

## **BILL ANALYSIS**

C.S.H.B. 3442  
By: Pickett  
Appropriations  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Due to the current budget shortfall, state agencies and institutions of higher education were asked to prioritize spending based on core functions and essential services. The committee looked to these priorities in preparation of the budget; however, certain statutory changes are also needed to conform with appropriations levels in the 2004-05 General Appropriations Act. Committee Substitute House Bill 3442 authorizes these statutory changes for the natural resources agencies listed under Article VI of the 2004-05 General Appropriations Act.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission in SECTION 3 (Section 102.006, Utilities Code) of this substitute. It is the committee's opinion that rulemaking authority expressly granted to the Railroad Commission is modified in SECTION 3 (Section 102.006, Utilities Code) of this substitute.

### **ANALYSIS**

Committee Substitute House Bill 3442 authorizes any state agency that receives an appropriation under Article VI of the General Appropriations Act to reduce or recover expenditures by (1) consolidating reports or publications the agency is required to make, and filing or delivering any of those reports or publications exclusively by electronic means; (2) extending the effective period of any license, permit, or registration the agency grants or administers; (3) contracting services with other governmental entities or to private vendors; (4) adopting additional eligibility requirements for benefits; (5) requiring all communications with state agencies be made electronically; and (6) adopting fees to cover any costs the agency incurs in performing its duties.

Committee Substitute House Bill 3442 directs the Texas Animal Health Commission to reduce its expenditures of state money related to regulating equine riding stables and repeals the Riding Stables Chapter of the Occupations Code.

Committee Substitute House Bill 3442 requires the Railroad Commission by rule to provide for administrative hearings in contested cases to be conducted by one or more members of the Railroad Commission, Railroad Commission Hearings Examiners, or by the utility division of the State Office of Administrative Hearings. This substitute also requires the above-referenced rules to provide for a Railroad Commission Hearings Examiner or the utility division of the State Office of Administrative Hearings to conduct contested case hearings that are not conducted by a member or members of the Railroad Commission.

Committee Substitute House Bill 3442 allows the Railroad Commission to delegate to a Railroad Commission Hearings Examiner or to the utility division of the State Office of Administrative Hearings the authority to make a final decision and to issue findings and orders in a proceeding in which there is no contested issue of fact or law. This substitute also requires the Railroad Commission by rule to define the procedures by which it delegates final decision-making authority to a Railroad Commission

Hearings Examiner or the utility division of the State Office of Administrative Hearings.

Committee Substitute House Bill 3442 establishes that, for the purposes of judicial review, final decisions of a Railroad Commission Hearings Examiner or an Administrative Law Judge of the State Office of Administrative Hearings in a proceeding in which there is no contested issue of fact or law are the same as a final decision of the Railroad Commission unless a formal review of the decision is requested by a Commission member.

Committee Substitute House Bill 3442 requires the State Office of Administrative Hearings to charge the Railroad Commission a fixed annual rate for hearings conducted by the office if a legislative appropriation is made for that purpose. If a legislative appropriation is not made for that purpose, the State Office of Administrative Hearings is required to charge the Railroad Commission an hourly rate for hearings conducted by the office under this section.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Committee Substitute House Bill 3442 modifies the original by adding language that authorizes any state agency that receives an appropriation under Article VI of the General Appropriations Act to reduce or recover expenditures by (1) consolidating reports or publications the agency is required to make, and filing or delivering any of those reports or publications exclusively by electronic means; (2) extending the effective period of any license, permit, or registration the agency grants or administers; (3) contracting services with other governmental entities or to private vendors; (4) adopting additional eligibility requirements for benefits; (5) requiring all communications with state agencies be made electronically; and (6) adopting fees to cover any costs the agency incurs in performing its duties.

Committee Substitute House Bill 3442 modifies the original by adding language that requires (1) the Railroad Commission by rule to provide for administrative hearings in contested cases to be conducted by one or more members of the Railroad Commission, Railroad Commission Hearings Examiners, or by the utility division of the State Office of Administrative Hearings and (2) the above-referenced rules to provide for a Railroad Commission Hearings Examiner or the utility division of the State Office of Administrative Hearings to conduct contested case hearings that are not conducted by a member or members of the Railroad Commission.

Committee Substitute House Bill 3442 modifies the original by adding language that (1) allows the Railroad Commission to delegate to a Railroad Commission Hearings Examiner or to the utility division of the State Office of Administrative Hearings the authority to make a final decision and to issue findings and orders in a proceeding in which there is no contested issue of fact or law, and (2) requires the Railroad Commission by rule to define the procedures by which it delegates final decision-making authority to a Railroad Commission Hearings Examiner or the utility division of the State Office of Administrative Hearings.

Committee Substitute House Bill 3442 modifies the original by adding language that establishes that, for the purposes of judicial review, final decisions of a Railroad Commission Hearings Examiner or an Administrative Law Judge of the State Office of Administrative Hearings in a proceeding in which there is no contested issue of fact or law are the same as a final decision of the Railroad Commission unless a formal review of the decision is requested by a Commission member.

Committee Substitute House Bill 3442 modifies the original by adding language that requires the State Office of Administrative Hearings to charge the Railroad Commission a fixed annual rate for hearings conducted by the office if a legislative appropriation is made for that purpose, and that, if a legislative appropriation is not made for that purpose, the State Office of Administrative Hearings is required to charge the Railroad Commission an hourly rate for hearings conducted by the office under this section.

Committee Substitute House Bill 3442 modifies the original by removing language that authorizes the legislature to reduce statutory amounts going to Article VI state agencies if necessary to balance the budget.

Committee Substitute House Bill 3442 modifies the original by removing language that directs the General Land Office to reduce its expenditures related to its trustee program and coastal erosion control and amends the Natural Resources Code to require that when the balance of the Coastal Protection Fund reaches \$40 million, income on the investment, in an amount not to exceed \$5 million, will be transferred to the Railroad Commission for the Oil-Field Cleanup Fund and income in excess of \$5 million will be credited to Coastal Protection Fund. This substitute also modifies the original by removing language that amends the Natural Resources Code by deleting language that limits the use of the Coastal Protection Fund to those listed in the statute and that requires the fund to be used specifically for protecting beaches and natural resources.

Committee Substitute House Bill 3442 modifies the original by removing language that (1) directs the Parks and Wildlife Department to reduce expenditures by reducing the amounts used for local park grants; (2) amends the Parks and Wildlife Code to eliminate sales tax revenue as a source of funds for the states parks account and the Texas recreation and parks account; and (3) amends the Tax Code to require that all revenue from the sales, storage, and use taxes on sporting goods be credited to the Parks and Wildlife Department.

Committee Substitute House Bill 3442 modifies the original by removing language that directs the Railroad Commission to reduce expenditures by combining its oil spill response functions with the General Land Office, imposing user and operation fees on railroads for use in rail safety programs adopted by the commission, and imposing pipeline safety fees on pipeline consumers and operators for pipeline safety programs adopted by the commission.