

BILL ANALYSIS

S.B. 786
By: Birdwell
Energy Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Railroad Commission of Texas (RRC) is required to regulate the exploration, development, and production of geothermal energy and associated resources on public and private land for the purpose of conservation and the protection of correlative rights. However, a conflict exists regarding whether the RRC or the Texas Commission on Environmental Quality (TCEQ) has authority over closed-loop geothermal injection wells. A closed system geothermal well is classified as a Class V injection well, which is under TCEQ jurisdiction, but the RRC has jurisdiction over the development of geothermal energy. S.B. 786 seeks to resolve this conflict by establishing that the RRC has jurisdiction over closed-loop geothermal injection wells in order to effectuate the intent of the Texas Legislature that the RRC have jurisdiction over the exploration, development, and production of geothermal energy and associated resources.

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 1 of this bill.

ANALYSIS

S.B. 786 amends the Water Code to establish that the Railroad Commission of Texas (RRC) has jurisdiction over closed-loop geothermal injection wells, defined by the bill as a closed system geothermal well used to circulate water, other fluids, or gases through the earth as a heat source or heat sink to generate power or heat or cool a structure. The bill authorizes the RRC to issue permits for closed-loop geothermal injection wells, including individual permits, general permits, or permits by rule, and prohibits a person from beginning to drill such a well unless that person holds a valid RRC-issued permit. The bill establishes that, for purposes of RRC regulation, a closed-loop geothermal injection well is designated as a Class V well under the underground injection control program administered by the RRC. The bill requires the RRC to adopt rules as necessary to administer these provisions of the bill and regulate closed-loop geothermal injection wells.

S.B. 786 establishes that on its effective date:

- 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 the Injection Well Act are transferred to the RRC;
- a rule, standard, or form adopted by the TCEQ that is related to the regulation of closed-loop geothermal injection wells under the act is a rule, standard, or form of the RRC and remains in effect until altered by the RRC;

- a proceeding involving the TCEQ that is related to the regulation of closed-loop geothermal injection wells under the act is transferred without change in status to the RRC, and the RRC assumes, without change in status, the position of the TCEQ in any proceeding relating to such regulation to which the TCEQ is a party;
- all money, contracts, leases, rights, and obligations of the TCEQ related to closed-loop geothermal injection wells under the act are transferred to the RRC;
- all property, including records, in the custody of the TCEQ related to the regulation of closed-loop geothermal injection wells under the act is transferred to the RRC; and
- all money appropriated to the TCEQ for purposes related to the regulation of closed-loop geothermal injection wells under the act is transferred to the RRC.

S.B. 786 establishes that its provisions granting the RRC jurisdiction over closed-loop geothermal injection wells do not affect the validity of a permit for such a well issued before the bill's effective date. The bill does the following:

- requires the RRC to issue a substitute permit under the name and authority of the RRC to each person who on the bill's effective date holds a valid permit issued by the TCEQ for a closed-loop geothermal injection well; and
- requires the TCEQ to transmit to the RRC all pending applications for closed-loop geothermal injection wells submitted to the TCEQ before the bill's effective date.

The agencies must take those actions not later than the 90th day after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.