

**SUBJECT:** Establishing emergency cleanup procedures for oil and gas wastes

**COMMITTEE:** Energy Resources — favorable, without amendment

**VOTE:** 8 ayes — R. Lewis, Merritt, Carter, Christian, Crabb, Hawley, Kitchen, Williams  
0 nays  
1 absent — Driver

**WITNESSES:** For — Wes Griggs  
Against — None  
On — Charles Ross, Texas Railroad Commission

**BACKGROUND:** Natural Resources Code, sec. 91.113 allows the Railroad Commission (RRC) to use money in the oilfield cleanup fund to conduct a site investigation or environmental assessment or to control or clean up oil and gas wastes or other substances if the responsible person has failed to do so after notice and opportunity for hearing; if the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the wastes; or if the wastes are polluting surface or subsurface water. The RRC may recover all costs it incurs.

**DIGEST:** HB 2872 would establish procedures for the RRC to perform an emergency cleanup of oil and gas wastes or other substances. Before beginning an emergency cleanup, the commission would have to assess the threat to the public by considering:

- ! the type of release;
- ! whether the release was polluting a waterway;
- ! the rate of flow of a polluted waterway;
- ! the distance between the release and any ground or surface water;
- ! the effect of the weather on the release;
- ! the vegetation or animal life that might be affected;
- ! the time of day the release was discovered; and
- ! the location of the nearest response team.

The commission would have to try to contact the responsible person at every telephone or fax number available or by email. If the RRC could not contact the person or the person was unwilling or could not afford to perform the cleanup, the RRC would have to inform the person that the commission would authorize an emergency cleanup and that the person would be held responsible for reimbursing the commission for all reasonable costs.

At any time before the RRC completed the cleanup, the person responsible for the wastes could take over and complete the cleanup. The commission would have to use every effort to prevent unreasonable and excessive costs in the cleanup. If a dispute over reimbursement arose, the RRC would have the burden of substantiating the costs incurred.

This bill would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

HB 2872 would give those responsible for oil spills a fair and reasonable chance to clean up the spill on their own. Operators often can clean up a spill more cheaply and more efficiently than the RRC. The bill would put the burden on the commission to justify the expenses of an emergency cleanup. The commission would have to make every reasonable attempt to contact the person responsible before initiating an emergency cleanup.

**OPPONENTS  
SAY:**

HB 2872 would slow an emergency cleanup response. The RRC would have to follow time-consuming procedures before it could initiate cleanup. The first party to learn of a spill, whether the commission or a responsible person, should initiate cleanup to minimize the hazard to the public and the environment.