

- SUBJECT:** Additional notice for application for oil and gas disposal well permits
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 9 ayes — Ritter, T. King, Beck, Creighton, Hopson, Keffer, Larson, Lucio, Price
0 nays
2 absent — Martinez Fischer, D. Miller
- WITNESSES:** For — (*Registered, but did not testify:* Ken Hodges, Texas Farm Bureau; Kenny Jordan, Association of Energy Service Companies; Barbara Mayfield, Pinnergy, Ltd.; Jason Skaggs, Texas and Southwestern Cattleraisers Association; Ken Whalen, Texas Daily Newspaper Association, Texas Press Association) (*On committee substitute: Registered, but did not testify:* Teddy Carter, Texas Independent Producers & Royalty Owners (TIPRO); Ben Sebree, Texas Oil and Gas Association)
Against — None
- BACKGROUND:** Water Code, sec. 27.031 requires a permit from the Texas Railroad Commission for drilling a well to dispose of oil and gas waste.
Water Code, sec. 27.034(a) authorizes the Texas Railroad Commission to develop rules and procedures for permitting oil and gas waste wells, including rules for notice and the procedure for public hearings. The rules for notice must include provisions for giving notice to local governments and “affected persons” as defined by the rules.
- DIGEST:** CSHB 849 would require that notice for permit applications for oil and gas waste disposal wells be provided to owners of adjacent properties as well the county commissioners court and any groundwater conservation district where the well would be located. In addition, the surface tract owner would have to notify residents who were leasing or purchasing the property through a contract for deed, executory contract, or other type of executory contract.

Applicants also would have to publish a notice of the permit application in all newspapers of general circulation in the county of the proposed well.

CSHB 849 would allow anyone receiving notice through this bill to request a public hearing. However, the Texas Railroad Commission would not have to hold more than one public hearing on an application regardless of the number of affected persons who requested one.

The failure of a surface tract owner to give notice to the residents on the land would not invalidate any existing permit and would not keep the Texas Railroad Commission from issuing a new permit. Also, the surface tract owner would not be subject to fines for not notifying the residents on the property.

The bill would take effect on September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 849 would ensure proper notification of those potentially affected by drilling and operations of an oil and gas waste disposal well without increasing the burden on the permit applicant or the Texas Railroad Commission. The bill would codify existing regulations that require notification of adjacent property owners, county commissioners courts, and groundwater conservation districts. It also would expand the process to include those purchasing land and homes near the proposed disposal wells whose names may not be found in county deed or property tax records. The Texas Railroad Commission would not have to hold more than one public hearing even with the possible expanded pool of those who might request one.

CSHB 849 would properly insulate the permit holder from the consequences of surface landowners not notifying third parties of the permit application. That failure should not result in delaying or denying the permit or in potential penalties to the disposal well operators. The bill would permit a civil action between the tenant or purchaser of the property and the property owner if the notice was not properly made.

Publication of notice in newspapers of general circulation remains a valuable tool to inform citizens and create a public record for permitting processes. CSHB 849 would provide a simpler standard by requiring publication in all newspapers of general circulation in the county, rather than in just specialized publications devoted solely to publishing legal notices. Smaller newspapers remain widely read in their communities.

Newspapers of all sizes now routinely maintain websites, so their content is readily accessible to a large audience.

**OPPONENTS
SAY:**

CSHB 849 would not necessarily protect those with property interests near proposed disposal wells if their information was not readily available in deed or tax records. Those purchasing through a contract for deed typically lack financial resources and would not be able to bring a lawsuit based on lack of notification.

Publication of legal notices in newspapers remains an expensive and outdated method of communication. Most general readers do not peruse the legal notices, if they read a print newspaper at all.

NOTES:

The committee substitute differs from the original version of the bill by requiring publication of the notice in all newspapers of general circulation in a county rather than a newspaper published in closest proximity to the proposed disposal well. It also provides that the bill would directly relate to the Texas Railroad Commission rather than the Texas Commission on Environmental Quality.