

SUBJECT: Requiring TCEQ to adopt rules for surface facilities of injection wells

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Callegari, Creighton, Laubenberg, Lucio, Martinez Fischer,
D. Miller, Smithee

3 nays — Ritter, Corte, T. King

0 absent — Frost

WITNESSES: *(On original bill:)*

For — Mike Gershon, Lone Star Groundwater Conservation District; Jennifer Real, Richard Ward, Citizen Residents Oppose Wells; Glenn Roebuck; Philip Wagoner; *(Registered, but did not testify: Jim Allison, County Judges and Commissioners Association of Texas, Victoria County Groundwater Conservation District; Paul Babb, Lois Carver, Flora Harrell, Shirley Hoagland, Lois Nelson, Connie Roebuck, Paula Sewall, Citizen Residents Oppose Wells; Karen Darcy; Kathie Herrick; Claude Hunter, The Woodlands Township, The Woodlands Association, The Woodlands Community Association, the Woodlands Commerce Association; Martha Kate; Ken Kramer, Lone Star Chapter, Sierra Club; Carol M. Matzel; James McKinney; Carolyn O'Keefe; T.J. Patterson, City of Fort Worth; Falda Rimel; Marta Rohfritsch; Richard Rohfritsch; Charlotte Smith; Hershall Smith; Bob Stout, The Woodlands Township; Carol Stromatt; William Stromatt, Elinor Wagoner)*

Against — Frank Marine, TM Deer Park Services LP; Gerhardt Schulle, Jr., Environmental Processing Systems

On — Jackie Hardee, Texas Commission on Environmental Quality

(On committee substitute:)

For — Mike Gershon, Kathy Jones, Lone Star Groundwater Conservation District; David Walker, Montgomery County; *(Registered, but did not testify: Shannon Lucas, Texas Mining and Reclamation Association)*

Against — Matthew McEneny, Louis Ross, Texcom Gulf Disposal, LLC

BACKGROUND: Class I injection wells inject hazardous and non-hazardous wastes into deep, isolated rock formations. Class I wells are regulated by the Texas Commission on Environmental Quality (TCEQ). An individual, corporation, or other legal entity that disposes of waste by Class I well injection must obtain a permit pursuant to Water Code, ch. 27 and Health and Safety Code, ch. 361.

DIGEST: CSHB 179 would require the Texas Commission on Environmental Quality (TCEQ) to adopt rules regulating the surface facilities associated with new commercial Class I injection wells that propose to accept nonhazardous industrial waste for which a permit had not been issued on or before September 1, 2009.

These rules would apply to every application for a permit for this type of well that was filed on or after September 1, 2009, or every application for a permit for this type of well that was pending on September 1, 2009.

The TCEQ would be required to suspend the permitting process for any pending application for a permit for this type of well until the TCEQ had adopted rules. These applicants would be allowed to amend their applications to conform to the rules, once adopted.

The rules would not have to apply to an application for a permit for an injection well used solely for the injection of carbon dioxide or for which the surface facilities were associated with a well permitted before September 1, 2009.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY: CSHB 179 would require TCEQ to adopt rules for the surface facilities associated with commercial, nonhazardous industrial waste wells. It is important that there are rules in place that govern the construction and operation of surface facilities that are associated with underground injection wells. Rules exist for the wells themselves, but not for the surface facility where the waste is received, transported, and stored. To ensure safety at all stages of the waste disposal process, it is necessary to have guidelines for the surface facilities as well.

Despite concerns that the bill would be retroactive, it states specifically that no facilities already constructed would be affected. For health and safety reasons, it would be appropriate to suspend any pending permits in order to ensure that the rules apply to as many facilities as possible. No construction would have begun at facilities whose applications are still pending, so the burden on those projects would be minimal.

Class I injection wells are a safe means of disposal, but the greatest risk for contamination is in surface spills, not the actual injection. There are rules in place at TCEQ that govern the wells, but nothing specifically prescriptive relating to the surface.

The 78th Legislature enacted similar legislation, HB 2554 by W. Smith, in 2003 for commercial nonhazardous industrial solid waste landfill facilities, with the same requirements for pending permits.

**OPPONENTS
SAY:**

CSHB 179 would have a retroactive effect by suspending the permitting process on applications that remained pending on the effective date of this bill. The permitting process can be cumbersome and costly, and changing the rules in the middle of the process would be unfair.

Currently, there is only one new Class I nonhazardous commercial injection well permit pending at TCEQ. This permit was filed by TexCom Gulf Disposal, LLC to construct, operate, and maintain a facility to store and process non-hazardous industrial wastewater in Montgomery County. CSHB 179 specifically would be targeting this one permit, delaying action on the pending application for at least 18 months. It is questionable public policy for legislation specifically to target one entity.

Class I injection wells are safer than virtually all other waste disposal practices. The wastewaters must be tested prior to disposal and may only contain trace amounts of contaminants that are measured in the parts per million.

NOTES:

The committee substitute differs from the bill as filed by providing definitions, providing that that rules would be for surface facilities only and that the rules would not apply to wells used for carbon dioxide sequestration.

The companion bill, SB 275 by Nichols, passed the Senate by 30-1 (Averitt) on April 30 and has been referred to the House Natural Resources Committee.