

BILL ANALYSIS

Senate Research Center

H.B. 2767
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that treating and reusing oil and gas waste is essential to supporting growth in the Texas oil and gas industry while preserving water resources. The rapid growth of development in Texas' shale deposits requires large quantities of water for drilling and hydro-fracturing operations that must be safely discharged or disposed of properly. Under current practice, most oil and gas wastewater is disposed of in underground injection wells instead of being treated and reused in drilling and hydro-fracturing activity, according to concerned parties. The parties report that the lengthy permitting process for off-lease treatment operations and the legal ambiguity about the ownership of oil and gas waste transferred for treatment are obstacles to recycling oil and gas waste. H.B. 2767 seeks to address these obstacles by proposing statutory changes to the law relating to treating and recycling for beneficial use certain waste arising out of or incidental to drilling for or producing oil or gas.

H.B. 2767 amends current law relating to the treatment and recycling for beneficial use of certain waste arising out of or incidental to the drilling for or production of oil or gas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Section 122.004, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 3, Natural Resources Code, by adding Chapter 122, as follows:

CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF CERTAIN OIL AND GAS WASTE

Sec. 122.001. DEFINITIONS. Defines, in this chapter, "commission" and "fluid oil and gas waste."

Sec. 122.002. OWNERSHIP OF CERTAIN OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE. Provides that, unless otherwise expressly provided by a contract, bill of sale, or other legally binding document:

- (1) when fluid oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use; and
- (2) when a person who takes possession of fluid oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of

subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

Sec. 122.003. **RESPONSIBILITY IN TORT.** (a) Provides that, except as provided by Subsection (b), a person who takes possession of fluid oil and gas waste, produces from that waste a treated product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil or gas, and transfers the treated product to another person with the contractual understanding that the treated product will be used in connection with the drilling for or production of oil or gas is not liable in tort for a consequence of the subsequent use of that treated product by the person to whom the treated product is transferred or by another person.

(b) Provides that this section does not affect the liability of a person that treats fluid oil and gas waste for beneficial use in an action brought by a person for damages for personal injury, death, or property damage arising from exposure to fluid oil and gas waste or a treated product.

Sec. 122.004. **COMMISSION RULES FOR TREATMENT AND BENEFICIAL USE.** Requires the Railroad Commission of Texas to adopt rules to govern the treatment and beneficial use of oil and gas waste.

SECTION 2. Effective date: September 1, 2013.