

HOUSE BILL No. 2536

By Committee on Appropriations

1-30

1 AN ACT concerning oil and gas wells; relating to the state corporation
2 commission; abandoned wells; investigations by the commission;
3 determination of responsible persons; plugging of abandoned wells;
4 authorizing payment from the abandoned oil and gas well fund for
5 certain plugging operations; amending K.S.A. 55-150, 55-178, 55-179,
6 55-180 and 55-192 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 55-150 is hereby amended to read as follows: 55-
10 150. As used in this act unless the context requires a different meaning:

11 (a) "Commission" means the state corporation commission.

12 (b) "Contractor" means any person who acts as agent for an operator
13 as a drilling, plugging, service rig or seismograph contractor in such
14 operator's oil and gas, cathodic protection, gas gathering or underground
15 natural gas storage operations.

16 (c) "Fresh water" means water containing not more than 1,000
17 milligrams per liter, total dissolved solids.

18 (d) "Gas gathering system" means a natural gas pipeline system used
19 primarily for transporting natural gas from a wellhead, or a metering point
20 for natural gas produced by one or more wells, to a point of entry into a
21 main transmission line, but shall not mean or include: (1) Lead lines from
22 the wellhead to the connection with the gathering system which are owned
23 by the producing person; ~~and~~ or (2) gathering systems under the
24 jurisdiction of the federal energy regulatory commission.

25 (e) "Operator" means a person who is responsible for the physical
26 operation and control of a well, gas gathering system or underground
27 porosity storage of natural gas.

28 (f) "Person" means any natural person, partnership, governmental or
29 political subdivision, firm, association, corporation or other legal entity.

30 (g) "Rig" means any crane machine used for drilling or plugging
31 wells.

32 (h) "Underground porosity storage" has the meaning provided by
33 K.S.A. 55-1,115, and amendments thereto.

34 (i) "Usable water" means water containing not more than 10,000
35 milligrams per liter, total dissolved solids.

36 (j) "Well" means a hole *or penetration of the surface of the earth,*

1 drilled or recompleted for the purpose of:

2 (1) Producing oil or gas;

3 (2) injecting fluid, air or gas in the ground in connection with the
4 exploration for or production of oil or gas;

5 (3) obtaining geological information in connection with the
6 exploration for or production of oil or gas by taking cores or through
7 seismic operations;

8 (4) disposing of fluids produced in connection with the exploration
9 for or production of oil or gas;

10 (5) providing cathodic protection to prevent corrosion to lines, *tanks*
11 *or structures*; or

12 (6) injecting or withdrawing natural gas.

13 Sec. 2. K.S.A. 55-178 is hereby amended to read as follows: 55-178.

14 Any person who has reason to believe that any *abandoned well* ~~which has~~
15 ~~been abandoned~~ is causing or is likely to cause the *loss of any usable*
16 *water or pollution of any usable water strata or supply or the imminent loss*
17 *or pollution of any usable water through downward drainage by reason of*
18 ~~the fact that, because the well has not been plugged, was improperly~~
19 ~~plugged; or that the plugging is no longer effective by reason of the~~
20 ~~deterioration of the pipe or by any other cause, may file a complaint in~~
21 writing, so alleging, with the commission secretary. Such complaint shall
22 state the location of the well and ~~the facts which caused why the~~
23 ~~complainant to believe~~ *believes* that such well is causing or is likely to
24 ~~cause the loss of any usable water or pollution of any usable water strata~~
25 ~~or supply or the imminent loss or pollution of any usable water.~~

26 (b) *Notwithstanding the provisions of K.S.A. 55-162(d), and*
27 *amendments thereto, upon receipt of any complaint filed pursuant to this*
28 *section, the commission may conduct an investigation for the purpose of*
29 *determining whether the well is an abandoned well causing loss of any*
30 *usable water or pollution of any usable water strata or the imminent loss*
31 *or pollution of any usable water. As a result of the investigation, the*
32 *commission may take any action or issue any order pursuant to the*
33 *provisions of the Kansas administrative procedure act as may be*
34 *appropriate. Proceedings for reconsideration and judicial review of any*
35 *order shall be conducted in the manner provided pursuant to K.S.A. 55-*
36 *606, and amendments thereto.*

37 (c) *As used in this section, "abandoned well" means a well that is not*
38 *claimed on an operator's license that is active with the commission and is*
39 *unplugged, improperly plugged or no longer effectively plugged.*

40 Sec. 3. K.S.A. 55-179 is hereby amended to read as follows: 55-179.

41 ~~(a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and~~
42 ~~amendments thereto, the commission shall make an investigation for the~~
43 ~~purpose of determining whether such abandoned well is polluting or is~~

1 likely to pollute any usable water strata or supply or causing the loss of
2 usable water, or the commission may initiate such investigation on its own
3 motion. If the commission determines:

4 ~~(1) That such abandoned well is causing or likely to cause such~~
5 ~~pollution or loss; and~~

6 ~~(2) (A) that no person is legally responsible for the proper care and~~
7 ~~control of such well; or (B) that the person legally responsible for the care~~
8 ~~and control of such well is dead, is no longer in existence, is insolvent or~~
9 ~~cannot be found, then, after completing its investigation, and as funds are~~
10 ~~available, the commission shall plug, replug or repair such well, or cause it~~
11 ~~to be plugged, replugged or repaired, in such a manner as to prevent any~~
12 ~~further pollution or danger of pollution of any usable water strata or supply~~
13 ~~or loss of usable water, and shall remediate pollution from the well,~~
14 ~~whenever practicable and reasonable. The cost of the investigation, the~~
15 ~~plugging, replugging or repair, and the remediation shall be paid by the~~
16 ~~commission from the well plugging assurance fund or the abandoned oil~~
17 ~~and gas well fund, as appropriate.~~

18 ~~(b) For the purposes of this section, a person who is legally~~
19 ~~responsible for the proper care and control of an abandoned well shall~~
20 ~~include, but is not limited to, one or more of the following: Any operator~~
21 ~~of a waterflood or other pressure maintenance program deemed to be~~
22 ~~causing pollution or loss of usable water; the current or last operator of the~~
23 ~~lease upon which such well is located, irrespective of whether such~~
24 ~~operator plugged or abandoned such well; the original operator who~~
25 ~~plugged or abandoned such well; and any person who without~~
26 ~~authorization tampers with or removes surface equipment or downhole~~
27 ~~equipment from an abandoned well.~~

28 ~~(c) Whenever the commission determines that a well has been~~
29 ~~abandoned and is causing or is likely to cause pollution of any usable~~
30 ~~water strata or supply or loss of usable water, and whenever the~~
31 ~~commission has reason to believe that a particular person is legally~~
32 ~~responsible for the proper care and control of such well, the commission~~
33 ~~shall cause such person to come before it at a hearing held in accordance~~
34 ~~with the provisions of the Kansas administrative procedure act to show~~
35 ~~cause why the requisite care and control has not been exercised with~~
36 ~~respect to such well. After such hearing, if the commission finds that the~~
37 ~~person is legally responsible for the proper care and control of such well~~
38 ~~and that such well is abandoned, in fact, and is causing or is likely to cause~~
39 ~~pollution of any usable water strata or supply or loss of usable water, the~~
40 ~~commission may make any order or orders prescribed in K.S.A. 55-162,~~
41 ~~and amendments thereto. Proceedings for reconsideration and judicial~~
42 ~~review of any of the commission's orders may be held pursuant to K.S.A.~~
43 ~~55-606, and amendments thereto.~~

1 ~~(d) For the purpose of this section, any well which has been~~
2 ~~abandoned, in fact, and has not been plugged pursuant to the rules and~~
3 ~~regulations in effect at the time of plugging such well shall be and is~~
4 ~~hereby deemed likely to cause pollution of any usable water strata or~~
5 ~~supply.~~

6 ~~(e) For the purpose of this section, the person legally responsible for~~
7 ~~the proper care and control of an abandoned well shall not include the~~
8 ~~landowner or surface owner unless the landowner or surface owner has~~
9 ~~operated or produced the well, has deliberately altered or tampered with~~
10 ~~such well thereby causing the pollution or has assumed by written contract~~
11 ~~such responsibility. (a) If the commission determines that a well is an~~
12 ~~abandoned well and has reason to believe that any person is legally~~
13 ~~responsible for the proper care and control of such well, the commission~~
14 ~~shall cause any such person to come before the commission in accordance~~
15 ~~with the provisions of the Kansas administrative procedure act. If the~~
16 ~~commission finds that any person is, in fact, legally responsible for the~~
17 ~~proper care and control of such well, the commission may issue any orders~~
18 ~~obligating any such person to plug the well or to otherwise cause such~~
19 ~~well to be brought into compliance with all rules and regulations of the~~
20 ~~commission and may order any other remedies as may be just and~~
21 ~~reasonable. Proceedings for reconsideration and judicial review of any~~
22 ~~order shall be conducted in the manner provided pursuant to K.S.A. 55-~~
23 ~~606, and amendments thereto.~~

24 ~~(b) A person that is legally responsible for the proper care and~~
25 ~~control of an abandoned well shall be limited to one or more of the~~
26 ~~following:~~

27 ~~(1) Any person, including any operator of an injection well, disposal~~
28 ~~well or pressure maintenance program, causing pollution or loss of usable~~
29 ~~water through the well;~~

30 ~~(2) the most recent operator to produce from or inject or dispose into~~
31 ~~the well, but if no production or injection has occurred, the person that~~
32 ~~caused the well to be drilled. A person shall not be legally responsible for~~
33 ~~a well pursuant to this paragraph if: (A) Such person can demonstrate that~~
34 ~~the well was physically operating or was in compliance with temporary~~
35 ~~abandonment regulations immediately before such person transferred or~~
36 ~~assigned the well to an operator with an active operator's license; and (B)~~
37 ~~a completed report of transfer was filed pursuant to commission~~
38 ~~regulations if transferred or assigned after August 28, 1997;~~

39 ~~(3) the person that most recently accepted responsibility for the well~~
40 ~~by accepting an assignment or by signing an agreement or other written~~
41 ~~document, between private parties, in which the person accepted~~
42 ~~responsibility. Accepting an assignment of a lease, obtaining a new lease~~
43 ~~or signing an agreement or any other written document between private~~

1 *parties shall not in and of itself create responsibility for a well located*
2 *upon the land covered thereby unless such instrument adequately*
3 *identifies the well and expressly transfers responsibility for such well;*

4 *(4) the operator that most recently filed a completed report of*
5 *transfer with the commission in which such operator accepted*
6 *responsibility for the well or, if no completed report of transfer has been*
7 *filed, the operator that most recently filed a well inventory with the*
8 *commission in which such operator accepted responsibility for the well.*
9 *Any modification made by commission staff of any such documents shall*
10 *not alter legal responsibility unless the operator was informed of such*
11 *modification and approved of the modification in writing;*

12 *(5) the operator that most recently plugged the well, if no commission*
13 *funds were used; and*

14 *(6) any person that does any of the following to an abandoned well*
15 *without authorization from the commission: (A) Tamper with or removes*
16 *surface or downhole equipment that was physically attached to the well or*
17 *inside the well bore; (B) intentionally destroys, buries or damages the*
18 *well; (C) intentionally alters the physical status of the well in a manner*
19 *that will result in more than a de minimis increase in plugging costs; or*
20 *(D) conducts any physical operations upon the well.*

21 *(c) If the commission determines that no person is legally responsible*
22 *for the proper care and control of an abandoned well, or that each legally*
23 *responsible person is dead, no longer in existence, insolvent or can no*
24 *longer be found, then the commission shall cause such well to be plugged*
25 *as funds become available. The cost of such plugging shall be paid by the*
26 *commission from the abandoned oil and gas well fund created pursuant to*
27 *K.S.A. 55-192, and amendments thereto.*

28 *(d) The validity of any order issued by the commission prior to July*
29 *1, 2020, shall not be affected by the provisions of this section but shall*
30 *apply to any determination of responsibility regarding any abandoned*
31 *well.*

32 *(e) As used in this section, "abandoned well" means a well that is not*
33 *claimed on an operator's license that is active with the commission and is*
34 *unplugged, improperly plugged or no longer effectively plugged.*

35 *Sec. 4. K.S.A. 55-180 is hereby amended to read as follows: 55-180.*

36 *(a) The fact that any person has initiated or supported a proceeding before*
37 *the commission, or has remedied or attempted to remedy the condition of*
38 *any well under the authority of this act, shall not be construed as an*
39 *admission of liability or received in evidence against such person in any*
40 *action or proceeding wherein responsibility for or damages from surface or*
41 *subsurface pollution, or injury to any usable water or oil-bearing or gas-*
42 *bearing formation, is or may become an issue; nor shall such fact be*
43 *construed as releasing or discharging any action, cause of action or claim*

1 against such person existing in favor of any third person for damages to
2 property resulting from surface or subsurface pollution, or injury to any
3 usable water or oil-bearing or gas-bearing formation.

4 (b) The commission, on its own motion, may initiate an investigation
5 into any pollution problem related to oil and gas activity. In taking such
6 action the commission may require or perform the testing, sampling,
7 monitoring or disposal of any source of groundwater pollution related to
8 oil and gas activities.

9 (c) *Any abandoned well may be plugged by any person if such: (1)*
10 *Person has written consent from a surface owner of the land upon which*
11 *the well is located or has other legal access to such land; and (2) plugging*
12 *is done by a person licensed by the commission and in accordance with all*
13 *rules and regulations of the commission.*

14 ~~(e)~~(d) The commission or any other person authorized by the
15 commission who has no obligation to plug, replug or repair any abandoned
16 well, but who does so in accordance with the provisions of this act, shall
17 have a cause of action for the reasonable cost and expense incurred in
18 plugging, replugging or repairing the well against any person who is
19 legally responsible for the proper care and control of such well pursuant to
20 the provisions of K.S.A. 55-179, and amendments thereto, and the
21 commission or other person shall have a lien upon the interest of such
22 obligated person in and to the oil and gas rights in the land and equipment
23 located thereon.

24 ~~(d)~~(e) Any moneys recovered by the commission in an action
25 pursuant to subsection ~~(e)~~(d) shall be remitted to the state treasurer in
26 accordance with the provisions of K.S.A. 75-4215, and amendments
27 thereto. Upon receipt of each such remittance, the state treasurer shall
28 deposit the entire amount in the state treasury to the credit of the
29 conservation fee fund, well plugging assurance fund or the abandoned oil
30 and gas well fund, as appropriate based on the fund from which the costs
31 incurred by the commission were paid.

32 (f) (1) *For any well that has been abandoned for five years or more,*
33 *any person who has no obligation to plug, replug or repair the well, that*
34 *causes such well to be plugged may seek reimbursement from the*
35 *abandoned oil and gas well fund created pursuant to K.S.A. 55-192, and*
36 *amendments thereto. The commission shall adopt rules and regulations for*
37 *determining whether, how and to what extent a request for reimbursement*
38 *shall be granted.*

39 (2) *The provisions of this subsection shall not entitle any person to*
40 *receive reimbursement for the plugging of any abandoned well that has*
41 *been abandoned for five years or more unless such reimbursement is*
42 *approved pursuant to the rules and regulations established by the*
43 *commission for such purpose.*

1 (g) No person shall become legally responsible for the care and
2 control of any well solely on the basis of having appropriately plugged a
3 well pursuant to this section.

4 (h) As used in this section, "abandoned well" means a well that is not
5 claimed on an operator's license that is active with the commission and is
6 unplugged, improperly plugged or no longer effectively plugged.

7 Sec. 5. K.S.A. 55-192 is hereby amended to read as follows: 55-192.

8 (a) There is hereby established in the state treasury the abandoned oil and
9 gas well fund.

10 (b) Moneys in the abandoned oil and gas well fund shall be used only
11 for the purpose of paying the costs of: (1) Investigation and remediation of
12 contamination sites; (2) investigation of abandoned wells, and their well
13 sites, drilling of which began before July 1, 1996; ~~and~~ (3) plugging,
14 replugging or repairing abandoned wells, and remediation of the well sites,
15 drilling of which began before July 1, 1996, in accordance with a
16 prioritization schedule adopted by the commission and based on the degree
17 of threat to public health or the environment; *and* (4) *any plugging cost or*
18 *reimbursement authorized by the commission pursuant to K.S.A. 55-179(c)*
19 *or 55-180, and amendments thereto.* No moneys credited to the fund shall
20 be used to pay administrative expenses of the commission or to pay
21 compensation or other expenses of employing personnel to carry out the
22 duties of the commission.

23 (c) On or before the 10th day of each month, the director of accounts
24 and reports shall transfer from the state general fund to the abandoned oil
25 and gas well fund interest earnings based on: (1) The average daily balance
26 of moneys in the abandoned oil and gas well fund for the preceding month;
27 and (2) the net earnings rate for the pooled money investment portfolio for
28 the preceding month.

29 (d) All expenditures from the abandoned oil and gas well fund shall
30 be made in accordance with appropriations acts upon warrants of the
31 director of accounts and reports issued pursuant to vouchers approved by
32 the chairperson of the state corporation commission or a person designated
33 by the chairperson.

34 Sec. 6. K.S.A. 55-150, 55-178, 55-179, 55-180 and 55-192 are hereby
35 repealed.

36 Sec. 7. This act shall take effect and be in force from and after its
37 publication in the statute book.