

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Gonzalez Toureilles, Hardcastle, Chisum

H.B. No. 3838

A BILL TO BE ENTITLED

AN ACT

relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality.

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

SECTION 1. Section 27.002, Water Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (16), (17), and (18) to read as follows:

(1) "Commission" means the Texas Commission on Environmental Quality [~~Natural Resource Conservation Commission~~].

(2) "Executive director" means the executive director of the commission [~~Texas Natural Resource Conservation Commission~~].

(16) "Production well" means a well used to recover uranium through in situ solution recovery, including an injection well used to recover uranium. The term does not include a well used to inject waste.

(17) "Monitoring well" means a well that is used to measure or monitor the level, quality, quantity, or movement of subsurface water.

(18) "Area permit" means a permit that authorizes the construction and operation of production and monitoring wells used in operations and restoration associated with in situ recovery of uranium.

SECTION 2. Subchapter B, Chapter 27, Water Code, is amended

1 by adding Sections 27.023 and 27.024 to read as follows:

2 Sec. 27.023. JURISDICTION OVER IN SITU URANIUM APPLICATION  
3 DEVELOPMENT AND OPERATIONS. (a) The commission has exclusive  
4 jurisdiction over and shall regulate wells used during the  
5 development of permit applications to obtain required premining  
6 geologic, hydrologic, and water quality information.

7 (b) The commission shall require a well described by  
8 Subsection (a) to be registered with the commission. A well  
9 described by Subsection (a) is not subject to the commission's  
10 permitting, notice, and hearing requirements.

11 (c) If a well described by Subsection (a) is included in an  
12 area permit issued by the commission:

13 (1) the registration status of the well ceases; and

14 (2) the well is subject to all rules applicable to the  
15 area permit, including notice and hearing requirements.

16 Sec. 27.024. SHARING OF GEOLOGIC, HYDROLOGIC, AND WATER  
17 QUALITY DATA. (a) After a person developing an application for an  
18 area permit for an area located in a groundwater conservation  
19 district has identified a permit boundary, the person shall provide  
20 to that district:

21 (1) information regarding wells encountered by that  
22 person during the development of the area permit application that  
23 are not recorded in the public record;

24 (2) a map showing the locations of wells that are  
25 located within one-quarter mile of the location for the proposed  
26 permit and that are recorded in the public record;

27 (3) premining water quality information collected

1 from wells described by Section 27.023(a);

2 (4) on a monthly basis, the amount of water produced  
3 from the wells described by Section 27.023(a); and

4 (5) a record of strata as described by Section 27.053,  
5 except confidential information described by Section 131.048,  
6 Natural Resources Code.

7 (b) A person may take not more than 90 days after the person  
8 receives the final information described by Subsection (a) to  
9 perform standard quality control and quality assurance procedures  
10 before the person submits the information to the groundwater  
11 conservation district.

12 SECTION 3. Sections 27.051(a) and (b), Water Code, are  
13 amended to read as follows:

14 (a) The commission may grant an application in whole or part  
15 and may issue the permit if it finds:

16 (1) that the use or installation of the injection well  
17 is in the public interest;

18 (2) that no existing rights, including, but not  
19 limited to, mineral rights, will be impaired;

20 (3) that, with proper safeguards, both ground and  
21 surface fresh water can be adequately protected from pollution;

22 (4) that the applicant has made a satisfactory showing  
23 of financial responsibility as ~~[if]~~ required by Section 27.073 ~~[of~~  
24 ~~this code]~~;

25 (5) that the applicant has provided for the proper  
26 operation of the proposed hazardous waste injection well;

27 (6) that the applicant for a hazardous waste injection

1 well not located in an area of industrial land use has made a  
2 reasonable effort to ensure that the burden, if any, imposed by the  
3 proposed hazardous waste injection well on local law enforcement,  
4 emergency medical or fire-fighting personnel, or public roadways,  
5 will be reasonably minimized or mitigated; and

6 (7) that the applicant owns or has made a good faith  
7 claim to, or has the consent of the owner to utilize, or has an  
8 option to acquire, or has the authority to acquire through eminent  
9 domain, the property or portions of the property where the  
10 hazardous waste injection well will be constructed.

11 (b) The railroad commission may grant an application in  
12 whole or part and may issue the permit if it finds:

13 (1) that the use or installation of the injection well  
14 is in the public interest;

15 (2) that the use or installation of the injection well  
16 will not endanger or injure any oil, gas, or other mineral  
17 formation;

18 (3) that, with proper safeguards, both ground and  
19 surface fresh water can be adequately protected from pollution; and

20 (4) that the applicant has made a satisfactory showing  
21 of financial responsibility as [~~if~~] required by Section 27.073 [~~of~~  
22 ~~this code~~].

23 SECTION 4. Section 27.053, Water Code, is amended to read as  
24 follows:

25 Sec. 27.053. RECORD OF STRATA. The commission or railroad  
26 commission may require a person receiving a permit or authorization  
27 by rule under this chapter to keep and furnish a complete and

1 accurate record of the depth, thickness, and character of the  
2 different strata penetrated in drilling an ~~[the]~~ injection well,  
3 monitoring well, or production well.

4 SECTION 5. Section 27.054, Water Code, is amended to read as  
5 follows:

6 Sec. 27.054. ELECTRIC OR DRILLING LOG. If an existing well  
7 is to be converted to an injection well, monitoring well, or  
8 production well, the commission or railroad commission may require  
9 the applicant to furnish an electric log or a drilling log of the  
10 existing well.

11 SECTION 6. Section 27.071, Water Code, is amended to read as  
12 follows:

13 Sec. 27.071. POWER TO ENTER PROPERTY. (a) Members of the  
14 commission and the railroad commission and employees of the  
15 commission and the railroad commission may enter public or private  
16 property to inspect and investigate conditions relating to  
17 injection well, monitoring well, ~~[or]~~ disposal well, or production  
18 well activities within their respective jurisdictions or to monitor  
19 compliance with a rule, permit, or other order of the commission or  
20 railroad commission.

21 (b) The railroad commission by rule shall provide that  
22 before a member or employee of the railroad commission enters  
23 public or private property under the authority of Subsection (a)  
24 that is located in a groundwater conservation district, a  
25 representative from the district must be invited to accompany the  
26 member or employee.

27 (c) Members, ~~[or]~~ employees, or representatives acting

1 under the authority of this section who enter an establishment on  
2 public or private property shall observe the establishment's  
3 safety, internal security, and fire protection rules.

4 SECTION 7. Section 27.072, Water Code, is amended to read as  
5 follows:

6 Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the  
7 commission and the railroad commission and employees of the  
8 commission and railroad commission may examine and copy those  
9 records or memoranda of a business they are investigating as  
10 provided by Section 27.071 of this code that relate to the operation  
11 of an injection well, monitoring well, [ex] disposal well, or  
12 production well, or any other records required to be maintained by  
13 law.

14 SECTION 8. Section 27.073(a), Water Code, is amended to  
15 read as follows:

16 (a) A person to whom an injection well, monitoring well, or  
17 production well permit is issued shall [~~may~~] be required by the  
18 commission or railroad commission to maintain a performance bond or  
19 other form of financial security to ensure that an abandoned well is  
20 properly plugged.

21 SECTION 9. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

*Letsy Davis*  
Secretary of the Senate

By: Hegar

H.B. No. 3838

Substitute the following for H.B. No. 3838:

By: [Signature]

C.S. H.B. No. 3838

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4 jurisdiction over and shall regulate wells used during the  
5 development of permit applications to obtain required premining  
6 geologic, hydrologic, and water quality information.

7 (b) The commission shall require a well described by  
8 Subsection (a) to be registered with the commission. A well  
9 described by Subsection (a) is not subject to the commission's  
10 permitting, notice, and hearing requirements.

11 (c) If a well described by Subsection (a) is included in an  
12 area permit issued by the commission:

13 (1) the registration status of the well ceases; and

14 (2) the well is subject to all rules applicable to the  
15 area permit, including notice and hearing requirements.

16 Sec. 27.024. SHARING OF GEOLOGIC, HYDROLOGIC, AND WATER  
17 QUALITY DATA. (a) After a person developing an application for an  
18 area permit for an area located in a groundwater conservation  
19 district has identified a permit boundary, the person shall provide  
20 to that district:

21 (1) information regarding wells encountered by that  
22 person during the development of the area permit application that  
23 are not recorded in the public record;

24 (2) a map showing the locations of wells that are  
25 located within one-quarter mile of the location for the proposed  
26 permit and that are recorded in the public record;

27 (3) premining water quality information collected



1 from wells described by Section 27.023(a);

2 (4) on a monthly basis, the amount of water produced  
3 from the wells described by Section 27.023(a); and

4 (5) a record of strata as described by Section 27.053,  
5 except confidential information described by Section 131.048,  
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16 by rule under this chapter to keep and furnish a complete and  
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27 SECTION 5. Section 27.071, Water Code, is amended to read as

1 follows:

2       Sec. 27.071. POWER TO ENTER PROPERTY. Members of the  
3 commission and the railroad commission and employees of the  
4 commission and the railroad commission may enter public or private  
5 property to inspect and investigate conditions relating to  
6 injection well, monitoring well, [~~ex~~] disposal well, or production  
7 well activities within their respective jurisdictions or to monitor  
8 compliance with a rule, permit, or other order of the commission or  
9 railroad commission. Members or employees acting under the  
10 authority of this section who enter an establishment on public or  
11 private property shall observe the establishment's safety,  
12 internal security, and fire protection rules.

13       SECTION 6. Section 27.072, Water Code, is amended to read as  
14 follows:

15       Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the  
16 commission and the railroad commission and employees of the  
17 commission and railroad commission may examine and copy those  
18 records or memoranda of a business they are investigating as  
19 provided by Section 27.071 of this code that relate to the operation  
20 of an injection well, monitoring well, [~~ex~~] disposal well, or  
21 production well, or any other records required to be maintained by  
22 law.

23       SECTION 7. Section 27.073, Water Code, is amended by adding  
24 Subsection (a-1) to read as follows:

25       (a-1) Notwithstanding Subsection (a), a person to whom an in  
26 situ uranium mining injection well, monitoring well, or production  
27 well permit is issued shall be required by the commission to

1 maintain a performance bond or other form of financial security to  
2 ensure that an abandoned well is properly plugged.

3 SECTION 8. This Act takes effect September 1, 2007.



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 20, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3838** by Gonzalez Toureilles (Relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality. ), **Committee Report 2nd House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would provide that the Texas Commission on Environmental Quality (TCEQ) would have exclusive jurisdiction and regulation authority for in situ uranium mining wells used to develop areas subject to a permit. Wells associated with in situ uranium mining would be required to register with the TCEQ, but the registration requirement would cease if the well is included in an area permit issued by the agency. An applicant would be required to share any geologic, hydrologic, and water quality data concerning wells where application is made for an area permit with the appropriate groundwater conservation district.

Passage of the bill is not expected to result in significant increased workload at the TCEQ or to the Railroad Commission.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 582 Commission on Environmental Quality

**LBB Staff:** JOB, ZS, WK, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3838** by Gonzalez Toureilles (Relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3838, As Engrossed: a negative impact of (\$768,662) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$397,831)
2009	(\$370,831)
2010	(\$370,831)
2011	(\$370,831)
2012	(\$370,831)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$397,831)	9.0
2009	(\$370,831)	9.0
2010	(\$370,831)	9.0
2011	(\$370,831)	9.0
2012	(\$370,831)	9.0

**Fiscal Analysis**

The bill would provide that the Texas Commission on Environmental Quality (TCEQ) would have exclusive jurisdiction and regulation authority for in situ uranium mining wells used to develop areas subject to a permit. Wells associated with in situ uranium mining would be required to register with the TCEQ, but the registration requirement would cease if the well is included in an area permit issued by the agency. An applicant would be required to share any geologic, hydrologic, and water quality data concerning wells where application is made for an area permit with the appropriate groundwater conservation district.

The bill would also require that the Railroad Commission by rule provide that before a member or employee of the Railroad Commission enters public or private property located in a groundwater conservation district to inspect and investigate conditions relating to injection wells, monitoring





wells, disposal wells, or uranium production wells that a representative from the district must be invited to accompany the member or employee.

### **Methodology**

The Railroad Commission reports that there are over 50,000 injection wells and disposal wells permitted in the state. The agency reports that it conducts on average over 20,000 inspections of such wells in a given year. If it were required to invite a representative of a groundwater management district to accompany inspectors on every inspection, the agency expects that its administrative workload would increase significantly because the agency would be required to provide reasonable notice of inspections, thereby requiring more scheduling and correspondence activity. The notification requirement could also reduce the agency's ability to perform short-notice inspections, and it could decrease the agency's ability to perform as many inspections as it does currently. The agency expects that passage of the bill would require an additional FTE at each of the Railroad Commission's nine Oil and Gas Division regional offices, resulting in costs of \$397,831 in fiscal year 2008 and \$370,831 in subsequent years. This estimate assumes that these costs would be paid out of the General Revenue Fund.

Passage of the bill is not expected to result in significant increased workload at the TCEQ.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 582 Commission on Environmental Quality

**LBB Staff:** JOB, ZS, WK, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 26, 2007**

**TO:** Honorable Rick Hardcastle, Chair, House Committee on Energy Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3838** by Gonzalez Toureilles (Relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality. ), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would provide that the Texas Commission on Environmental Quality (TCEQ) would have exclusive jurisdiction and regulation authority for in situ uranium mining wells used to develop areas subject to a permit. Wells associated with in situ uranium mining would be required to register with the TCEQ, but the registration requirement would cease if the well is included in an area permit issued by the agency. An applicant would be required to share any geologic, hydrologic, and water quality data concerning wells where application is made for an area permit with the appropriate groundwater conservation district.

Passage of the bill is not expected to result in significant increased workload at the TCEQ.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 11, 2007**

**TO:** Honorable Rick Hardcastle, Chair, House Committee on Energy Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3838** by Gonzalez Toureilles (Relating to regulation of injection wells used for in situ uranium mining by the Texas Commission on Environmental Quality.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would mandate that the Texas Commission on Environmental Quality (TCEQ) would have exclusive jurisdiction and regulation authority for in situ uranium mining wells used to develop areas subject to a permit to obtain required water quality information prior to mining and for associated monitoring wells. The TCEQ would also be required to adopt rules concerning construction and spacing requirements for monitoring wells and wells used to develop required pre-mining water quality information. Wells associated with in situ uranium mining would be required to register with the TCEQ, but the registration requirement would cease if the well is included in an area permit issued by the agency. An applicant would be required to share any geologic, hydrologic, and water quality data concerning wells where application is made for an area permit with the appropriate groundwater conservation district. In addition, the TCEQ would be prohibited from authorizing by rule or permit an injection or production well, defined as those used to recover uranium through in situ solution recovery, that transects or terminates in the Edwards Aquifer.

Passage of the bill is not expected to result in significant increased workload at the TCEQ.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 455 Railroad Commission, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL