

BILL ANALYSIS

Senate Research Center

H.B. 1818
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Natural Resources & Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Railroad Commission of Texas has primary oversight of the state's oil and natural gas industry, is subject to the Texas Sunset Act, and will be abolished September 1, 2017, unless continued by the legislature. H.B. 1818 seeks to continue the railroad commission for 12 years. The bill also requires the railroad commission to publish an oil and gas monitoring and enforcement strategic plan to make the best use of limited regulatory resources. S.B. 1818 authorizes the railroad commission to create a pipeline permit fee to cover administrative costs of issuing the permit and to address funding shortfalls. The bill authorizes the railroad commission to enforce damage prevention requirements for interstate pipelines, adding to its existing authority for intrastate pipeline damage prevention.

The bill prohibits the railroad commission from awarding contracts unless contractors and subcontractors use the E-verify program to verify employee information. Under provisions of the bill, the railroad commission will be required to develop and implement a policy to encourage alternative procedures for dispute resolution. The bill repeals the Alternative Fuels Promotion Program and the Oil and Gas Regulation and Cleanup Fund Advisory Committee. The advisory committee has not met since February 2012 and has not issued a report since 2009, missing both its quarterly meeting and biennial reporting requirements.

H.B. 1818 amends current law relating to the continuation and functions of the Railroad Commission of Texas and provides for the imposition of fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas (railroad commission) in SECTION 5 (Section 81.071, Natural Resources Code) and SECTION 8 (Section 756.126, Health and Safety Code), of this bill.

Rulemaking authority previously granted to the railroad commissioner is modified in SECTION 7 (Section 117.012, Natural Resources Code) and SECTION 9 (Section 121.201, Utilities Code) of this bill.

Rulemaking authority previously granted to the railroad commission is rescinded in SECTION 10 (Section 81.0681, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 81.01001(a), Natural Resources Code, to provide that the Railroad Commission of Texas (railroad commission), unless continued in existence as provided by Chapter 325, Government Code (Texas Sunset Act), is abolished September 1, 2029, rather than September 1, 2017.

SECTION 2. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Sections 81.065 and 81.066, as follows:

Sec. 81.065. ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires the railroad commission to develop and implement a policy to encourage the use of appropriate alternative dispute resolution (ADR) procedures under Chapter 2009

(Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the railroad commission's jurisdiction.

(b) Requires the railroad commission's procedures relating to ADR to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of ADR by state agencies.

(c) Requires the railroad commission to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for ADR, and collect information concerning the effectiveness of those procedures.

Sec. 81.066. OIL AND GAS DIVISION MONITORING AND ENFORCEMENT STRATEGIC PLAN. (a) Requires the oil and gas division of the railroad commission to develop and publish an annual plan for each state fiscal year to use the oil and gas monitoring and enforcement resources of the railroad commission strategically to ensure public safety and protect the environment.

(b) Requires the railroad commission to seek input from stakeholders when developing each annual plan.

(c) Requires the railroad commission to collect and maintain information that accurately shows the railroad commission's oil and gas monitoring and enforcement activities. Requires that each annual plan include a report of the information collected by the railroad commission that shows the railroad commission's oil and gas monitoring and enforcement activities over time.

(d) Requires that the information described by Subsection (c) include data regarding violations of statutes or railroad commission rules that relate to oil and gas, including certain information relating to certain violations.

(e) Requires the railroad commission to publish each annual plan on the railroad commission's Internet website not later than July 1 of the year preceding the state fiscal year in which the railroad commission implements the plan.

SECTION 3. Amends Section 81.067(c), Natural Resources Code, to conform to the repeal of Section 81.112, Natural Resources Code, by Chapter 470 (S.B. 757), Acts of the 84th Legislature, Regular Session, 2015, and further amends it, as follows:

(c) Provides that the oil and gas regulation and cleanup fund consists of:

(1) through (23) makes no changes to these subdivisions;

(24) deletes existing Subdivision (24) including money deposited to the credit of the fund under Section 81.112 (Disposition of Tax Proceeds) and redesignates existing Subdivision (25) as Subdivision (24);

(25) redesignates existing Subdivision (26) as Subdivision (25); and

(26) fees collected under Section 81.071.

SECTION 4. Amends Section 81.068, Natural Resources Code, to delete existing text including alternative fuels programs under Section 81.0681 (Alternative Fuels Programs) from certain purposes for which the railroad commission is authorized to use money in the oil and gas regulation and cleanup fund.

SECTION 5. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Section 81.071, as follows:

Sec. 81.071. PIPELINE SAFETY AND REGULATORY FEES. (a) Authorizes the railroad commission, by rule, to establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the jurisdiction of the railroad commission's pipeline safety and regulatory program.

(b) Authorizes the railroad commission to establish fees to be assessed annually against permit or registration holders, as well as individual fees for new permits or registrations, permit or registration renewals, and permit or registration amendments.

(c) Requires that the fees be in amounts that in the aggregate are sufficient to support all pipeline safety and regulatory program costs, including permitting or registration costs, administrative costs, and costs of employee salaries and benefits.

(d) Requires the railroad commission, by rule, to establish the method or methods by which the fees will be calculated and assessed so that fee amounts will reflect certain factors. Authorizes the railroad commission to base the fees on any factor the railroad commission considers necessary to efficiently and fairly recover the pipeline safety and regulatory program's costs, including the length of the pipeline; the number of new permits or registrations, permit or registration renewals, or permit or registration amendments; or the number of pipeline systems.

(e) Authorizes the railroad commission, by rule, to establish a reasonable late payment penalty for a charged fee.

(f) Provides that the authority provided by this section is in addition to the authority provided by Section 121.211 (Pipeline Safety and Regulatory Fees), Utilities Code, and requires the railroad commission to consider any fees assessed under that section in establishing the fees to be assessed under this section.

(g) Requires that a collected fee be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067 (Oil and Gas Regulation and Cleanup Fund).

SECTION 6. Amends Subchapter C, Chapter 81, Natural Resources Code, by adding Section 81.072, as follows:

Sec. 81.072. VERIFICATION BY CONTRACTORS. (a) Defines "E-verify program."

(b) Prohibits the railroad commission from awarding a contract for goods or services in this state to a contractor unless the contractor and any subcontractor register with and participate in the E-verify program to verify employee information. Requires the contractor and any subcontractor to continue to participate in the program during the term of the contract.

(c) Requires the railroad commission to develop procedures for the administration of the E-verify program.

SECTION 7. Amends Section 117.012, Natural Resources Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires the railroad commission to adopt rules that include:

(1) creates this subdivision from existing text; and

(2) safety standards related to the prevention of damage to interstate and intrastate hazardous liquid or carbon dioxide pipeline facilities resulting from the movement of earth by a person in the vicinity of such a facility, other than movement by

tillage that does not exceed a depth of 16 inches, rather than including safety standards related to the prevention of damage to such a facility resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches. Creates this subdivision from existing text.

(a-1) Changes a reference to this subsection to Subsection (a). Creates this subdivision from existing text.

SECTION 8. Amends Section 756.126, Health and Safety Code, as follows:

Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. Requires the railroad commission to adopt and enforce rules prescribing safety standards and best practices, rather than adopt and enforce safety standards and best practices, including those described by 49 U.S.C. Section 6105 et seq., relating to the prevention of damage by a person to a facility, including an interstate or intrastate pipeline facility, under the jurisdiction of the railroad commission, rather than to a facility under the jurisdiction of the railroad commission.

SECTION 9. Amends Section 121.201(a), Utilities Code, as follows:

(a) Authorizes the railroad commission to, by rule, prescribe or adopt safety standards for the transportation of gas and for gas pipeline facilities, including safety standards related to the prevention of damage to an interstate or intrastate gas pipeline facility, rather than damage to such a facility, resulting from the movement of earth by a person in the vicinity of the facility, other than movement by tillage that does not exceed a depth of 16 inches.

SECTION 10. Repealers: Sections 81.0681 (Alternative Fuels Programs) and 91.1135 (Oil and Gas Regulation and Cleanup Fund Advisory Committee), Natural Resources Code.

SECTION 11. Provides that the first state fiscal year for which the railroad commission is required by Section 81.066, Natural Resources Code, as added by this Act, to develop and publish the annual plan required by that section is the state fiscal year beginning September 1, 2018. Requires the railroad commission to publish the plan not later than July 1, 2018.

SECTION 12. Provides that this Act, to the extent of any conflict, prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 13. Effective date: September 1, 2017.