

## **BILL ANALYSIS**

Senate Research Center

H.B. 2771  
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Natural Resources & Economic Development  
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Engrossed

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

There have been calls for the state to do more to regulate the discharge of certain pollutants from oil and gas activities into the water in Texas. H.B. 2771 seeks to answer those calls by giving the Texas Commission on Environmental Quality the power it needs to ensure that certain water and effluent discharged into the water in Texas meet established water quality standards.

H.B. 2771 amends current law relating to the authority of the Texas Commission on Environmental Quality to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities.

Note: Although the statutory citation in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), changes to law made by this bill affect the Texas Commission on Environmental Quality as successor agency to TNRCC.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.131, Water Code, as effective until delegation of authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) to the Railroad Commission of Texas, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Provides that, except as provided by this section (Duties of Railroad Commission), the Railroad Commission of Texas (railroad commission) is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from certain activities. Makes a nonsubstantive change.

(b) Authorizes the railroad commission, except as provided by Subsection (d), to issue permits for the discharge of waste resulting from the activities described by Subsection (a), and requires the discharge of waste into water in this state resulting from those activities to meet the water quality standards established by the railroad commission. Makes nonsubstantive changes.

(d) Authorizes the Texas Natural Resource Conservation Commission (TNRCC) to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described by Subsection (a) on delegation to the railroad commission of NPDES authority for those discharges. Requires the discharge of produced water, hydrostatic test water, and gas plant effluent into water in this state under this subsection to meet the water quality standards established by TNRCC.

SECTION 2. Amends Section 26.131, Water Code, as effective on delegation of authority under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) to the railroad commission, as follows:

Sec. 26.131. DUTIES OF RAILROAD COMMISSION. (a) Provides that, except as provided by this section, the railroad commission is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from certain activities. Makes nonsubstantive changes.

(b) Authorizes the railroad commission, except as provided by Subsection (c), to issue permits for the discharge of waste resulting from the activities described by Subsection (a), and the discharge of waste into water in this state resulting from those activities is required to meet the water quality standards established by TNRCC.

(c) Authorizes TNRCC to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from the activities described by Subsection (a) on delegation to TNRCC of NPDES authority for those discharges. Requires the discharge of produced water, hydrostatic test water, and gas plant effluent into water in this state under this subsection to meet the water quality standards established by TNRCC.

SECTION 3. (a) Defines "commission" to mean the Texas Commission on Environmental Quality (TCEQ) and defines "NPDES" to mean the National Pollutant Discharge Elimination System for purposes of this section.

(b) Provides that, on delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to TCEQ by the United States Environmental Protection Agency (EPA) under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)), the following are transferred from the railroad commission to TCEQ:

(1) the powers, duties, functions, programs, and activities of the railroad commission relating to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state;

(2) any obligations and contracts of the railroad commission that are directly related to implementing a power, duty, function, program, or activity transferred under this Act; and

(3) all property and records in the custody of the railroad commission that are related to a power, duty, function, program, or activity transferred under this Act.

(c) Requires the railroad commission to continue to carry out its duties related to the regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water in this state until delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent to TCEQ by the United States Environmental Protection Agency under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)).

(d) Authorizes TCEQ to carry out activities to ensure an orderly transfer of the powers, duties, functions, programs, and activities transferred under this Act, including hiring additional employees and amending the memorandum of understanding by mutual agreement with the railroad commission.

(e) Requires TCEQ, not later than September 1, 2021, to submit to the EPA for approval a request to supplement or amend the Texas Pollutant Discharge Elimination System program to include delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant effluent.

SECTION 4. Makes application of this Act prospective to the effective date of delegation of NPDES permit authority for discharges of produced water, hydrostatic test water, and gas plant

effluent to TCEQ by EPA under Section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1342(b)).

SECTION 5. Effective date: September 1, 2019.