



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 790

PRINTERS NO. 1446

PRIME SPONSOR: Scarnati

### COST / (SAVINGS)

FUND	FY 2019/20	FY 2020/21
General Fund	\$5,000,000	See Fiscal Impact
Well Plugging Account; Abandoned Well Plugging Fund; Orphan Well Plugging Fund; Marcellus Legacy Fund	See Fiscal Impact	See Fiscal Impact

**SUMMARY:** Senate Bill 790, Printer's Number 1446, establishes the Conventional Oil and Gas Wells Act to provide for the regulation of conventional well drilling activities and plugging abandoned wells in the Commonwealth.

**ANALYSIS:** This bill establishes the Conventional Oil and Gas Wells Act, specifically to restore regulatory provisions of the Oil and Gas Act of 1984 and provide a framework specific to conventional wells and well sites. The reason for this is because both unconventional and conventional wells are currently permitted activities with the same regulatory requirements under Act 13 of 2012.

The legislation establishes several new chapters to address conventional well drilling activities and related issues such as permitting and siting requirements; protection of groundwater and water sources; well plugging requirements; and enforcement and funding provisions. The department will adopt regulations to establish the various requirements and protections related to conventional gas drilling activities.

For example, Chapter 3 provides that the well permit shall be accompanied by a fee, established by regulation of the department, which bears a reasonable relationship to the cost of administering the Act. A person is required to obtain a well permit to drill or alter a well and well permits shall expire three years after issuance unless the operations for drilling are commenced within the period and pursued with due diligence or unless the permit is renewed.

The Environmental Quality Board (EQB) may establish by regulation requirements for permitting and operation of abandoned or orphan wells, which is defined as a well abandoned prior to April 18, 1985 that has not been affected or operated by the present owner or operator. Operators shall undertake reasonable diligence to identify abandoned, orphan, active or inactive wells prior to hydraulic fracturing. A person who proposes to adopt and operate an orphan well is required to obtain a permit from DEP. No fee is required for the identification.

Bonding requirements to cover each well shall be \$2,500 per well for at least two years, and the board may adjust the amount every two years. An owner may also file a blanket bond amount totaling \$25,000 to cover all of the owner's wells. The EQB shall also establish a well permit fee for each application under this section which bears a reasonable relationship to the cost of administering the program.

The bill provides for well plugging requirements, specifically the owner or operator is required to plug a well they are abandoning unless DEP has granted inactive status or the well has been approved by DEP as an orphan well. The bill provides for plugging requirements for gas wells drilled prior to January 30, 1956, for areas underlain by coal, for abandoned wells and for wells abandoned immediately after completion of drilling.

Persons who voluntarily plug an orphan well may apply to the Commonwealth Financing Authority for grant payment from the Marcellus Legacy Fund. However, the authority shall not provide any grant under this section unless the department certifies that the well was plugged in accordance with law on forms developed by the department.

The Commonwealth Financing Authority shall give priority consideration to grant applications submitted under this section and may annually award grants, subject to the availability of funds, in the following amounts, which shall be adjusted annually from the effective date of this section to reflect increases in the Consumer Price Index:

- (i) for each well 2,000 feet or less below ground surface, \$10,000;
- (ii) for each well between 2,001 and 3,000 feet below ground surface, \$20,000; or
- (iii) for each well greater than 3,000 feet below ground surface, \$30,000.

Chapter 5 addresses enforcement and remedies the department may pursue against a person or municipality for violation of the act. The bill provides two types of violations: a general violation and a willful violation. The department may assess a civil penalty after a hearing regardless of whether or not the violation was willful. The civil penalty shall not exceed \$25,000 plus \$1,000 for each day during which the violation continues. The penalty shall be deposited into the Orphan Well Plugging Fund.

DEP is required to post inspection reports on its publicly accessible internet website and shall remove a notice of violation issued in error from the public record as soon as possible. The act also does not affect, limit or impair the authority of DEP to enforce the following: Clean Streams Law (Act 394 of 1937); Air Pollution Control Act (Act 787 of 1959); Dam Safety and Encroachments Act (Act 325 of 1978); and Solid Waste Management Act (Act 97 of 1980).

Chapter 7 outlines related funds of the program and activities. For example, fines and civil penalties collected under this act shall be deposited in the Abandoned Well Plugging Fund. Other than permit fee surcharges under this section, permit fees collected are appropriated to the department to carry out the provisions of this act.

A surcharge fee of \$50 is added to the permit fee under section 301 for new wells. The surcharge shall be paid into the Abandoned Well Plugging Fund.

A surcharge fee of \$100 for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production are added to the permit fee under section 301 for new wells. The surcharges shall be deposited into the Orphan Well Plugging Fund. If an operator rehabilitates a well abandoned by another operator or an orphan well, the permit fee and the surcharge for the well shall be waived.

The bill provides a \$5 million General Fund appropriation to the Department of Environmental Protection for meeting its regulatory duties related to the conventional oil and natural gas industry. This shall also be included in the Governor's annual budget submitted to the General Assembly each year as a request for a separate line item of not less than \$5 million to DEP to meet its obligations under this program.

It also states that the provisions of Title 58 (relating to oil and gas) are repealed insofar as they relate to conventional wells. All acts and parts of acts are repealed insofar as they are inconsistent with this Act. All conventional oil and gas well activities already initiated shall continue and remain in full force and effect and may be completed under this Act. It also includes the provision that requirements of the Coal and Gas Resource Coordination Act shall apply to this act for the issuance of a permit.

This legislation would take effect immediately upon enactment.

**FISCAL IMPACT:** The bill appropriates \$5 million from the General Fund to the Department of Environmental Protection to meet its obligations with respect to the conventional oil and natural gas industry. The bill also provides that the Governor's annual budget submission to the General Assembly include a separate line item request of not less than \$5 million for the department to meet its obligations under this program. Any such funding in future fiscal years would need to be enacted by the General Assembly in a General Appropriations bill.

The bill also outlines funding and revenues related to the plugging of abandoned wells. Persons who voluntarily plug an orphan well may apply to the Commonwealth Financing Authority (CFA) for grant payments from the Marcellus Legacy Fund of \$10,000, \$20,000 or up to \$30,000 depending on the depth of the well below ground surface. The CFA's Orphan and Abandoned Well Plugging (OAWP) program previously awarded \$658,000 from the Marcellus Legacy Fund in FY 2017-18 and FY 2018-19.

Additional revenues in the form of surcharges are also added to permit fees for new wells. This includes a surcharge fee of \$50 that shall be paid into the Abandoned Well Plugging Fund, while there will be an additional surcharge fee of \$100 for wells to be drilled for oil production and a \$200 surcharge for wells to be drilled for gas production that shall be deposited into the Orphan Well Plugging Fund. However, if an operator rehabilitates a well abandoned by

another operator or an orphan well, the permit fee and the surcharge for the well shall be waived.

Both unconventional and conventional wells are currently permitted activities under Act 13 of 2012 with permit fee revenues being deposited into the department's Well Plugging Account. By establishing the Conventional Oil and Gas Wells Act, the department is required to establish a commensurate well permit and fee structure to continue the program and cover program administration costs. The department may collect additional revenue as a result of this act and the amount is dependent upon the number of operators in violation of the new requirements.

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**DATE:** January 21, 2020

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*