

BILL ANALYSIS

C.S.H.B. 4442
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A combination of economic drivers and technological advancements have resulted in changes to the national energy landscape over the past two decades, including widespread adoption of hydraulic fracturing and directional drilling. These practices have significantly changed the volume and types of wastes generated during an oil and gas well's life cycle. A new federal administration and its appointments at the U.S. Environmental Protection Agency (EPA) pose a threat to the federal Resource Conservation and Recovery Act exemption for oil and gas waste that may have a dramatic impact on the state's industry and economy. Under the act both the EPA and states are required to periodically review and revise regulations and policy relating to drilling waste management. The last major modifications to state rules relating to drilling waste occurred nearly 30 years ago. If the industry is to continue to thrive in Texas with limited federal encroachment, immediate attention to and modernization of drilling waste management practices is urgently required. C.S.H.B. 4442 seeks to address this issue by revising and setting out provisions relating to the regulation of oil and gas waste in order to codify and modernize drilling waste management, enhance transparency, reduce long-term liability risks, and assert the state's ability to govern waste oversight.

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 rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 5 of this bill.

ANALYSIS

C.S.H.B. 4442 amends the Natural Resources Code to require an applicant to submit to the Railroad Commission of Texas (RRC) an additional nonrefundable fee of \$200 for a permit to drill, deepen, plug back, or reenter a well for which the applicant proposes to use a reserve pit located at the well site to dispose of oil and gas waste from the well.

C.S.H.B. 4442 revises the RRC oil and gas waste reduction and minimization program that, among other things, establishes incentives for reduction and minimization to specify that the reduction and minimization be through the use of solids control equipment and closed-loop drilling systems at well sites and that the incentives be offered to well operators.

C.S.H.B. 4442 establishes that the oil and gas wastes or other substances or materials that are causing or are likely to cause the pollution of surface or subsurface water for which the RRC is conditionally authorized to use money in the oil and gas regulation and cleanup fund to conduct a site investigation or environmental assessment or control or clean up the wastes, substances,

or materials includes oil and gas waste or other applicable substances or materials that are disposed of or stored at a well site using a reserve pit, an aboveground tank, or other means.

C.S.H.B. 4442 specifies that the abandoned wells that pose a high risk of contaminating surface water or groundwater that the RRC is required to develop a system for identifying include those wells with reserve pits at the well site.

C.S.H.B. 4442 requires the RRC by rule to require the owner or operator of a facility that performs noncommercial surface disposal to file with the county clerk of the county where the disposal occurs a notice of noncommercial surface disposal that includes a legal description of the exact location of the noncommercial surface disposal. The bill defines "noncommercial surface disposal" as the disposal of oil field fluids or oil and gas waste at a facility:

- for which the disposal is not a primary business purpose; or
- at which the disposal is performed without compensation.

C.S.H.B. 4442 includes as a required bookkeeping and recordkeeping item for oil and gas well owners and operators the volume and types of oil and gas waste generated at each well site and the primary method of disposal of the waste, including waste that is managed as follows:

- at the well site;
- by a third-party commercial surface disposal facility; or
- by a recycling facility.

C.S.H.B. 4442 requires an oil or gas well operator, not later than the 15th business day after the date the RRC issues the operator a permit to drill a new oil or gas well or to reenter a plugged and abandoned oil or gas well, to give the surface owner of the tract of land on which the well is located or is proposed to be located written notice of whether a reserve pit will be used to permanently dispose of oil and gas waste on the surface owner's property, including the estimated volume and types of waste to be disposed of at the well site, if any. The bill specifies that the agreement entered into by an operator and surface owner that contains alternative provisions regarding the operator's obligation to give applicable notice of oil and gas operations be a written agreement.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4442 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 does not include a provision in the original exempting from taxes imposed by the Limited Sales, Excise, and Use Tax Act tangible personal property or equipment used to process, reuse, or recycle oil and gas wastes, including solids control equipment and closed-loop drilling systems.

The substitute makes a specification not in the original that the owner or operator of a facility that performs noncommercial surface disposal is the entity required by the RRC by rule to file a notice of noncommercial surface disposal.