By:  Landgraf H.B. No. 3884

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and management of produced water from oil and gas operations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 91.101(a), Natural Resources 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 to read as follows:

(a)  To prevent pollution of surface water or subsurface water in the state, the commission shall adopt and enforce rules and orders and may issue permits relating to:

(1)  the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2)  the production of oil and gas, 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 commission;

(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 such gas in any manufacturing process or as a residential or industrial fuel;

(3)  the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; [~~and~~]

(4)  the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this subsection; and

(5)  the recycling and beneficial use of produced water associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this subsection, taking into account the need to protect the public health and the environment.

SECTION 2.  Section 91.101, Natural Resources Code, as effective on 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 to read as follows:

Sec. 91.101.  RULES AND ORDERS. To prevent pollution of surface water or subsurface water in the state, the commission shall adopt and enforce rules and orders and may issue permits relating to:

(1)  the drilling of exploratory wells and oil and gas wells or any purpose in connection with them;

(2)  the production of oil and gas, 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 commission;

(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 such gas in any manufacturing process or as a residential or industrial fuel;

(3)  the operation, abandonment, and proper plugging of wells subject to the jurisdiction of the commission; [~~and~~]

(4)  the discharge, storage, handling, transportation, reclamation, or disposal of oil and gas waste as defined in Section 91.1011 of this subchapter, or of any other substance or material associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this section; and

(5)  the recycling and beneficial use of produced water associated with any operation or activity regulated by the commission under Subdivisions (1), (2), and (3) of this section, taking into account the need to protect the public health and the environment.

SECTION 3.  Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 122A to read as follows:

CHAPTER 122A. BENEFICIAL USE OF PRODUCED WATER

Sec. 122A.0101.  BENEFICIAL USE. For the purposes of this chapter, a beneficial use of produced water means irrigation, a discharge approved under a permit issued by the Texas Commission on Environmental Quality under Chapter 26, Water Code, or another beneficial use approved under a permit issued by the Railroad Commission of Texas under Chapter 91.

SECTION 4.  Section 26.131(d), 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 to read as follows:

(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. The commission shall provide to an applicant for a permit described by this subsection for the discharge of produced water assistance with the preparation and submission of the permit application.

SECTION 5.  Section 26.131(c), Water Code, as effective on 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 to read as follows:

(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. The commission shall provide to an applicant for a permit described by this subsection for the discharge of produced water assistance with the preparation and submission of the permit application.

SECTION 6.  The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 7.  This Act takes effect September 1, 2023.