

## **BILL ANALYSIS**

C.S.H.B. 2767  
By: King, Phil  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that treating and reusing oil and gas waste is essential to supporting growth in the Texas oil and gas industry while preserving water resources. The rapid growth of development in Texas' shale deposits requires large quantities of water for drilling and hydro-fracturing operations that must be safely discharged or disposed of properly. Under current practice, most oil and gas wastewater is disposed of in underground injection wells instead of being treated and reused in drilling and hydro-fracturing activity, according to concerned parties. The parties report that the lengthy permitting process for off-lease treatment operations and the legal ambiguity about the ownership of oil and gas waste transferred for treatment are obstacles to recycling oil and gas waste. C.S.H.B. 2767 seeks to address these obstacles by proposing statutory changes to the law relating to treating and recycling for beneficial use certain waste arising out of or incidental to drilling for or producing oil or gas.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2767 amends the Natural Resources Code to specify that, unless otherwise expressly provided by a contract, bill of sale, or other legally binding document, when fluid oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of that person until the person transfers the waste or treated waste to another person for disposal or use and that when a person who takes possession of fluid oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

C.S.H.B. 2767 makes a person who takes possession of fluid oil and gas waste, produces from that waste a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil and gas, and transfers the treated product to another person with the contractual understanding that the treated product will be used in connection with the drilling for or production of oil or gas not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

C.S.H.B. 2767 requires the Railroad Commission of Texas to adopt rules to govern the treatment and beneficial use of oil and gas waste.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2767 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 122 to read as follows:

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**CHAPTER 122. RECYCLING CERTAIN OIL AND GAS WASTE FOR BENEFICIAL USE**

**CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF CERTAIN OIL AND GAS WASTE**

**Sec. 122.001. FINDINGS AND POLICY.**

**No equivalent provision.**

(a) The legislature finds that it is necessary to both:

(1) conserve the water resources of this state; and

(2) reduce and minimize the amount of liquid and semiliquid waste arising out of or incidental to the drilling for or production of oil and gas that must then be safely discharged or disposed of.

(b) Accordingly, it is the policy of this state to encourage the treatment of liquid and semiliquid oil and gas waste so that the treated product may be recycled for beneficial use.

**Sec. 122.002. DEFINITIONS. In this chapter:**

**Sec. 122.001. DEFINITIONS. In this chapter:**

(1) "Commission" means the Railroad Commission of Texas.

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(2) "Liquid or semiliquid oil and gas waste" means water containing salt or other mineralized substances, brine, drilling mud, hydraulic fracturing fluid, flow-back water, produced water, and other liquid or semiliquid material that arises out of or incidental to the drilling for or producing of oil or gas.

(2) "Fluid oil and gas waste" means waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water, or other fluid that arises out of or is incidental to the drilling for or production of oil or gas.

**Sec. 122.003. OWNERSHIP OF CERTAIN OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE.** (a) Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document,

**Sec. 122.002. OWNERSHIP OF CERTAIN OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE.** Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document:

when liquid or semiliquid oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of the person that takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use.

(b) Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document, when, as described by Subsection (a), the person who takes possession of oil and gas waste for purposes of treating the waste transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

#### Sec. 122.004. RESPONSIBILITY IN TORT.

(a) This section applies only in relation to the production from liquid or semiliquid oil and gas waste of a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or producing of oil or gas.

(b) A person who takes possession of liquid or semiliquid oil and gas waste, produces from that waste a treated product described by Subsection (a), and sells or transfers the treated product to another with the contractual understanding that the treated product will be used in connection with the drilling for or producing of oil or gas is not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

Sec. 122.005. OFF-LEASE PERMITTING. The commission shall establish a procedure under which a person who holds in good standing a commission permit for on-lease operation to store, handle, treat, or reclaim oil and gas waste and who treats liquid or semiliquid oil and gas waste for a

(1) when fluid oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use; and

(2) when a person who takes possession of fluid oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

#### Sec. 122.003. RESPONSIBILITY IN TORT.

*(See below.)*

A person who takes possession of fluid oil and gas waste, produces from that waste a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil or gas, and transfers the treated product to another person with the contractual understanding that the treated product will be used in connection with the drilling for or production of oil or gas is not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

**No equivalent provision.**

subsequent beneficial use may expeditiously receive an off-lease commercial permit under which the person may treat liquid or semiliquid oil and gas waste off-lease for a subsequent beneficial use if the permit holder demonstrates to the commission that the permit holder can and will:

(1) safely store the waste and treated waste off-lease; and

(2) for each site at which the waste is treated, provide the commission with the information about the composition of the treated oil and gas waste at that site in the form and manner that the commission reasonably requires to perform its duties.

**No equivalent provision.**

Sec. 122.004. COMMISSION RULES FOR TREATMENT AND BENEFICIAL USE. The commission shall adopt rules to govern the treatment and beneficial use of oil and gas waste.

SECTION 2. This Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.