

BILL ANALYSIS

C.S.H.B. 3837
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is a lack of clarity in statutes regarding jurisdiction over in situ uranium exploration; this lack of clarity has not previously been addressed since the uranium industry has been largely dormant for the past 10 years due to extremely low market prices for the product.

Unlike 30 years ago, in situ recovery, rather than surface mining, is the predominate method used in the uranium industry in Texas. This bill is designed to update the Natural Resources Code, to better reflect the state of the industry it regulates. Since several agencies regulate the in situ recovery process and restoration and reclamation, this bill focuses on the jurisdictional area that is within the purview of the Railroad Commission of Texas (commission) which is the exploration associated with recovery of uranium. In particular, this bill clarifies the commission's jurisdiction and the required contents of exploration permits. In recognition of the development and work of local groundwater conservation districts, this bill also provides for notification by the commission to local governmental entities regarding exploration permits that are issued and the sharing of geologic, hydrologic, and water quality information.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 4 of this bill.

ANALYSIS

This bill amends the Natural Resources code by adding to the Uranium Surface Mining and Reclamation Act to include uranium "exploration" activities including permits for exploration.

This bill clarifies that uranium exploration activity is within the scope of the commission's general authority, jurisdiction and rulemaking power. The bill further clarifies that while exploration is under the jurisdiction of the commission, that in situ recovery processes are not. This bill also updates the provisions dealing with confidentiality. This bill further clarifies that discharge rules, orders, and permits associated with uranium exploration activity are under the exclusive authority of the commission.

This bill adds a Subchapter entitled "Permits for Exploration Activities." This bill sets the parameters for the issuance, application, renewal and scope of exploration permits. The bill specifically states that a person may not conduct exploration activity unless the person holds an exploration permit issued by the commission.

This bill states that the commission has jurisdiction over uranium exploration holes and cased exploration wells completed under an exploration permit and sets the parameters of this jurisdiction. This bill further sets the parameters under which a well is subject to a groundwater conservation district's rules.

This bill states that the commission may impose an application fee for an exploration permit. This bill further states that at the time the commission receives an application for an exploration permit, the commission shall provide written notice of the exploration permit application to certain persons and entities as specified by the bill. This bill states that a person issued an exploration permit that authorizes exploration in a groundwater conservation district shall provide certain information as specified by this bill to that groundwater conservation district.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changed the caption of the bill the original caption read as follows "relating to regulation by the railroad commission of injection wells used for in situ uranium mining." The substitute caption reads as follows "relating to regulation by the Railroad Commission of Texas of uranium exploration."

Changes were made throughout the substitute to remove language which distinguished between in situ exploration and surface mining exploration.

Language referring to technologies was removed by the substitute. The original amended Section 131.004 (3) of the Natural Resources Code the substitute does not. The original also added Section 131.004 (19) to the Natural Resources Code, the substitute does not. The original had a section of the bill dealing with "Conflict with Water Code" the substitute removes that section. The original amended Section 131.042 of the Natural Resources Code, the substitute does not.

In the section dealing with "General Authority of Commission" changes were made to clarify that the commission has the authority to order the cessation of exploration operations and to require persons holding exploration permits to prepare reports. The substitute provides an exception to the exclusive jurisdiction of the commission.

In the section dealing with "Confidentiality" changes were made to clarify that the confidentiality provision regarding records applies equally to applicants for exploration and surface mining permits.

In the section dealing with "Discharge Rules, Orders, and Permits" the word mining was removed by the substitute. The substitute clarifies that rule is rule adopted, order is order issued, and permit is permit issued.

In the section dealing with "Applicability of Subchapter" the substitute states that "Sections 131.037, 131.038, 131.039, 131.040, 131.041, 131.042, 131.043, 131.044, and 131.045 do not apply to exploration activity subject to an exploration permit issued under this subchapter." The original stated that "Sections 131.037 and 131.042 do not apply to in situ exploration activity subject to a permit issued under this subchapter."

Throughout Section 4 of the substitute, permit is clarified to state "an exploration" permit.

In the section dealing with "Exploration Permits" the original stated that The commission "may" adopt rules, whereas the substitute states that The commission "shall" adopt rules.

The substitute adds language dealing with expiration of the term of an exploration permit and the application for a new exploration permit, and the renewal of an exploration permit.

In the section dealing with "Scope of Exploration Permit" the substitute provides an exception to the exemption from regulation for a cased exploration well.

The substitute adds language dealing with groundwater conservation district's rules regarding registration, production, and reporting of wells.

In the section dealing with "Notification by Commission" the substitute states that "At the time the commission receives an application for an exploration permit the commission shall provide written notice of the exploration permit application." The original stated "At the time the commission issues a permit, the commission shall provide written notice of the permit." The substitute provides a more detailed list of who should receive notice.

In the section dealing with "Geologic, Hydrologic, Water Quality, and Well Information" the types of data to be shared with groundwater conservation districts was expanded in the substitute to include pre-exploration water quality, well completion information, and information regarding well locations. The substitute also states that a person may take not more than 90 days after the person receives the final information before submitting the information to the groundwater conservation district, whereas the original stated that a person may compile and analyze the information for a reasonable time before submitting the information as required.