

By: Darby

H.B. No. 40

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the express preemption of regulation of oil and gas
3 operations and the exclusive jurisdiction of those operations by
4 the state.

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

6 SECTION 1. The legislature finds that the laws and policy of
7 this state have fostered successful development of oil and gas
8 resources in concert with the growth of healthy and economically
9 vibrant communities for over 100 years. The legislature
10 acknowledges this cooperative progress and mutual benefit is
11 derived from current statutes that provide effective and
12 environmentally sound regulation of oil and gas operations that is
13 so comprehensive and pervasive that it occupies the field, while
14 facilitating the overriding policy objective to fully and
15 effectively exploit oil and gas resources and protecting the
16 environment and public's health and safety. The legislature
17 recognizes that in order to continue this prosperity and the
18 efficient management of a key industry in this state it is in the
19 state's interest to explicitly confirm the authority for regulation
20 of oil and gas activities within the state. The legislature intends
21 that this Act expressly preempts regulation of oil and gas
22 operations by municipalities and other political subdivisions that
23 is already impliedly preempted by state law.

24 SECTION 2. Chapter 81, Natural Resources Code, is amended

1 by adding a new Section to read as follows:

2 Sec. 81.071. EXPRESS PREEMPTION. (a) In this section:

3 (1) "Commercially reasonable" is defined as a
4 condition that permits a reasonably prudent operator to fully,
5 effectively, and economically exploit, develop, produce, process,
6 and transport oil and gas.

7 (2) "Oil and gas operation" is defined as an activity
8 associated with the exploration, development, production,
9 processing, and transportation of oil and gas, including drilling,
10 hydraulic fracture stimulation, completion, maintenance,
11 reworking, recompletion, disposal, plugging and abandonment,
12 secondary and tertiary recovery techniques, and remediation
13 activities.

14 (b) The authority of a municipality or other political
15 subdivision to regulate an oil and gas operation is expressly
16 preempted, except that a municipality is authorized to enact,
17 amend, or enforce an ordinance or other measure that regulates only
18 surface activity that is incident to an oil and gas operation, is
19 commercially reasonable, does not effectively prohibit an oil and
20 gas operation, and is not otherwise preempted by state or federal
21 law.

22 (c) Except as to the authority recognized in Subsection (b),
23 a municipality or other political subdivision may not enact or
24 enforce an ordinance or other measure, or an amendment or revision
25 of an existing ordinance or other measure, that bans, limits, or
26 otherwise regulates an oil and gas operation within its boundaries
27 or extraterritorial jurisdiction. An oil and gas operation is

1 subject to the exclusive jurisdiction of the state.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2015.