be relieved of the bonding requirement.
3. The Board of Oil and Gas Conservation uses the oil and gas production damage mitigation account to support the plugging and surface restoration costs of orphaned wells and wells whose operators are financially unable to perform the required work.
4. The additional administrative workload could be accommodated with existing staff.

FISCAL IMPACT:

Expenditures:

No significant impact to the Board of Oil and Gas Conservation during the biennium.

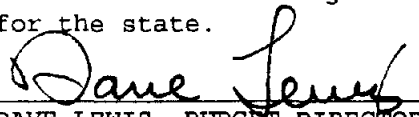
Revenues:

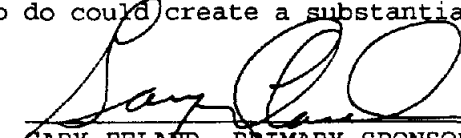
Possible one-time \$800,000 to the production damage mitigation account.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The current law allows the Board of Oil and Gas Conservation to forfeit a bond in its entirety for noncompliance. The proposed legislation appears to authorize a partial forfeiture. This would require that the board either perform the required work and then seek reimbursement from a surety or estimate the extent of the work to be completed and seek prepayment from the surety. Either situation could result in litigation to determine the actual costs of a project and work requirements. Many times a bond is not adequate to cover the costs of properly plugging a well; abandonment of such wells must be deferred until funds are available. Surety could make the case that until the board performs work on the well(s) actually covered by the bond, it should not be required to honor the forfeiture. The existing law does not preclude the board from partially forfeiting a bond, but does prevent disputes as to the board's authority to collect the entire amount.

The amendments to 82-11-123 and 162, MCA, would release the bonding requirement for producing wells upon payment of a one-time fee. This may provide an infusion of up to \$800,000 to the Production Damage Mitigation Account. While an operator continues to be legally bound to properly plug his wells, the eventual financial responsibility for plugging those wells would fall to the state. The cost of plugging wells is highly variable; cost estimates run between \$5,000 and \$25,000 per well. The liability to the state could be between \$32 million and \$160 million if every operator of a producing well took advantage of this opportunity. It is not likely that more than a small percentage of the state's oil and gas operators will default on their obligations, but those who do could create a substantial financial problem for the state.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


GARY FELAND, PRIMARY SPONSOR DATE

Fiscal Note for HB0080, as introduced

HB 80

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0080, second reading

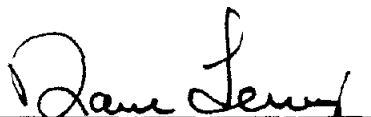
DESCRIPTION OF PROPOSED LEGISLATION: This bill would alter the manner in which an oil and gas operator's bond could be forfeited for noncompliance of the duty to properly plug and abandon a well.

FISCAL IMPACT:

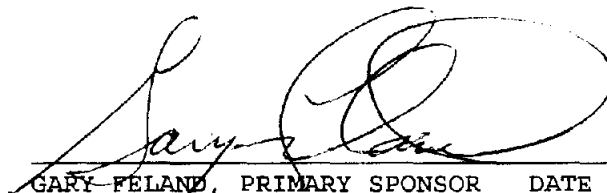
No significant impact during the biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The current law allows the Board of Oil and Gas Conservation to forfeit a bond "in its entirety" for noncompliance. The proposed legislation appears to authorize a partial forfeiture. This would require that the board either first perform the work required and seek reimbursement from a surety for the work done or require the board to estimate the extent of the work and seek prepayment from the surety. Either case could result in litigation to determine the actual costs of a project and disputes over the extent of work required. Many times a bond is not adequate to cover the costs of properly plugging a well; abandonment of such wells must be deferred until funds are available. Surety could make the case that until the board performs work on the well(s) actually covered by the bond, it should not be required to honor the forfeiture. The existing law does not preclude the board from partially forfeiting a bond, but does prevent disputes as to the board's authority to collect the entire amount.

 1-12-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



GARY FELAND, PRIMARY SPONSOR DATE

Fiscal Note for HB0080, second reading

HB 80 #2

APPROVED BY COMM. ON
NATURAL RESOURCES

1 HOUSE BILL NO. 80

2 INTRODUCED BY FELAND

3
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6 ~~SECTIONS SECTION~~ SECTION 82-11-123 AND 82-11-162, MCA."

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14 (2) the making and filing of acceptable well logs, including bottom-hole temperatures (in order to
15 facilitate the discovery of potential geothermal energy sources), the making and filing of reports on well
16 locations, and the filing of directional surveys, geological sample logs, mud logs, core descriptions, and
17 ordinary core analysis, if made; however, logs of exploratory or wildcat wells need not be filed for a period
18 of 6 months following completion of those wells;

19 (3) the drilling, casing, producing, and plugging of wells and class II injection wells in a manner that
20 prevents the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas
21 strata, blowouts, cave-ins, seepages, and fires and the pollution of fresh water supplies by oil, gas, salt,
22 or brackish water;

23 (4) the restoration of surface lands to their previous grade and productive capability after a well
24 is plugged or a seismographic shot hole has been ~~utilized~~ used and necessary measures to prevent adverse
25 hydrological effects from the well or hole, unless the surface owner agrees in writing, with the approval
26 of the board or its representatives, to a different plan of restoration;

27 (5) the furnishing of a reasonable bond with good and sufficient surety, conditioned for
28 performance of the duty to properly plug each dry or abandoned well. THE BOND MUST BE A
29 PERFORMANCE BOND AND MAY NOT BE A PENAL BOND OR BE PENAL IN NATURE. The bond ~~may be~~
30 ~~forfeited in its entirety by the board for failure to perform the duty to properly plug each dry or abandoned~~

1 well and may not be canceled or absolved:

2 (a) if the well fails to produce oil or gas in commercial quantities, until:

3 (i) the board determines that the well is properly plugged and abandoned as provided in the board's
4 rules; or

5 (ii) the requirements of 82-11-163 are met; or

6 (b) ~~if the well is completed after June 30, 1989,~~ IF THE WELL IS COMPLETED AFTER JUNE 30,
7 1989, until the owner notifies the board that the well is producing oil and gas in commercial quantities and
8 meets the requirements of 82-11-162₂;

9 (6) proper gauging or other measuring of oil and gas produced and saved to determine the quantity
10 and quality of oil and gas;

11 (7) that ~~every~~ each person who produces, transports, or stores oil or gas or injects or disposes of
12 water in this state shall make available within this state for a period of 5 years complete and accurate
13 records of the quantities. The records must be available for examination by the board or its employees at
14 all reasonable times. The person shall file with the board reports as it may prescribe with respect to
15 quantities, transportations, and storages of the oil, gas, or water; and

16 (8) the installation, use, and maintenance of monitoring equipment or methods in the operation of
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19 ~~Section 2. Section 82-11-162, MCA, is amended to read:~~

20 ~~"82-11-162. Release of producing oil or gas well from drilling bond fee. Upon receipt of~~
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22 ~~from the owner that a well completed after June 30, 1989, is producing oil or gas in commercial quantities~~
23 ~~and is subject to the tax under 15-38-104, the board shall release and absolve the owner of the well from~~
24 ~~the bond required under 82-11-123."~~

25

-END-

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2 INTRODUCED BY FELAND

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24 ~~the bond required under 82-11-123."~~

25

-END-