

- SUBJECT:** Providing for the transfer of liability of recycled drill cuttings
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 9 ayes — Darby, Paddie, Anchia, Herrero, Keffer, P. King, Landgraf, Meyer, Wu
- 1 nay — Craddick
- 3 absent — Canales, Dale, Riddle
- WITNESSES:** For — Tom Jones; (*Registered, but did not testify:* Matthew Thompson, Apache Corporation; Christie Goodman, Chevron; Stan Casey, Concho Resources Inc.; Teddy Carter, Devon Energy; Marty Allday, Enbridge Energy; David Holt, Permian Basin Petroleum Association; Mary Tipps, Texans for Lawsuit Reform; Bill Stevens, Texas Alliance of Energy Producers; Ed Longanecker, Texas Independent Producers And Royalty Owners Association; Mari Ruckel, Texas Oil and Gas Association; James Mann, Texas Pipeline Association; Jackie Mason, Texas Propane Gas Association; Gloria Leal, Waste Facilities, Inc.; Luke Bross; Chris Hosek; Greg Macksood)
- Against — None
- On — Sally Velasquez, Frio County Commissioners Court; Cyrus Reed, Lone Star Sierra Club; Leslie Savage, Railroad Commission of Texas
- DIGEST:** CSHB 1331 would provide for the transfer of liability when certain byproducts of oil and gas drilling were recycled by a recycler permitted by the Railroad Commission.
- The bill would define “drill cuttings” to mean “bits of rock or soil cut from a subsurface formation by a drill bit during the process of drilling an oil or gas well and lifted to the surface by means of circulation of drilling mud.”

The bill would provide that a generator of drill cuttings who transferred the cuttings to a permitted recycler was not liable in tort for a consequence of the beneficial use of the recycled product, if the drill cuttings were transferred with the contractual understanding that the drill cuttings would be put to a beneficial use. The recycler would be required to provide a copy of a permit from the Railroad Commission to the generator.

CSHB 1331 would specify that when drill cuttings were transferred by a generator of drill cuttings to a permitted recycler, the material would be considered the property of the recycler until the recycler transferred it to another person for disposal or use.

Similarly, the bill would specify that when recycled drill cuttings were transferred to another person for beneficial use or for disposal, the treated products or byproducts of recycling would be considered the property of the person to whom the material was transferred, unless otherwise provided by a legal document.

This bill would require the Railroad Commission to adopt rules governing the treatment and beneficial use of drill cuttings. It also would change the heading of Natural Resources Code, ch. 122 to specify that the chapter applied to fluid waste from oil and gas production.

This bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1331 would increase the recycling of drill cuttings, turning a waste product into a useful resource.

Current law could allow litigation against a generator of drill cuttings even for effects occurring after the cuttings were recycled and used for some beneficial purpose. This places significant liability on the generator, creating an incentive to dispose of drill cuttings in landfills without recycling them. This bill would ensure that the chain of liability followed the chain of custody, eliminating this liability and making generators more likely to recycle drill cuttings.

Recycling drill cuttings has a variety of positive effects. Without recycling, drill cuttings would go to landfills or landfarms where contaminated soil is worked into the ground, which can cause significant environmental degradation. By contrast, recycling this waste produces a variety of useful materials, including road base, diesel fuel, and water. This would represent the expansion of a valuable industry, increasing job growth and economic activity.

This bill would parallel current law on recycling fluid waste products from oil and gas drilling, which has been successful in increasing recycling and conserving water.

**OPPONENTS
SAY:**

CSHB 1331 would not require a written contract to transfer liability — only a “contractual understanding.” It should be amended to require a written contract in order for the liability to be transferred.