

## **BILL ANALYSIS**

Senate Research Center  
87R1598 JXC-F

S.B. 450  
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Natural Resources & Economic Development  
4/1/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Class VI Underground Injection Control (UIC) wells are authorized under the federal Safe Drinking Water Act and used to inject anthropogenic (man-made) carbon dioxide (CO<sub>2</sub>) into deep rock formations for geologic sequestration and storage. Owners and operators of Class VI wells must first obtain a permit from the United States Environmental Protection Agency (EPA) in order to inject and store anthropogenic CO<sub>2</sub>, unless EPA has delegated permitting jurisdiction, known as primacy, to a state to issue such permits.

Texas has primacy over the permitting of Class I-V UIC wells, and that permitting authority is currently divided between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality (TCEQ), depending on well classification (RRC permits Class II wells and TCEQ permits Class I, III, IV and V wells). Texas does not have primacy over Class VI UIC wells.

Current state statute splits jurisdiction over Class VI wells in Texas between RRC and TCEQ, depending on the type of project for which the well is being used to inject and store CO<sub>2</sub>. This split jurisdiction makes it cumbersome for Texas to apply to EPA for primacy of the Class VI UIC well program.

S.B. 450 consolidates the jurisdiction over onshore and offshore Class VI UIC wells solely under RRC in order for the state to more easily apply for and obtain primacy of this permitting program from EPA.

As proposed, S.B. 450 amends current law relating to the jurisdiction of the Railroad Commission of Texas over the injection and geologic storage of carbon dioxide.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is transferred to the Railroad Commission of Texas in SECTION 2 (Section 382.502, Health and Safety Code) and SECTION 3 (Section 382.506, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is rescinded in SECTION 6 (Section 202.0545, Tax Code) of this bill.

Rulemaking authority previously granted to the Railroad Commission of Texas is modified in SECTION 9 (Section 27.047, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 382.501, Health and Safety Code, by adding Subdivisions (5) and (6) to define "offshore" and "railroad commission" for Subchapter K (Offshore Geologic Storage of Carbon Dioxide).

SECTION 2. Amends Section 382.502, Health and Safety Code, as follows:

Sec. 382.502. New heading: RULES; ENFORCEMENT. (a) Authorizes the Railroad Commission of Texas (RRC) by rule, rather than the Texas Commission on

Environmental Quality (TCEQ), to adopt standards for the location, construction, maintenance, monitoring, and operation of a carbon dioxide repository.

(b) Makes a conforming change to this subsection.

(c) Provides that Subchapter F (Civil and Criminal Remedies), Chapter 27 (Injection Wells), Water Code, applies to the civil, administrative, or criminal enforcement of a rule adopted by RRC under this section in the same manner as Subchapter F, Chapter 27, Water Code, applies to the civil, administrative, or criminal enforcement of a rule adopted by RRC under Chapter 27, Water Code.

(d) Requires that a penalty collected under this section be deposited to the credit of the anthropogenic carbon dioxide storage trust fund established under Section 121.003 (Anthropogenic Carbon Dioxide Storage Trust Fund), Natural Resources Code.

SECTION 3. Amends Section 382.506(a), Health and Safety Code, to make a conforming change.

SECTION 4. Amends Section 382.509, Health and Safety Code, to make a conforming change.

SECTION 5. Amends Section 121.003, Natural Resources Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires that funds received by TCEQ from financial responsibility mechanisms under Section 27.073 (Financial Responsibility), Water Code, be deposited to the credit of the anthropogenic carbon dioxide storage trust fund. Makes a nonsubstantive change.

(c-1) Requires that penalties imposed for violations of TCEQ rules adopted under Section 382.502, Health and Safety Code, be deposited to the credit of the anthropogenic carbon dioxide storage trust fund.

(d) Authorizes the anthropogenic carbon dioxide storage trust fund to be used by TCEQ only for, among other things, permitting geologic storage facilities and associated anthropogenic carbon dioxide injection wells.

SECTION 6. Amends Sections 202.0545(c), (d), (f), and (h), Tax Code, as follows:

(c) Requires the operator, to qualify for the tax rate reduction under Section 202.0545 (Tax Exemption for Enhanced Recovery Projects Using Anthropogenic Carbon Dioxide), to:

(1) makes no changes to this subdivision; and

(2) apply for a certification from RRC.

Deletes existing text requiring the operator to apply for a certification from RRC, if carbon dioxide used in the project is to be sequestered in an oil or natural gas reservoir; from TCEQ, if carbon dioxide used in the project is to be sequestered in a geological formation other than an oil or natural gas reservoir; or from both RRC and TCEQ if certain paragraphs apply.

(d) Authorizes RRC, rather than an agency to which an operator applies for a certification under Subsection (c)(2), to issue a certification under Subsection (c)(2) only if TCEQ, rather than the agency, finds substantial evidence of certain criteria. Makes a nonsubstantive change.

(f) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to approve the application if the operator submits the certification, rather than the

certification or certifications, required by Subsection (c)(2) and if the comptroller determines that the oil is otherwise eligible under this section.

(h) Deletes existing text authorizing TCEQ to adopt rules and establish procedures to implement and administer this section. Makes a nonsubstantive change.

SECTION 7. Amends Subchapter C-1, Chapter 27, Water Code, by adding Section 27.040, as follows:

Sec. 27.040. DEFINITION. Defines "offshore" for Subchapter C-1 (Geologic Storage and Associated Injection of Anthropogenic Carbon Dioxide).

SECTION 8. Amends Sections 27.041(a) and (c), Water Code, as follows

(a) Provides that RRC has jurisdiction over the onshore and offshore injection and geologic storage of carbon dioxide in Texas. Deletes existing text providing that RRC has jurisdiction over the geologic storage of carbon dioxide in, and the injection of carbon dioxide into, a reservoir that is initially or may be productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir, except as provided by Subsection (b) (relating to jurisdiction of RRC over geologic storage and associated injection of anthropogenic carbon dioxide, subject to review of the legislature).

(c) Makes a conforming change to this subsection.

SECTION 9. Amends Section 27.047, Water Code, to require RRC to adopt certain rules and procedures reasonably required for the performance of its powers, duties, and functions under this subchapter, including rules for the collection and administration of funds received from financial responsibility mechanisms under Section 27.073. Makes nonsubstantive changes.

SECTION 10. Amends Section 27.048(b), Water Code, as follows:

(b) Requires RRC, if rules or regulations adopted to govern the geologic storage and associated injection of anthropogenic carbon dioxide under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) or another federal statute allow this state to seek primary enforcement authority under the underground injection control program, to seek primacy to administer and enforce the program for the geologic storage and associated injection of anthropogenic carbon dioxide in Texas, including onshore and offshore geologic storage and associated injection.

Deletes existing text requiring RRC to seek primacy to administer and enforce the program subject to the jurisdiction granted under this subchapter, and the state to seek primacy to administer and enforce the program for the geologic storage of carbon dioxide in, and the injection of carbon dioxide into, a saline formation. Makes nonsubstantive changes.

SECTION 11. Amends Section 27.073(b-1), Water Code, to require that the funds be deposited to the credit of the anthropogenic carbon dioxide storage trust fund established under Section 121.003, Natural Resources Code.

SECTION 12. Repealer: Section 27.022 (Jurisdiction Over Carbon Dioxide Injection), Water Code.

Repealer: Section 27.041(b) (relating to jurisdiction of RRC over geologic storage and associated injection of anthropogenic carbon dioxide, subject to review of the legislature), Water Code.

SECTION 13. Effective date: upon passage or September 1, 2021.