

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1165  
By: Fraser et al.  
Natural Resources & Economic Development  
3/20/2015  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1165 states the legislature's intent to expressly preempt the regulation of oil and gas operations by cities and other political subdivisions.

S.B. 1165 expressly preempts the authority of cities and other localities to regulate oil and gas operations, but recognizes that cities may, in a commercially reasonable manner, regulate surface activities incidental to oil and gas operations (e.g., noise, lighting, landscaping, traffic).

S.B. 1165 prohibits cities and other localities from banning or otherwise regulating oil and gas operations, and provides that such operations are subject to the exclusive jurisdiction of the state.

As proposed, S.B. 1165 amends current law relating to the express preemption of regulation of oil and gas operations and the exclusive jurisdiction of those operations by the state.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that the legislature finds that the laws and policy of this state have fostered successful development of oil and gas resources in concert with the growth of healthy and economically vibrant communities for over 100 years. Provides that the legislature acknowledges this cooperative progress and mutual benefit is derived from current statutes that provide effective and environmentally sound regulation of oil and gas operations that is so comprehensive and pervasive that it occupies the field, while facilitating the overriding policy objective to fully and effectively exploit oil and gas resources and protecting the environment and public's health and safety. Provides that the legislature recognizes that in order to continue this prosperity and the efficient management of a key industry in this state it is in the state's interest to explicitly confirm the authority for regulation of oil and gas activities within the state. Provides that the legislature intends that this Act expressly preempts regulation of oil and gas operations by municipalities and other political subdivisions that is already impliedly preempted by state law.

SECTION 2. Amends Chapter 81, Natural Resources Code, by adding a new section, as follows:

Sec. 81.071. EXPRESS PREEMPTION. (a) Defines "commercially reasonable" and "oil and gas operation."

(b) Provides that the authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality is authorized to enact, amend, or enforce an ordinance or other measure that regulates only surface activity that is incidental to an oil and gas operation, is commercially reasonable, does not effectively prohibit an oil and gas operation, and is not otherwise preempted by state or federal law.

(c) Prohibits a municipality or other political subdivision, except as to the authority recognized in Subsection (b), from enacting or enforcing an ordinance or other measure, or an amendment or revision of an existing ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within its boundaries or extraterritorial jurisdiction. Provides that an oil and gas operation is subject to the exclusive jurisdiction of the state.

SECTION 3. Effective date: upon passage or September 1, 2015.