

1-1 By: Gonzales of Williamson, et al. H.B. No. 1818
 1-2 (Senate Sponsor - Taylor of Collin)
 1-3 (In the Senate - Received from the House March 30, 2017;
 1-4 April 6, 2017, read first time and referred to Committee on Natural
 1-5 Resources & Economic Development; May 4, 2017, reported favorably
 1-6 by the following vote: Yeas 9, Nays 2; May 4, 2017, sent to
 1-7 printer.)

1-8 COMMITTEE VOTE

1-9	Yea	Nay	Absent	PNV
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	X			
1-20	X			

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the continuation and functions of the Railroad
 1-24 Commission of Texas; providing for the imposition of fees.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 81.01001(a), Natural Resources Code, is
 1-27 amended to read as follows:

1-28 (a) The Railroad Commission of Texas is subject to Chapter
 1-29 325, Government Code (Texas Sunset Act). Unless continued in
 1-30 existence as provided by that chapter, the commission is abolished
 1-31 September 1, 2029 [~~2017~~].

1-32 SECTION 2. Subchapter C, Chapter 81, Natural Resources
 1-33 Code, is amended by adding Sections 81.065 and 81.066 to read as
 1-34 follows:

1-35 Sec. 81.065. ALTERNATIVE DISPUTE RESOLUTION POLICY. (a)
 1-36 The commission shall develop and implement a policy to encourage
 1-37 the use of appropriate alternative dispute resolution procedures
 1-38 under Chapter 2009, Government Code, to assist in the resolution of
 1-39 internal and external disputes under the commission's
 1-40 jurisdiction.

1-41 (b) The commission's procedures relating to alternative
 1-42 dispute resolution must conform, to the extent possible, to any
 1-43 model guidelines issued by the State Office of Administrative
 1-44 Hearings for the use of alternative dispute resolution by state
 1-45 agencies.

1-46 (c) The commission shall:

1-47 (1) coordinate the implementation of the policy
 1-48 adopted under Subsection (a);

1-49 (2) provide training as needed to implement the
 1-50 procedures for alternative dispute resolution; and

1-51 (3) collect information concerning the effectiveness
 1-52 of those procedures.

1-53 Sec. 81.066. OIL AND GAS DIVISION MONITORING AND
 1-54 ENFORCEMENT STRATEGIC PLAN. (a) The oil and gas division of the
 1-55 commission shall develop and publish an annual plan for each state
 1-56 fiscal year to use the oil and gas monitoring and enforcement
 1-57 resources of the commission strategically to ensure public safety
 1-58 and protect the environment.

1-59 (b) The commission shall seek input from stakeholders when
 1-60 developing each annual plan.

1-61 (c) The commission shall collect and maintain information

2-1 that accurately shows the commission's oil and gas monitoring and
 2-2 enforcement activities. Each annual plan must include a report of
 2-3 the information collected by the commission that shows the
 2-4 commission's oil and gas monitoring and enforcement activities over
 2-5 time.

2-6 (d) The information described by Subsection (c) must
 2-7 include data regarding violations of statutes or commission rules
 2-8 that relate to oil and gas, including:

2-9 (1) the number, type, and severity of:
 2-10 (A) violations the commission found to have
 2-11 occurred;

2-12 (B) violations the commission referred for
 2-13 enforcement to the section of the commission responsible for
 2-14 enforcement; and

2-15 (C) violations for which the commission imposed a
 2-16 penalty or took other enforcement action;

2-17 (2) the number of major violations for which the
 2-18 commission imposed a penalty or took other enforcement action; and

2-19 (3) the number of repeat major violations, categorized
 2-20 by individual oil or gas lease, if applicable.

2-21 (e) The commission shall publish each annual plan on the
 2-22 commission's Internet website not later than July 1 of the year
 2-23 preceding the state fiscal year in which the commission implements
 2-24 the plan.

2-25 SECTION 3. Section 81.067(c), Natural Resources Code, is
 2-26 amended to conform to the repeal of Section 81.112, Natural
 2-27 Resources Code, by Chapter 470 (S.B. 757), Acts of the 84th
 2-28 Legislature, Regular Session, 2015, and is further amended to read
 2-29 as follows:

2-30 (c) The fund consists of:

2-31 (1) proceeds from bonds and other financial security
 2-32 required by this chapter and benefits under well-specific plugging
 2-33 insurance policies described by Section 91.104(c) that are paid to
 2-34 the state as contingent beneficiary of the policies, subject to the
 2-35 refund provisions of Section 91.1091, if applicable;

2-36 (2) private contributions, including contributions
 2-37 made under Section 89.084;

2-38 (3) expenses collected under Section 89.083;

2-39 (4) fees imposed under Section 85.2021;

2-40 (5) costs recovered under Section 91.457 or 91.459;

2-41 (6) proceeds collected under Sections 89.085 and
 2-42 91.115;

2-43 (7) interest earned on the funds deposited in the
 2-44 fund;

2-45 (8) oil and gas waste hauler permit application fees
 2-46 collected under Section 29.015, Water Code;

2-47 (9) costs recovered under Section 91.113(f);

2-48 (10) hazardous oil and gas waste generation fees
 2-49 collected under Section 91.605;

2-50 (11) oil-field cleanup regulatory fees on oil
 2-51 collected under Section 81.116;

2-52 (12) oil-field cleanup regulatory fees on gas
 2-53 collected under Section 81.117;

2-54 (13) fees for a reissued certificate collected under
 2-55 Section 91.707;

2-56 (14) fees collected under Section 91.1013;

2-57 (15) fees collected under Section 89.088;

2-58 (16) fees collected under Section 91.142;

2-59 (17) fees collected under Section 91.654;

2-60 (18) costs recovered under Sections 91.656 and 91.657;

2-61 (19) fees collected under Section 81.0521;

2-62 (20) fees collected under Sections 89.024 and 89.026;

2-63 (21) legislative appropriations;

2-64 (22) any surcharges collected under Section 81.070;

2-65 (23) fees collected under Section 91.0115;

2-66 (24) ~~money deposited to the credit of the fund under~~
 2-67 ~~Section 81.112,~~

2-68 ~~[(25)]~~ fees collected under Subchapter E, Chapter 121,
 2-69 Utilities Code; ~~and~~

3-1 (25) [(26)] fees collected under Section 27.0321,
3-2 Water Code; and
3-3 (26) fees collected under Section 81.071.

3-4 SECTION 4. Section 81.068, Natural Resources Code, is
3-5 amended to read as follows:

3-6 Sec. 81.068. PURPOSES OF OIL AND GAS REGULATION AND CLEANUP
3-7 FUND. Money in the oil and gas regulation and cleanup fund may be
3-8 used by the commission or its employees or agents for any purpose
3-9 related to the regulation of oil and gas development, including oil
3-10 and gas monitoring and inspections, oil and gas remediation, and
3-11 oil and gas well plugging, the study and evaluation of electronic
3-12 access to geologic data and surface casing depths necessary to
3-13 protect usable groundwater in this state, ~~[alternative fuels~~
3-14 ~~programs under Section 81.0681,~~] the administration of pipeline
3-15 safety and regulatory programs, public information and services
3-16 related to those activities, and administrative costs and state
3-17 benefits for personnel involved in those activities.

3-18 SECTION 5. Subchapter C, Chapter 81, Natural Resources
3-19 Code, is amended by adding Section 81.071 to read as follows:

3-20 Sec. 81.071. PIPELINE SAFETY AND REGULATORY FEES. (a) The
3-21 commission by rule may establish pipeline safety and regulatory
3-22 fees to be assessed for permits or registrations for pipelines
3-23 under the jurisdiction of the commission's pipeline safety and
3-24 regulatory program.

3-25 (b) The commission may establish fees to be assessed
3-26 annually against permit or registration holders, as well as
3-27 individual fees for new permits or registrations, permit or
3-28 registration renewals, and permit or registration amendments.

3-29 (c) The fees must be in amounts that in the aggregate are
3-30 sufficient to support all pipeline safety and regulatory program
3-31 costs, including:

3-32 (1) permitting or registration costs;

3-33 (2) administrative costs; and

3-34 (3) costs of employee salaries and benefits.

3-35 (d) The commission by rule must establish the method or
3-36 methods by which the fees will be calculated and assessed so that
3-37 fee amounts will reflect the time spent and costs incurred to
3-38 perform the regulatory work associated with permitting or
3-39 registering pipelines, the effects of required fees on operators of
3-40 all sizes, and other factors the commission determines are
3-41 important to the fair imposition of the fees. The commission may
3-42 base the fees on any factor the commission considers necessary to
3-43 efficiently and fairly recover the pipeline safety and regulatory
3-44 program's costs, including:

3-45 (1) the length of the pipeline;

3-46 (2) the number of new permits or registrations, permit
3-47 or registration renewals, or permit or registration amendments; or

3-48 (3) the number of pipeline systems.

3-49 (e) The commission by rule may establish a reasonable late
3-50 payment penalty for a fee charged under this section.

3-51 (f) The authority provided by this section is in addition to
3-52 the authority provided by Section 121.211, Utilities Code, and the
3-53 commission shall consider any fees assessed under that section in
3-54 establishing the fees to be assessed under this section.

3-55 (g) A fee collected under this section shall be deposited to
3-56 the credit of the oil and gas regulation and cleanup fund as
3-57 provided by Section 81.067.

3-58 SECTION 6. Subchapter C, Chapter 81, Natural Resources
3-59 Code, is amended by adding Section 81.072 to read as follows:

3-60 Sec. 81.072. VERIFICATION BY CONTRACTORS. (a) In this
3-61 section, "E-verify program" has the meaning assigned by Section
3-62 673.001, Government Code.

3-63 (b) The commission may not award a contract for goods or
3-64 services in this state to a contractor unless the contractor and any
3-65 subcontractor register with and participate in the E-verify program
3-66 to verify employee information. The contractor and any
3-67 subcontractor shall continue to participate in the program during
3-68 the term of the contract.

3-69 (c) The commission shall develop procedures for the

4-1 administration of the E-verify program under this section.

4-2 SECTION 7. Section 117.012, Natural Resources Code, is
4-3 amended by amending Subsection (a) and adding Subsection (a-1) to
4-4 read as follows:

4-5 (a) The commission shall adopt rules that include:

4-6 (1) safety standards applicable to the intrastate
4-7 transportation of hazardous liquids or carbon dioxide by pipeline
4-8 and intrastate hazardous liquid or carbon dioxide pipeline
4-9 facilities; and

4-10 (2) [~~including~~] safety standards related to the
4-11 prevention of damage to interstate and intrastate hazardous liquid
4-12 or carbon dioxide pipeline facilities [~~such a facility~~] resulting
4-13 from the movement of earth by a person in the vicinity of such a
4-14 [~~the~~] facility, other than movement by tillage that does not exceed
4-15 a depth of 16 inches.

4-16 (a-1) Rules adopted under Subsection (a) [~~this subsection~~]
4-17 that apply to the intrastate transportation of hazardous liquids
4-18 and carbon dioxide by gathering pipelines in rural locations and
4-19 intrastate hazardous liquid and carbon dioxide gathering pipeline
4-20 facilities in rural locations must be based only on the risks the
4-21 transportation and the facilities present to the public safety,
4-22 except that the commission shall revise the rules as necessary to
4-23 comply with Subsection (c) and to maintain the maximum degree of
4-24 federal delegation permissible under 49 U.S.C. Section 60101 et
4-25 seq., or a succeeding law, if the federal government adopts rules
4-26 that include safety standards applicable to the transportation and
4-27 facilities.

4-28 SECTION 8. Section 756.126, Health and Safety Code, is
4-29 amended to read as follows:

4-30 Sec. 756.126. SAFETY STANDARDS AND BEST PRACTICES. The
4-31 Railroad Commission of Texas shall adopt and enforce rules
4-32 prescribing safety standards and best practices, including those
4-33 described by 49 U.S.C. Section 6105 et seq., relating to the
4-34 prevention of damage by a person to a facility, including an
4-35 interstate or intrastate pipeline facility, under the jurisdiction
4-36 of the commission.

4-37 SECTION 9. Section 121.201(a), Utilities Code, is amended
4-38 to read as follows:

4-39 (a) The railroad commission may:

4-40 (1) by rule prescribe or adopt safety standards for
4-41 the transportation of gas and for gas pipeline facilities,
4-42 including safety standards related to the prevention of damage to
4-43 an interstate or intrastate gas pipeline [~~such a~~] facility
4-44 resulting from the movement of earth by a person in the vicinity of
4-45 the facility, other than movement by tillage that does not exceed a
4-46 depth of 16 inches;

4-47 (2) by rule require an operator that does not file
4-48 operator organization information under Section 91.142, Natural
4-49 Resources Code, to provide the information to the commission in the
4-50 form of an application;

4-51 (3) by rule require record maintenance and reports;

4-52 (4) inspect records and facilities to determine
4-53 compliance with safety standards prescribed or adopted under
4-54 Subdivision (1);

4-55 (5) make certifications and reports from time to time;

4-56 (6) seek designation by the United States secretary of
4-57 transportation as an agent to conduct safety inspections of
4-58 interstate gas pipeline facilities located in this state;

4-59 (7) by rule take any other requisite action in
4-60 accordance with 49 U.S.C. Section 60101 et seq. and its subsequent
4-61 amendments or a succeeding law; and

4-62 (8) by rule establish safety standards and practices
4-63 for gathering facilities and transportation activities in Class 1
4-64 locations, as defined by 49 C.F.R. Section 192.5:

4-65 (A) based only on the risks the facilities and
4-66 activities present to the public safety, to the extent consistent
4-67 with federal law; or

4-68 (B) as necessary to maintain the maximum degree
4-69 of federal delegation permissible under 49 U.S.C. Section 60101 et

5-1 seq., or a succeeding law, if the federal government adopts safety
5-2 standards and practices for gathering facilities and
5-3 transportation activities in Class 1 locations, as defined by 49
5-4 C.F.R. Section 192.5.

5-5 SECTION 10. Sections 81.0681 and 91.1135, Natural Resources
5-6 Code, are repealed.

5-7 SECTION 11. The first state fiscal year for which the
5-8 Railroad Commission of Texas is required by Section 81.066, Natural
5-9 Resources Code, as added by this Act, to develop and publish the
5-10 annual plan required by that section is the state fiscal year
5-11 beginning September 1, 2018. The commission shall publish the plan
5-12 not later than July 1, 2018.

5-13 SECTION 12. To the extent of any conflict, this Act prevails
5-14 over another Act of the 85th Legislature, Regular Session, 2017,
5-15 relating to nonsubstantive additions to and corrections in enacted
5-16 codes.

5-17 SECTION 13. This Act takes effect September 1, 2017.

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