

- 5) Repeals the exclusion of self-insurance or corporate guarantee as an acceptable form of financial assurance that a person who acquires the right to operate a well may provide in lieu of an existing bonding requirement and additionally authorizes an operator to, in lieu of the bonding requirement and with the written approval of CalGEM, provide the required security through a specified means of financial assurance, including pursuant to the above-referenced process for obtaining division approval for self-insurance or a corporate guarantee applicable to existing operators, as provided.
- 6) Exempts from specified bonding and financial assurance requirements (a) a person who acquires the rights to a well or production facility for the sole purpose of plugging and abandoning that well or decommissioning that production facility, as specified, or (b) an operator with additional security approved by CalGEM, as specified.
- 7) Specifies numerous conditions and requirements related to a person acquiring the rights to a well or production facility for the sole purpose of plugging and abandoning that well or decommissioning that production facility, including, among other things, that the well or production facility not be used for oil or gas production or injection, that CalGEM has the authority to require an acquiring person who fails to commence operations within a specified timeframe to require the person to file financial assurance, and that a person who was responsible as an owner or operator of the well or production facility before an acquisition remain responsible for the well or facility and any unfunded costs associated with plugging and abandonment of the well or facility.
- 8) Requires CalGEM, on and after January 1, 2028, to include in its annual report to the Legislature, as part of its existing reporting on well transfer activity and financial assurance, specified information, including, among other things, the number and location of wells and production facilities acquired for the sole purpose of plugging and abandoning that well or decommissioning the production facility, the status of plugging and abandonment or decommissioning operations for those wells and facilities, and a description of any wells or production facilities located in, or within one mile of, a disadvantaged community. Specifies that the information reported be based on data available to CalGEM and not require the division to conduct new studies or analysis beyond those already required under existing law.
- 9) Becomes operative only if AB 2461 (Hart) of the current legislative session is enacted and becomes effective on or before January 1, 2027. AB 2461 expands bonding requirements for a person that acquires the right to control a well or production facility.

FISCAL EFFECT:

CalGEM estimates ongoing annual costs of about \$1.4 million (Oil, Gas and Geothermal Administrative Fund) for one attorney, four associate oil and gas engineers, and one analyst for additional operator communication, meetings, document review and preparation, and financial reviews and analysis. Specific tasks include, among other things, compiling documentation and evidence supporting total liability cost estimates; researching and gathering operator asset data and performing geologic and engineering work for reports, inspections, and cost estimates; updating previously completed cost estimates to reflect current costs, assets, and site conditions; coordinating field inspections on identified transfer wells and production facilities, as needed; maintaining ongoing communication with operators to increase financial assurances; developing notices for additional bonding; and processing transfers and bonds. The committee notes

CalGEM may incur additional costs to determine whether purchasers qualify for the "sole purpose" exemption and to comply with the bill's reporting requirements.

COMMENTS:

1) **Purpose.** According to the author:

AB 2716 delivers the legislative revisions that Governor Newsom called for when he signed [AB 1167 (Carillo), Chapter 359, Statutes of 2023] by giving oil and gas well operators greater financial flexibility to cover the cost of plugging idle wells after a transfer of ownership, reducing the occurrence of orphaned wells and protecting California's environment and public health.

2) **Background.** An operator who engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing of a well must file with the State Oil and Gas Supervisor an individual indemnity bond for each well in the following amounts: \$25,000 for each well that is less than 10,000 feet deep and \$40,000 for each well that is 10,000 or more feet deep. Operators are allowed to file a blanket indemnity bond in lieu of an individual indemnity bond for each operation, and the conditions and amounts for blanket bonds are specified in statute.

To ensure the sufficiency of these indemnity bonds, the Legislature gave CalGEM authority in SB 551 (Jackson), Chapter 774, Statutes of 2019, to develop criteria to be used by operators for estimating costs to plug and abandon wells and decommission attendant production facilities, including site remediation. SB 551 also requires each operator of an oil or gas well to submit a report to the supervisor that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including site remediation, on a schedule determined by the supervisor.

Further, AB 1057 (Limón), Chapter 771, Statutes of 2019, authorized CalGEM to require an operator to provide additional financial security based on CalGEM's evaluation of the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources. The required amount of additional security is based on CalGEM's estimation of the reasonable costs to the state for properly plugging and abandoning all the operator's wells and decommissioning any attendant production facilities, or \$30 million, whichever is less.

AB 1167 requires a person who acquires the right to operate a well or production facility to file with the supervisor a bond for the well or production facility in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment and site restoration.

Among others in support, the California Independent Petroleum Association (CIPA) argues this bill "directly addresses the serious fiscal impacts created by AB 1167." CIPA notes that the Department of Finance opposed AB 1167 and warned the bill could harm the state financially, and that Governor Newsom, in signing AB 1167, further acknowledged the Legislature may need to revisit the law if it produced unintended consequences.

Signal Hill Petroleum Inc. (SHP), writing in support, notes that since AB 1167 took effect, no active wells subject to the law have been transferred for continued operation. SHP writes, “The requirement that an acquiring operator post a full upfront indemnity bond covering 100% of estimated plugging costs before any transfer can close has proven unworkable,” and that AB 1167 has not protected taxpayers from cleanup liability; instead, “it has frozen the market for oil and gas assets entirely, trapping wells with their current operators regardless of whether those operators have the financial capacity to maintain them, comply with regulatory requirements, or eventually plug them.”

SHP argues this bill addresses the above-described problem in three ways. First, it expands the menu of financial assurance instruments an acquiring operator may use to satisfy the transfer bonding requirement. Second, the bill creates a streamlined pathway for parties acquiring wells solely to plug, abandon, and restore well sites. Third, the bill recognizes compliance with CalGEM’s existing risk-based additional security framework under AB 1057. Finally, SHP cites examples under the state’s existing regulatory framework of significant protections against orphan well liabilities, arguing this bill “builds on this progress by restoring responsible operators’ ability to acquire, maintain, and retire wells under enforceable plans.”

Writing in opposition, a coalition of environmental and environmental justice organizations argues this bill, by requiring “additional cumbersome” financial analyses, “significantly increases the administrative and fiscal burden on [CalGEM], far beyond its current capacity and expertise.” The coalition notes the bill requires CalGEM to consider, on a case-by-case basis, whether oil and gas operators may use corporate guarantees or self-insurance “to substitute for third party guaranteed financial assurance requirements that would otherwise apply to oil and gas activities and transactions.” Among other things, the coalition argues this bill creates a “sweeping loophole in full financial assurance requirements for companies that claim the “sole purpose” of well acquisition to plug and abandon” and that the bill “exposes the state and the public to significant additional fiscal costs in the near and long term, increasing the risk billions in private industry cleanup costs fall on the state.”

Analysis Prepared by: Nikita Koraddi / APPR. / (916) 319-2081