

## **BILL ANALYSIS**

C.S.H.B. 2771  
By: Lozano  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There have been calls for the state to do more to regulate the discharge of certain pollutants from oil and gas activities into the water in Texas. C.S.H.B. 2771 seeks to answer those calls by giving the Texas Commission on Environmental Quality the power it needs to ensure that certain water and effluent discharged into the water in Texas meet established water quality standards.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2771 amends the Water Code to authorize the Texas Commission on Environmental Quality (TCEQ) to issue permits for the discharge into water in Texas of produced water, hydrostatic test water, and gas plant effluent resulting from certain activities regulated by the Railroad Commission of Texas (RRC) on delegation to the commission of National Pollutant Discharge Elimination System (NPDES) authority for those discharges. The bill requires such discharge to meet the water quality standards established by TCEQ.

C.S.H.B. 2771 applies to an application for an authorization to discharge produced water, hydrostatic test water, or gas plant effluent into water in Texas that is pending on or after the effective date of delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to TCEQ by the U.S. Environmental Protection Agency (EPA) under the Federal Water Pollution Control Act.

C.S.H.B. 2771, on the delegation of such authority, transfers from the RRC to TCEQ the following:

- the powers, duties, functions, programs, and activities of the RRC relating to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in Texas;
- any obligations and contracts of the RRC that are directly related to implementing a power, duty, function, program, or activity transferred under the bill's provisions; and
- all property and records in the custody of the RRC that are related to a power, duty, function, program, or activity transferred under the bill's provisions and all funds appropriated by the legislature for that power, duty, function, program, or activity.

The bill requires the RRC to continue to carry out its duties related to the regulation of such

discharges until such delegation. The bill authorizes TCEQ to carry out activities to ensure an orderly transfer of the powers, duties, functions, programs, and activities transferred under the bill, including hiring additional employees and amending the memorandum of understanding by mutual agreement with the RRC.

C.S.H.B. 2771 requires TCEQ, not later than September 1, 2020, to submit to the EPA for approval a request to supplement or amend the Texas Pollutant Discharge Elimination System program to include delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent.

#### **EFFECTIVE DATE**

September 1, 2019.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2771 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes:

- procedural provisions relating to the transfer of certain powers, duties, functions, programs, activities, obligations, contracts, property, and records from the RRC to TCEQ;
- a requirement for TCEQ to submit to the EPA for approval a request relating to supplementing or amending the Texas Pollutant Discharge Elimination System program; and
- conditions relating to NPDES delegation of authority, including upon the applicability of the bill's provisions.