

BILL ANALYSIS

Senate Research Center

S.B. 786
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Natural Resources & Economic Development
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is a current conflict in Texas law regarding the wells associated with geothermal energy. The Texas Railroad Commission (RRC) and the Texas Commission on Environmental Quality (TCEQ) are both required to regulate these wells.

The wells associated with geothermal energy include geothermal closed loop injection wells which are a Class V injection well under the jurisdiction of TCEQ per Section 27.011, Water Code. However, RRC is also given the responsibility to regulate the exploration, development, and production of geothermal energy and associated resources under Section 141.011, Natural Resources Code. If a geothermal generator is using a closed loop injection well for power generation, the well is also regulated by RRC in current statute.

This bill would remove closed-loop geothermal injection wells from the regulative authority of TCEQ and place them solely under the regulatory authority of RRC. This clarification would provide certainty to potential operators seeking to produce geothermal energy.

S.B. 786 amends current law relating to the regulation by the Railroad Commission of Texas of closed-loop geothermal injection wells.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Section 27.037, Water Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is transferred to the Railroad Commission of Texas in SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 27, Water Code, by adding Section 27.037, as follows:

Sec. 27.037. JURISDICTION OVER CLOSED-LOOP GEOTHERMAL INJECTION WELLS. (a) Defines "closed-loop geothermal injection well."

(b) Provides that the Railroad Commission of Texas (RRC) has jurisdiction over closed-loop geothermal injection wells and is authorized to issue permits for closed-loop geothermal injection wells, including individual permits, general permits, or permits by rule.

(c) Prohibits a person from beginning to drill a closed-loop geothermal injection well unless that person holds a valid permit issued by RRC under this section.

(d) Provides that a closed-loop geothermal injection well, for purposes of RRC regulation, is designated as a Class V well under the underground injection control program administered by RRC.

(e) Requires RRC to adopt rules as necessary to administer this section and regulate closed-loop geothermal injection wells.

SECTION 2. (a) Defines "closed-loop geothermal injection well," "commission," and "railroad commission."

(b) Provides that, on the effective date of this Act:

(1) all functions and activities performed by the Texas Commission on Environmental Quality (TCEQ) that relate to the regulation of closed-loop geothermal injection wells under Chapter 27 (Injection Wells), Water Code, are transferred to RRC;

(2) a rule, standard, or form adopted by TCEQ that is related to the regulation of closed-loop geothermal injection wells under Chapter 27, Water Code, is a rule, standard, or form of RRC and remains in effect until altered by RRC;

(3) a proceeding involving TCEQ that is related to the regulation of closed-loop geothermal injection wells under Chapter 27, Water Code, is transferred without change in status to RRC, and RRC assumes, without change in status, the position of TCEQ in any proceeding relating to the regulation of closed-loop geothermal injection wells to which TCEQ is a party;

(4) all money, contracts, leases, rights, and obligations of TCEQ related to closed-loop geothermal injection wells under Chapter 27, Water Code, are transferred to RRC;

(5) all property, including records, in the custody of TCEQ related to the regulation of closed-loop geothermal injection wells under Chapter 27, Water Code, is transferred to RRC; and

(6) all money appropriated to TCEQ for purposes related to the regulation of closed-loop geothermal injection wells under Chapter 27, Water Code, is transferred to RRC.

(c) Provides that Section 27.037, Water Code, as added by this Act, does not affect the validity of a permit for a closed-loop geothermal injection well issued before the effective date of this Act.

(d) Requires, not later than the 90th day after the effective date of this Act:

(1) RRC to issue a substitute permit under the name and authority of RRC to each person who on the effective date of this Act holds a valid permit issued by TCEQ for a closed-loop geothermal injection well; and

(2) TCEQ to transmit to RRC all pending applications for closed-loop geothermal injection wells submitted to TCEQ before the effective date of this Act.

SECTION 3. Effective date: September 1, 2023.