

ASSEMBLY BILL

No. 356

**Introduced by Assembly Member Williams
(Coauthors: Assembly Members Nazarian and Mark Stone)**

February 17, 2015

An act to amend Section 3106 of, and to add Section 3106.1 to, the Public Utilities Code, and to add Section 13227.5 to the Water Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 356, as introduced, Williams. Oil and gas: groundwater monitoring.

(1) Existing law requires the State Oil and Gas Supervisor to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production. Existing law authorizes the supervisor to require a well operator to implement a monitoring program, designed to detect releases to the soil and water, for aboveground oil production tanks and facilities. Under existing law, a person who fails to comply with specified requirements relating to the regulation of oil or gas operation is guilty of a misdemeanor.

This bill would additionally authorize the supervisor to require a well operator to implement a monitoring program for belowground oil production tanks and facilities, and disposal and injection wells,. Because a failure to comply with this requirement would be a crime, this bill would impose a state-mandated local program.

(2) The federal Safe Drinking Water Act regulates certain wells as Class II injection wells. Under existing federal law, the authority to regulate Class II injection wells in California is delegated to the Division

of Oil, Gas, and Geothermal Resources. Under existing regulations, a well operator is required to obtain approval from the supervisor or a district deputy for a subsurface injection or disposal project, including Class II injection wells, or any change in a project, as provided.

This bill would require an operator of a Class II injection well, as a part of its application or notice of change process, to submit to an appropriate regional water quality control board a groundwater monitoring plan containing certain information, including, among other things, a schedule for monitoring and reporting groundwater quality data. The bill would require the data be submitted to the State Water Resources Control Board for inclusion in the state board's geotracker database. Because a violation of this requirement would be a crime, this bill would impose a state-mandated local program. The bill would require the regional water quality control board to review and approve the plan.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3106 of the Public Resources Code is
2 amended to read:
3 3106. (a) The supervisor shall so supervise the drilling,
4 operation, maintenance, and abandonment of wells and the
5 operation, maintenance, and removal or abandonment of tanks and
6 facilities attendant to oil and gas production, including pipelines
7 not subject to regulation pursuant to Chapter 5.5 (commencing
8 with Section 51010) of Part 1 of Division 1 of Title 5 of the
9 Government Code that are within an oil and gas field, so as to
10 prevent, as far as possible, damage to life, health, property, and
11 natural resources; damage to underground oil and gas deposits
12 from infiltrating water and other causes; loss of oil, gas, or reservoir
13 ~~energy~~; *energy*; and damage to underground and surface waters
14 suitable for irrigation or domestic purposes by the infiltration of,
15 or the addition of, detrimental substances.

(b) The supervisor shall also supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners or operators of the wells to utilize all methods and practices known to the oil industry for the purpose of increasing the ultimate recovery of underground hydrocarbons and which, in the opinion of the supervisor, are suitable for this purpose in each proposed case. To further the elimination of waste by increasing the recovery of underground hydrocarbons, it is hereby declared as a policy of this state that the grant in an oil and gas lease or contract to a lessee or operator of the right or power, in substance, to explore for and remove all hydrocarbons from any lands in the state, in the absence of an express provision to the contrary contained in the lease or contract, is deemed to allow the lessee or contractor, or the lessee's or contractor's successors or assigns, to do what a prudent operator using reasonable diligence would do, having in mind the best interests of the lessor, lessee, and the state in producing and removing hydrocarbons, including, but not limited to, the injection of air, gas, water, or other fluids into the productive strata, the application of pressure heat or other means for the reduction of viscosity of the hydrocarbons, the supplying of additional motive force, or the creating of enlarged or new channels for the underground movement of hydrocarbons into production wells, when these methods or processes employed have been approved by the supervisor, except that nothing ~~contained~~ in this section imposes a legal duty upon the lessee or contractor, or the lessee's or contractor's successors or assigns, to conduct these operations.

(c) The supervisor may require an operator to implement a monitoring program, designed to detect releases to the soil and water, including both groundwater and surface water, for aboveground *and belowground* oil production tanks and ~~facilities~~. *facilities, and disposal and injection wells.*

(d) To best meet oil and gas needs in this state, the supervisor shall administer this division so as to encourage the wise development of oil and gas resources.

SEC. 2. Section 3106.1 is added to the Public Resources Code, to read:

3106.1. (a) Notwithstanding subdivision (c) of Section 3106, for a well that is a Class II injection well pursuant to the federal Safe Drinking Water Act (42 U.S.C. Sec. 311f et seq.), an operator submitting an application for approval pursuant to Section 1724.6

1 of Title 14 of the California Code of Regulations or a notice of
2 intent pursuant to Section 1724.10 of Title 14 of the California
3 Code of Regulations shall provide, as a part of the application or
4 notice, a groundwater monitoring plan for review and approval by
5 an appropriate regional water quality control board. The
6 groundwater monitoring plan shall include, at a minimum, all of
7 the following information:

8 (1) The current water quality of the groundwater basin through
9 which the well passes, that is sufficient to characterize the quality
10 of the aquifer.

11 (2) The current water quality of the injection zone sufficient to
12 demonstrate that the injection zone is not suitable to be used as a
13 source of drinking or irrigation water based on treatment
14 technologies existing at the time of application or notice.

15 (3) The identification of both public supply and domestic water
16 wells located within one mile of the boundaries of the injection
17 zone.

18 (4) A demonstration that the proposed injection well is located
19 in an area that is geologically suitable, including an appropriate
20 confining and injection zone.

21 (5) Chemical and physical analyses of, and data regarding,
22 identities and concentrations of all constituents present in the
23 injected fluid or gas. Subdivision (j) of Section 3160 shall apply
24 to a claim of trade secret for information described in this
25 paragraph.

26 (6) Sites for monitoring wells that will allow for the detection
27 of contamination or degradation associated with injection well
28 operations during and after the period of its active use.

29 (7) (A) A schedule for monitoring and reporting data that
30 provides groundwater quality data on a quarterly basis, at a
31 minimum, during the active life of a well and at least annually
32 after the well has been closed and abandoned.

33 (B) The data shall be submitted electronically to the State Water
34 Resources Control Board for inclusion in the state board's
35 geotracker database.

36 (8) An emergency plan that will be implemented in the case of
37 a well failure or other event that has the potential to degrade
38 groundwater.

1 (b) This section does not apply to a well if the appropriate
2 regional water quality board has determined that the well meets
3 both of the following:

4 (1) The well does not inject into, or pass through, an aquifer
5 with a beneficial use.

6 (2) There are no public supply or domestic water wells located
7 within one mile of the injection zone.

8 SEC. 3. Section 13227.5 is added to the Water Code, to read:

9 13227.5. A regional board, with respect to its region, shall
10 review and approve a groundwater monitoring plan submitted
11 pursuant to Section 3106.1 of the Public Resources Code to ensure
12 that groundwater quality is protected.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.