

1-1 By: Fraser, et al. S.B. No. 1165  
1-2 (In the Senate - Filed March 10, 2015; March 17, 2015, read  
1-3 first time and referred to Committee on Natural Resources and  
1-4 Economic Development; March 25, 2015, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; March 25, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14			X	
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the express preemption of regulation of oil and gas  
1-22 operations and the exclusive jurisdiction of those operations by  
1-23 the state.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The legislature finds that the laws and policy of  
1-26 this state have fostered successful development of oil and gas  
1-27 resources in concert with the growth of healthy and economically  
1-28 vibrant communities for over 100 years. The legislature  
1-29 acknowledges this cooperative progress and mutual benefit is  
1-30 derived from current statutes that provide effective and  
1-31 environmentally sound regulation of oil and gas operations that is  
1-32 so comprehensive and pervasive that it occupies the field, while  
1-33 facilitating the overriding policy objective to fully and  
1-34 effectively exploit oil and gas resources and protecting the  
1-35 environment and public's health and safety. The legislature  
1-36 recognizes that in order to continue this prosperity and the  
1-37 efficient management of a key industry in this state it is in the  
1-38 state's interest to explicitly confirm the authority for regulation  
1-39 of oil and gas activities within the state. The legislature intends  
1-40 that this Act expressly preempts regulation of oil and gas  
1-41 operations by municipalities and other political subdivisions that  
1-42 is already impliedly preempted by state law.

1-43 SECTION 2. Subchapter C, Chapter 81, Natural Resources  
1-44 Code, is amended by adding Section 81.071 to read as follows:

1-45 Sec. 81.071. EXPRESS PREEMPTION. (a) In this section:

1-46 (1) "Commercially reasonable" is defined as a  
1-47 condition that permits a reasonably prudent operator to fully,  
1-48 effectively, and economically exploit, develop, produce, process,  
1-49 and transport oil and gas.

1-50 (2) "Oil and gas operation" is defined as an activity  
1-51 associated with the exploration, development, production,  
1-52 processing, and transportation of oil and gas, including drilling,  
1-53 hydraulic fracture stimulation, completion, maintenance,  
1-54 reworking, recompletion, disposal, plugging and abandonment,  
1-55 secondary and tertiary recovery techniques, and remediation  
1-56 activities.

1-57 (b) The authority of a municipality or other political  
1-58 subdivision to regulate an oil and gas operation is expressly  
1-59 preempted, except that a municipality is authorized to enact,  
1-60 amend, or enforce an ordinance or other measure that regulates only  
1-61 surface activity that is incident to an oil and gas operation, is

2-1 commercially reasonable, does not effectively prohibit an oil and  
2-2 gas operation, and is not otherwise preempted by state or federal  
2-3 law.

2-4 (c) Except as to the authority recognized in Subsection (b),  
2-5 a municipality or other political subdivision may not enact or  
2-6 enforce an ordinance or other measure, or an amendment or revision  
2-7 of an existing ordinance or other measure, that bans, limits, or  
2-8 otherwise regulates an oil and gas operation within its boundaries  
2-9 or extraterritorial jurisdiction. An oil and gas operation is  
2-10 subject to the exclusive jurisdiction of the state.

2-11 SECTION 3. This Act takes effect immediately if it receives  
2-12 a vote of two-thirds of all the members elected to each house, as  
2-13 provided by Section 39, Article III, Texas Constitution. If this  
2-14 Act does not receive the vote necessary for immediate effect, this  
2-15 Act takes effect September 1, 2015.

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