HOUSE RESEARCH ORGANIZATION bill analysis | 4/26/95 | HB 2731 Craddick (CSHB 2731 by Jackson)

SUBJECT: Texas Experimental Research and Recovery Activity (TERRA) program

COMMITTEE: Energy Resources — committee substitute reported

VOTE: 6 ayes — Holzheauser, West, Hawley, Jackson, Smithee, Torres

0 nays

3 absent — Dutton, Hirschi, Ramsay

WITNESSES: For — None

Against — None

On — Texas Railroad Commissioners Barry Williamson, Charles Matthews; David Garlick, TRC Oil and Gas Division.

DIGEST: CSHB 2731 would create the Texas Experimental Research and Recovery Activity (TERRA), allowing the Texas Railroad Commission (TRC) to maintain nonpolluting wells that are about to be plugged and license their use, and would establish a TERRA fund in the State Treasury.

TRC could enter into an agreement with the owner of a mineral interest owner to act as an agent for the owner to maintain and license a wellbore, the hole drilled for oil and gas exploration. The owner would not be required to maintain or plug the well, but would have to allow for the possibility that the oil or gas may be recovered while the well is in TERRA.

TERRA could accept only wells that were free of obstructions and mechanically sound and in compliance with state law and TRC rules. The operator of the well would have to pay a fee set by TRC, not to exceed 75 percent of TRC's estimated costs of plugging the wellbore. The operator's fee would be refunded if the wellbore is not accepted into TERRA. The offer of a wellbore to TERRA or its acceptance by TRC would not constitute an abandonment of the wellbore or of the lease by the mineral interest owner.

Money from the oil-field cleanup fund would be transferred to the TERRA fund to be used to plug wellbores. After September 1, 1999, TRC could not accept a wellbore into TERRA unless the TERRA fund balance exceeded the total estimated plugging cost of all TERRA wells.

TRC would be responsible for plugging wells in TERRA. However, if the operator of the well misrepresented the condition of the well to TRC, the operator could be required to plug the well. In addition, acceptance into the TERRA program would not bar proceedings against a well operator for violations of a TRC rule or state law.

CSHB 2731 would authorize the TRC to license a TERRA wellbore to research organizations and operators proposing to conduct tests or gather data that could result in the resumption of production from the wellbore or the tract on which it was located.

Those applying for licenses would pay a non-refundable administrative fee of $50 per wellbore or $500 for each (multi-wellbore) tract involved in the application, whichever was less.

A license would have to state its duration, the specific approved uses of the wellbore and conditions imposed by TRC. Licenses would be renewable; however, a previously filed application for release of a wellbore from TERRA would have priority over renewal requests. If the conditions of the license were not met, the license could be revoked, and TRC could impose penalties.

Licensees could use equipment found at the well site, but unless otherwise agreed, would have to re-install the equipment if they removed it. Licensees would also be required to restore the land surface to the condition it was before the licensed use commenced, unless otherwise agreed. Neither TRC nor its licensees would be responsible to the mineral interest owner for improving the condition of the well or for acting as a fiduciary for the mineral interest owner.

Half of the oil or gas proceeds produced during a test of the wellbore under TERRA could be kept by the licensee, with the other half going to the mineral interest owner or the state depending on who owned the land on which the well is drilled.

During a production test from a wellbore, licensees would not be required to get a certificate from TRC showing compliance with oil and gas conservation laws, but they would have to be in compliance with such laws. TRC could take action to prevent pollution.

Mineral interest owners bound by a TERRA agreement would have to pay a fee to TRC based on the estimated cost of plugging the well. However, a mineral interest owner not bound by a TERRA agreement, such as those operators planning to make use of nearby wells who need to plug the TERRA wellbores for operational reasons, would not have to pay a fee. .

The Administrative Procedure Act would apply to the proceedings, hearings and decisions made by TRC with regard to TERRA.

The state, TRC and license holders would be immune from liability from claims arising because a TERRA wellbore was improperly plugged or because a TERRA wellbore had decreased the value of the mineral estate on which the TERRA wellbore was located. TRC would be immune from liability for charges of wrongful death, injury, or harm to persons, property, or interests caused or suffered by a license holder.

TRC would be authorized to certify that oil and gas produced from TERRA wells and former TERRA wells resuming production after two years in TERRA qualify for exemptions from the oil and gas production taxes. The oil or gas producer would apply to the comptroller for a tax exemption upon receiving certification from TRC. Persons seeking a tax exemption, but whose certification was been revoked, would be subject to penalties not to exceed $10,000 and the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

The TERRA fund in the Treasury would receive fees for TERRA licenses, money in the oil-field cleanup fund, payments made by mineral owners to place wells into TERRA, administrative penalties received from license holders who violate the license conditions and fees for wells brought from TERRA, proceeds from the sale of salvaged equipment private contributions and grants and certain other funds. Money from the oil-field cleanup fund could not be placed in TERRA except for cleanup fund money transferred to TERRA when a well scheduled for plugging was transferred to TERRA.

The bill would take effect January 1, 1996.

SUPPORTERS SAY:

CSHB 2731 would give Texas access to its potentially largest source of oil, unrecovered production left in place when wellbores are plugged and abandoned. CSHB 2731 would create the Texas Experimental Research Activity or TERRA, an innovative program into which certain non-polluting wells could be placed for research and possible future development. Oil price movements or technological developments in the next 20 or 30 years are likely to turn non-producing but mechanically sound and non-polluting wellbores into producing assets of great value to the state and its people.

TERRA makes economic sense. It would not cost the taxpayer because it would rely solely on voluntary payments and licensing fees charged for access to TERRA wellbores. The Railroad Commission estimates that TERRA could bring in as much as $97 million in additional state tax revenue once previously abandoned wells are brought back into production.

TERRA makes environmental sense. It would provide a way to preserve operationally sound wellbores for future use while at the same time ensuring future plugging if a wellbore is not reused. If no one ever licensed a well out of TERRA, TRC could at any time not take any more wells. Revenue from the oil field cleanup fund would be used for plugging the unused wells.

The TERRA program is part of the second phase of the Railroad Commission's incentive package to stimulate development of new wells and the continued production from marginal leases.

OPPONENTS SAY:

No apparent opposition.

NOTES:

The substitute deleted a section in the original bill relating to oil and gas well logs filed with the Railroad Commission.