

House Bill 2771
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<p>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:</p> <p>(a) <u>Except as provided by this section, the</u> [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:</p> <p>(1) activities associated with the exploration, development, and production of oil or gas or geothermal resources, including:</p> <p>(A) activities associated with the drilling of injection water source wells which penetrate the base of useable quality water;</p> <p>(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;</p> <p>(C) activities associated with gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance plants, or repressurizing plants;</p> <p>(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;</p> <p>(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;</p> <p>and</p>	<p>SECTION 1. Same as House version.</p>	

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(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

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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 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

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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 (c), 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.

(c) 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 3. (a) In this section:

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

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

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

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

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(b) On 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)), 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.

(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

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(b) On 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)), 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, other than discharges resulting from spills or other unplanned releases;

(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.

(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

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<p>understanding by mutual agreement with the Railroad Commission of Texas.</p> <p>(e) Not later than September 1, 2021, the commission shall submit to the United States Environmental Protection Agency 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.</p>	<p>understanding by mutual agreement with the Railroad Commission of Texas.</p> <p>(e) Not later than September 1, 2021, the commission shall submit to the United States Environmental Protection Agency 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. [FA1]</p>	
<p>SECTION 4. The change in law made by this Act to Section 26.131, Water Code, applies to an application for an authorization to discharge produced water, hydrostatic test water, or gas plant effluent into water in this state that is pending on or after the effective date of delegation of National Pollutant Discharge Elimination System permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to the Texas Commission on Environmental Quality 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)). An application that is granted or denied in a final decision before the effective date of such delegation is governed by the law as it existed immediately before the effective date of such delegation, and that law is continued in effect for that purpose.</p>	<p>SECTION 4. Same as House version.</p>	
<p>SECTION 5. This Act takes effect September 1, 2019.</p>	<p>SECTION 5. Same as House version.</p>	