

By: Lozano

H.B. No. 2771

Substitute the following for H.B. No. 2771:

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C.S.H.B. No. 2771

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the Texas Commission on Environmental Quality to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities.

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

SECTION 1. Section 26.131, Water Code, as effective until delegation of authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) to the Railroad Commission of Texas, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by this section, the ~~The~~ Railroad Commission of Texas is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from:

(1) activities associated with the exploration, development, and production of oil or gas or geothermal resources, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;

(B) activities associated with the drilling of cathodic protection holes associated with the cathodic protection of wells and pipelines subject to the jurisdiction of the Railroad

Commission of Texas;

(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;

(D) activities associated with any underground natural gas storage facility, provided the terms "natural gas" and "storage facility" shall have the meanings set out in Section 91.173, Natural Resources Code;

(E) activities associated with any underground hydrocarbon storage facility, provided the terms "hydrocarbons" and "underground hydrocarbon storage facility" shall have the meanings set out in Section 91.201, Natural Resources Code; and

(F) activities associated with the storage, handling, reclamation, gathering, transportation, or distribution of oil or gas prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel;

(2) except to the extent the activities are regulated by the Texas Department of Health under Chapter 401, Health and Safety Code, activities associated with uranium exploration consisting of the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of uranium ore; and

(3) any other activities regulated by the Railroad Commission of Texas pursuant to Section 91.101, Natural Resources Code.

(b) Except as provided by Subsection (d), the ~~[The]~~ Railroad

Commission of Texas may issue permits for the discharge of waste resulting from the ~~[these]~~ activities described by Subsection (a), and the discharge of waste into water in this state resulting from those ~~[these]~~ activities must ~~[shall]~~ meet the water quality standards established by the commission.

(d) The commission may issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described by Subsection (a) on delegation to the commission of NPDES authority for those discharges. The discharge of produced water, hydrostatic test water, and gas plant effluent into water in this state under this subsection must meet the water quality standards established by the commission.

SECTION 2. Section [26.131](#), Water Code, as effective on delegation of authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) to the Railroad Commission of Texas, is amended to read as follows:

Sec. 26.131. DUTIES OF RAILROAD COMMISSION. (a) Except as provided by this section, the ~~[The]~~ Railroad Commission of Texas is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from:

(1) activities associated with the exploration, development, and production of oil or gas or geothermal resources, including:

(A) activities associated with the drilling of injection water source wells which penetrate the base of useable

1 quality water;

2 (B) activities associated with the drilling of
3 cathodic protection holes associated with the cathodic protection
4 of wells and pipelines subject to the jurisdiction of the Railroad
5 Commission of Texas;

6 (C) activities associated with gasoline plants,
7 natural gas or natural gas liquids processing plants, pressure
8 maintenance plants, or repressurizing plants;

9 (D) activities associated with any underground
10 natural gas storage facility, provided the terms "natural gas" and
11 "storage facility" shall have the meanings set out in Section
12 [91.173](#), Natural Resources Code;

13 (E) activities associated with any underground
14 hydrocarbon storage facility, provided the terms "hydrocarbons"
15 and "underground hydrocarbon storage facility" shall have the
16 meanings set out in Section [91.201](#), Natural Resources Code; and

17 (F) activities associated with the storage,
18 handling, reclamation, gathering, transportation, or distribution
19 of oil or gas prior to the refining of such oil or prior to the use
20 of such gas in any manufacturing process or as a residential or
21 industrial fuel;

22 (2) except to the extent the activities are regulated
23 by the Texas Department of Health under Chapter [401](#), Health and
24 Safety Code, activities associated with uranium exploration
25 consisting of the disturbance of the surface or subsurface for the
26 purpose of or related to determining the location, quantity, or
27 quality of uranium ore; and

1 (3) any other activities regulated by the Railroad
2 Commission of Texas pursuant to Section 91.101, Natural Resources
3 Code.

4 (b) Except as provided by Subsection (c), the ~~[The]~~ Railroad
5 Commission of Texas may issue permits for the discharge of waste
6 resulting from the ~~[these]~~ activities described by Subsection (a),
7 and the discharge of waste into water in this state resulting from
8 those ~~[these]~~ activities must ~~[shall]~~ meet the water quality
9 standards established by the commission.

10 (c) The commission may issue permits for the discharge into
11 water in this state of produced water, hydrostatic test water, and
12 gas plant effluent resulting from the activities described by
13 Subsection (a) on delegation to the commission of NPDES authority
14 for those discharges. The discharge of produced water, hydrostatic
15 test water, and gas plant effluent into water in this state under
16 this subsection must meet the water quality standards established
17 by the commission.

18 SECTION 3. (a) In this section:

19 (1) "Commission" means the Texas Commission on
20 Environmental Quality.

21 (2) "NPDES" means National Pollutant Discharge
22 Elimination System.

23 (b) On delegation of NPDES permit authority for discharges
24 of produced water, hydrostatic test water, and gas plant effluent
25 to the commission by the United States Environmental Protection
26 Agency under Section 402(b) of the Federal Water Pollution Control
27 Act (33 U.S.C. Section 1342(b)), the following are transferred from

the Railroad Commission of Texas to the commission:

(1) the powers, duties, functions, programs, and activities of the Railroad Commission of Texas relating to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state;

(2) any obligations and contracts of the Railroad Commission of Texas that are directly related to implementing a power, duty, function, program, or activity transferred under this Act; and

(3) all property and records in the custody of the Railroad Commission of Texas that are related to a power, duty, function, program, or activity transferred under this Act and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(c) The Railroad Commission of Texas shall continue to carry out its duties related to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state until delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to the commission by the United States Environmental Protection Agency under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)).

(d) The commission may carry out activities to ensure an orderly transfer of the powers, duties, functions, programs, and activities transferred under this Act, including hiring additional employees and amending the memorandum of understanding by mutual agreement with the Railroad Commission of Texas.

1 (e) Not later than September 1, 2020, the commission shall
2 submit to the United States Environmental Protection Agency for
3 approval a request to supplement or amend the Texas Pollutant
4 Discharge Elimination System program to include delegation of NPDES
5 permit authority for discharges of produced water, hydrostatic test
6 water, and gas plant effluent.

7 SECTION 4. The change in law made by this Act to Section
8 [26.131](#), Water Code, applies to an application for an authorization
9 to discharge produced water, hydrostatic test water, or gas plant
10 effluent into water in this state that is pending on or after the
11 effective date of delegation of NPDES permit authority for
12 discharges of produced water, hydrostatic test water, and gas plant
13 effluent to the commission by the United States Environmental
14 Protection Agency under Section 402(b) of the Federal Water
15 Pollution Control Act (33 U.S.C. Section 1342(b)). An application
16 that is granted or denied in a final decision before the effective
17 date of such delegation is governed by the law as it existed
18 immediately before the effective date of such delegation, and that
19 law is continued in effect for that purpose.

20 SECTION 5. This Act takes effect September 1, 2019.