

SUBJECT: Creating the Texas Produced Water Consortium

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — T. King, Bowers, Kacal, Larson, Lucio, Paul, Price, Ramos,
Walle, Wilson

0 nays

1 absent — Harris

SENATE VOTE: On final passage, March 30 — 30-1 (Hall)

WITNESSES: For —Steven Walden, Texas Desalination Association; Zacariah Hildenbrand; (*Registered, but did not testify*: Scott Anderson, Environmental Defense Fund; Shauna Sledge, North Texas GCD, Prairielands GCD, and Upper Trinity GCD; William Stevens, Panhandle Producers and Royalty Owners Association; Jason Modglin, Texas Alliance of Energy Producers; Mark Vickery, Texas Association of Manufacturers; Justin Yancy, Texas Business Leadership Council; Charlie Leal, Texas Farm Bureau; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; C.J. Tredway, Texas Oil & Gas Association; Trace Finley, WaterBridge Resources; Carlos Rubinstein)

Against — None

On — Alex Ortiz, Sierra Club Lone Star Chapter; Christy Bratcher, Texas Tech University; (*Registered, but did not testify*: Paul Dubois, Railroad Commission; John Dupnik, Texas Water Development Board)

DIGEST: CSSB 601 would create the Texas Produced Water Consortium (TPWC) to gather information resources to study the economic, environmental, and public health considerations of beneficial uses of fluid oil and gas waste. The commission established by the bill would be a consortium consisting of Texas Tech University (TTU), the agency advisory council, the stakeholder advisory council, the technical and economic steering

committee, and private entities.

Advisory entities. The agency advisory council created by the bill would be composed of representatives of:

- the Texas Department of Agriculture;
- the General Land Office;
- the Texas Parks and Wildlife Department;
- the Railroad Commission of Texas;
- the State Energy Conservation Office;
- the Texas Commission on Environmental Quality;
- the Texas Economic Development and Tourism Office; and
- the Texas Water Development Board.

Each state agency would be required to select a representative to serve on the agency advisory council of the TPWC by October 1, 2021. The agency advisory council would be required to meet as often as was necessary to ensure the consortium met the bills requirements and advise the consortium on matters related to the subject matter expertise of the agencies represented, including matters related to the regulation and permitting of and treatment standards for fluid oil and gas waste.

The bill would define "fluid oil and gas waste" to mean waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback and produced water, or other fluid that arises out of or is incidental to the drilling for or production of oil or gas.

Treatment standards could include a fit for purpose requirement and regulations necessary for the protection of public health and the environment.

The stakeholder advisory council established by the bill would be composed of representatives of:

- the oil and gas industry;

- agricultural and industrial water users;
- environmental interests;
- fluid oil and gas waste recycling operators;
- public water utilities;
- landowners and owners of groundwater rights;
- commercial water recyclers and midstream water companies; and
- other appropriate interests or industries.

TTU would be required to appoint members to the stakeholder advisory council from members of the consortium to advise the consortium on matters related to research, investigation, and contract development.

The bill also would establish a technical and economic steering committee composed of members appointed by TTU to provide technical, economic, and scientific expertise. The technical and economic steering committee would have to determine the feasibility of proposals for research or investigation by the consortium and decide which proposals the consortium would accept for research and investigation.

Consortium duties. The consortium would be tasked with studying the economic, environmental, and public health considerations of beneficial uses of fluid oil and gas waste and technology needed for those uses. After October 1, 2022, the research and investigation goals of the consortium would have to be directed by its members. TTU could disband the consortium if the university determined that it lacked sufficient membership.

Report. By September 1, 2022, the consortium would be required to produce a report that included:

- suggested changes to laws and administrative rules to better enable beneficial uses of fluid oil and gas waste, including specific changes designed to find and define beneficial uses for such waste outside of the oil and gas industry;
- suggested guidance for establishing fluid oil and gas waster permitting and testing standards;

- a technologically and economically feasible pilot project for state participation in a facility designed and operated to recycle fluid oil and gas waste;
- an economic model for using fluid oil and gas waster in a way that was economical and efficient and that protected public health and the environment.

The bill would require TTU to:

- provide staff and other necessary resources for the consortium's activities;
- consult with the New Mexico Produced Water Research Consortium and its advisory board on research, data, and any other matter related to the consortium;
- solicit participation from specified stakeholder groups, including the oil and gas industry, water users and utilities in the state, environmental interests, and landowners; and
- coordinate with other members of the state university system and state agencies to provide necessary resources for the consortium to meet the bill's requirements.

Funding. The agency advisory council and TTU would be required to collaborate to create a fee structure that established membership costs at various levels for private entities that could contribute money to the consortium for research and investigation. Membership costs could include contributions of equipment or other resources in lieu of money. Money paid by private entities as membership costs could be used only for research and investigation conducted by the TPWC.

The consortium could not receive state money, except for state money appropriated to TTU to meet the bill's report requirements and resources provided by TTU and other state university system entities or state agencies. The consortium could accept gifts and grant money, equipment, or other resources necessary to accomplish its duties.

Access to data. Membership in the consortium would entitle a private

entity to access data produced by the TPWC's investigation in an amount proportionate to its level of membership. A private entity's access to the consortium's data would have to be governed by a membership contract between TTU and the entity that described the data that would be released to the private entity.

The TPWC would be required to make information about its work available to the public on a website maintained by TTU. The information could not be privileged, proprietary, or confidential.

The TPWC would be required to implement the bill's provisions only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money specifically for that purpose, the consortium could, but would not be required to, implement the bill's provisions using other appropriations available for that purpose.

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:**

CSSB 601 would help to ensure an adequate future water supply for Texas by creating a consortium to study the feasibility of transforming millions of gallons of waste water into a viable and clean water source that meets standards for industry, agricultural, and potable uses in the state.

Millions of excess acre-feet of produced water, a byproduct of oil and gas production, is currently disposed of through subsurface injection, which is expensive, removes water from the water cycle, and is associated with induced seismicity earthquakes.

The bill would lay the groundwork for purifying produced water by forming the Texas Produced Water Consortium (TPWC), a consortium of industry, agricultural, environmental, and other interests housed at Texas Tech University to study the economic and technological feasibility of treating produced water. Research in this field is currently fragmented, with different groups working on different parts of the process. The

TPWC would provide a common foundation for interested parties to work together to find a solution that could help supply water to parts of Texas that have suffered from repeated droughts.

CSSB 601 would ensure that Texas leads the nation in research and innovation in purifying produced water and could create a new industry and jobs, while developing a vital new water source for Texas.

CRITICS
SAY:

The bill's provisions on treatment standards and necessary regulations for produced water established by the consortium's agency advisory council should expressly require protection of public health and the environment.

OTHER
CRITICS
SAY:

CSSB 601 would expand government beyond its proper scope. It is the role of the oil and gas industry, which produces the waste water and could profit if cost-effective beneficial uses for it are found, to conduct this type of research.