

## **BILL ANALYSIS**

Senate Research Center  
86R25842 JAM-D

C.S.S.B. 1585  
By: Hughes  
Natural Resources & Economic Development  
4/12/2019  
Committee Report (Substituted)

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

The National Pollutant Discharge Elimination System (NPDES) is a federal regulatory program to control discharges of pollutants to surface waters of the United States. A state can be authorized to issue NPDES permits on behalf of the Environmental Protection Agency (EPA). The Texas Commission on Environmental Quality (TCEQ) program now has federal regulatory authority over discharges of pollutants to Texas surface water, with the exception of discharges associated with oil, gas, and geothermal exploration and development activities, which are regulated by the Railroad Commission of Texas (railroad commission).

S.B. 1585 would transfer state jurisdiction from the Railroad Commission of Texas to TCEQ to allow TCEQ to seek the authority from EPA to issue these permits for oil and gas activities. Currently, entities must go to EPA to receive NPDES permits and to the railroad commission for state permits for oil and gas activities. Given that TCEQ has an established program for Texas, with the necessary skillset and expertise of professionals and resources, it is prudent for the agency to have this authority as well and be able to issue one permit for both state and federal waters. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1585 amends current law relating to the authority of the Texas Commission on Environmental Quality to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities.

### **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. Amends Section 26.131, 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 (railroad commission), by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Provides that, except as provided by this section, the railroad commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from certain specified activities.

(b) Authorizes the railroad commission, except as provided by Subsection (d), to issue permits for the discharge of waste resulting from the activities described by Subsection (a), and requires the discharge of waste into water in this state resulting from those activities, rather than authorizing the railroad commission to issue permits for the discharge of waste resulting from these activities, and requiring the discharge of waste into water in this state these activities to meet the water quality standards established by the railroad commission.

(d) Authorizes the Texas Commission on Environmental Quality (TCEQ) to 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

TCEQ of the National Pollutant Discharge Elimination System (NPDES) authority for those discharges. Requires the discharge of produced water, hydrostatic test water, and gas plant effluent into water in this state under this subsection to meet the water quality standards established by TCEQ.

SECTION 2. Amends Section 26.131, Water Code, as effective on delegation of authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) to the railroad commission, as follows:

Sec. 26.131. DUTIES OF RAILROAD COMMISSION. Provides that, except as provided by this section, the railroad commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from certain activities.

(b) Authorizes the railroad commission, except as provided by Subsection (c), to issue permits for the discharge of waste resulting from the activities described by Subsection (a), and the discharge of waste into water in this state resulting from those activities is required to meet the water quality standards established by the railroad commission, rather than authorizing the railroad commission to issue permits for the discharge of waste resulting from these activities, and requiring the discharge of waste into water in this state these activities to meet the water quality standards established by the railroad commission.

(c) Authorizes TCEQ to 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 TCEQ of NPDES authority for those discharges. Requires the discharge of produced water, hydrostatic test water, and gas plant effluent into water in this state under this subsection to meet the water quality standards established by TCEQ.

SECTION 3. (a) Defines "commission" and "NPDES" for purposes of this section.

(b) Provides that, on delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to TCEQ by the United States Environmental Protection Agency (EPA) under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)), the following are transferred from the railroad commission to TCEQ:

(1) the powers, duties, functions, programs, and activities of the railroad commission relating to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state;

(2) any obligations and contracts of the railroad commission that are directly related to implementing a power, duty, function, program, or activity transferred under this Act; and

(3) all property and records in the custody of the railroad commission that are related to a power, duty, function, program, or activity transferred under this Act.

(c) Requires the railroad commission to continue to carry out its duties relating to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state until deregulation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to TCEQ by the EPA under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)).

(d) Authorizes TCEQ to carry out activities to ensure an orderly transfer of the power, duties, functions, programs, and activities transferred under this Act, including hiring additional employees and amending the memorandum of understanding by mutual agreement with the railroad commission.

(e) Requires TCEQ, not later than September 1, 2020, to submit to the EPA for approval a request to supplement or amend the Texas Pollutant Discharge Elimination System program to include delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2019.