

By: Gonzales of Williamson

H.B. No. 1818

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Railroad
3 Commission of Texas; providing for the imposition of fees.

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

5 SECTION 1. Section 81.01001(a), Natural Resources Code, is
6 amended to read as follows:

7 (a) The Railroad Commission of Texas is subject to Chapter
8 325, Government Code (Texas Sunset Act). Unless continued in
9 existence as provided by that chapter, the commission is abolished
10 September 1, 2029 [~~2017~~].

11 SECTION 2. Subchapter C, Chapter 81, Natural Resources
12 Code, is amended by adding Sections 81.065 and 81.066 to read as
13 follows:

14 Sec. 81.065. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
15 RESOLUTION POLICY. (a) The commission shall develop and implement
16 a policy to encourage the use of:

17 (1) negotiated rulemaking procedures under Chapter
18 2008, Government Code, for the adoption of commission rules; and

19 (2) appropriate alternative dispute resolution
20 procedures under Chapter 2009, Government Code, to assist in the
21 resolution of internal and external disputes under the commission's
22 jurisdiction.

23 (b) The commission's procedures relating to alternative
24 dispute resolution must conform, to the extent possible, to any

1 model guidelines issued by the State Office of Administrative
2 Hearings for the use of alternative dispute resolution by state
3 agencies.

4 (c) The commission shall:

5 (1) coordinate the implementation of the policy
6 adopted under Subsection (a);

7 (2) provide training as needed to implement the
8 procedures for negotiated rulemaking or alternative dispute
9 resolution; and

10 (3) collect information concerning the effectiveness
11 of those procedures.

12 Sec. 81.066. OIL AND GAS DIVISION MONITORING AND
13 ENFORCEMENT STRATEGIC PLAN. (a) The oil and gas division of the
14 commission shall develop and publish an annual plan to use the oil
15 and gas monitoring and enforcement resources of the commission
16 strategically to best ensure public safety and minimize damage to
17 the environment.

18 (b) The commission shall seek input from stakeholders,
19 including groundwater conservation districts and other political
20 subdivisions, when developing each annual plan.

21 (c) The commission shall collect and maintain information
22 that accurately shows the effectiveness of the commission's oil and
23 gas monitoring and enforcement activities. Each annual plan must
24 include a report of the information collected by the commission
25 that shows the effectiveness of the commission's oil and gas
26 monitoring and enforcement activities over time.

27 (d) The information described by Subsection (c) must

1 include:

2 (1) data regarding violations of statutes or
3 commission rules that relate to oil and gas, including:

4 (A) the number, type, and severity of:

5 (i) violations the commission found to have
6 occurred;

7 (ii) violations the commission referred for
8 enforcement to the section of the commission responsible for
9 enforcement; and

10 (iii) violations for which the commission
11 imposed a penalty or took other enforcement action;

12 (B) the number of major violations for which the
13 commission imposed a penalty or took other enforcement action; and

14 (C) the number of repeat violations, categorized
15 by individual oil or gas lease, if applicable; and

16 (2) the amount of time spent by field inspectors
17 overseeing activities that are designated as high risk compared to
18 the amount of time spent overseeing other activities.

19 (e) The commission shall publish each annual plan on the
20 commission's Internet website not later than September 1 of the
21 year preceding the year in which the commission implements the
22 plan.

23 SECTION 3. Section 81.067(c), Natural Resources Code, is
24 amended to read as follows:

25 (c) The fund consists of:

26 (1) proceeds from bonds and other financial security
27 required by this chapter and benefits under well-specific plugging

1 insurance policies described by Section 91.104(c) that are paid to
2 the state as contingent beneficiary of the policies, subject to the
3 refund provisions of Section 91.1091, if applicable;

4 (2) private contributions, including contributions
5 made under Section 89.084;

6 (3) expenses collected under Section 89.083;

7 (4) fees imposed under Section 85.2021;

8 (5) costs recovered under Section 91.457 or 91.459;

9 (6) proceeds collected under Sections 89.085 and
10 91.115;

11 (7) interest earned on the funds deposited in the
12 fund;

13 (8) oil and gas waste hauler permit application fees
14 collected under Section 29.015, Water Code;

15 (9) costs recovered under Section 91.113(f);

16 (10) hazardous oil and gas waste generation fees
17 collected under Section 91.605;

18 (11) oil-field cleanup regulatory fees on oil
19 collected under Section 81.116;

20 (12) oil-field cleanup regulatory fees on gas
21 collected under Section 81.117;

22 (13) fees for a reissued certificate collected under
23 Section 91.707;

24 (14) fees collected under Section 91.1013;

25 (15) fees collected under Section 89.088;

26 (16) fees collected under Section 91.142;

27 (17) fees collected under Section 91.654;

- 1 (18) costs recovered under Sections 91.656 and 91.657;
- 2 (19) fees collected under Section 81.0521;
- 3 (20) fees collected under Sections 89.024 and 89.026;
- 4 (21) legislative appropriations;
- 5 (22) any surcharges collected under Section 81.070;
- 6 (23) fees collected under Section 91.0115;
- 7 (24) money deposited to the credit of the fund under
- 8 Section 81.112;
- 9 (25) fees collected under Subchapter E, Chapter 121,
- 10 Utilities Code; ~~and~~
- 11 (26) fees collected under Section 27.0321, Water Code;
- 12 and
- 13 (27) fees collected under Section 81.071.

14 SECTION 4. Subchapter C, Chapter 81, Natural Resources
15 Code, is amended by adding Section 81.071 to read as follows:

16 Sec. 81.071. PIPELINE SAFETY AND REGULATORY FEES. (a) The
17 commission by rule may establish pipeline safety and regulatory
18 fees to be assessed for permits or registrations for pipelines
19 under the jurisdiction of the commission's pipeline safety and
20 regulatory program.

21 (b) The commission may establish fees to be assessed
22 annually against permit or registration holders, as well as
23 individual fees for new permits or registrations, permit or
24 registration renewals, and permit or registration amendments.

25 (c) The fees must be in amounts that in the aggregate are
26 sufficient to support all pipeline safety and regulatory program
27 costs, including:

- 1 (1) permitting or registration costs;
- 2 (2) administrative costs; and
- 3 (3) costs of employee salaries and benefits.

4 (d) The commission by rule must establish the method or
5 methods by which the fees will be calculated and assessed so that
6 fee amounts will reflect the time spent and costs incurred to
7 perform the regulatory work associated with permitting or
8 registering pipelines, the effects of required fees on operators of
9 all sizes, and other factors the commission determines are
10 important to the fair imposition of the fees. The commission may
11 base the fees on any factor the commission considers necessary to
12 efficiently and fairly recover the pipeline safety and regulatory
13 program's costs, including:

- 14 (1) the length of the pipeline;
- 15 (2) the number of new permits or registrations, permit
16 or registration renewals, or permit or registration amendments; or
- 17 (3) the number of pipeline systems.

18 (e) The commission by rule may establish a reasonable late
19 payment penalty for a fee charged under this section.

20 (f) The authority provided by this section is in addition to
21 the authority provided by Section 121.211, Utilities Code, and the
22 commission shall consider any fees assessed under that section in
23 establishing the fees to be assessed under this section.

24 (g) A fee collected under this section shall be deposited to
25 the credit of the oil and gas regulation and cleanup fund as
26 provided by Section 81.067.

27 SECTION 5. Section 117.012, Natural Resources Code, is

1 amended by amending Subsection (a) and adding Subsection (a-1) to
2 read as follows:

3 (a) The commission shall adopt rules that include:

4 (1) safety standards applicable to the intrastate
5 transportation of hazardous liquids or carbon dioxide by pipeline
6 and intrastate hazardous liquid or carbon dioxide pipeline
7 facilities; and

8 (2) [~~including~~] safety standards related to the
9 prevention of damage to interstate and intrastate hazardous liquid
10 or carbon dioxide pipeline facilities [~~such a facility~~] resulting
11 from the movement of earth by a person in the vicinity of such a
12 [~~the~~] facility, other than movement by tillage that does not exceed
13 a depth of 16 inches.

14 (a-1) Rules adopted under Subsection (a) [~~this subsection~~]
15 that apply to the intrastate transportation of hazardous liquids
16 and carbon dioxide by gathering pipelines in rural locations and
17 intrastate hazardous liquid and carbon dioxide gathering pipeline
18 facilities in rural locations must be based only on the risks the
19 transportation and the facilities present to the public safety,
20 except that the commission shall revise the rules as necessary to
21 comply with Subsection (c) and to maintain the maximum degree of
22 federal delegation permissible under 49 U.S.C. Section 60101 et
23 seq., or a succeeding law, if the federal government adopts rules
24 that include safety standards applicable to the transportation and
25 facilities.

26 SECTION 6. Section 756.126, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The
2 Railroad Commission of Texas shall adopt and enforce rules
3 prescribing safety standards and best practices, including those
4 described by 49 U.S.C. Section 6105 et seq., relating to the
5 prevention of damage by a person to a facility, including an
6 interstate or intrastate pipeline facility, under the jurisdiction
7 of the commission.

8 SECTION 7. Section 121.201(a), Utilities Code, is amended
9 to read as follows:

10 (a) The railroad commission may:

11 (1) by rule prescribe or adopt safety standards for
12 the transportation of gas and for gas pipeline facilities,
13 including safety standards related to the prevention of damage to
14 an interstate or intrastate gas pipeline [~~such a~~] facility
15 resulting from the movement of earth by a person in the vicinity of
16 the facility, other than movement by tillage that does not exceed a
17 depth of 16 inches;

18 (2) by rule require an operator that does not file
19 operator organization information under Section 91.142, Natural
20 Resources Code, to provide the information to the commission in the
21 form of an application;

22 (3) by rule require record maintenance and reports;

23 (4) inspect records and facilities to determine
24 compliance with safety standards prescribed or adopted under
25 Subdivision (1);

26 (5) make certifications and reports from time to time;

27 (6) seek designation by the United States secretary of

1 transportation as an agent to conduct safety inspections of
2 interstate gas pipeline facilities located in this state;

3 (7) by rule take any other requisite action in
4 accordance with 49 U.S.C. Section 60101 et seq. and its subsequent
5 amendments or a succeeding law; and

6 (8) by rule establish safety standards and practices
7 for gathering facilities and transportation activities in Class 1
8 locations, as defined by 49 C.F.R. Section 192.5:

9 (A) based only on the risks the facilities and
10 activities present to the public safety, to the extent consistent
11 with federal law; or

12 (B) as necessary to maintain the maximum degree
13 of federal delegation permissible under 49 U.S.C. Section 60101 et
14 seq., or a succeeding law, if the federal government adopts safety
15 standards and practices for gathering facilities and
16 transportation activities in Class 1 locations, as defined by 49
17 C.F.R. Section 192.5.

18 SECTION 8. Section [91.1135](#), Natural Resources Code, is
19 repealed.

20 SECTION 9. The first year for which the Railroad Commission
21 of Texas is required by Section 81.066, Natural Resources Code, as
22 added by this Act, to develop and publish the annual plan required
23 by that section is 2019. The commission shall publish the plan not
24 later than September 1, 2018.

25 SECTION 10. This Act takes effect September 1, 2017.