

BILL ANALYSIS

C.S.H.B. 1284
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Class VI underground injection control (UIC) wells are authorized under the federal Safe Drinking Water Act and are used to inject anthropogenic, or man-made, carbon dioxide (CO₂) into deep rock formations for geologic sequestration and storage. Owners and operators of these wells must first obtain a permit from EPA in order to inject and store anthropogenic CO₂, unless EPA has delegated permitting jurisdiction, known as "primacy," to a state to issue such permits. Texas has primacy over the permitting of all other classes of UIC wells, but not over Class VI wells. Current state statute splits jurisdiction over Class VI wells between the Railroad Commission of Texas (RRC) and the Texas Commission on Environmental Quality, depending on the type of project for which the well is being used to inject and store CO₂. This split jurisdiction between the two agencies makes it cumbersome for the state to apply to EPA for primacy of the Class VI UIC well program. C.S.H.B. 1284 seeks to address this issue by consolidating the jurisdiction over onshore and offshore Class VI UIC wells solely under the RRC in order for the state to more easily apply for and obtain primacy of this permitting program from EPA.

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 12 of this bill.

ANALYSIS

C.S.H.B. 1284 amends the Water Code to expand the jurisdiction of the Railroad Commission of Texas (RRC) over the geologic storage and associated injection of anthropogenic carbon dioxide to include jurisdiction over any onshore and offshore injection and geologic storage of carbon dioxide in the state.

C.S.H.B. 1284 makes related changes, including the following:

- defining "offshore" as the area in the Gulf of Mexico seaward of the coast that is within three marine leagues of the coast; and
- repealing the jurisdiction of the Texas Commission on Environmental Quality (TCEQ) over the injection of carbon dioxide produced by a clean coal project into certain zones by certain injection wells.

C.S.H.B. 1284 requires funds received by the RRC as the beneficiary of a financial responsibility mechanism established under the Injection Well Act for the proper management of an anthropogenic carbon dioxide injection well or geologic storage facility to be deposited to

the credit of the anthropogenic carbon dioxide storage trust fund. The bill requires the RRC to adopt rules for the collection and administration of funds received from applicable financial responsibility mechanisms.

C.S.H.B. 1284 prohibits the RRC from issuing a permit under provisions relating to the geologic storage and associated injection of anthropogenic carbon dioxide for the conversion of a previously plugged and abandoned Class I injection well, including any associated waste plume, to a Class VI injection well. The bill requires a person making an application to the RRC for a permit under such provisions to submit with the application a letter of determination from TCEQ concluding that drilling and operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by TCEQ.

C.S.H.B. 1284 amends the Health and Safety Code to do the following:

- transfer the jurisdiction of TCEQ under carbon dioxide offshore geologic storage provisions to the RRC;
- set out related provisions regarding the enforcement of an applicable RRC rule; and
- require an applicable penalty to be deposited to the credit of the anthropogenic carbon dioxide storage trust fund.

C.S.H.B. 1284 amends the Natural Resources Code to authorize the use of the anthropogenic carbon dioxide storage trust fund by the RRC for the permitting of geologic storage facilities and associated anthropogenic carbon dioxide injection wells.

C.S.H.B. 1284 amends the Tax Code to make conforming changes.

C.S.H.B. 1284 repeals Sections 27.022 and 27.041(b), Water Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1284 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions that do the following:

- prohibit the RRC from issuing a permit under provisions relating to the geologic storage and associated injection of anthropogenic carbon dioxide for the conversion of a previously plugged and abandoned Class I injection well, including any associated waste plume, to a Class VI injection well; and
- require a person making an application to the RRC for a permit under those provisions to submit with the application a letter of determination from TCEQ concluding that drilling and operating an anthropogenic carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility will not impact or interfere with any previous or existing Class I injection well, including any associated waste plume, or any other injection well authorized or permitted by TCEQ.