

## **BILL ANALYSIS**

Senate Research Center  
81R1735 JTS-D

S.B. 274  
By: Nichols  
Natural Resources  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Commission on Environmental Quality has jurisdiction over the underground injection control program, which oversees the underground disposal of wastewater in deep wells.

As proposed, S.B. 274 provides limitations on where such wells can be located.

[**Note:** While the statutory reference in SECTION 1 of this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the amendments in that section affect Texas Commission on Environmental Quality, as the successor agency to TRNCC.]

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to Texas Commission on Environmental Quality in SECTION 2 (Sections 27.058, 27.060, 27.061, and 27.062, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 361.1011, Health and Safety Code, as follows:

Sec. 361.1011. PROHIBITION ON PERMIT FOR FACILITY AFFECTED BY FAULT. Provides that if a fault exists within 3,000 feet of a proposed hazardous waste management facility or of a capacity expansion of an existing hazardous waste management facility, the burden is on the applicant, unless previously demonstrated to the Texas Natural Resource Conservation Commission or the United States Environmental Protection Agency, to show that the fault has not had displacement within Holocene time, or if the faults have had displacement with Holocene time, that no such faults pass within 200 feet of the portion of the surface facility where treatment, storage, or disposal of hazardous wastes will be conducted and the fault will not result in structural instability. Deletes existing text providing that an applicant is to show certain information about a fault within two and one-half miles from the proposed or existing wellbore of a Class I injection well or the area within the cone of influence, whichever is greater. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter D, Chapter 27, Water Code by adding Sections 27.057-27.062, as follows:

Sec. 27.057. PROHIBITION ON PERMIT FOR INJECTION WELL IN CERTAIN AREAS. Prohibits the Texas Commission on Environmental Quality (TCEQ) from issuing a permit for an injection well if the well is to be located on certain aquifer recharge zones or oil fields.

Sec. 27.058. PROHIBITION ON PERMIT FOR INJECTION WELL WITHIN CERTAIN DISTANCE OF RESIDENCE, CHURCH, SCHOOL, DAY-CARE CENTER, PARK, OR PUBLIC DRINKING WATER SUPPLY. (a) Requires TCEQ by rule, to prohibit the issuance of a permit for an injection well if the well is to be located within one-half mile (2,640 feet) of an established residence, church, school, day-care center, surface water body used for a public drinking water supply, or dedicated public park.

(b) Requires TCEQ by rule to prohibit the issuance of a permit for an injection well that is proposed to be located at a distance greater than one-half mile (2,640 feet) from a location described by Subsection (a) unless the applicant demonstrates that the well will be operated so as to safeguard public health and welfare and protect physical property and the environment, at any distance beyond the well's property boundaries, consistent with the purposes of this chapter.

(c) Requires that the measurement of distance required by Subsections (a) and (b) be taken toward an established residence, church, school, day-care center, surface water body used for a public drinking water supply, or dedicated park that is in use when the notice of intent to file a permit application is filed with TCEQ or, if no notice of intent is filed, when the permit application is filed with TCEQ. Provides that the restriction imposed by Subsection (a) does not apply if the residence, church, school, day-care center, surface water body used for a public drinking water supply, or dedicated park is located on property that is owned by the permit applicant and that is adjacent to the well for which the application is filed.

Sec. 27.059. PROHIBITION ON PERMIT FOR INJECTION WELL AFFECTED BY FAULT. Prohibits TCEQ from issuing a permit for an injection well if a fault exists within two and one-half miles from the proposed or existing wellbore of an injection well or the area within the cone of influence, whichever is greater, unless the applicant can demonstrate that the fault is not sufficiently transmissive or vertically extensive to allow migration of hazardous constituents out of the injection zone.

Sec. 27.060. OTHER AREAS UNSUITABLE FOR INJECTION WELLS. Requires TCEQ by rule to define the characteristics that make other areas unsuitable for an injection well, including consideration of characteristic related to flood hazards, discharge from or recharge to a groundwater aquifer, soil conditions, areas of direct drainage within one mile of a lake used to supply public drinking water, active geological processes, costal high hazard areas, such as areas subject to hurricane storm surge and shoreline erosion, or critical habitat of endangered species.

Sec. 27.061. PROHIBITION ON PERMIT FOR INJECTION WELL IN UNSUITABLE AREA. Requires TCEQ by rule to prohibit the issuance of a permit for a new injection well if the well is to be located in an area determined to be unsuitable under rules adopted by TCEQ under Section 27.060 unless the design, construction, and operational features of the well will prevent adverse effects from unsuitable site characteristics.

Sec. 27.062. PETITION BY LOCAL GOVERNMENT FOR RULE ON INJECTION WELL IN UNSUITABLE AREA. (a) Requires TCEQ by rule to allow a local government to petition TCEQ for a rule that restricts or prohibits the siting of a new injection well in an area specified by the petition, including an area that has one or more of the characteristics described by Section 27.060.

(b) Prohibits a rule adopted under this section from affecting the siting of a new injection well if an application or a notice of intent to file an application concerning the well is filed with TCEQ before the filing of a petition under this section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2009.