

SUBJECT: Continuing the Railroad Commission of Texas

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 12 ayes — Darby, C. Anderson, G. Bonnen, Canales, Clardy, Craddick, Guerra, P. King, Lambert, Landgraf, Schubert, Walle

0 nays

1 absent — Isaac

WITNESSES: For — Ben Shepperd, Permian Basin Petroleum Association; Thomas Brocato, Steering Committee of Cities Served by Atmos; John Tintera, Texas Alliance of Energy Producers/Panhandle Producers; Ed Longanecker, Texas Independent Producers and Royalty Owners Association (TIPRO); Todd Staples, Texas Oil and Gas Association; James Mann, Texas Pipeline Association; Tricia Davis, Texas Royalty Council; (*Registered, but did not testify*: Matthew Thompson, Apache Corporation; Jason Ryan, CenterPoint Energy; Bill Kelly, City of Houston Mayor's Office; Stan Casey, Concho Resources; Robert Nathan, CPS Energy; Teddy Carter, Devon Energy; Kelly McBeth, GPA Midstream; Lindsay Sander, Markwest Energy; Julie Moore, Occidental Petroleum; Riley Stinnett, Texas Gas Service; Laura Buchanan, Texas Land and Mineral Owners Association; Thure Cannon, Texas Pipeline Association; Junior Aston; Gloria Leal)

Against — David Foster, Clean Water Action; Lon Burnam, Downwinders At Risk and Tarrant Coalition for Environmental Awareness; Mark Miller, Libertarian Party of Texas

On — Cyrus Reed, Lone Star Chapter Sierra Club; Rita Beving and Carol Birch, Public Citizen Texas; Wayne Christian, Christi Craddick, and Ryan Sitton, Railroad Commission of Texas; Andrew Dobbs, Texas Campaign for the Environment; (*Registered, but did not testify*: Wei Wang, Railroad Commission of Texas; Amy Trost and Ken Levine, Sunset Advisory Commission; Elizabeth Doyel, Texas League of Conservation Voters)

BACKGROUND: The Railroad Commission of Texas (RRC) regulates oil and gas drilling and production, well plugging and site remediation, pipeline safety and damage prevention, surface mining of coal and uranium, rates of gas utilities, and alternative fuels through permitting, monitoring, inspecting, and conducting hearings.

Governing structure. The RRC is led by three statewide elected commissioners who serve staggered six-year terms and elect their own chair.

Staffing. The RRC employs about 740 staff, 40 percent of whom operate out of 11 field offices, where they primarily perform inspections of oil, natural gas, and pipeline facilities and surface mining sites.

Funding. In fiscal 2015, the RRC spent about \$86.5 million, with 74 percent of expenditures used for permitting, inspecting, and remediating oil and natural gas operations. The agency's primary source of funding in fiscal 2015 was the Oil and Gas Regulation and Cleanup Fund, followed by the General Revenue Fund.

The Oil and Gas Regulation and Cleanup Fund Advisory Committee, governed by Natural Resources Code, sec. 91.1135, has 10 members and is required to meet quarterly with the RRC, review recommendations for legislation proposed by the RRC, monitor the effectiveness of the fund, and provide quarterly and biennial reports.

The RRC underwent Sunset review in 2011 and 2013, but Sunset legislation considered in those years by the 82nd and 83rd Legislatures was not enacted. The RRC would be discontinued on September 1, 2017, if not continued in statute.

DIGEST: CSHB 1818 would continue the Railroad Commission of Texas (RRC) until September 1, 2029.

The bill would require the RRC, with stakeholder input, to develop and

publish an annual plan to use oil and gas monitoring and enforcement resources strategically to ensure public safety and protect the environment. The plan would include a report of information showing the RRC's oil and gas monitoring and enforcement activities over time, including:

- data on the number, type, and severity of violations of statutes or rules related to oil and gas;
- the number of major violations for which a penalty was imposed or an enforcement action taken; and
- the number of repeat major violations.

Each annual plan would be published on the commission's website by September 1 of the year preceding the year the plan is implemented. The first plan would be published by September 1, 2018, for implementation in 2019.

The RRC could establish pipeline safety and regulatory fees to be assessed annually against permit or registration holders and individually against new, renewed, or amended permits or registrations. The fees would cover the cost of all pipeline safety and regulatory programs and would be deposited into the Oil and Gas Regulation and Cleanup Fund. The RRC would establish the method for calculating and assessing the fees, which could be based on any factor necessary to efficiently and fairly recover the program's costs.

The bill also would require the RRC to adopt safety standards related to interstate and intrastate pipeline facilities.

CSHB 1818 would dissolve the Oil and Gas Regulation and Cleanup Fund Advisory Committee. It would add standard Sunset provisions for alternative dispute resolution. To the extent of any conflict, the bill would prevail over other nonsubstantive additions and corrections to codes made by the 85th Legislature during its regular session.

The bill would take effect September 1, 2017.

SUPPORTERS
SAY:

CSHB 1818 would send a clear message to global energy partners that Texas oil and gas is well regulated and offers a superior product by continuing the Railroad Commission (RRC) for 12 years. This is the third time in seven years that the commission has undergone Sunset review, which is expensive and time intensive, and this bill is void of issues that weighed it down in previous legislative sessions.

The annual strategic plan required in CSHB 1818 would be vital to ensuring that the agency better focuses its limited resources. Publishing the report on the website would increase transparency and public awareness of the commission's monitoring and enforcement efforts. Some have voiced a desire for a searchable database of this information, but creating such a database would be expensive.

CSHB 1818 would provide necessary authority to the RRC to permit and inspect more than 46,000 miles of interstate pipelines. While the federal government has safety oversight of these pipelines, it generally views damage prevention as an issue best handled by state agencies. Texas already has an effective pipeline safety program for intrastate pipelines, and extending it to interstate pipelines would allow for uniform enforcement throughout the state, with the potential to decrease pipeline-related damages. The commission cannot provide an accurate picture of how large a problem damage to interstate pipelines is without this authority.

Granting the commission authority to assess an upfront, annual permitting fee on pipeline operators would be crucial to generating sufficient revenue for pipeline safety and regulatory program costs. The RRC currently assesses a pipeline safety fee on all natural gas distribution and municipal operators on a per-service line basis, but the revenue it generates is expected to fall short of what is needed for the pipeline safety program by about \$1.8 million. For more than 100 years, the commission has required pipeline operators to obtain a permit without the authority to assess an upfront permitting fee. Most agencies require regulated entities to pay a permit fee to support regulatory functions. This fee would help the agency

employ and retain sufficient staff and field inspectors, ensure pipelines were safely transporting hazardous liquids and gas across the state, and appropriately oversee this important, growing industry.

OPPONENTS
SAY:

CSHB 1818 should continue the RRC for six years instead of 12. An agency of this importance with such a large budget should be reviewed more often.

A Sunset bill without significant improvements to agency functions would defeat the purpose of Sunset review. This bill would not address many needed reforms, such as a name reflecting the agency's duties, updated bond requirements for well plugging, the transfer of natural gas utility rate cases to the Public Utility Commission, penalties and regulations to deter pollution, limits on political contributions, and other reforms.

There also is a need to create a searchable database with information on inspections, complaints, and enforcement actions in order to provide more transparency at the RRC.

OTHER
OPPONENTS
SAY:

The fiscal note does not adequately reflect the cost the commission would incur to comply with the alternative dispute resolution portion of the bill. The agency does not have the resources needed to hire and train more staff for this purpose.

NOTES:

Fiscal note. The Legislative Budget Board's fiscal note estimates that CSHB 1818 would have a positive impact of about \$8.6 million to general revenue related funds through fiscal 2018-19. The bill also is estimated to create additional revenue to a general revenue dedicated account and increased costs from that account to offset the general revenue savings.

Comparison of substitute. CSHB 1818 differs from the bill as filed by:

- not including a requirement that the Railroad Commission implement a policy to encourage the use of negotiated rulemaking procedures under Government Code, ch. 2008;
- not including a requirement that the annual plan also contain

- information about the amount of time field instructors spent overseeing high-risk activities compared to other activities; and
- including a section allowing the bill to prevail over other nonsubstantive additions and corrections to enacted codes made by the 85th Legislature during its regular session.

Companion bill. A companion bill, SB 300 by V. Taylor, was referred to the Senate Committee on Natural Resources and Economic Development on February 27.