

**SUBJECT:** Consolidating jurisdiction over man-made CO2 injection and storage

**COMMITTEE:** Energy Resources — committee substitute recommended

**VOTE:** 10 ayes — Goldman, Anchia, Craddick, Darby, Ellzey, Geren, T. King, Leman, Longoria, Reynolds

0 nays

1 absent — Herrero

**WITNESSES:** For — Ben Shepperd, Permian Basin Petroleum Association; (*Registered, but did not testify*: Lauren Spreen, Apache Corporation; Chris Hosek, BP America; Michael Grimes, Cheniere LNG Inc.; Julie Williams, Chevron; Clay Pope, Clear Path Action; Stan Casey, ConocoPhillips; Carrie Simmons, Conservative Texans for Energy Innovation; Teddy Carter, Devon Energy; Scott Andersen, Environmental Defense Fund; Samantha Omev, ExxonMobil; Lindsay Munoz, Greater Houston Partnership; Julie Moore, Occidental Petroleum; Bill Stevens, Panhandle Producers and Royalty Owners Association; Kinnan Golemon, Shell Oil Company; Rene Lara, Texas AFL-CIO; Jason Modglin, Texas Alliance of Energy Producers; Mark Vickery, Texas Association of Manufacturers; Tom Glass, Texas Constitutional Enforcement; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Tulsie Oberbeck, Texas Oil and Gas Association)

Against — (*Registered, but did not testify*: Susana Carranza)

On — Leslie Savage, Railroad Commission of Texas; Ashley Forbes, Texas Commission on Environmental Quality; Scott Tinker, University of Texas

**BACKGROUND:** Natural Resources Code sec. 121.003 establishes the anthropogenic carbon dioxide storage trust fund, an interest-bearing trust fund which may be used by the Railroad Commission only for several designated purposes relating to the regulation, monitoring, and maintenance of

anthropogenic carbon dioxide injection wells and geologic storage facilities. Fees and penalties received by the Railroad Commission in connection with the commission's regulation of carbon dioxide injection and storage under certain Water Code provisions are deposited to the credit of the fund.

DIGEST:

CSHB 1284 would establish the jurisdiction of the Texas Railroad Commission (RRC) over all onshore and offshore injection and geologic storage of man-made carbon dioxide. The bill would repeal the jurisdiction of the Texas Commission on Environmental Quality (TCEQ) over the injection of carbon dioxide produced by clean coal projects and would transfer TCEQ's jurisdiction over standards for offshore carbon dioxide storage to RRC. The bill also would repeal a provision in current statute that makes RRC's jurisdiction over carbon dioxide injection into certain saline formations subject to the Legislature's review.

RRC could not issue a permit to convert a previously plugged and abandoned Class I injection well to a Class VI carbon dioxide injection well. Applications to RRC for a permit related to the geologic injection or storage of carbon dioxide would have to include a letter from TCEQ determining that the project would not impact or interfere with any existing injection well authorized or permitted by TCEQ.

The bill would require RRC to adopt rules for the collection and administration of funds received by the commission for the proper management of carbon dioxide injection wells or storage facilities. Such funds would be deposited in the anthropogenic carbon dioxide storage trust fund established under the Natural Resources Code. Penalties collected by RRC related to offshore carbon dioxide storage also would be deposited in the fund. The bill would specify that the fund could be used to finance permitting related to man-made carbon dioxide injection and storage in addition to other uses established by current statute.

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, 2021.

SUPPORTERS  
SAY:

CSHB 1284 would consolidate regulatory authority for Class VI underground injection control (UIC) wells under the Railroad Commission, removing a logistical obstacle to Texas being granted primacy from the Environmental Protection Agency (EPA) over such wells. Class VI UIC wells are used to inject man-made carbon dioxide into rock formations for sequestration and storage, but the current process to obtain a permit for these wells can be difficult and inefficient.

Currently, state regulation of UIC wells is split between the Railroad Commission (RRC) and the Texas Commission on Environmental Quality (TCEQ), depending on the well's purpose, and Texas has primacy over all UIC wells except for Class VI wells. If primacy were granted by the EPA for Class VI wells, individual companies would no longer need to go through the often long and onerous process of applying directly to the EPA for a Class VI UIC well permit. However, split authority presents an administrative burden on any request to receive primacy from the EPA. Granting RRC full authority over these wells would make it easier for the state to receive primacy over such wells, which in turn would make it easier to capture and sequester more man-made carbon dioxide. This would provide both environmental and economic benefits, since many companies have pledged to seek carbon neutrality and will need to purchase storage.

If primacy were granted, RRC would still be required to uphold and enforce the EPA's environmental standards, and primacy could be revoked if the commission failed to do so. Whether or not primacy is received, TCEQ would continue to have input on each application for a permit to build a Class VI injection well, since the bill would require that applicants get a letter from TCEQ confirming that the new well would not impact or interfere with any injection wells authorized by TCEQ.

CRITICS  
SAY:

CSHB 1284 would transfer authority over Class VI UIC wells in Texas from TCEQ to the Railroad Commission, which could lead to less consideration being given to environmental concerns in permitting

decisions and general oversight because RRC is not an environment-focused agency. While making it easier to sequester carbon dioxide is a worthy goal, UIC wells can have unintended consequences and require careful permitting.