

BILL ANALYSIS

Senate Research Center
77R10707 SMH-F

C.S.S.B. 310
By: Harris
Natural Resources
4/5/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Periodically, each state agency undergoes a review by the Sunset Advisory Commission (commission). As a result of the review, the commission will recommend changes to the agency or recommend that agency be abolished. During the last legislative interim the Railroad Commission underwent such a review and C.S.S.B. 310 is a result of that review. C.S.S.B. 310 continues the Railroad Commission for another twelve years and makes statutory changes which were recommended by the commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Railroad Commission in SECTIONS 2 (Article 6447n, Title 112, V.T.C.S.), 3 (Section 81.0531, Natural Resources Code), 4 (Section 81.116, Natural Resources Code), 5 (Section 81.117, Natural Resources Code), 7 (Section 85.2021, Natural Resources Code), 11 (Sections 91.1041 and 91.1042, Natural Resources Code), 15 (Sections 91.1131 and 91.1132, Natural Resources Code), 16 (Section 91.142, Natural Resources Code), 17 (Section 113.011, Natural Resources Code), 36 (Section 116.032, Natural Resources Code), 42 (Section 118.001, Natural Resources Code), 43 (Section 102.006, Utilities Code), and 45 (Section 121.206, Utilities Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 6445a, 6447b, 6447c, and 6447h, V.T.C.S., as follows:

Art. 6445a. SUNSET PROVISION. Changes the date on which the Railroad Commission of Texas (commission) is to be abolished, unless continued in existence as provided by this chapter, from September 1, 2001, to September 1, 2013.

Art. 6447b. New heading: EQUAL EMPLOYMENT OPPORTUNITY. (a) Requires the commission to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin. Deletes language relating to the commission or its designee developing an intra-agency career ladder program and a system of annual performance evaluations.

(b) Requires the policy statement to include personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission to avoid the unlawful employment practices described by Chapter 21 (Employment Discrimination), Labor Code, and an analysis of the extent to which the composition of the commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law. Deletes reference to appointment of personnel from the list of items required to be included in the policy statement.

(c) Requires the policy statement to be updated annually, be reviewed by the state Commission on Human Rights for compliance with Subsection (b) of this article, and be

filed with the governor's office. Deletes language relating to the plan including steps to overcome any identified under-utilization of minorities and women in the commission's workforce.

Art. 6447c. CONFLICT OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being an employee of the commission employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions for the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et. seq.) and its subsequent amendments, if the person or the person's spouse is an officer, employee, or paid consultant of a trade association in a business or industry regulated by the commission. Makes nonsubstantive and conforming changes.

(d) Makes a conforming change.

Art. 6447h. COMPLAINTS. (a) Requires the commission to maintain a file on each written complaint filed with the commission. Requires the file to include certain information.

(b) Requires the commission to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) Deletes language relating to a complaint filed against a person who has a license, permit, or certificate of public convenience and necessity from the commission. Deletes language providing that this section does not apply to complaints under Chapter 91, Natural Resources Code. Makes conforming changes.

SECTION 2. Amends Title 112, V.T.C.S., by adding Articles 6447k, 6447l, 6447m, and 6447n, as follows:

Art. 6447k. SEPARATION OF POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Requires the commission to develop and implement policies that clearly separate the policymaking responsibilities of the members of the commission and the management responsibilities of the staff of the commission.

Art. 6447l. PUBLIC PARTICIPATION. Requires the commission to develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

Art. 6447m. EMPLOYEE INCENTIVE PROGRAM. Requires the commission to provide to agency employees information and training on the benefits and methods of participation in the state employee incentive program.

Art. 6447n. METHOD OF MAKING PAYMENTS TO COMMISSION. (a) Authorizes the commission to authorize payment, as prescribed by the commission, of regulatory fees, fines, penalties, and charges for goods and services by means of an electronic payment method or a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission. Authorizes a payment by the authorized method to be made in person, by telephone, or through the Internet.

(b) Authorizes the commission to require a person who makes a payment to the commission by means of an electronic payment method or credit card to pay a discount or service charge in an amount reasonable and necessary to reimburse the commission for the costs involved in processing the payment.

(c) Authorizes the commission to adopt rules as necessary to implement this article.

SECTION 3. Amends Section 81.0531, Natural Resources Code, by amending Subsections (c) and (d) and adding Subsection (e), as follows:

(c) Adds language to require the commission to consider the guidelines adopted under Subsection (d) in determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety.

(d) Requires the commission by rule to adopt guidelines to be used in determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety. Requires the guidelines to include a penalty calculation worksheet that specifies the typical penalty for certain violations, circumstances justifying enhancement of a penalty and the amount of the enhancement, and circumstances justifying a reduction in a penalty and the amount of the reduction. Requires the guidelines to take into account certain circumstances.

(e) Requires a penalty collected under this section to be deposited to the credit of the oil-field cleanup fund.

SECTION 4. Amends Section 81.116(a), Natural Resources Code, to provide that an oil-field cleanup regulatory fee is imposed on crude petroleum in this state in an amount set by commission rule not to exceed one cent on each barrel of 42 standard gallons. Deletes reference to the amount of the fee being five-sixteenths of one cent on each barrel of 42 standard gallons.

SECTION 5. Amends Section 81.117(a), Natural Resources Code, to provide that an oil-field cleanup regulatory fee is imposed on gas initially produced and saved in this state in an amount set by commission rule not to exceed one-tenth of one cent for each thousand cubic feet. Deletes reference to the amount of the fee being one-thirtieth of one cent for each thousand cubic feet.

SECTION 6. Amends Section 85.161, Natural Resources Code, to change language to refer to any well subject to the jurisdiction of the commission, rather than to an oil or gas well before connecting with any oil or gas pipeline.

SECTION 7. Amends Section 85.2021, Natural Resources Code, by amending Subsections (c) and (d) and adding Subsection (e), as follows:

(c) Changes from \$100 to \$300 the amount of a nonrefundable fee paid to the commission by an applicant for an extension of time to plug a well.

(d) Requires the commission, notwithstanding Subsections (a) and (b), by rule to set fees under those subsections in amounts that are projected to generate in the aggregate annual revenue of \$1.5 million more than the aggregate annual revenue projected to be generated by the fee amounts provided by those subsections.

(e) Requires all fees collected under this section to be deposited in the state oil-field cleanup fund.

SECTION 8. Amends Section 91.103, Natural Resources Code, effective September 1, 2004, as follows:

Sec. 91.103. New heading: PERSONS REQUIRED TO EXECUTE BOND. Deletes language relating to an alternative form of financial security required to be filed with the commission by any person, including any firm, partnership, joint stock association, corporation,

or other organization.

SECTION 9. Amends Sections 91.104(b) and (c), Natural Resources Code, to delete language relating to a nonrefundable annual fee of \$100 paid by a person required to file a bond under Section 91.103, and delete language relating to such a person giving a first lien on certain tangible personal property associated with oil and gas production.

SECTION 10. Amends Section 91.104, Natural Resources Code, effective September 1, 2004, as follows:

Sec. 91.104. New heading: BONDS. (b) Deletes language relating to a nonrefundable annual fee of \$100 paid by a person required to file a bond under Section 91.103, deletes language relating to a nonrefundable annual fee equal to three percent of the bond that would otherwise be required, and deletes language relating to such a person giving a first lien on certain tangible personal property associated with oil and gas production. Deletes Subsection (c) relating to a person who chooses to file a form of financial security other than a bond.

SECTION 11. Amends Sections 91.1041 and 91.1042, Natural Resources Code, as follows:

Sec. 91.1041. (b) Requires the commission, notwithstanding Subsection (a), by rule to set the amount of an individual bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

Sec. 91.1042. (b) Requires the commission, notwithstanding Subsection (a), by rule to set the amount of a blanket bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

SECTION 12. Amends Section 91.107, Natural Resources Code, effective September 1, 2004, as follows:

Sec. 91.107. New heading: NEW BOND. Makes conforming changes.

SECTION 13. Amends Section 91.111, Natural Resources Code, to change from \$10 million to \$20 million the value the balance of the fund must reach before the commission is required to certify to the comptroller the date on which it reaches that value. Adds language relating to the contents of the fund to include fees collected under Sections 91.142 and 91.1132. Adds a new Subsection (e) to require the commission, through the legislative appropriations request process, to establish specific performance goals for the oil-field cleanup fund for the next biennium, including certain goals.

SECTION 14. Amends Section 91.112(b), Natural Resources Code, to add language to require the commission to make available to the public a report that reviews the extent to which money provided under Section 91.111 has enabled the commission to better protect the environment and enhance the income of the oil-field cleanup. Adds language to require the report to include the region in which certain wells are located, the number of surface locations remediated, and a detailed accounting of certain expenditures of money in the fund.

SECTION 15. Amends Chapter 91D, Natural Resources Code, by adding Sections 91.1131 and 91.1132, as follows:

Sec. 91.1131. RISK ASSESSMENT STANDARDS; PRIORITIZATION OF HIGH-RISK WELLS. (a) Requires the commission by rule to establish risk assessment as the guide for conducting site investigations and environmental assessments and controlling and cleaning up oil and gas wastes and other substances and materials.

(b) Requires rules adopted under this section to provide for certain provisions.

(c) Requires the commission by rule to develop a system for identifying abandoned wells that pose a high risk of contaminating surface water or groundwater; periodically testing high-risk wells by conducting a fluid level test or, if necessary, a pressure test; and giving priority to plugging high-risk wells with compromised casings.

Sec. 91.1132. VOLUNTARY CLEANUP PROGRAM. (a) Requires the commission by rule to establish a voluntary cleanup program under which a person who is not a responsible person as defined by Section 91.113 and who cleans up oil and gas wastes or other substances or materials in accordance with an agreement with the commission may receive from the commission a certificate evidencing completion of the cleanup. Provides that on receipt of the certificate, the person is released from all liability to the commission for cleanup of the site covered by the certificate.

(b) Requires a person who desires to participate in the program to submit to the commission an application and an application fee in an amount set by commission rule.

(c) Requires the staff of the commission to assist a participant in the program in developing a cleanup plan and provide technical oversight during the cleanup.

(d) Requires the program established under this section to be consistent with rules adopted under Section 91.1131.

SECTION 16. Amends Section 91.142, Natural Resources Code, by adding Subsection (g) to require the commission by rule to require an organization report filed under this section to be accompanied by a fee set by the commission in an amount sufficient to cover the cost of administering this section. Prohibits the commission from setting a fee under this subsection in an amount that is projected to generate annual revenue of more than \$3 million.

SECTION 17. Amends Sections 113.011, 113.014, 113.015, 113.0511, and 113.082, Natural Resources Code, as follows:

Sec. 113.011. New heading: REGULATION OF LIQUIFIED PETROLEUM GAS ACTIVITIES. Adds language to require the commission to administer and enforce the laws of this state and the rules and standards of the commission relating to liquified petroleum gas. Deletes language relating to the creation of a separate and distinct division of the commission known as the liquified petroleum gas division or the LPG division.

Sec. 113.014. EMPLOYEES. Makes a conforming change.

Sec. 113.015. New heading: FUNDS FOR FINANCING REGULATION OF LPG ACTIVITIES. Deletes language relating to the LPG examination fund and makes conforming changes.

Sec. 113.0511. LIMITATIONS ON RULEMAKING AUTHORITY. (a) Changes a reference from “person regulated by the commission” to “licensee” and makes nonsubstantive changes.

(b) Makes conforming changes.

Sec. 113.082. New heading: CATEGORIES OF LPG ACTIVITIES; FEES. (a) Deletes language relating to certain category applications and original license fees. Redesignates Paragraphs (A)-(P) as Subdivisions (1)-(16). Makes conforming changes.

(b) Requires the commission by rule to establish reasonable application and original

license fees and renewal fees for each type of license listed in this section.

SECTION 18. Amends Sections 113.084(b) and (c), Natural Resources Code, as follows:

(b) Changes language from a “nonrefundable license fee required by Section 113.082” to a “nonrefundable license fee established by the commission under Section 113.082.” Makes conforming changes.

(c) Makes a conforming change.

SECTION 19. Amends Section 113.087, Natural Resources Code, by amending Subsections (b), (c), and (i)-(m) and adding Sections (n) and (o), as follows:

(b) Makes a conforming change.

(c) Makes a conforming change.

(i) Requires the commission to notify a person of the results of a licensing examination, not later than the 30th day after the date the person takes the examination under this chapter.

(j) Adds language to require the commission, if the examination is graded or reviewed by a testing service, to notify the person of the results of the examination not later than the 14th day after the date the commission receives the results from the testing service.

(k) Authorizes the commission to require a testing service to notify a person of the results of the person’s examination.

(l) Makes a conforming change.

(m) Changes the language to require, rather than authorize, the commission, by appropriate rule, to require certain requirements in addition to the examination.

(n) Adds language relating to an examination for the LPG activity for which a person seeks qualification and changes the number of days a course of instruction is required to be available from 90 days to 180 days.

Redesignates Subsections (l) and (m) as (n) and (o).

SECTION 20. Amends Sections 113.089(a) and (c), Natural Resources Code, as follows:

(a) Changes reference from Section 113.082 to Section 113.082(a)(5) and makes conforming changes.

(c) Makes conforming changes.

SECTION 21. Amends Sections 113.090(a) and (b), Natural Resources Code, as follows:

(a) Changes reference from “examination of plans and specifications” to “review of site applications.” Makes conforming changes.

(b) Makes a conforming change.

SECTION 22. Amends Sections 113.091(b)-(d), Natural Resources Code, to make conforming changes.

SECTION 23. Amends Section 113.093, Natural Resources Code, as follows:

- (a) Adds language to authorize a person who is otherwise eligible to renew a license to renew an unexpired license by paying the required renewal fee to the commission before the expiration date of the license. Prohibits a person whose license has expired from engaging in activities that require a license until the license has been renewed. Deletes language relating to a license issued pursuant to this chapter.
- (c) Changes language to authorize a person whose license has been expired for more than 90 days but less than one year, rather than two years, to renew the license by paying to the commission a renewal fee, rather than all unpaid fees, that is equal to two times the normally required renewal fee.
- (d) Adds language to include the examination requirements as part of what the person must comply with to obtain a new license. Makes a conforming change.
- (e) Authorizes a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application to obtain a new license without reexamination. Requires the person to pay to the commission a fee that is equal to two times the normally required renewal fee for the license.
- (f) Requires the commission, not later than the 30th day before the date a person's license is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of the commission.

Redesignates Subsection (d) as Subsection (g).

Redesignated Subsection (f) as Subsection (h).

Deletes Subsection (g) relating to the commission notifying the person in writing of the impending license expiration.

SECTION 24. Amends Chapter 113D, Natural Resources Code, by adding Section 113.096, as follows:

Sec. 113.096. PROVISIONAL LICENSE. (a) Authorizes the commission to issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who meets certain requirements.

- (b) Authorizes the commission to waive the requirement of Subsection (a)(3) for an applicant if the commission determines that compliance with that subsection would be a hardship to the applicant.
- (c) Provides that a provisional license is valid until the date the commission approves or denies the provisional license holder's application for a license. Requires the commission to issue a license under this chapter to the provisional license holder if the provisional license holder meets certain requirements.
- (d) Requires the commission to approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. Authorizes the commission to extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.
- (e) Authorizes the commission to establish a fee for provisional licenses in an amount

reasonable and necessary to cover the cost of issuing the license.

SECTION 25. Amends Sections 113.097(d) and (h), Natural Resources Code, to make conforming changes.

SECTION 26. Amends Sections 113.098(a) and (c), Natural Resources Code, to make conforming changes.

SECTION 27. Amends Sections 113.099 (a)-(d), Natural Resources Code, to make conforming changes.

SECTION 28. Amends the heading to Chapter 113F, Natural Resources Code, to read as follows:

SUBCHAPTER F. DISCIPLINARY ACTION

SECTION 29. Amends Section 113.161(e), Natural Resources Code, to make a conforming change.

SECTION 30. Amends Section 113.163, Natural Resources Code, as follows:

Sec. 113.163. FINDINGS AND JUDGMENT. (a) Adds language to require the commission to revoke, suspend, or refuse to renew a license or registration or to reprimand a licensee or registrant if the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter. Deletes language relating to the commission suspending the license or registration for a definite period not to exceed 90 days.

(b) Authorizes the commission to place on probation a person whose license or registration is suspended. Sets forth provisions if a license or registration suspension is probated. Deletes language relating to a licensee's or registrant's license suspension or probation appearing in the records of the commission.

SECTION 31. Amends Section 113.233(b), Natural Resources Code, to make a conforming change.

SECTION 32. Amends Section 113.243(b), Natural Resources Code, as amended by Section 2, Chapter 496, Acts of the 75th Legislature, Regular Session, 1997, to add language providing that the fund consists of money from fees, royalties, or other things of value received from the items described by Subsections (f)(1)(A)-(D).

SECTION 33. Amends Section 113.243, Natural Resources Code, by amending Subsections (c) and (d) and adding Subsections (f) and (g), as follows:

(c) Makes a conforming change.

(d) Makes conforming changes.

(f) Authorizes the commission to:

(1) apply for, register, secure, hold, and protect under the laws of a state, the United States, or a foreign country a patent, copyright, trademark, or other evidence of protection or exclusivity issued for an idea, publication, or other original innovation fixed in a tangible medium, including certain items;

(2) enter into a license agreement with a third party in return for a fee, royalty, or other thing of value; and

(3) waive or reduce the amount of a fee, royalty, or other thing of value to be assessed if the commission makes certain determinations regarding the waiver.

(g) Requires money received under Subsection (f) to be deposited in a separate account in the fund as provided by Subsection (d), except that the money received by the commission from the items described by Subsections (f)(1)(E)-(H) are required to be deposited in the general revenue fund.

SECTION 34. Amends Chapter 113J, Natural Resources Code, as added by Chapter 80, Acts of the 73rd Legislature, Regular Session, 1993, to redesignate it as Subchapter K, and to amend the heading to that subchapter to reflect that change.

SECTION 35. Amends Chapter 116B, Natural Resources Code, by adding Section 116.016, as follows:

Sec. 116.016. LIMITATIONS ON RULEMAKING AUTHORITY. (a) Prohibits the commission from adopting rules restricting advertising or competitive bidding by a licensee or registrant except to prohibit false, misleading, or deceptive practices.

(b) Prohibits the commission, in its rules to prohibit false, misleading, or deceptive practices, from including certain rules.

SECTION 36. Amends Section 116.032(b), Natural Resources Code, to authorize the commission by rule to establish reasonable fees for each category of license. Deletes language prohibiting a license fee from exceeding \$1,000.

SECTION 37. Section 116.033, Natural Resources Code, is amended to read as follows:

(b) Authorizes a person who is otherwise eligible to renew a license or registration to renew an unexpired license or registration by paying the required renewal fee to the commission before the expiration date of the license or registration. Prohibits a person whose license or registration has expired from engaging in activities that require a license or registration until the license or registration has been renewed.

(c) Authorizes a person whose license or registration has been expired for 90 days or less to renew the license or registration by paying to the commission a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(d) Authorizes a person whose license or registration has been expired for more than 90 days but less than one year to renew the license or registration by paying to the commission a renewal fee that is equal to two times the normally required renewal fee.

(e) Prohibits a person whose license or registration has been expired for one year or more from renewing the license or registration. Authorizes the person to obtain a new license or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license or registration.

(f) Authorizes a person who was licensed or registered in this state, moved to another state, and is currently licensed or registered and has been in practice in the other state for the two years preceding the date of application to obtain a new license or registration without reexamination. Requires the person to pay to the commission a fee that is equal to two times the normally required renewal fee for the license or registration.

(g) Requires the commission, not later than the 30th day before the date a person's license or registration is scheduled to expire, to send written notice of the impending expiration to the

person at the person's last known address according to the records of the commission.

SECTION 38. Amends Section 116.034, Natural Resources Code, by adding Subsections (d)-(h), as follows:

(d) Requires the commission, not later than the 30th day after the date a person takes a licensing or registration examination under this chapter, to notify the person of the results of the examination.

(e) Sets forth provisions relating to an examination which is graded or reviewed by a testing service.

(f) Authorizes the commission to require a testing service to notify a person of the results of the person's examination.

(g) Requires the commission, if requested in writing by a person who fails a licensing or registration examination administered under this chapter, to furnish the person with an analysis of the person's performance on the examination.

(h) Requires the commission to recognize, prepare, or administer continuing education programs for its licensees and registrants. Requires a licensee or registrant to participate in the programs to the extent required by the commission to keep the person's license.

SECTION 39. Amends Chapter 116C, Natural Resources Code, by adding Sections 116.0345 and 116.0346, as follows:

Sec. 116.0345. LICENSE OR REGISTRATION BY ENDORSEMENT. Authorizes the commission to waive any prerequisite to obtaining a license or registration for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license or registration issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

Sec. 116.0346. PROVISIONAL LICENSE OR REGISTRATION. (a) Authorizes the commission to issue a provisional license or registration to an applicant currently licensed or registered in another jurisdiction who seeks a license or registration in this state and who meets certain other requirements.

(b) Authorizes the commission to waive the requirement of Subsection (a)(3) for an applicant if the commission determines that compliance with that subsection would be a hardship to the applicant.

(c) Provides that a provisional license or registration is valid until the date the commission approves or denies the provisional license or registration holder's application for a license or registration. Requires the commission to issue a license or registration under this chapter to the provisional license or registration holder under certain conditions.

(d) Requires the commission to approve or deny a provisional license or registration holder's application for a license or registration not later than the 180th day after the date the provisional license or registration is issued. Authorizes the commission to extend the 180-day period if the results of an examination have not been received by the commission before the end of that period.

(e) Authorizes the commission to establish a fee for provisional licenses or registrations in an amount reasonable and necessary to cover the cost of issuing the license or

registration.

SECTION 40. Amends the heading to Section 116.037, Natural Resources Code, to read as follows:

Sec. 116.037. DISCIPLINARY ACTION.

SECTION 41. Amends Section 116.037, Natural Resources Code, by amending Subsections (f) and (g) and adding Subsection (h), as follows:

(f) Makes a conforming change.

(g) Authorizes the commission to place on probation a person whose license or registration is suspended. Authorizes the commission, if a license or registration suspension is probated, to require the person to fulfill certain requirements.

Redesignates Subsection (g) as Subsection (h).

SECTION 42. Amends Title 3D, Natural Resources Code, by adding Chapter 118, as follows:

CHAPTER 118. PIPELINE ASSESSMENT AND TESTING

Sec. 118.001. AUTHORITY TO REQUIRE PLAN FOR PIPELINE ASSESSMENT OR TESTING. (a) Authorizes the commission by rule to require an operator to file for commission approval a plan for assessment or testing of a pipeline if the commission makes certain findings.

(b) Authorizes the commission to take enforcement action against a person who fails to submit a required plan or participate in a pipeline safety investigation.

Sec. 118.002. PIPELINES FOR WHICH PLAN MAY BE REQUIRED. Authorizes the rules to apply to interstate pipelines, intrastate pipelines, portions of pipeline systems the regulation of which the federal government has temporarily delegated to the commission, or gathering lines, and to pipelines for the transportation of any substance or material under the jurisdiction of the commission, as specified by the commission.

Sec. 118.003. CONTENTS OF PLAN. Authorizes the rules to require that a plan include certain information.

Sec. 118.004. APPROVAL OF PLAN. Authorizes the commission to approve a plan that complies with rules adopted under this chapter.

Sec. 118.005. CONSEQUENCES OF PLAN APPROVAL. Provides that the approval of a plan by the commission does not constitute a certification or representation that the pipeline is in compliance with or exempt from applicable safety standards.

SECTION 43. Amends Chapter 102A, Utilities Code, by adding Section 102.006, as follows:

Sec. 102.006. POWERS AND DUTIES OF STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) Requires the utility division of the State Office of Administrative Hearings to conduct each hearing in a contested case that is not conducted by one or more members of the railroad commission.

(b) Authorizes the railroad commission to delegate to the utility division of the State Office of Administrative Hearings the authority to make a final decision and to issue findings of fact, conclusions of law, and other necessary orders in a proceeding in which there is not a contested issue of fact or law.

(c) Requires the railroad commission by rule to define the procedures by which it delegates final decision-making authority under Subsection (b).

(d) Provides that for purposes of judicial review, an administrative law judge's final decision under Subsection (b) has the same effect as a final decision of the railroad commission unless a member of the commission requests formal review of the decision.

SECTION 44. Amends Section 104.107, Utilities Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Adds new language requiring the 150-day period prescribed by Subsection (a)(2) to be extended for two days for each day the actual hearing on the merits of the case exceeds 15 days.

(c) Redesignated from Subsection (b).

SECTION 45. Amends Section 121.206, Utilities Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires the railroad commission, in determining the amount of the penalty, to consider the guidelines adopted under Subsection (d).

(d) Requires the commission by rule to adopt guidelines to be used in determining the amount of a penalty under this subchapter. Requires the guidelines to include a penalty calculation worksheet that specifies the typical penalty for certain violations, circumstances justifying enhancement of a penalty and the amount of the enhancement, and circumstances justifying a reduction in a penalty and the amount of the reduction. Requires the guidelines to take into account certain information.

SECTION 46. Amends Chapter 2003C, Government Code, by adding Section 2003.0491, as follows:

Sec. 2003.0491. RAILROAD COMMISSION HEARINGS. Requires the utility division to conduct contested case hearings and authorizes the utility division of the State Office of Administrative Hearings to make final decisions and issue findings of fact, conclusions of law, and other necessary orders in other proceedings on behalf of the Railroad Commission of Texas as provided by Section 102.006, Utilities Code. Provides that the provisions of Section 2003.049 apply to a proceeding under this section except as otherwise provided by Section 102.006, Utilities Code.

SECTION 47. Repealers:

(1) Chapter 93 (Texas Experimental Research and Recovery Act), Natural Resources Code;

(2) Sections 113.002(2) (definition of "division"), 113.012 (General Duties), and 113.013 (Director of LPG Division), Natural Resources Code;

(3) Sections 113.243(b) (relating to alternative fuels research and education fund), Natural Resources Code, as amended by Section 1, Chapter 496, Acts of the 75th Legislature, Regular Session, 1997; and

(4) Section 113.246 (Rules Regarding Fees; Agreements With Other States), Natural Resources Code, as amended by Section 6, Chapter 496, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 48. (a) Effective date: September 1, 2001, except as otherwise provided by this Act.

(b) Makes application of provisions of this Act relating to contested case hearings prospective.

SUMMARY OF COMMITTEE CHANGES

Differs from original as follows:

- SECTION 2 - Adds a new Article 6447n relating to the method of making payments to the Railroad Commission of Texas.
- SECTION 6 - Adds a new SECTION 6 that amends Section 85.161, Natural Resources Code.
- Redesignates original SECTIONS 6-14 as SECTIONS 7-15.
- Eliminates original SECTION 16 relating to mandatory unitization.
- Redesignates original SECTION 15 as SECTION 16.
- Eliminates original SECTION 17 relating to limitations on rulemaking authority.
- SECTION 17 - Adds a new SECTION 17 that amends Sections 113.011, 113.014, 113.015, 113.0511, and 113.082, Natural Resources Code.
- SECTION 18 - Adds a new SECTION 18 that amends Sections 113.084(b) and (c), Natural Resources Code.
- Redesignates original SECTION 18 as SECTION 19 and now amends Sections 113.087 (b) and (c), which were not amended in the original, and makes new changes in Subsection (n).
- SECTION 20 - Adds a new SECTION 20 that amends Sections 113.089(a) and (c), Natural Resources Code.
- SECTION 21 - Adds a new SECTION 21 that amends Sections 113.090(a) and (b), Natural Resources Code.
- SECTION 22- Adds a new SECTION 22 that amends Sections 113.091(b)-(d), Natural Resources Code.
- Redesignates original SECTION 19 as SECTION 23.
- Redesignates original SECTION 20 as SECTION 24.
- SECTION 25 - Adds a new SECTION 25 that amends Sections 113.097(d) and (h), Natural Resources Code.
- SECTION 26 - Adds a new SECTION 26 that amends Sections 113.098(a) and (c), Natural Resources Code.
- SECTION 27 - Adds a new SECTION 27 that amends Sections 113.099(a)-(d), Natural Resources Code.

- Redesignates original SECTION 21 as SECTION 28.
- SECTION 29 - Adds a new SECTION 29 that amends Section 113.161(e), Natural Resources Code.
- Redesignates original SECTION 22 as SECTION 30.
- SECTION 31 - Adds a new SECTION 31 that amends Section 113.233(b), Natural Resources Code.
- SECTION 32 - Adds a new SECTION 32 that amends Section 113.243(b), Natural Resources Code, as amended by Section 2, Chapter 496, Acts of 75th Legislature, Regular Session, 1997.
- SECTION 33 - Adds a new SECTION 33 that amends Section 113.243, Natural Resources Code.
- SECTION 34 - Adds a new SECTION 34 that amends Chapter 113J, Natural Resources Code, as added by Chapter 80, Acts of the 73rd Legislature, Regular Session, 1993.
- Redesignates original SECTION 23 as SECTION 35.
- SECTION 36 - Adds a new SECTION 36 that amends Section 116.032(b), Natural Resources Code.
- Redesignates original SECTIONS 24-30 as SECTIONS 37-43.
- Eliminates original SECTIONS 31 and 32.
- SECTION 44 - Adds a new SECTION 44 that amends Section 104.107, Utilities Code.
- Redesignates original SECTIONS 33 and 34 as SECTIONS 45 and 46.
- SECTION 47 - Adds a new SECTION 47 that repeals certain sections of the Natural Resources Code.
- Redesignates original SECTION 35 as SECTION 48 and eliminates original Subsection (b).