

- SUBJECT:** Revised reporting of oilfield contamination by pipelines
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 5 ayes — Hancock, Driver, T. King, Kuempel, West
0 nays
2 absent — Bonnen, Lucio
- SENATE VOTE:** On final passage, April 19 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — James Mann, Texas Pipeline Association; (*Registered, but did not testify:* Delbert Fore, Enterprise Products; Kinnan Goleman, Devon Energy; Debbie Hastings, Texas Oil & Gas Association; Patrick Nugent, Texas Pipeline Association; Bill Oswald, Koch Industries, Flint Hill Resources; Kitty-Sue, Quinn, Texas Land and Mineral Owners Association; Lindsay Sander, Texas Pipeline Safety Coalition, Markwest, and Kinder Morgan; and Shayne Woodard, DCP Midstream, Sunoco Logistics)

Against — None

On — Charles Ross, Railroad Commission of Texas; and Mary "Polly" Ross McDonald, Railroad Commission of Texas
- BACKGROUND:** During the 2005 regular session, the 79th Legislature enacted SB 1130 by Hinojosa, which created Natural Resources Code, sec. 81.056 requiring a common carrier or pipeline owner or operator to report petroleum-based contamination to the Railroad Commission and affected landowners, if contamination is observed or detected while placing, repairing, replacing, or maintaining a pipeline. Upon implementation, a number of problems with the statute were discovered, including contacting landowners, duplicative reporting, and the collection and use of administrative fees.

Texas Constitution, Art. 3, sec. 66(c), added in 2003, states that the Legislature by statute may determine the limit of liability for all damages and losses, however characterized, other than economic damages, in a

claim or cause of action, but Art. 3, sec. 66(e) requires a three-fifths vote of all the members elected to each house to exercise this authority.

DIGEST:

CSSB 1592 would make various revisions to Natural Resources Code, sec. 81.056 requiring reporting of oil contamination by common carriers or pipeline owners or operators.

The "owner of the land," in provisions relating to contamination reports would include all those with an interest in the surface estate, rather than just the first person listed on the appraisal role in the district. A contamination report could be delivered to an owner by first class mail, if no other contact information was available. Common carriers or pipeline owners or operators would be required to report subsurface contamination to an owner or occupant of the land, if known, or to the first person shown on the appraisal roll, if unknown.

The reporting requirement would not apply to contamination in proximity to a gathering line or a pipeline located entirely within a tract that was subject to an oil or gas lease.

A common carrier or pipeline owner or operator would have to report contamination unless required to report the contamination under another statute or commission rule.

The bill would revise the procedure for reporting when the deadline for doing so fell on a weekend or holiday.

The Railroad Commission could contract with a person to do soil sampling of affected sites rather than collect samples directly.

The bill would repeal Natural Resources Code, sec. 81.056(g), which prohibits the Railroad Commission from using money in the Oil-Field Cleanup Fund to implement pipeline safety and insurance verification activities.

Administrative penalties collected under pipeline safety provisions would be credited to the Oil-Field Cleanup Fund.

The bill would reenact Natural Resources Code, sec. 81.056(e), which releases a common carrier or pipeline owner or operator that makes a contamination report from all liability for the contamination or its cleanup

covered by the report, except for any caused by the owner or operator. The bill would state that this provision was an exercise of authority under Texas Constitution Art. 3, sec. 66(c) and therefore would take effect only if the bill was approved by a three-fifths vote of the membership of each house.

The bill would take effect September 1, 2007, and apply only to contamination detected or observed on or after that date.

NOTES:

The committee substitute differs from the original by crediting administrative penalties collected under gas pipeline safety provisions to the Oil-Field Cleanup Fund.

According to the fiscal note, the Railroad Commission currently collects \$500,000 in administrative fees annually, which are credited to general revenue funds. Since the bill would credit these fees to the oil-field cleanup fund, there would be a \$1 million loss in general revenue and a \$1 million gain to the Oil-Field Cleanup Account No. 145 each biennium.