As Passed by the House

132nd General Assembly
Regular Session Sub. H. B. No. 225
2017-2018

Representative Thompson

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A BILL

To amend sections 1509.071, 1509.13, 1509.151, and 1509.34 of the Revised Code and to amend Sections 503.20 and 512.20 of Am. Sub. H.B. 49 of the 132nd General Assembly to modify the law governing idle and orphaned oil and gas wells.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.071, 1509.13, 1509.151, and 1509.34 of the Revised Code be amended to read as follows:

Sec. 1509.071. (A) When the chief of the division of oil and gas resources management finds that an owner has failed to comply with a final nonappealable order issued or compliance agreement entered into under section 1509.04, the restoration requirements of section 1509.072, plugging requirements of section 1509.12, or permit provisions of section 1509.13 of the Revised Code, or rules and orders relating thereto, the chief
shall make a finding of that fact and declare any surety bond filed to ensure compliance with those sections and rules forfeited in the amount set by rule of the chief. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the forfeiture. In addition, the chief may require an owner, operator, producer, or other person who forfeited a surety bond to post a new surety bond in the amount of fifteen thousand dollars for a single well, thirty thousand dollars for two wells, or fifty thousand dollars for three or more wells.

In lieu of total forfeiture, the surety or owner, at the surety's or owner's option, may cause the well to be properly plugged and abandoned and the area properly restored or pay to the treasurer of state the cost of plugging and abandonment.

(B)(1) All moneys collected because of forfeitures of bonds as provided in this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

For purposes of promoting the competent management and conservation of the state's oil and natural gas resources and the proper and lawful plugging of historic oil and gas wells for which there is no known responsible owner, the chief annually shall spend not less than fourteen forty-five per cent of the revenue credited to the oil and gas well fund during the previous fiscal year for both of the following purposes:

(1)(a) In accordance with division (D) of this section, to plug idle and orphaned wells or to restore the land surface properly as required in section 1509.072 of the Revised Code;
(2)(b) In accordance with division (E)(F) of this section, to correct conditions that the chief reasonably has determined are causing imminent health or safety risks at an idle and orphaned well or a well for which the owner cannot be contacted in order to initiate a corrective action within a reasonable period of time as determined by the chief.

(2) Expenditures from the fund shall be made only for lawful purposes. In addition, expenditures from the fund shall not be made to purchase real property or to remove a dwelling in order to access a well.

The director of budget and management, in consultation with the chief, shall establish an accounting code for purposes of tracking expenditures made as required under this division.

(C)(1) If a landowner discovers an idle and orphaned well or abandoned well on the landowner's real property and the landowner is not the owner of the well, the landowner may report the existence of the well in writing to the chief.

(2) If the chief receives a written report from a landowner of the existence of an idle and orphaned well, the chief shall inspect the well not later than thirty days after the date of receipt of the landowner's report.

(3) The chief shall establish a scoring matrix for use in determining the priority of plugging wells or restoring land surfaces at idle and orphaned well sites for purposes of this section. The matrix shall include a classification system that categorizes idle and orphaned wells as distressed-high priority, moderate-medium priority, and maintenance-low priority.

(4) The chief shall use the matrix developed under division (C)(3) of this section to prioritize plugging and land...
restoration projects under this section.

(D)(1) Upon determining that the owner of a well has failed to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned idle and orphaned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Make a reasonable attempt to determine from the records in the office of the county recorder of the county in which the well is located the identity of the current owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning a right or interest in the lease oil or gas mineral interests, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well. For purposes of division (D) (1)(a) of this section, the chief is not required to review records in the office of the county recorder that are older than forty years from the date on which the chief made the determination that the well is an idle and orphaned well.

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate. Each person identified in
division (D)(1)(a) of this section;

(c) Mail Include in the notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, a statement informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at remove that equipment from the well site at the person's own expense in order to avoid forfeiture of the equipment to this state;

(d) Publish notice in a newspaper of general circulation in the county where the well is located that the well is to be plugged.

(2) If none the current address of a person identified in division (D)(1)(a) of this section cannot be determined, or if a notice provided by mail to a person under division (D)(1)(b) of this section is returned undeliverable, the notice published under division (D)(1)(d) of this section constitutes sufficient notice to the person.

(3) If none of the persons described in division (C)(1)(c) (D)(1)(a) of this section plugs removes equipment from the well within sixty thirty days after the mailing of the notice required by that division or publication in a newspaper of general circulation, whichever is later, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures (E) The chief may expend money from the oil and gas well fund for the purpose of division (B)(1)(a) of
this section, and such expenditures shall be made in accordance
with either of the following:

(1) The chief may make expenditures may be made pursuant
to contracts entered into by either the chief or another agency
of the state with persons who agree to furnish all of the
materials, equipment, work, and labor as specified and provided
in such a contract for activities associated with the
restoration or plugging of a well as determined by the chief. If
another agency of the state enters into the contract, the chief
shall prepare the scope of work for the restoration or plugging
of the well. The activities may include excavation to uncover a
well, geophysical methods to locate a buried well when clear
evidence of leakage from the well exists, cleanout of wellbores
to remove material from a failed plugging of a plugged well,
plugging operations, installation of vault and vent systems,
including associated engineering certifications and permits,
restoration of property, and repair of damage to property that
is caused by such activities. Expenditures The chief shall not
be used for salaries, maintenance, equipment,
or other administrative purposes, except for costs directly
attributed to the plugging of an idle and orphaned well. Agents
or employees of persons contracting with the chief for a
restoration or plugging project may enter upon any land, public
or private, on which the well is located for the purpose of
performing the work. Prior to such entry, the chief shall give
to the following persons written notice of the existence of a
contract for a project to restore a location or plug a well, the
names of the persons with whom the contract is made, and the
date that the project will commence: the owner of the well, the
owner of the land upon which the well is located, the owner of
agents of adjoining land, and, if the well is located in the
same township as or in a township adjacent to the excavations and workings of a mine and the owner or lessee of that mine has provided written notice identifying those townships to the chief at any time during the immediately preceding three years, the owner or lessee of the mine. The chief may include in the notice to the owner or lessee of the mine additional information, such as authorization to plug an idle and orphaned well under section 1509.151 of the Revised Code.

(2)(a) The owner of the land on which a well is located who has received notice under division (C)(D)(1)(b) of this section may plug the well and be reimbursed by the division of oil and gas resources management for the reasonable cost of plugging the well. In order to plug the well, the landowner shall submit an application to the chief on a form prescribed by the chief and approved by the technical advisory council on oil and gas created in section 1509.38 of the Revised Code. The application, at a minimum, shall require the landowner to provide the same information as is required to be included in the application for a permit to plug and abandon under section 1509.13 of the Revised Code. The application shall be accompanied by a copy of a proposed contract to plug the well prepared by a contractor regularly engaged in the business of plugging oil and gas wells. The proposed contract shall require the contractor to furnish all of the materials, equipment, work, and labor necessary to plug the well properly and shall specify the price for doing the work, including a credit for the equipment appurtenant to the well that was forfeited to the state through the operation of division (C)(2)(D)(3) of this section. The contractor shall be insured and bonded.

Expenditures under division (D)(E)(2)(a) of this section shall be consistent with the expenditures for activities described in...
division (D)(E)(1) of this section. The application also shall be
accompany by the permit fee required by section 1509.13 of the
Revised Code unless the chief, in the chief's discretion, waives
payment of the permit fee. The application constitutes an
application for a permit to plug and abandon the well for the
purposes of section 1509.13 of the Revised Code and the
applicant is not required to submit the fee otherwise required
under that section.

(b) Within thirty days after receiving an application and
accompanying proposed contract under division (D)(E)(2)(a) of
this section, the chief shall determine whether the plugging
would comply with the applicable requirements of this chapter
and applicable rules adopted and orders issued under it and
whether the cost of the plugging under the proposed contract is
reasonable. If the chief determines that the proposed plugging
would comply with those requirements and that the proposed cost
of the plugging is reasonable, the chief shall notify the
landowner of that determination and issue to the landowner a
permit to plug and abandon the well under section 1509.13 of the
Revised Code. Upon approval of the application and proposed
contract, the chief shall transfer ownership of the equipment
appurtenant to the well is transferred to the landowner. The
chief may disapprove an application submitted under division (D).
(E)(2)(a) of this section if the chief determines that the
proposed plugging would not comply with the applicable
requirements of this chapter and applicable rules adopted and
orders issued under it, that the cost of the plugging under the
proposed contract is unreasonable, or that the proposed contract
is not a bona fide, arm's length contract.

(c) After receiving the chief's notice of the approval of
the application and permit to plug and abandon a well under
division (D)(E)(2)(b) of this section, the landowner shall enter into the proposed contract to plug the well.

(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the chief shall reimburse the landowner for the cost of the plugging and restoration as set forth in the proposed contract approved by the chief. The reimbursement shall be paid from the oil and gas well fund. If the chief determines that the plugging was not completed in accordance with the applicable requirements, the chief shall not reimburse the landowner for the cost of the plugging, and the landowner or the contractor, as applicable, promptly shall transfer back to this state title to and possession of the equipment appurtenant to the well that previously was transferred to the landowner under division (D)(E)(2)(b) of this section. If any such equipment was removed from the well during the plugging and sold, the landowner shall pay to the chief the proceeds from the sale of the equipment, and the chief promptly shall pay the moneys so received to the treasurer of state for deposit into the oil and gas well fund.

The chief may establish an annual limit on the number of wells that may be plugged under division (D)(E)(2) of this section or an annual limit on the expenditures to be made under that division. The chief may reject an application submitted under division (E)(2) of this section if the chief determines that the plugging of other wells take priority.

As used in division (D)(E)(2) of this section, "plug" and "plugging" include the plugging of the well, installation of a vault and vent, restoration, and the restoration of the land...
surface disturbed by the plugging.

(F) Expenditures from the oil and gas well fund for the purpose of division (B)(2)(1)(b) of this section may be made pursuant to contracts entered into by either the chief or another agency of the state with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that an emergency situation exists requiring immediate action for the correction of the applicable health or safety risk. A contract or purchase of materials for purposes of addressing the emergency situation is not subject to division (B) of section 127.16 of the Revised Code. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

(F)(2) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(1)(b) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

(G) Contracts entered into by either the chief or another agency of the state under this section are not subject to any of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the
(3) Section 4733.17 of the Revised Code.

(G) The owner of land on which a well is located who has received notice under division (D)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under section 1509.31 of the Revised Code and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.

The chief shall approve or disapprove by order the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as
having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

(I) The chief may engage in cooperative projects under this section with any agency of this state, another state, or the United States; any other governmental agencies; or any state university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

(J)(1) On or before the close of each calendar quarter, the chief shall submit a written report to the technical advisory council established under section 1509.38 of the Revised Code describing the efforts of the division of oil and gas resources management to plug idle and orphaned wells during the immediately preceding calendar quarter. The chief also shall include in the report all of the following information:

(a) The total number of known idle and orphaned wells in the state and the total number in each county of the state;

(b) The total number of newly discovered idle and orphaned wells during the immediately preceding calendar quarter;

(c) The total number of wells plugged in accordance with
(d) The total number of wells plugged in accordance with this section and the estimated average and indirect costs of plugging activities conducted under this section prior to the date of the report;

(e) The number of wells approved for plugging in accordance with this section and the estimated average and indirect costs of plugging activities conducted under this section during the immediately preceding calendar quarter.

(2) Not later than the thirty-first day of March of each year, the chief and the technical advisory council shall jointly provide to the speaker of the house of representatives and the chair of the committee of the house of representatives responsible for energy and natural resources issues a report containing, at a minimum, the information required to be included in the quarterly reports during the previous one-year period.

Sec. 1509.13. (A) No person shall plug and abandon a well without having a permit to do so issued by the chief of the division of oil and gas resources management. The permit shall be issued by the chief in accordance with this chapter and shall be valid for a period of twenty-four months from the date of issue.

(B) Application by the owner for a permit to plug and abandon shall be filed as many days in advance as will be necessary for an oil and gas resources inspector or, if the well is located in a coal bearing township, both a deputy mine inspector and an oil and gas resources inspector to be present at the plugging. The application shall be filed with the chief
upon a form that the chief prescribes and shall contain the following information:

(1) The name and address of the owner;

(2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as that agent.

(3) The location of the well identified by section or lot number, city, village, township, and county;

(4) Designation of well by name and number;

(5) The total depth of the well to be plugged;

(6) The date and amount of last production from the well;

(7) Other data that the chief may require.

(C) Except as otherwise provided in division (E)(2)(a) of section 1509.071 of the Revised Code, if oil or gas has been produced from the well, the application shall be accompanied by a fee of two hundred fifty dollars. If a well has been drilled in accordance with law and the permit is still valid, the permit holder may receive approval to plug the well from an oil and gas resources inspector so that the well can be plugged and abandoned without undue delay. Unless waived by an oil and gas resources inspector, the owner of a well or the owner's authorized representative shall notify an oil and gas resources inspector at least twenty-four hours prior to the commencement of the plugging of a well. No well shall be plugged and abandoned without an oil and gas resources inspector present unless permission has been granted by the chief. The owner of a well that has produced oil or gas shall give written notice at
the same time to the owner of the land upon which the well is located and to all lessors that receive gas from the well pursuant to a lease agreement. If the well penetrates or passes within one hundred feet of the excavations and workings of a mine, the owner of the well shall give written notice to the owner or lessee of that mine, of the well owner’s intention to abandon the well and of the time when the well owner will be prepared to commence plugging it.

(D) An applicant may file a request with the chief for expedited review of an application for a permit to plug and abandon a well. The chief may refuse to accept a request for expedited review if, in the chief’s judgment, acceptance of the request will prevent the issuance, within twenty-one days of filing, of permits for which applications filed under section 1509.06 of the Revised Code are pending. In addition to a complete application for a permit that meets the requirements of this section and the permit fee prescribed by this section, if applicable, a request shall be accompanied by a nonrefundable filing fee of five hundred dollars unless the chief has ordered the applicant to plug and abandon the well. When a request for expedited review is filed, the chief shall immediately begin to process the application and shall issue a permit within seven days of the filing of the request unless the chief, by order, denies the application.

(E) This section does not apply to a well plugged or abandoned in compliance with section 1571.05 of the Revised Code.

Sec. 1509.151. If a mine operator is about to encounter or encounters an idle and orphaned well whose existence is detrimental to the mining operation, the mine operator may
plug the well at his own expense in accordance with all statutes and rules governing the plugging of abandoned wells that apply to any plugging under this section chapter and rules adopted under it.

Sec. 1509.34. (A)(1) If an owner fails to pay the fees imposed by this chapter, or if the chief of the division of oil and gas resources management incurs costs under division (E)(F) of section 1509.071 of the Revised Code to correct conditions associated with the owner's well that the chief reasonably has determined are causing imminent health or safety risks, the division of oil and gas resources management shall have a priority lien against that owner's interest in the applicable well in front of all other creditors for the amount of any such unpaid fees and costs incurred. The chief shall file a statement in the office of the county recorder of the county in which the applicable well is located of the amount of the unpaid fees and costs incurred as described in this division. The statement shall constitute a lien on the owner's interest in the well as of the date of the filing. The lien shall remain in force so long as any portion of the lien remains unpaid or until the chief issues a certificate of release of the lien. If the chief issues a certificate of release of the lien, the chief shall file the certificate of release in the office of the applicable county recorder.

(2) A lien imposed under division (A)(1) of this section shall be in addition to any lien imposed by the attorney general for failure to pay the assessment imposed by section 1509.50 of the Revised Code or the tax levied under division (A)(5) or (6) of section 5749.02 of the Revised Code, as applicable.

(3) If the attorney general cannot collect from a severer
or an owner for an outstanding balance of amounts due under section 1509.50 of the Revised Code or of unpaid taxes levied under division (A)(5) or (6) of section 5749.02 of the Revised Code, as applicable, the tax commissioner may request the chief to impose a priority lien against the owner's interest in the applicable well. Such a lien has priority in front of all other creditors.

(B) The chief promptly shall issue a certificate of release of a lien under either of the following circumstances:

(1) Upon the repayment in full of the amount of unpaid fees imposed by this chapter or costs incurred by the chief under division (E)-(F) of section 1509.071 of the Revised Code to correct conditions associated with the owner's well that the chief reasonably has determined are causing imminent health or safety risks;

(2) Any other circumstance that the chief determines to be in the best interests of the state.

(C) The chief may modify the amount of a lien under this section. If the chief modifies a lien, the chief shall file a statement in the office of the county recorder of the applicable county of the new amount of the lien.

(D) An owner regarding which the division has recorded a lien against the owner's interest in a well in accordance with this section shall not transfer a well, lease, or mineral rights to another owner or person until the chief issues a certificate of release for each lien against the owner's interest in the well.

(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit
of the oil and gas well fund created in section 1509.02 of the Revised Code.

Section 2. That existing sections 1509.071, 1509.13, 1509.151, and 1509.34 of the Revised Code are hereby repealed.

Section 3. That Section 503.20 of Am. Sub. H.B. 49 of the 132nd General Assembly be amended to read as follows:

Sec. 503.20. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Except as otherwise provided in this section, an appropriation in this act or any other act may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or by any other court of competent jurisdiction in connection with civil actions against the state. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, or for payments under lease agreements relating to, or debt service on, bonds, notes, or other obligations of the state. This authorization, and any transfers authorized under this section, do not apply to appropriations from the Oil and Gas Well Fund (Fund 5180) created in section 1509.02 of the Revised Code. Notwithstanding any other statute to the contrary, this authorization includes appropriations from funds into which proceeds of direct obligations of the state are deposited only to the extent that the judgment, settlement, or administrative award is for, or represents, capital costs for which the appropriation may otherwise be used and is consistent with the purpose for which any related obligations were issued or entered into. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit,
and is not intended to waive or compromise any defense or right available to the state in any suit against it.

Section 4. That existing Section 503.20 of Am. Sub. H.B. 49 of the 132nd General Assembly is hereby repealed.

Section 5. That Section 512.20 of Am. Sub. H.B. 49 of the 132nd General Assembly be amended to read as follows:

Sec. 512.20. CASH TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-GRF FUNDS

Notwithstanding any provision of law to the contrary, the Director of Budget and Management may transfer up to $200,000,000 in cash, during the biennium ending June 30, 2019, from non-General Revenue Funds that are not constitutionally restricted to the General Revenue Fund. This authorization, and any transfers authorized under this section, do not apply to appropriations from the Oil and Gas Well Fund (Fund 5180), created in section 1509.02 of the Revised Code.

Section 6. That existing Section 512.20 of Am. Sub. H.B. 49 of the 132nd General Assembly is hereby repealed.