

BILL ANALYSIS

Senate Research Center

H.B. 3837
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is a lack of clarity in statutes regarding jurisdiction over in situ uranium exploration; this lack of clarity has not previously been addressed since the uranium industry has been largely dormant for the past 10 years due to extremely low market prices for the product.

Unlike 30 years ago, in situ recovery, rather than surface mining, is the predominate method used in the uranium industry in Texas. This bill is designed to update the Natural Resources Code, to better reflect the state of the industry it regulates. Since several agencies regulate the in situ recovery process and restoration and reclamation, this bill focuses on the jurisdictional area that is within the purview of the Railroad Commission of Texas (railroad commission) which is the exploration associated with recovery of uranium. In particular, this bill clarifies the commission's jurisdiction and the required contents of exploration permits. In recognition of the development and work of local groundwater conservation districts, this bill also provides for notification by the railroad commission to local governmental entities regarding exploration permits that are issued and the sharing of geologic, hydrologic, and water quality information.

As proposed, H.B. 3837 clarifies the exploration permitting process under the exclusive jurisdiction of the railroad commission. This bill mandates that the railroad commission notify local elected officials and groundwater conservation districts upon receiving an application for an exploration permit. This bill requires a permit holder to share information with groundwater conservation districts within 90 days of receiving information. This bill authorizes the railroad commission to collect an application fee to recover the costs of administering the permit application process.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 3 (Section 131.034 and 131.301, Natural Resources Code) and SECTION 6 (Section 131.352, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 131.001, 131.002, and 131.003, Natural Resources Code, as follows:

Sec. 131.001. SHORT TITLE. Provides that this chapter may be cited as the Texas Uranium Exploration, Surface Mining, and Reclamation Act.

Sec. 131.002. DECLARATION OF POLICY. Sets forth legislative findings and declarations.

Sec. 131.003. PURPOSES. Declares that the purpose of this chapter is to assure that exploration and surface mining operations are conducted in a manner that will prevent unreasonable degradation of land and water resources, and to assure that reclamation of all explored land and surface-mined land is accomplished as contemporaneously as practicable with the exploration or surface mining, recognizing that the exploration for and extraction of minerals by responsible operations, rather than responsible mining operations, is an essential and beneficial economic activity.

SECTION 2. Amends Section 131.004(10), Natural Resources Code, to redefine "surface mining permit" or "permit."

SECTION 3. Amends Sections 131.021, 131.022, 131.034, 131.048, and 131.301, Natural Resources Code, as follows:

Sec. 131.021. GENERAL AUTHORITY OF COMMISSION. Requires the Railroad Commission of Texas (railroad commission), in seeking to accomplish the purposes of this chapter, to have certain authority relating to an exploration mining operation and the authority to prepare reports and to require persons who hold exploration or surface mining permits, rather than permittees, to prepare reports. Makes conforming changes.

Sec. 131.022. JURISDICTION OF COMMISSION. (a) Provides that the railroad commission is the mining and reclamation authority for the State of Texas and has exclusive jurisdiction for establishing reclamation requirements for mining and exploration operations in this state, except for in situ recovery processes.

(b) Provides that the railroad commission has exclusive jurisdiction and is solely responsible for the regulation of all exploration activities, except as provided by Section 131.354.

Sec. 131.034. EXPLORATION ACTIVITIES. Requires the railroad commission to promulgate rules governing uranium exploration activity, rather than in the manner provided in Sections 131.026 through 131.031 of this code for the conduct of exploration activities.

Sec. 131.048. CONFIDENTIALITY. Requires information submitted to the railroad commission concerning mineral deposits, including test borings, core samplings, geophysical logs, or trade secrets or privileged commercial or financial information relating to the competitive rights of the applicant for an exploration permit or surface mining permit and specifically identified as confidential by the applicant, if not essential for public review as determined by the railroad commission, to not be disclosed by any member, agent, or employee of the railroad commission.

Sec. 131.301. DISCHARGE RULES, ORDERS, AND PERMITS. Provides that the railroad commission has the exclusive authority, rather than requiring the railroad commission, to adopt rules and authorizes the railroad commission to issue orders and permits relating to the discharge or runoff of waste or any other substance or material from any permitted uranium exploration activity to prevent the pollution of surface and subsurface water in the state. Requires a rule adopted, order issued, or permit issued by the railroad commission under this subchapter, notwithstanding any provision of any other section of this chapter, to be administered and enforced solely in the manner provided by this subchapter by the rule, order, or permit, or by Chapter 2001 (Administrative Procedure), Government Code. Makes nonsubstantive and conforming changes.

SECTION 4. Amends Section 131.261(a), Natural Resources Code, to make a conforming change.

SECTION 5. Amends Sections 131.262(a) and (b), Natural Resources Code, as follows:

(a) Authorizes the railroad commission to authorize an extension of the period of time for the abatement of the violation, for good cause as determined by a written finding by the railroad commission. Prohibits the railroad commission from authorizing an extension of the period of time for the abatement of the violation to a date later than the 60th day after the date the railroad commission issued the notice to the permittee if the violation pertains to exploration activities. Makes a nonsubstantive change.

(b) Deletes existing text authorizing the railroad commission, if, on expiration of the period of time as originally set or subsequently extended, for good cause shown, and on written finding of the railroad commission, the railroad commission finds that the violation has not been abated, to order a cessation of surface mining operations on the portion of this area relevant to the violation. Makes a conforming change.

SECTION 6. Chapter 131, Natural Resources Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PERMITS FOR EXPLORATION ACTIVITIES

Sec. 131.351. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter controls if it conflicts with other law.

(b) Provides that Sections 131.037 (Combined Permit Application), 131.038 (Filing Application With County Clerk), 131.039 (Submission of Application to Agencies for Comment), 131.040 (Approval of Permit), 131.041 (Denial of a Permit), 131.042 (Term and Transferability of Permit), 131.043 (Liability Insurance Policy), 131.044 (Rules for Revision, Transfer, and Renewal of Permits), and 131.045 (Right to Renewal) do not apply to exploration activity subject to an exploration permit issued under this subchapter.

Sec. 131.352. EXPLORATION PERMITS. (a) Prohibits a person from conducting exploration activity unless the person holds an exploration permit issued by the railroad commission.

(b) Authorizes an exploration permit issued by the railroad commission to contain provisions and conditions necessary to implement the policies of this subchapter. Requires the railroad commission to adopt rules governing the amendment, revocation, transfer, or suspension of an exploration permit.

(c) Authorizes a person to conduct exploration activities under an exploration permit issued by the railroad commission until the term expires or may apply for a new exploration permit issued under this subchapter under certain circumstances.

(d) Authorizes a person to apply for an exploration permit renewal under this subchapter on expiration of an exploration permit held by a person described by Subsection (c)(1) or (2).

Sec. 131.353. SCOPE OF EXPLORATION PERMIT. (a) Authorizes an exploration permit to govern all activities associated with determining the location, quantity, or quality of uranium deposits.

(b) Requires an exploration permit to contain provisions to govern certain actions.

(c) Provides that, except as provided by Section 131.354, a cased exploration well subject to an exploration permit issued under this subchapter is exempt from regulation by another agency, governmental entity, or political subdivision if the well is used for exploration, or used for rig supply purposes.

Sec. 131.354. COMMISSION JURISDICTION. (a) Provides that the railroad commission has jurisdiction over uranium exploration holes and cased exploration wells completed under an exploration permit issued under this subchapter until a certain time.

(b) Provides that a well described by Section 131.353(c) is subject to a groundwater conservation district's rules regarding registration of wells under certain circumstances.

(c) Provides that a well described by Section 131.353(c) is subject to a groundwater conservation district's rules for registration, production, and reporting under certain circumstances.

(d) Requires the holder of an exploration permit governing a well described by Section 131.353(c) and located in a groundwater conservation district to report

each month, to the district the total amount of water produced from each well located inside the area subject to the exploration permit.

(e) Requires each groundwater conservation district to use the number of acres described in the exploration permit in determining any district production requirements.

Sec. 131.355. APPLICATION FEES. (a) Authorizes the railroad commission to impose an application fee to recover the costs of administering this subchapter.

(b) Provides that Section 131.231 (Land Reclamation Fund) does not apply to a fee imposed under this subchapter.

Sec. 131.356. NOTIFICATION BY COMMISSION. (a) Requires the railroad commission, at the time it receives an application for an exploration permit, to provide written notice of the exploration permit application to certain officials.

(b) Requires the railroad commission, at the time it issues an exploration permit under this subchapter, to provide written notice of the exploration permit to certain entities.

Sec. 131.357. GEOLOGIC, HYDROLOGIC, WATER QUALITY, AND WELL INFORMATION. (a) Requires a person issued an exploration permit under this subchapter that authorizes exploration in a groundwater conservation district to provide to the district certain information.

(b) Authorizes a person to take not more than 90 days after the person receives the final information to perform standard quality control and quality assurance procedures before submitting the information as required by Subsection (a).

(c) Requires a person to provide to the district certain information if the railroad commission issues an exploration permit under this subchapter to a person for wells described by Section 131.353(c) that are located inside a groundwater conservation district.

SECTION 7. Effective date: September 1, 2007.