

By: Paddie

H.B. No. 1284

Substitute the following for H.B. No. 1284:

By: King of Uvalde

C.S.H.B. No. 1284

A BILL TO BE ENTITLED

AN ACT

relating to the jurisdiction of the Railroad Commission of Texas over the injection and geologic storage of carbon dioxide.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.501, Health and Safety Code, is amended by adding Subdivisions (5) and (6) to read as follows:

(5) "Offshore" has the meaning assigned by Section 27.040, Water Code.

(6) "Railroad commission" means the Railroad Commission of Texas.

SECTION 2. Section 382.502, Health and Safety Code, is amended to read as follows:

Sec. 382.502. RULES; ENFORCEMENT. (a) The railroad commission by rule may adopt standards for the location, construction, maintenance, monitoring, and operation of a carbon dioxide repository.

(b) If the United States Environmental Protection Agency issues requirements regarding carbon dioxide sequestration, the railroad commission shall ensure that the construction, maintenance, monitoring, and operation of the carbon dioxide repository under this subchapter comply with those requirements.

(c) Subchapter F, Chapter 27, Water Code, applies to the civil, administrative, or criminal enforcement of a rule adopted by the railroad commission under this section in the same manner as

1 Subchapter F, Chapter 27, Water Code, applies to the civil,  
2 administrative, or criminal enforcement of a rule adopted by the  
3 railroad commission under Chapter 27, Water Code.

4 (d) A penalty collected under this section shall be  
5 deposited to the credit of the anthropogenic carbon dioxide storage  
6 trust fund established under Section 121.003, Natural Resources  
7 Code.

8 SECTION 3. Section 382.506(a), Health and Safety Code, is  
9 amended to read as follows:

10 (a) The railroad commission by rule may establish standards  
11 for the measurement, monitoring, and verification of the permanent  
12 storage status of the carbon dioxide in the carbon dioxide  
13 repository.

14 SECTION 4. Section 382.509, Health and Safety Code, is  
15 amended to read as follows:

16 Sec. 382.509. RATES FOR TRANSPORTATION. Neither the  
17 railroad commission nor the board may establish or regulate the  
18 rates charged for the transportation of carbon dioxide to the  
19 carbon dioxide repository.

20 SECTION 5. Section 121.003, Natural Resources Code, is  
21 amended by amending Subsections (c) and (d) and adding Subsection  
22 (c-1) to read as follows:

23 (c) Fees collected by the commission under Subchapter C-1,  
24 Chapter 27, Water Code, ~~and~~ penalties imposed for violations of  
25 that subchapter or rules adopted under that subchapter, and funds  
26 received by the commission from financial responsibility  
27 mechanisms under Section 27.073, Water Code, shall be deposited to

1 the credit of the anthropogenic carbon dioxide storage trust fund.

2 (c-1) Penalties imposed for violations of commission rules  
3 adopted under Section 382.502, Health and Safety Code, shall be  
4 deposited to the credit of the anthropogenic carbon dioxide storage  
5 trust fund.

6 (d) The anthropogenic carbon dioxide storage trust fund may  
7 be used by the commission only for:

8 (1) permitting, inspecting, monitoring,  
9 investigating, recording, and reporting on geologic storage  
10 facilities and associated anthropogenic carbon dioxide injection  
11 wells;

12 (2) long-term monitoring of geologic storage  
13 facilities and associated anthropogenic carbon dioxide injection  
14 wells;

15 (3) remediation of mechanical problems associated  
16 with geologic storage facilities and associated anthropogenic  
17 carbon dioxide injection wells;

18 (4) repairing mechanical leaks at geologic storage  
19 facilities;

20 (5) plugging abandoned anthropogenic carbon dioxide  
21 injection wells used for geologic storage;

22 (6) training and technology transfer related to  
23 anthropogenic carbon dioxide injection and geologic storage; and

24 (7) compliance and enforcement activities related to  
25 geologic storage and associated anthropogenic carbon dioxide  
26 injection wells.

27 SECTION 6. Sections 202.0545(c), (d), (f), and (h), Tax

1 Code, are amended to read as follows:

2 (c) To qualify for the tax rate reduction under this  
3 section, the operator must:

4 (1) apply to the comptroller for the reduction and  
5 include with the application any information and documentation that  
6 the comptroller may require; and

7 (2) apply for a certification from[+]

8 [~~(A)~~] the Railroad Commission of Texas[, ~~if~~  
9 ~~carbon dioxide used in the project is to be sequestered in an oil or~~  
10 ~~natural gas reservoir,~~

11 [~~(B)~~ ~~the Texas Commission on Environmental~~  
12 ~~Quality, if carbon dioxide used in the project is to be sequestered~~  
13 ~~in a geological formation other than an oil or natural gas~~  
14 ~~reservoir, or~~

15 [~~(C)~~ ~~both the Railroad Commission of Texas and~~  
16 ~~the Texas Commission on Environmental Quality if both Paragraphs~~  
17 ~~(A) and (B) apply~~].

18 (d) The Railroad Commission of Texas [~~An agency to which an~~  
19 ~~operator applies for a certification under Subsection (c)(2)] may  
20 issue a [~~the~~] certification under Subsection (c)(2) only if the  
21 commission [~~agency~~] finds that, based on substantial evidence,  
22 there is a reasonable expectation that:~~

23 (1) at least 99 percent of the carbon dioxide  
24 sequestered as required by Subsection (a)(4) will remain  
25 sequestered for at least 1,000 years; and

26 (2) the operator's planned sequestration program will  
27 include appropriately designed monitoring and verification

1 measures that will be employed for a period sufficient to  
2 demonstrate whether the sequestration program is performing as  
3 expected.

4 (f) The comptroller shall approve the application if the  
5 operator submits the certification [~~or certifications~~] required by  
6 Subsection (c)(2) and if the comptroller determines that the oil is  
7 otherwise eligible under this section.

8 (h) The comptroller and [~~7~~] the Railroad Commission of  
9 Texas [~~, and the Texas Commission on Environmental Quality~~] may  
10 adopt rules and establish procedures to implement and administer  
11 this section.

12 SECTION 7. Subchapter C-1, Chapter 27, Water Code, is  
13 amended by adding Section 27.040 to read as follows:

14 Sec. 27.040. DEFINITION. In this subchapter, "offshore"  
15 means the area in the Gulf of Mexico seaward of the coast that is  
16 within three marine leagues of the coast.

17 SECTION 8. Sections 27.041(a) and (c), Water Code, are  
18 amended to read as follows:

19 (a) The [~~Except as provided by Subsection (b), the~~] railroad  
20 commission has jurisdiction over the onshore and offshore injection  
21 and geologic storage of carbon dioxide in this state [~~, and the~~  
22 ~~injection of carbon dioxide into, a reservoir that is initially or~~  
23 ~~may be productive of oil, gas, or geothermal resources or a saline~~  
24 ~~formation directly above or below that reservoir~~].

25 (c) The [~~Except as provided by Subsection (b), the~~] railroad  
26 commission has jurisdiction over a well used for the purpose  
27 provided by Subsection (a) regardless of whether the well was

1 initially completed for that purpose or was initially completed for  
2 another purpose and is converted to the purpose provided by  
3 Subsection (a).

4 SECTION 9. Section 27.043, Water Code, is amended to read as  
5 follows:

6 Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. (a) A person  
7 may not begin drilling or operating an anthropogenic carbon dioxide  
8 injection well for geologic storage or constructing or operating a  
9 geologic storage facility regulated under this subchapter without  
10 first obtaining the necessary permits from the railroad commission.

11 (b) The railroad commission may not issue a permit under  
12 this subchapter for the conversion of a previously plugged and  
13 abandoned Class I injection well, including any associated waste  
14 plume, to a Class VI injection well.

15 SECTION 10. The heading to Section 27.046, Water Code, is  
16 amended to read as follows:

17 Sec. 27.046. LETTER OF DETERMINATION FROM RAILROAD  
18 COMMISSION.

19 SECTION 11. Subchapter C-1, Chapter 27, Water Code, is  
20 amended by adding Section 27.0461 to read as follows:

21 Sec. 27.0461. LETTER OF DETERMINATION FROM COMMISSION. A  
22 person making an application to the railroad commission for a  
23 permit under this subchapter shall submit with the application a  
24 letter of determination from the commission concluding that  
25 drilling and operating an anthropogenic carbon dioxide injection  
26 well for geologic storage or constructing or operating a geologic  
27 storage facility will not impact or interfere with any previous or

1 existing Class I injection well, including any associated waste  
2 plume, or any other injection well authorized or permitted by the  
3 commission.

4 SECTION 12. Section 27.047, Water Code, is amended to read  
5 as follows:

6 Sec. 27.047. RULES. The railroad commission shall adopt  
7 rules and procedures reasonably required for the performance of its  
8 powers, duties, and functions under this subchapter, including  
9 rules for:

10 (1) the geologic storage and associated injection of  
11 anthropogenic carbon dioxide, including:

- 12 (A) geologic site characterization;
- 13 (B) area of review and corrective action;
- 14 (C) well construction;
- 15 (D) operation;
- 16 (E) mechanical integrity testing;
- 17 (F) monitoring;
- 18 (G) well plugging;
- 19 (H) postinjection site care;
- 20 (I) site closure; and
- 21 (J) long-term stewardship;

22 (2) the enforcement of this subchapter and rules  
23 adopted by the railroad commission under this subchapter; and

24 (3) the collection and administration of:

- 25 (A) fees imposed under Section 27.045; ~~and~~
- 26 (B) penalties imposed for a violation of this  
27 subchapter or rules adopted by the railroad commission under this

1 subchapter; and

2 (C) funds received from financial responsibility  
3 mechanisms under Section 27.073.

4 SECTION 13. Section 27.048(b), Water Code, is amended to  
5 read as follows:

6 (b) If rules or regulations adopted to govern the geologic  
7 storage and associated injection of anthropogenic carbon dioxide  
8 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et  
9 seq.) or another federal statute allow this state to seek primary  
10 enforcement authority under the underground injection control  
11 program, [+

12 ~~[(1)] the railroad commission [shall seek primacy to~~  
13 ~~administer and enforce the program subject to the jurisdiction~~  
14 ~~granted under this subchapter; and~~

15 ~~[(2) this state]~~ shall seek primacy to administer and  
16 enforce the program for the geologic storage and associated  
17 injection of anthropogenic carbon dioxide in this state, including  
18 onshore and offshore geologic storage and associated injection~~[,~~  
19 ~~and the injection of carbon dioxide into, a saline formation].~~

20 SECTION 14. Section 27.073(b-1), Water Code, is amended to  
21 read as follows:

22 (b-1) The railroad commission is authorized to receive  
23 funds as the beneficiary of a financial responsibility mechanism  
24 established under this chapter for the proper management of an  
25 anthropogenic carbon dioxide injection well or geologic storage  
26 facility. The funds shall be deposited to the credit of the  
27 anthropogenic carbon dioxide storage trust fund established under



1 Section 121.003, Natural Resources Code.

2 SECTION 15. Sections 27.022 and 27.041(b), Water Code, are  
3 repealed.

4 SECTION 16. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2021.