

BILL ANALYSIS

S.B. 1186
By: Hughes
Energy Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The demand for lithium has increased dramatically over the last ten years as the element is a crucial component of the batteries that power many consumer and industrial electronics. This increased demand has fueled a worldwide search for new sources of lithium, with one of these sources being deep brine aquifers in Texas. Under current law, the Railroad Commission of Texas (RRC) has jurisdiction over Class III brine mining wells. However, there exists a different kind of brine mining that involves the production of naturally occurring brine from subsurface aquifers for mineral extraction that involves a Class V injection well. While the RRC has authority over this type of brine mining, it has not yet sought the delegation of authority over such wells. S.B. 1186 seeks to address this issue by requiring the RRC, if applicable federal rules or regulations adopted to govern Class V brine injection wells allow the state to seek primary enforcement authority under the RRC's underground injection control program, to seek primacy to administer and enforce the program for such wells in Texas.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1186 amends the Water Code to authorize the Railroad Commission of Texas (RRC) to issue permits for brine production wells. The bill repeals a provision that designates, for purposes of RRC regulation, an injection well for brine mining as a Class V well under the RRC's underground injection control program. That repealed provision conflicts with another statutory provision that designates such an injection well as a Class III well under the program. The bill retains the Class III well designation for those wells but restricts those wells designated as such to only those wells for the mining of brine extracted by the solution of a subsurface salt formation. The bill, for purposes of provisions relating to brine mining jurisdiction, defines "brine mining" as the production of brine, including naturally occurring brine and brine extracted by the solution of a subsurface salt formation, for the purpose of extracting from a subsurface formation elements, salts, or other useful substances, not including the following:

- oil, gas, or any product of oil or gas as defined by provisions relating to the conservation of oil and gas; or
- fluid oil and gas waste, as defined by provisions relating to the treatment and recycling for beneficial use of fluid oil and gas waste.

S.B. 1186, for purposes of RRC regulation, designates a Class V brine injection well as a Class V well under the RRC's underground injection control program. The bill defines "Class V brine injection well" as a well that injects spent, naturally occurring brine produced by a brine mining operation into the same formation from which it was withdrawn after extraction of elements, salts, or other useful substances, including halogens or halogen salts.

S.B. 1186, if rules or regulations adopted to govern Class V brine injection wells under the federal Safe Drinking Water Act or another federal statute allow the state to seek primary enforcement authority under the underground injection control program, requires the RRC to seek primacy to administer and enforce the program for Class V brine injection wells in Texas.

S.B. 1186 prohibits a person, on delegation to the RRC of primary enforcement authority in Texas over Class V brine injection wells, from beginning to drill a Class V brine injection well unless that person has a valid permit for the well issued by the RRC.

S.B. 1186 repeals Section 27.036, Water Code, as added by Chapter 795 (S.B. 249), Acts of the 69th Legislature, Regular Session, 1985.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.