

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 639  
By: Brown  
Natural Resources  
3-5-97  
Committee Report (Substituted)

### **DIGEST**

Currently, Section 91.114, Natural Resources Code, relates to filing of a permit application or certificate of compliance and revocation of such items by the Railroad Commission (RRC). This section is not flexible and is not effective against violators. This bill amends that section to prohibit RRC from accepting an organization report required to be filed under Section 91.142, an application for a permit under certain chapters of the Natural Resources and Water Codes, or an application for a certificate of compliance if the organization has violated a statute or RRC rule, order, license, certificate, or permit that relates to safety or the prevention or control of pollution. This bill provides that RRC can revoke such items for the same reasons. The bill provides limited exceptions relating to a prohibition or a revocation of a permit or organization report, respectively. Additionally, this bill amends Section 91.142, Natural Resources Code, to clarify that a valid and annual organization report is a prerequisite to performing activities within the oil and gas jurisdiction of RRC.

### **PURPOSE**

As proposed, C.S.S.B. 639 amends Section 91.114, Natural Resources Code, relating to acceptance, approval, or revocation by the Railroad Commission (RRC) of organization reports, applications for permits, or certificates of compliance. Additionally, this bill provides that an annual organization report is a prerequisite to performing activities within the oil and gas jurisdiction of RRC.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 91.114, Natural Resources Code, as follows:

Sec. 91.114. New heading: ACCEPTANCE OF ORGANIZATION REPORT OR APPLICATION FOR PERMIT; APPROVAL OF CERTIFICATE OF COMPLIANCE; REVOCATION. (a) Prohibits, except as provided by Subsection (d), the Railroad Commission (RRC) from accepting an organization report required under Section 91.142 or an application for a permit under this chapter, Chapter 85 of this code, or Chapter 26, 27, or 29, Water Code, or approve a certificate of compliance under Section 85.161 if the organization that submitted the report, application, or certificate violated a statute or RRC rule, order, license, certificate, or permit that relates to safety or the prevention or control of pollution; or a person who holds a position of ownership or control in the organization held a position of ownership or control in another organization that, during that person's period of ownership or control, had violated a statute, among other items, during the preceding five years of the date on which the report, application, or certificate is filed. Makes conforming and nonsubstantive changes.

(b) Provides that an organization has committed a violation if, among two options, a final judgment or final administrative order finding the violation has been entered against the organization and all appeals have been exhausted.

(c) Provides that regardless of whether the person's name appears or is required to appear on the organization report required by Section 91.142, a person holds a position of

ownership or control in an organization if, among other options, the person is the owner of at least, rather than more than, 25 percent of the beneficial, rather than ownership, interest in the organization; or the person has been determined by a final judgment or final administrative order to have exerted actual control of the organization. Makes conforming changes.

(d) Requires RRC to accept the report or application or approve the certificate if, among other conditions, all administrative, civil, and criminal penalties and all cleanup and plugging costs are incurred by the state and assessed or adjudged against the organization relating to those conditions are paid or are being paid in accordance with a payment schedule to which RRC and the organization have agreed; and the report, application, or certificate is in compliance with all other requirements of law and commission rules.

(e) Requires RRC, if a report or application is rejected or a certificate is disapproved under this section, to provide the organization with a written statement explaining the reason for the rejection or disapproval.

(f) Authorizes RRC to issue a permit to an organization described by Subsection (a) for a term specified by RRC if the permit is necessary to remedy a violation of law or RRC rules.

(g) Provides that a fee tendered in connection with a report or application that is rejected is nonrefundable.

(h) Authorizes RRC, if RRC is prohibited by Section (a) from accepting an organization's organization report or application or approving the organization's certificate or would be prohibited from doing so by that subsection if the organization submitted a report, application, or certificate, to revoke by order, after notice and opportunity for hearing, the organization's organization report filed under Section 91.142; or a permit issued to the organization under this chapter, among others; or any certificate of compliance approved under Section 85.161.

(i) Requires an order under Subsection (h) to provide the organization a reasonable period of time to comply with the judgment or order finding the violation before the revocation takes effect. Makes conforming changes.

(j) Prohibits an organization, on revocation of its organization report, from performing any activities under the jurisdiction of RRC under this title or certain chapters of the Water Code, except as necessary to remedy a violation of law or RRC rules.

(k)-(l) Makes conforming and nonsubstantive changes.

(m) Provides that revocation of an organization's organization report, permit, or certificate does not relieve the organization of any existing or future duty under law, rules or permit conditions to protect surface or subsurface water from pollution; properly dispose of oil and gas waste; or clean up unpermitted discharges of oil and gas waste.

SECTION 2. Amends Section 91.142, Natural Resources Code, by adding Subsections (e) and (f), to require RRC to require an entity described by Subsection (a) to refile an organization report annually according to a schedule established by RRC. Provides that if such an entity does not maintain on file an organization report and financial security as required by this chapter, the entity is prohibited from performing operations under the jurisdiction of RRC except as necessary to remedy a violation of law or RRC rules; and RRC, without prior notice, is authorized to suspend any permits held by the entity, or any certificates of compliance issued to the entity under Chapter 85.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

Revises the proposed relating clause.

Amends SECTION 1, Section 91.114, Natural Resources Code, to revise proposed changes to that section relating to the acceptance, approval, or revocation by RRC of organization reports, applications for permits, or certificates of compliance. The original proposed bill completely rewrote Section 91.114; this revised bill amends that section to achieve substantially the same goal as the original bill.

Amends SECTION 2, Section 91.142, Natural Resources Code, to revise the added proposed provision, relating to the need of an organization to annually refile an organization report with RRC.