

SUMMARIES OF KEY
OIL & GAS LEGISLATION
IN THE
84th (2015) TEXAS REGULAR SESSION

Prepared for
Permian Basin Petroleum Association

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Table of Contents

Key Legislation Which Passed ¹	Page
I. Exploration and Production	3
II. Water	9
III. Pipelines	25
IV. Taxation	28
V. Transportation	40
VI. Environment	43
VII. Civil Practices	45
VIII. Refining and Marketing	51
IX. General Business and Miscellaneous	52

¹*Governor Veto Period Still Active at Time of Delivery*

EXPLORATION AND PRODUCTION

HB 40² House Author: Darby, Drew Senate Sponsor: Fraser, Troy

Relating to the exclusive jurisdiction of this state to regulate oil and gas operations in this state and the express preemption of local regulation of those operations.

Major oil and gas legislation of this session. This is the municipal and political subdivision preemption Act.

Adopts a legislative finding that, among other things, existing state law by implication already preempted municipal and other political subdivisions’ regulation of oil and gas operations, that this act recognizes the existing implied preemption, and that this act explicitly preempts such regulation of oil and gas operations.

Provides that oil and gas operations are subject to the exclusive jurisdiction of the state. Explicitly preempts the authority of municipalities and other political subdivisions from regulating an oil and gas operation. Specifically prohibits municipalities and other political subdivisions from enacting or enforcing an ordinance or other measure, or an amendment or revision of an ordinance or other measure that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

However, provides an exception which allows municipalities (but not any other political subdivision) to enact, amend, or enforce an ordinance or other measure that:

- (1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;
- (2) is commercially reasonable;
- (3) does not effectively prohibit an oil and gas operation; and
- (4) is not otherwise preempted by state or federal law.

Creates a new definition of "oil and gas operation" and "commercially reasonable" as follows:

"Oil and gas operation" is defined as an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking,

recompletion, disposal, plugging and abandonment, secondary and tertiary recovery techniques, and remediation activities.

"Commercially reasonable" is defined as a condition that permits a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas.

Provides that an ordinance or other measure is considered prima facie to be commercially reasonable if the ordinance or other measure has been in effect for at least five years and has allowed the oil and gas operations at issue to continue during that period.

[Note: According to legislative intent dialogue and supported by the language in the legislation, this Act is intended to preserve the right of municipalities to exercise their local police powers to regulate surface activities incidental to oil and gas operations such as fire and emergency response, traffic, lights, noise, and reasonable setback requirements, provided that they are "commercially reasonable", do not effectively prohibit an oil and gas operation, and are not otherwise preempted by state or federal law. Otherwise, this bill expressly provides that regulation of oil and gas activities are under the exclusive jurisdiction of the state.

Interestingly, during the process of passage, various other dialogues took place discussing various points of legislative intent. Among these dialogues, there was discussion appearing to indicate that this Act is not intended to change or affect existing authority and jurisdiction of ground water conservation districts over oil and gas operations. It must be noted that the clear language of the Act is in direct contradiction to this position as follows: "a political subdivision may not enact or enforce [a] ... measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries ... of the ... political subdivision." Accordingly, standard rules of statutory construction provide that the clear language of the Act controls.]

HB 497 House Author: Wu, Gene Senate Sponsor: Uresti, Carlos

Relating to the applicability of the law governing saltwater pipeline facilities located in the vicinity of public roads.

Amends the definition of "saltwater pipeline facility" to mean a pipeline facility that conducts water that contains salt and other substances and is intended to be used in drilling or operating a well used in the exploration for or production of oil or gas, including an injection well used for enhanced recovery operations, or is produced during drilling or operating an oil, gas, or other type of well.

[Note: Last session, the Legislature passed legislation (SB 514) relating to the

installation, maintenance, operation, and relocation of saltwater pipeline facilities that helped to set standards for the placement of a saltwater pipeline on a right-of-way.

During rulemaking, there were discussions about expanding the law so as to allow for water to be *brought to* exploration and production sites as opposed to just transported *away from* production sites. H.B. 497 accomplishes that change by allowing for non-produced water lines to also be installed on public roads or rights-of-way in order to transport water to exploration and production sites.]

HB 2207 House Author: Keffer, Jim Senate Sponsor: Eltife, Kevin

Relating to the foreclosure sale of property subject to oil or gas lease.

Provides that, notwithstanding any other law, an oil or gas lease covering real property subject to a security instrument that has been foreclosed remains in effect after the foreclosure sale if the oil or gas lease has not terminated or expired on its own terms and was executed and recorded in the real property records of the county before the foreclosure sale.

Provides that, an interest of the mortgagor or the mortgagor's assigns in the oil or gas lease, including a right to receive royalties or other payments that become due and payable after the date of the foreclosure, passes to the purchaser of the foreclosed property to the extent that the security instrument under which the real property was foreclosed had priority over the interest in the oil or gas lease of the mortgagor or the mortgagor's assigns.

However, provides that if real property that includes the mineral interest in hydrocarbons together with the surface overlying such mineral interest is subject to both an oil or gas lease and a security instrument and the security interest is foreclosed, the foreclosure sale terminates and extinguishes any right granted under the oil or gas lease for the lessee to use the surface of the real property *to the extent that* the security instrument under which the real property was foreclosed had priority over the rights of the lessee under the oil or gas lease.

Provides that an agreement, including a subordination agreement, between a lessee of an oil or gas lease and a mortgagee of real property or the lessee of an oil or gas lease and the purchaser of foreclosed real property controls over any conflicting provision of this section. Prohibits an agreement between a mortgagor and mortgagee from modifying the application of this section unless the affected lessee agrees to the modification.

HB 2521 House Author: Coleman, Garnet Senate Sponsor: Uresti, Carlos

Relating to transferring from the state to a county the revenue derived from oil and gas leases of land owned by the county to be used by the county for road maintenance purposes.

Requires that any payment received from the leasing of oil and gas under lands owned by the state that were or may be acquired by a county to construct a county road shall be deposited to the credit of the county road oil and gas fund as created by this Act.

Provides that a lease of oil and gas under land described above that is entered into on or after September 1, 2017, must require any payment under the lease to be made directly to the county treasurer, or officer performing the function of that office, in the county in which the land is located, as determined by the commissioner and described in the lease, for deposit to the credit of the county road and bridge fund of the county.

Provides that a lessee's obligation to make a payment under this subsection is satisfied by making that payment to the county described in the lease. Provides that this Act does not create a cause of action for a county to pursue remedies under a lease described above and a county is not considered to be a party to such a lease for the purpose of asserting a right granted by the lease.

HB 1106 House Author: Phillips, Larry

Relating to the name of the Railroad Commission of Texas.

FAILED TO PASS. Contingent upon passage by the Legislature and by the voters of a constitutional amendment approving the name change, would have changed the name of the Railroad Commission of Texas to the Texas Energy Commission.

HB 1331 House Author: King, Phil Senate Sponsor: Fraser, Troy

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.

Ownership of Drill Cuttings 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 drill cuttings are transferred to a permit holder who takes possession of the cuttings for the purpose of treating the cuttings for a subsequent beneficial use, the transferred material is considered to be the property of the permit holder until the permit holder transfers the cuttings or treated cuttings to another person for disposal or use; and

(2) when a permit holder who takes possession of drill cuttings for the purpose of treating the cuttings 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.

Responsibility in Tort. Provides that a person who generates drill cuttings and transfers the drill cuttings to a permit holder with the contractual understanding that the drill cuttings will be used in connection with road building or another beneficial use is not liable in tort for a consequence of the subsequent use of the drill cuttings by the permit holder or by another person.

Permit Copy Required. Requires a permit holder who takes possession of drill cuttings from the person who generated the drill cuttings to provide to the generator a copy of the holder's permit.

Commission Rules for treatment and Beneficial Use. Requires the Texas Railroad Commission to adopt rules to govern the treatment and beneficial use of drill cuttings.

HB 1633 House Author: Romero, Ramon Senate Sponsor: Uresti, Carlos
Relating to application and notification requirements for a permit to drill an oil or gas well in or near an easement held by the Texas Department of Transportation.

Requires the Railroad Commission ["RRC"] to adopt rules requiring a drilling permit application to include an affirmation as to whether or not the well will be located within, or within 50 yards of, an easement held by the Texas Department of Transportation ["TxDOT"]. Requires the RRC to send such an application to TxDOT within 14 days of receipt.

HB 3291 House Author: Raymond, Richard Senate Sponsor: Zaffirini, Judith
Relating to the creation of the offense of theft of pipeline equipment, oil and gas equipment, oil, gas, or condensate and the unauthorized purchase or sale of oil, gas, or condensate.

Provides that a person who is not a pipeline operator or gatherer authorized to operate by the Railroad Commission of Texas ["RRC"] commits an offense if the person recklessly possesses, transports, removes, delivers, accepts, purchases, sells, or physically moves oil, gas, or condensate as a part of a transaction for which the RRC requires a permit or railroad commission approval or authorization unless the RRC has:

(1) issued a permit, approval, or authorization for the transaction; or

(2) received a request for a permit, approval, or authorization for the transaction and the request is pending before the railroad commission.

Provides that an offense under this section is a felony of the second degree.

WATER

HB 30 House Author: Larson, Lyle Senate Sponsor: Perry, Charles

Relating to the development of seawater and brackish groundwater.

This Act seeks to encourage and facilitate the development of brackish groundwater and lays the initial framework for the consideration of brackish water supplies for the future

Recognizes that many in the oil and gas industry in this state have made significant strides to replace the use of fresh groundwater in their operations with brackish groundwater. Provides that this is a positive trend, and this Act is not intended to discourage the continued or expanded use of brackish groundwater for oil and gas development or to establish regulatory barriers or permitting requirements for the use of brackish groundwater for that purpose.

Provides that brackish groundwater is a potential new source of water for municipal, industrial, and other purposes. Estimates that this state has an approximately 880 trillion gallons of brackish groundwater, much of which is untapped. Provides that for many years this water was considered largely useless for most purposes, but advances in technology and pressures on other supplies have revealed that brackish groundwater is in fact a vital resource. Provides that the development of brackish groundwater, in addition to providing potentially vast new supplies, can reduce pressures on the use of fresh groundwater.

Provides that the purpose of this Act is to provide meaningful incentives for the development of brackish groundwater in areas where that development would have a minimal impact on existing fresh groundwater use, while respecting private property rights in groundwater and continuing to encourage the use of brackish groundwater for purposes other than human consumption.

Requires each regional water planning group to submit to the Texas Water Development Board ["TWDB"] a regional water plan that includes but is not limited to consideration of opportunities for and the benefits of developing large-scale desalination facilities for seawater or brackish groundwater that serve local or regional brackish groundwater production zones.

Requires TWDB to undertake or participate in research, feasibility and facility planning studies, investigations, and surveys as it considers necessary to further the development of cost-effective water supplies from seawater or brackish groundwater desalination in the state.

Requires TWDB to prepare a biennial progress report on the implementation of seawater or brackish groundwater desalination activities in the state and to submit it to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1 of each even-numbered year. Requires that the report include:

(1) results of TWDB's studies and activities relative to seawater or brackish groundwater desalination during the preceding biennium;

(2) identification and evaluation of research, regulatory, technical, and financial impediments to the implementation of seawater or brackish groundwater desalination projects;

(3) evaluation of the role the state should play in furthering the development of large-scale seawater or brackish groundwater desalination projects in the state;

(4) the anticipated appropriation from general revenues necessary to continue investigating water desalination activities in the state during the next biennium; and

(5) identification and designation of local or regional brackish groundwater production zones in areas of the state with moderate to high availability and productivity of brackish groundwater that can be used to reduce the use of fresh groundwater and that:

(A) are separated by hydrogeologic barriers sufficient to prevent significant impacts to water availability or water quality in any area of the same or other aquifers, subdivisions of aquifers, or geologic strata that have an average total dissolved solids level of 1,000 milligrams per liter or less at the time of designation of the zones; and

(B) are not located in:

(i) an area of the Edwards Aquifer subject to the jurisdiction of the Edwards Aquifer Authority;

(ii) the boundaries of the:

(a) Barton Springs-Edwards Aquifer Conservation District;

(b) Harris-Galveston Subsidence District; or

(c) Fort Bend Subsidence District;

(iii) an aquifer, subdivision of an aquifer, or geologic stratum that:

(a) has an average total dissolved solids level of more than 1,000 milligrams per liter; and

(b) is serving as a significant source of water supply for municipal, domestic, or agricultural purposes at the time of designation of the zones; or

(iv) an area of a geologic stratum that is designated or used for wastewater injection through the use of injection wells or disposal wells permitted under Chapter 27 (Injection Wells).

Requires TWDB to work together with groundwater conservation districts and stakeholders and to consider the Brackish Groundwater Manual for Texas Regional Water Planning Groups, and any updates to the manual, and other relevant scientific data or findings when identifying and designating brackish groundwater production zones.

Requires TWDB, in designating a brackish groundwater production zone under this section, to:

(1) determine the amount of brackish groundwater that the zone is capable of producing over a 30-year period and a 50-year period without causing a significant impact to water availability or water quality; and

(2) include in the designation description:

(A) the amounts of brackish groundwater that the zone is capable of producing during the periods described above; and

(B) recommendations regarding reasonable monitoring to observe the effects of brackish groundwater production within the zone.

Requires TWDB to include in the biennial progress report that is due not later than December 1, 2016, an identification and designation of brackish groundwater production zones as required by that section as amended by this Act for the following:

(1) the portion of the Carrizo-Wilcox Aquifer located between the Colorado and Rio Grande Rivers;

(2) the Gulf Coast Aquifer and sediments bordering that aquifer;

(3) the Blaine Aquifer; and

(4) the Rustler Aquifer.

Requires TWDB, not later than December 1, 2022, to identify and designate brackish groundwater production zones for areas of this state not described by Subsection (a) of this section.

HB 200 House Author: Keffer, Jim Senate Sponsor: Perry, Charles (F)

Relating to the regulation of groundwater.

Revises the purpose clause pertaining to the creation of ground water conservation districts ["GWCDs"] by adding that groundwater management by groundwater GWCDs is intended "to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater."

Defines "best available science" to mean conclusions that are logically and reasonably derived using statistical or quantitative data, techniques, analyses, and studies that are publicly available to reviewing scientists and can be employed to address a specific scientific question.

Creates a "loser pays" provision as follows: Authorizes GWCDs to seek and requires courts to grant recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the district before the court if a district prevails in any suit other than a suit in which it voluntarily intervenes. Requires the amount of the attorney's fees to be fixed by the court if a district prevails in any suit other than a suit in which it voluntarily intervenes.

Authorizes a court to award attorney's fees and costs only for those issues on which the district prevails if the district prevails on some, but not all, of the issues in the suit. Provides that a district has the burden of segregating the attorney's fees and costs in order for the court to make an award.

Authorizes GWCDs, after considering and documenting the factors (relating to groundwater availability models) and other relevant scientific and hydrogeological data, to establish different desired future conditions for:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or

(2) each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.

Authorizes an affected person to file a petition with a district requiring that the district contract with the State Office of Administrative Hearings [‘SOAH’] to conduct a hearing appealing the reasonableness of the desired future condition not later than the 120th day after the date on which a district adopts a desired future condition. Requires that the petition provide evidence that the district did not establish a reasonable desired future condition of the groundwater resources in the management area.

Deletes existing language requiring that a person who files such a petition must be a person with a legally defined interest in the groundwater in the management area, a district in or adjacent to the management area, or a regional water planning group for a region in the management area.

Requires a district to submit a copy of the petition to the Texas Water development Board [“TWDB”] not later than the 10th day after receiving a petition. Requires TWDB, on receipt of the petition, to conduct:

(1) an administrative review to determine whether the desired future condition established by the district meets the established criteria; and

(2) a study containing scientific and technical analysis of the desired future condition, including consideration of the criteria set forth in this subdivision.

Requires TWDB to complete and deliver to SOAH the study not later than the 120th day after the date TWDB receives a copy of the petition.

Provides that, for the purposes of a hearing:

(1) SOAH shall consider the study to be part of the administrative record; and

(2) TWDB shall make available relevant staff as expert witnesses if requested by SOAH or a party to the hearing.

Requires a district, not later than the 60th day after receiving a petition to:

(1) contract with SOAH to conduct the contested case hearing; and

(2) submit to SOAH a copy of any petitions related to the hearing and received by the district.

Requires the petitioner to pay the costs associated with the contract for the hearing under this section. Requires the petitioner to deposit with the district an amount sufficient to pay the contract amount before the hearing begins. Authorizes SOAH to assess costs to one or more of the parties participating in the hearing and requires the district to refund any excess money to the petitioner after the hearing. Requires SOAH

to consider the information set forth in this subsection in apportioning costs of the hearing.

Requires the district, on receipt of the administrative law judge's findings of fact and conclusions of law in a proposal for decision, including a dismissal of a petition, to issue a final order stating the district's decision on the contested matter and the district's findings of fact and conclusions of law. Authorizes the district to change a finding of fact or conclusion of law made by the administrative law judge, or to vacate or modify an order issued by the administrative law judge.

Requires a district to issue a report describing in detail the district's reasons for disagreement with the administrative law judge's findings of fact and conclusions of law if the district vacates or modifies the proposal for decision. Requires that the report provide the policy, scientific, and technical justifications for the district's decision.

Requires the districts in the same management area as the district that participated in the hearing to reconvene in a joint planning meeting not later than the 30th day after the date of the final order for the purpose of revising the desired future condition if the district in its final order finds that a desired future condition is unreasonable.

Provides that a final order by the district finding that a desired future condition is unreasonable does not invalidate the adoption of a desired future condition by a district that did not participate as a party in the hearing conducted under this section. Authorizes the administrative law judge to consolidate hearings requested under this section that affect two or more districts. Requires the administrative law judge to prepare separate findings of fact and conclusions of law for each district included as a party in a multidistrict hearing.

Authorizes a final district order to be appealed to a district court with jurisdiction over any part of the territory of the district that issued the order. Requires that an appeal under this subsection be filed with the district court not later than the 45th day after the date the district issues the final order. Requires that the case be decided under the substantial evidence standard of review as provided by Section 2001.174 (Review Under Substantial Evidence Rule or Undefined Scope of Review), Government Code. Requires the court to strike the desired future condition and order the districts in the same management area as the district that did not participate as a party in the hearing to reconvene in a joint planning meeting not later than the 30th day after the date of the court order for the purpose of revising the desired future condition if the court finds that a desired future condition is unreasonable.

Provides that a court's finding under this section does not apply to a desired future condition that is not a matter before the court.

Provides that the amendments by this Act, apply only to a desired future condition adopted by a groundwater conservation district on or after the effective date of this Act. Provides that a desired future condition adopted before that date is governed by the law in effect on the date the desired future condition was adopted, and the former law is continued in effect for that purpose.

HB 280 House Author: Simmons, Ron Senate Sponsor: Perry, Charles (F)

Relating to the information required to be posted by the Texas Water Development Board on the board's Internet website regarding the use of the state water implementation fund for Texas.

Increases the amount of information required to be posted by the Texas Water Development Board ["TWDB"] on the agency's website regarding the use of the state water implementation fund for Texas ["SWIFT"]. Requires TWDB to regularly post and update additional information regarding: the amounts of bonds issued, terms of the bonds, and summary of the bond enhancement agreement; the status of repayment of the loan and default risk assessment; information on financial management of the fund's investment portfolio; a description of the point system for prioritizing projects and points awarded to each project; any nonconfidential information submitted as part of a SWIFT application that is approved by the board; and administrative and operating expenses for creation of the State Water Plan and providing financial assistance for projects included in the plan.

HB 655 House Author: Larson, Lyle Senate Sponsor: Perry, Charles (F)

Relating to the storage and recovery of water in aquifers; authorizing fees and surcharges; adding provisions subject to a criminal penalty.

Aquifer Storage and Recovery Act.

Regulatory Framework. Creates a regulatory framework for aquifer storage and recovery projects that:

- (i) clarifies that an amendment to a water right permit is not required to obtain an aquifer storage and recovery permit,
- (ii) grants the Texas Commission on Environmental Quality ["TCEQ"] exclusive jurisdiction to regulate aquifer storage and recovery projects, and
- (iii) clarifies that an aquifer storage and recovery project does not have to obtain a permit from a local groundwater conservation district as long as native groundwater is not being produced.

Authorizes a water right holder or a person who has contracted for the use of water under a contract that does not prohibit the use of the water in an aquifer storage and recovery project to undertake an aquifer storage and recovery project without obtaining any additional authorization under this chapter for the project. Requires a person described by this subsection undertaking an aquifer storage and recovery project to:

(1) obtain any required authorizations regarding injection wells and ground water conservation districts; and

(2) comply with the terms of the applicable water right.

Clarifies that the TCEQ is not precluded from considering an aquifer storage and recovery project to be a component of a project permitted regarding water rights that is not required to be based on the continuous availability of historic, normal stream flow.

Provides that the TCEQ has exclusive jurisdiction over the regulation and permitting of aquifer storage and recovery ["ASR"] injection wells.

Class V Injection Wells. (a) Empowers the TCEQ to authorize the use of a Class V injection well as an ASR injection well:

(1) by rule;

(2) under an individual permit; or

(3) under a general permit.

(b) Requires TCEQ, in adopting a rule or issuing a permit under this section, to consider:

(1) whether the injection of water will comply with the standards set forth under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.);

(2) the extent to which the cumulative volume of water injected for storage in the receiving geologic formation can be successfully recovered from the geologic formation for beneficial use, taking into account that injected water may be commingled to some degree with native groundwater;

(3) the effect of the aquifer storage and recovery project on existing water wells; and

(4) whether the introduction of water into the receiving geologic formation will alter the physical, chemical, or biological quality of the native groundwater to a degree that would:

(A) render the groundwater produced from the receiving geologic formation harmful or detrimental to people, animals, vegetation, or property; or

(B) require an unreasonably higher level of treatment of the groundwater produced from the receiving geologic formation than is necessary for the native groundwater in order to render the groundwater suitable for beneficial use.

(c) Requires that all wells associated with a single aquifer storage and recovery project be located within a continuous perimeter boundary of one parcel of land, or two or more adjacent parcels of land under common ownership, lease, joint operating agreement, or contract.

(d) Requires TCEQ by rule to provide for public notice and comment on a proposed general permit authorized under this section. Requires TCEQ to require an applicant for an individual permit authorized under this section to provide notice of the application by first class mail to any groundwater conservation district in which the wells associated with the aquifer storage and recovery project will be located and by publishing notice in a newspaper of general circulation in the county in which the wells will be located.

Technical Standards. (a) Requires TCEQ to adopt technical standards governing the approval of the use of a Class V injection well as an ASR injection well.

(b) Provides that this subsection applies only to an aquifer storage and recovery project proposed to be located in a groundwater conservation district or other special-purpose district with the authority to regulate the withdrawal of groundwater. Requires TCEQ, except as otherwise provided by this section, to limit the volume of water that may be recovered by an aquifer storage and recovery project to an amount that does not exceed the amount of water injected under the project. Requires TCEQ to impose additional restrictions on the amount of water that may be recovered to account for the loss if TCEQ determines that the proposed injection of water into a geologic formation will result in a loss of injected water or native water from the formation. Prohibits TCEQ from denying a permit based on a determination that a loss described by this subsection will occur. Prohibits a limitation imposed under this subsection from prohibiting the production of native groundwater by an aquifer storage and recovery project if the production complies with Subchapter N, Chapter 36.

(c) Requires TCEQ by rule to prescribe construction and completion standards and metering and reporting requirements for ASR injection wells and ASR recovery wells, including for an ASR injection well that also serves as an ASR recovery well.

(d) Prohibits TCEQ from adopting or enforcing groundwater quality protection standards for the quality of water injected into an ASR injection well that are more stringent than applicable federal standards.

Reporting of Injection and Recovery Volumes. (a) Requires a project operator to install a meter on each ASR injection well and ASR recovery well associated with the aquifer storage and recovery project.

(b) Requires the project operator to provide to TCEQ each calendar month a written or electronic report showing for the preceding calendar month the volume of water injected for storage and recovered for beneficial use.

Reporting of Water Quality Data. Requires a project operator to:

(1) perform water quality testing annually on water to be injected into a geologic formation and water recovered from a geologic formation as part of the aquifer storage and recovery project; and

(2) provide the results of the testing described by Subdivision (1) in written or electronic form to TCEQ.

Registration and Reporting of Wells. (a) Requires a project operator to:

(1) register the ASR injection wells and ASR recovery wells associated with the aquifer storage and recovery project with any district in which the wells are located;

(2) each calendar month by the deadline established by TCEQ for reporting to TCEQ, provide the district with a copy of the written or electronic report required to be provided to TCEQ; and

(3) annually by the deadline established by TCEQ for reporting to TCEQ, provide the district with a copy of the written or electronic report required to be provided to TCEQ.

(b) Requires the project operator to report to the district the volume of groundwater recovered that exceeds the volume authorized to be recovered in addition to providing the monthly report if an aquifer storage and recovery project recovers an

amount of groundwater that exceeds the volume authorized by TCEQ to be recovered under the project.

Permitting, Spacing, and Reporting. (a) Except as described below, prohibits a district, from requiring a permit for the drilling, equipping, operation, or completion of an ASR injection well or an ASR recovery well that is authorized by TCEQ.

(b) Except, provides that ASR recovery wells that associated with an aquifer storage and recovery project are subject to the permitting, spacing, and production requirements of the district if the amount of groundwater recovered from the wells exceeds the volume authorized by TCEQ to be recovered under the project. Provides that the requirements of the district apply only to the portion of the volume of groundwater recovered from the ASR recovery wells that exceeds the volume authorized by TCEQ to be recovered.

(c) Prohibits a project operator from recovering groundwater by an aquifer storage and recovery project in an amount that exceeds the volume authorized by TCEQ to be recovered under the project unless the project operator complies with the applicable requirements of a district as described by this section.

Fees and Surcharges. (a) Prohibits a district from assessing a production fee or a transportation or export fee or surcharge for groundwater recovered from an ASR recovery well, except to the extent that the amount of groundwater recovered under the aquifer storage and recovery project exceeds the volume authorized by TCEQ to be recovered.

(b) Authorizes a district to assess a well registration fee or other administrative fee for an ASR recovery well in the same manner that the district assesses such a fee for other wells registered with the district.

Desired Future Conditions. Authorizes a district to consider hydrogeological conditions related to the injection and recovery of groundwater as part of an aquifer storage and recovery project in the planning for and monitoring of the achievement of a desired future condition for the aquifer in which the wells associated with the project are located.

HB 930 House Author: Miller, Doug Senate Sponsor: Perry, Charles (F)

Relating to water well drillers and pump installers; authorizing fees.

Amends the Occupations Code relating to water well drillers and pump installers and authorizes fees.

Requires the Texas Commission of Licensing and Regulation [“TCLR”] by rule to establish an apprentice driller program.

Requires the Texas Department of Licensing and Regulation [“TDLR”] to offer examinations for a license for an apprentice driller.

Requires the driller, not later than the 60th day after the date of the completion or cessation of drilling, deepening, or otherwise altering a water well, to deliver, send by first class mail, or provide electronically, (rather than to deliver or send by certified mail), a copy of the well log to the Texas Commission on Environmental Quality.

Requires TCLR by rule to establish an apprentice pump installer program. Requires TDLR to offer examinations for a license for an apprentice pumper.

Prohibits TCLR from requiring a person to hold a license or license specialty endorsement as an apprentice driller or apprentice pump installer.

HB 1232 House Author: Lucio III, Eddie Senate Sponsor: Estes, Craig

Relating to a study by the Texas Water Development Board regarding the mapping of groundwater in confined and unconfined aquifers.

By December 31, 2016, requires the Texas Water Development Board [“TWDB”] to conduct a study of the hydrology and geology of the confined and unconfined aquifers in this state to determine:

- (1) the quality and quantity of groundwater in those aquifers, specifically regarding the salinity of those aquifers;
- (2) whether those aquifers are tributary or non-tributary;
- (3) the contribution of those aquifers to any surface flow of any water in this state; and
- (4) the contribution of those aquifers to any other aquifer in this state.

In conducting the study, requires TWDB, to produce:

- (1) a map that identifies the area and water quality of the confined and unconfined aquifers in this state;
- (2) a map that identifies which aquifers are tributary and which are non-tributary; and

(3) a report on the contribution of those aquifers to any other aquifer in this state.

Before conducting the study, requires TWDB to determine the minimum rate at which an aquifer must contribute to another aquifer in this state or to the surface flow of any water in this state in order to be included in the study.

HB 2179 House Author: Lucio III, Eddie Senate Sponsor: Perry, Charles

Relating to hearings that concern the issuance of permits by a groundwater conservation district.

Amends Water Code, Chapter 36 relating to contested case hearings process and issuance of permits.

Provides that following a public hearing, a groundwater conservation district ["GCD"] may take action on an uncontested application at a public meeting.

Requires a preliminary hearing to determine if person requesting contested case hearing has standing or if there are justiciable issues. Provides that the hearing may be conducted by the GCD board, a hearings examiner selected by the GCD, or the State Office of Administrative Hearings.

Provides timelines for contested case process.

Provides that if a contested case hearing is conducted by an administrative law judge ["ALJ"], the rules and policies of the GCD will be considered.

Prohibits a GCD from supervising an ALJ. Prohibits a GCD from attempting to influence the ALJ.

Provides that a GCD may change the ALJ findings of fact or conclusions of law or vacate or modify an order issued by an ALJ if the GCD determines that:

(1) the law, GCD rules or GCD written policies were not properly applied;

(2) the ALJ relied on an incorrect administrative decision or a decision that should be changed; or

(3) there was a technical error in a finding of fact should be changed.

HB 2230 House Author: Larson, Lyle Senate Sponsor: Estes, Craig

Relating to the authority of the Texas Commission on Environmental Quality to authorize an injection well used for oil and gas waste disposal to be used for the

disposal of nonhazardous brine produced by a desalination operation or nonhazardous drinking water treatment residuals.

Allows dual authorization of Class II and Class V injection wells for the disposal of non-hazardous brine from a desalination operation or nonhazardous drinking water treatment residuals ["DWTR"] into a Class II injection well permitted by the Railroad Commission of Texas ["RRC"]. Allows the Texas Commission on Environmental Quality ["TCEQ"] to provide, by individual permit, general permit, or authorization-by-rule, a Class V injection well authorization for the disposal of such brine and DWTR in a Class II well permitted by the RRC.

Requires the RRC and the TCEQ to enter into a memorandum of understanding for implementation hereof.

HB 2647 House Author: Ashby, Trenton Senate Sponsor: Estes, Craig

Relating to a limitation on the authority to curtail groundwater production from wells used for power generation or mining.

Prohibits groundwater conservation districts from curtailing groundwater production to a rate less than that used in 2014 by power plants and mines that fuel power plants to ensure the continuous availability of electricity in Texas and the stability of the state's power grid.

HB 2767 House Author: Keffer, Jim Senate Sponsor: Perry, Charles (F)

Relating to the powers, duties, and administration of groundwater conservation districts; amending provisions that authorize fees.

Amends the powers, duties, and administration of groundwater conservation districts. Does not amend the oil and gas industry's critical provisions appearing in Section 36.117 of the Water Code.

Amends the definition of "operating permit" and allows a groundwater district to impose certain fees for water exportation, administration, and production under certain circumstances.

Requires a financial audit and other financial statements of a district to be performed in accordance with standards adopted by the American Institute of Certified Public Accountants.

Provides that a county could pay costs and expenses occurred in the creation and organization of a district.

Authorizes the Texas Water Development Board (TWDB) to allocate funds to a district under certain circumstances.

Authorizes certain individuals to file a petition with the Texas Commission on Environmental Quality ["TCEQ"] regarding the failure of a district's actions. Under certain conditions, TCEQ would be required to select a review panel in actions to take against a district.

Amends the provisions regarding the addition of land by petition of land by a land owner, petition and the election to ratify the annexation of land.

SB 551 Senate Author: Seliger, Kel House Sponsor: Keffer, Jim

Relating to the duty of the Water Conservation Advisory Council to submit a report and recommendations regarding water conservation in this state.

Requires the Water Conservation Advisory Council to submit recommendations for legislation to advance water conservation in Texas as part of their biennial reporting requirement.

HB 4112 House Author: Burns, DeWayne Senate Sponsor: Perry, Charles

Relating to the rights of an owner of groundwater.

In addition to the rights codified in the Water Code, provides that groundwater ownership rights include any other right recognized under common law.

HB 4168 House Author: Bonnen, Dennis Senate Sponsor: Kolkhorst, Lois

Relating to the composition of the board of directors and the powers of the Gulf Coast Water Authority.

Changes the composition of the Board of Directors of the Gulf Coast Water Authority as follows:

(1) five directors appointed by the Galveston County Commissioners Court, one of whom represents municipal interests, two of whom represent industrial interests and two of whom represent the county at large;

(2) two directors appointed by the Fort Bend County Commissioners Court, one of whom represents municipal interests, and one of whom represents the county at large; and

(3) three directors appointed by the Brazoria County Commissioners Court, one of whom represents agricultural interests, one of whom represents municipal interests, and one of whom represents industrial interests.

Requires that a director appointed to represent municipal or industrial interests must be a customer of or represent an entity that is a customer of the district.

SB 991 Senate Author: Rodriguez, Jose House Sponsor: Larson, Lyle

Relating to a requirement that the General Land Office and the Texas Water Development Board conduct a study regarding the use of wind and solar power to develop and desalinate brackish groundwater.

Requires the General Land Office ["GLO"], in consultation with the Texas Water Development Board ["TWDB"], to conduct a study on brackish groundwater desalination using wind or solar power as an energy source on property owned by the state and to report the results of the study to the Governor and Legislature by December 31, 2016. Provides that the GLO may coordinate with a research division of a university in conducting the study and that GLO and TWDB may request data from any state agency in conducting the study.

PIPELINES

SB 1812 **Senate Author: Kolkhorst, Lois (F)** **House Sponsor: Geren, Charlie**
Relating to transparency in the reporting of eminent domain authority and the creation of an eminent domain database.

I. Eminent Domain Database. Amends the Government Code to require the Comptroller of Public Accounts [“Comptroller”], not later than September 1, 2016, to create and make accessible on a website maintained by the Comptroller an eminent domain database with information regarding public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain.

Requires the eminent domain database to include, with respect to each such entity, the name of the entity and the name of the appropriate officer or other person representing the entity; certain contact information for the entity and its representative, including the entity's website address if applicable; the type of entity; each provision of law that grants the entity eminent domain authority; the focus or scope of that authority; the earliest date on which the entity had the authority to exercise the power of eminent domain; the entity's taxpayer identification number, if any; and whether the entity exercised eminent domain authority in the preceding calendar year by the filing of a condemnation petition.

Authorizes the Comptroller to consult with the appropriate officer of, or other person representing, each entity to obtain the information necessary to maintain the eminent domain database. Authorizes the Comptroller, to the extent information required in the eminent domain database is otherwise collected or maintained by a state agency or political subdivision, to request that information and any update to the information as necessary for inclusion in the eminent domain database and requires the agency or political subdivision to provide the information and updates.

Requires the Comptroller, at least annually, to update information in the eminent domain database for each entity, as appropriate. Requires the Comptroller, to the extent possible, to present information in the eminent domain database in a manner that is searchable and intuitive to users and authorizes the comptroller to enhance and organize the presentation of the information through the use of graphical representations as the comptroller considers appropriate.

II. Requirements for Common Carrier and other Entities with Power of Eminent Domain. Requires a public or private entity, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain, not later than February 1 of each year, to submit to the comptroller a report containing records and other information specified by the bill's provisions for the purpose of

providing the comptroller with information to maintain the eminent domain database. Requires the entity to submit the report in a form and in the manner prescribed by the comptroller.

III. Timelines.

Existing Entities. Requires an entity created before and in existence for at least 180 days on September 1, 2015, to submit the entity's initial report not later than February 1, 2016.

New Entities. Requires an entity created before and in existence for less than 180 days on September 1, 2015, to submit the entity's initial report not later than the later of the 180th day after the date of the entity's creation or February 1, 2016.

Future Entities. Requires that an entity created on or after September 1, 2015, is not required to submit the entity's initial report before the 180th day after the date of the entity's creation.

Provides that, for purposes of the bill's provisions, an entity is considered to have been created on the earliest date on which the entity existed if the entity was authorized to exercise the power of eminent domain on that date or the earliest date on which the entity was authorized to exercise the power of eminent domain if the entity did not have that authority on the earliest date on which the entity existed.

Requires an entity, in addition to submitting the required annual report, to report to the Comptroller any changes to the eminent domain authority information reported by the entity not later than the 90th day after the date on which the change occurred.

IV. Penalties. Requires the Comptroller to provide written notice to an entity that does not timely submit a report as required. Requires an entity that is provided such notice to report the required information not later than the 30th day after the date the notice is provided. Penalty for not complying by the 30th day-delinquent notice is a civil penalty of \$1,000.

Requires the Comptroller to provide written notice to an entity that does not report the required information by the 30th day after the delinquent notice of noncompliance and requires an entity that is provided this second notice to report the required information by the 30th day after the date the second notice is provided. Provides that an entity that is provided this second notice and does not report the required information by the prescribed deadline is liable to the state for an additional civil penalty of \$1,000.

Requires the Comptroller to reflect the entity's noncompliance in the eminent domain database by including the entity on a separately maintained list of noncomplying entities and *in any other manner determined appropriate by the Comptroller* until the entity reports all required information. Requires the Comptroller to provide written notice to the entity that the entity's noncompliance will be reflected in the database until the entity reports the required information.

Authorizes the Attorney General to sue to collect any civil penalty assessed hereunder.

Establishes that the reporting, failure to report, or late submission of a report by an entity under the bill's provisions does not affect the entity's authority to exercise the power of eminent domain.

V. Rulemaking. Authorizes the Comptroller to adopt rules and establish policies and procedures to implement the bill's provisions.

TAXATION

HB 1 House Author: Otto, John Senate Sponsor: Nelson, Jane

General appropriations bill.

Appropriates all-funds of \$209 billion. Of this, education receives \$78 billion, including the \$1.2 billion for the school property tax homestead increase, and health and human services receives \$77 billion. Compared to estimated spending for the current 2014-15 biennium, total all-funds appropriations will rise 3.6%.

General revenue appropriations total \$107 billion. Of this, education receives \$56 billion, including the \$1.2 billion for the school property tax homestead increase, and health and human services receives \$32 billion. Compared to estimated spending for the current 2014-15 biennium, total GR appropriations will rise 12%.

HB 2 House Author: Otto, John Senate Sponsor: Nelson, Jane

Relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.

Appropriates a net increase \$265 million in federal funds and \$300 million in general revenue. Note, however, that this nets many *reductions* in appropriations, including \$710 million from the Foundation School Program, against many *increases* in appropriations, including \$768 million for TRS Care. The substantial savings in the Foundation School Program is driven in part by higher-than-expected property values in the school districts.

HB 32 House Author: Bonnen, Dennis Senate Sponsor: Nelson, Jane

Relating to decreasing the rates of the franchise tax.

Franchise Tax Reduction.

There were two *major* tax reductions passed this session by the Legislature: franchise tax (this bill, HB 32) and residential property tax (SB 1 and SJR 1).

Establishes the bill as the Franchise Tax Repeal Act of 2015. (Note: a corrective resolution to follow may change the word “repeal” to “reduction.”) Finds that the franchise tax has not provided sufficient reliability for property tax relief and establishes the intent of the Legislature to promote economic growth by repealing the franchise tax. Does not repeal the franchise tax.

Permanently cuts the basic rates of the franchise tax by 25%. The rate for retail/wholesale is reduced to 0.375%, and the rate for other industries is reduced to 0.75%.

Permanently cuts the E-Z tax rate by 42% to 0.331% of Texas receipts, and expands eligibility for the E-Z rate to companies with revenues of not more than \$20 million, up from the current \$10 million. Does not change the current \$1 million small business exemption.

Requires the Comptroller to conduct a comprehensive study by September 30th, 2016, to identify the effects of economic growth on future state revenues. The report should identify revenue growth allocation options to promote efficiency and sustainability in meeting the revenue needs of this state, including revenues allocated to the property tax relief fund, upon repeal of the franchise tax.

The estimated fiscal impact for the 2016-17 biennium is a reduction in revenue of \$2.56 billion.

The Legislative Budget Board estimates the cost to the total cost to the state (and collective gain for business franchise tax payees) is as follows:

2016	--	(\$1,268,643,000)
2017	--	(\$1,291,384,000)
2018	--	(\$1,286,313,000)
2019	--	(\$1,310,256,000)
2020	--	(\$1,328,712,000)

[Comment: It must be noted that the primary reason that the state has sufficient revenue in order to decrease the business franchise tax is because of the oil and gas industry and its positive effect on the entire state economy.]

HB 157 House Author: Larson, Lyle Senate Sponsor: Eltife, Kevin

Relating to the rates of sales and use taxes imposed by municipalities.

Clarifies that local sales taxes imposed for sports and venue projects are included when calculating the 2% hard cap on combined local sales tax rates. Allows a city imposing such a sales tax to impose it in any increment of one-eighth of a cent as long as the 2% hard cap is respected. Provides similar rate authority for a city participating in a crime control district, Type A or Type B economic development corporation, or imposing sales tax for street maintenance. Allows general city sales tax rates in one-eighth increments.

HB 158 House Author: Larson, Lyle Senate Sponsor: Estes, Craig

Relating to the allocation of the proceeds from taxes imposed on the sale, storage, or use of sporting goods.

Repeals the limit on the amount of sales tax estimated to be collected on sporting goods that is credited to the Parks and Wildlife Department and to the Historical Commission.

HB 706 House Author: Farrar, Jessica Senate Sponsor: Huffman, Joan

Relating to the procedure for claiming an exemption from ad valorem taxation of property on which a solar or wind-powered energy device is installed or constructed.

Adds solar and wind-energy devices exempted by Section 11.27 of the tax code to the list of exemptions that once allowed, do not have to be reclaimed in subsequent years. The existing list of these exemptions includes those for homesteads, religious organizations, disabled veterans, and others. Solar and wind-energy devices exempted by Section 11.27 must be used primarily for the on-site use of energy.

HB 903 House Author: Capriglione, Giovanni Senate Sponsor: Taylor, Van

Relating to the investment of a portion of the economic stabilization fund balance.

Requires the Comptroller to invest a portion of the Economic Stabilization 9“Rainy Day”) Fund, to the extent that its balance exceeds that required by the legislative committee that sets the recommended ESF balance for purposes of determining the transfer of oil and gas taxes to the Highway Fund, in accordance with the “prudent person” standard. Typically, this standard allows stocks and bonds to be held, as opposed to only short-term, near-cash investments.

HB 994 House Author: Anchia, Rafael Senate Sponsor: West, Royce

Relating to the exemption from ad valorem taxation of property used to collect, process, and deliver landfill-generated gas.

Makes permanent the “Prop 2” property tax pollution control equipment exemption for a landfill gas gathering facility. The original exemption, established by HB 1897 in the 2013 session, was set to expire December 31, 2015.

Strikes the existing exemption for the real property in such a facility, and requires that the tax appraisal be conducted as on tangible personal property that is located on or in close proximity to a landfill and is used to collect, compress, transport, process, and deliver landfill generated gas for certain specified purposes (landfill-generated gas conversion facility) regardless of whether it is affixed to or incorporated into real property. Property located on or in close proximity to a facility but which is not used for landfill-generated gas conversion is not exempt.

HB 1261 House Author: King, Susan Senate Sponsor: Uresti, Carlos

Relating to the comptroller's report on the effect of certain tax provisions.

The Government Code currently requires the Comptroller to issue a biennial report on tax exemptions and incidence. Where no actual data is available, HB 1261 requires that the Comptroller use available statistical data to estimate the impact of an exemption, discount, exclusion, special valuation, special accounting treatment, special rate, or special method of reporting relating to a tax. And if the report states that the effect of a particular tax preference cannot be determined, the Comptroller must include a complete explanation of why the Comptroller reached that conclusion.

HB 1905 House Author: Springer, Drew Senate Sponsor: Taylor, Larry

Relating to the repeal of certain alcoholic beverage taxes and the tax on controlled substances.

Repeals three minor state taxes: the airline beverage tax, passenger train beverage tax, and the bingo hall rental tax. Repeals the controlled substance (illegal drug) tax.

Contingent upon passage and voter approval of a constitutional amendment, exempts open-enrollment charter schools meeting certain requirements from property tax.

Exempts Type A and Type B economic development corporations from property tax.

Redefines snack items for sales tax purposes to exclude pine nuts but to include pork rinds, corn nuts, sunflower and pumpkin seeds, ice cream, sherbet, frozen yogurt, ice pops, juice pops, and other frozen fruit items. Provides that when a grocery store or convenience store contains a restaurant, lunch counter, cafeteria, or deli, “the store is considered a like place of business in relation to items sold at that location.”

For state and local hotel tax purposes, expands or clarifies the definition of “hotel” to include "short term rentals", which are the rental of all or part of a residential property to a person who is not a permanent resident under the law.

Exempts from motor fuels tax an entity organized for the sole purpose of and which engages exclusively in providing emergency medical services [“EMS”] and that uses the fuel exclusively to provide EMS via tax refund authority.

Abolishes the motor fuels “decal” tax on propane. Exempts MTAs from motor fuels tax on CNG and LNG.

HB 1953 House Author: Bonnen, Dennis Senate Sponsor: Hinojosa, Chuy

Relating to the deadline for counties and municipalities to provide notice of a proposed property tax rate.

Extends the current-law September 1 deadline for a city or county to publish notice of its proposed tax rate to the later of September 1 or the 30th day after the date the certified appraisal roll is received by the taxing unit.

HB 2083 House Author: Darby, Drew Senate Sponsor: Hancock, Kelly

Relating to the requirement a protest or appeal based upon inequality of appraisal be determined by the application of generally accepted appraisal methods and techniques.

Amends Sections 23.01 of the Tax Code to provide that appeals to the Appraisal Review Board or to court based on the selection of comparable properties and the application of appropriate adjustments be based upon the application of generally accepted appraisal methods and techniques. A property owner representing himself remains entitled to present argument and evidence related to the market and appraised value or the inequality of appraisal of his property.

HB 2358 House Author: Lucio III, Eddie Senate Sponsor: Eltife, Kevin

Relating to the exemption from certain registration and licensing requirements and taxes for certain businesses and employees who enter this state in response to a disaster or emergency.

Establishes in the Business & Commerce Code a new chapter, FACILITATING BUSINESS RAPID RESPONSE TO STATE DECLARED DISASTERS ACT.

Defines "critical infrastructure" as equipment and property that is owned or used by a telecommunications provider or cable operator or for communications networks, electric generation, electric transmission and distribution systems, natural gas and natural gas liquids gathering, processing, and storage, transmission and distribution systems, and water pipelines and related support facilities, equipment, and property that serve multiple persons, including buildings, offices, structures, lines, poles, and pipes.

Defines "mutual assistance agreement" as one to which one or more business entities are parties and under which a public utility, municipally owned utility, or joint agency owning, operating, or owning and operating critical infrastructure used for electric generation, transmission, or distribution in this state may request that an out-of-state business entity perform work in Texas in anticipation of a state disaster or emergency. An out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period is not required to:

- (1) register with the secretary of state;

- (2) file a tax report with or pay taxes or fees to this state or a political subdivision of this state;
- (3) pay an ad valorem tax or use tax on equipment that is brought into the state by the entity, used only by the entity to perform disaster- or emergency-related work during the disaster response period, and removed from the state by the entity following the disaster response period;
- (4) comply with any state or local business licensing or registration requirements; or
- (5) comply with any state or local occupational licensing requirements or related fees.

Out-of-state entities and individuals remain subject to a transaction tax or fee, including a motor fuels tax, sales or use tax, hotel occupancy tax, and the tax imposed on the rental of a motor vehicle, that is imposed in this state, unless the entity or employee is otherwise exempt from the tax or fee.

If requested by the secretary of state, an out-of-state entity must provide a statement of purpose and information including entity name, jurisdiction, contact information, FEI number, and similar information.

Taxable nexus under sales tax is not established for an out-of-state business entity if the entity's physical presence in this state is solely from the entity's performance of disaster-related services.

HB 2667 House Author: Ashby, Trenton Senate Sponsor: Eltife, Kevin

Relating to the abolishment of certain programs and funds administered by the Texas Economic Development Bank.

Abolishes the Linked Deposit and the Texas Small Business Industrial Development Corporation programs in the Governor's Office.

SB 1 Senate Author: Nelson, Jane House Sponsor: Bonnen, Dennis

Relating to certain restrictions on the imposition of ad valorem taxes and to the duty of the state to reimburse certain political subdivisions for certain revenue loss.

Residential Property Tax Reduction.

There were two *major* tax reductions passed this session by the Legislature: franchise tax (HB 32) and residential property tax (SB 1 and SJR 1).

Contingent upon voter approval of SJR 1, raises the school tax homestead exemption to \$25,000 from the current \$15,000. Lowers the tax freeze for over-65 homeowners proportionately. Provides for the situation, implausible but not technically impossible, in which voters do not approve the constitutional amendment, requiring a subsequent tax bill. Holds school districts financially harmless for the increased exemption.

Prohibits a school district, municipality, or county that had provided a local-option homestead exemption in 2014 from reducing or repealing it through 2019.

The Legislative Budget Board estimates the cost to the total cost to the state (and collective gain for residential property owners) is as follows:

2016	--	(\$615,868,000)
2017	--	(\$628,600,000)
2018	--	(\$644,759,000)
2019	--	(\$664,580,000)
2020	--	(\$685,016,000)

[Comment: It must be noted that the primary reason that the state has sufficient revenue in order to increase the residential homestead exemption is because of the oil and gas industry and its positive effect on the entire state economy.]

SJR 1 Senate Author: Nelson, Jane House Sponsor: Bonnen, Dennis

Proposing a constitutional amendment providing for an exemption from ad valorem taxation for public school purposes of a portion of the market value of a residence homestead based on the median market value.

Proposes a constitutional amendment to increase the school property tax homestead exemption to \$25,000 from the current \$15,000. Lowers the tax freeze for over-65 homeowners proportionately. Provides legislative authority to prohibit a taxing unit from lowering an existing homestead exemption.

Prohibits, after January 1, 2016, the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property. The new prohibition would not affect the imposition of a general business tax measured by business activity, a tax on the production of minerals, a tax on the issuance of title insurance, or the change of a rate of a tax in existence on January 1, 2016.

The election will be November 3rd, 2016. Enabled by SB 1.

SB 46 Senate Author: Zaffirini, Judith House Sponsor: Raymond, Richard

Relating to the confidentiality of certain property tax appraisal photographs.

Makes confidential an interior photograph taken by an appraisal district for property tax appraisal purposes and requires disclosure of the photograph to a property owner. Allows the photograph to be used as evidence in a protest or appeal if it is relevant, but remains confidential.

Also, establishes that a photograph may be used to ascertain the location of equipment used to produce or transmit oil and gas, presumably including gas compressors, if the equipment is located on January 1 in the appraisal district that appraises property for the equipment for the preceding 365 consecutive days.

SB 757 Senate Author: Perry, Charles (F) House Sponsor: Springer, Drew
Relating to the repeal of the production taxes on crude petroleum and sulphur.

Abolishes the oil regulation tax on crude oil produced in this state (three-sixteenths of one cent on each barrel of 42 standard gallons). Under current law, proceeds from the per-barrel tax are to “be used for the administration of the state's oil and gas conservation laws”, but in practice are deposited into state general revenue.

Abolishes the sulphur production tax on sulphur produced in this state (\$1.03 a long ton or fraction of a long ton of Sulphur).

The Legislative Budget Board estimates that in the aggregate, this Act will result in a loss of revenue to the state of approximately \$5.5 million.

SB 849 Senate Author: Bettencourt, Paul (F) House Sponsor: Elkins, Gary
Relating to access to and fees associated with binding arbitration of appraisal review board orders.

Current law allows an owner of a property valued at \$1 million or less to go to binding arbitration in an appraisal dispute. SB 849 increases the ceiling to \$3 million, and establishes a deposit schedule ranging from \$450 for homesteads under \$500,000 up to \$1,050 for non-homestead properties between \$2 million and \$3 million in value, and a fee for the arbitrator that follows a similar schedule.

SB 904 Senate Author: Hinojosa, Chuy House Sponsor: Darby, Drew
Relating to exempting emergency preparation supplies from the sales and use tax for a limited period.

Creates an annual sales tax holiday for emergency supplies that begins Saturday before the last Monday in April and ending at midnight on Monday. Exempted are:

- (1) a portable generator under \$3,000;

- (2) The following items under \$300: window protectors made specifically to prevent storm damage, or an emergency or rescue ladder;
- (3) The following items under \$75: a reusable or artificial ice product; a portable, self-powered light source; a gasoline or diesel fuel container; a AAA cell, AA cell, C cell, D cell, 6 volt, or 9 volt battery, or a package containing more than one battery, other than an automobile or boat battery; a nonelectric cooler or ice chest for food storage; a tarpaulin or other flexible waterproof sheeting; a ground anchor system or tie-down kit; a mobile telephone battery or battery charger; a portable self-powered radio, including a two-way radio or weatherband radio; a fire extinguisher, smoke detector, or carbon monoxide detector; a hatchet or axe; a self-contained first aid kit; or a nonelectric can opener.

SB 1356 Senate Author: Hinojosa, Chuy House Sponsor: Darby, Drew

Relating to exemption from the sales tax for certain water-efficient products for a limited period.

Adds water-saving products to the Memorial Day sales tax holiday that currently exists for Energy Star items.

To be exempted are "WaterSense products" as designated and certified by EPA. Also exempted are "water-conserving products" defined as items used on private residential property and not used for business that, when used or planted in an outdoor residential property, may result in water conservation or groundwater retention, water table recharge, or a decrease in ambient air temperature that limits water evaporation; and includes a soaker or drip-irrigation hose, a moisture control for a sprinkler or irrigation system; mulch; a rain barrel or an alternative rain and moisture collection system; and a permeable ground cover surface that allows water to reach underground basins, aquifers, or water collection points.

SB 1394 Senate Author: Hancock, Kelly House Sponsor: Murphy, Jim

Relating to protests before appraisal review boards.

Extends the requirement under Section 41.45 (h) that the chief appraiser and the property owner share each other's materials to that information preserved on any portable device designed to maintain an electronic, magnetic or digital reproduction of any document or image.

Requires that if the chief appraiser uses audiovisual equipment at a hearing on a protest, the appraisal office provide audiovisual equipment of the same general type, kind, and character for use during the hearing by the property owner or the property owner's agent.

SB 1420 Senate Author: Hancock, Kelly House Sponsor: Murphy, Jim

Relating to notices of appraised value sent to property owners by the chief appraisers of appraisal districts.

Adds to the required contents of the annual property tax appraisal notice to a property owner information on any exemption for the preceding year that was canceled or reduced for the current year.

SB 1589 Senate Author: Zaffirini, Judith House Sponsor: Guillen, Ryan

Relating to requirements for reporting unclaimed mineral proceeds to the comptroller of public accounts.

Expands the reporting requirements for holders of unclaimed oil and gas royalties, such that information similar or identical to that required in check-stub law must be disclosed. The report must include not only owner information required under current law, but also:

(1) the lease, property, or well name;

(2) any lease, property, or well identification number used to identify the lease, property, or well; and

(3) the county in which the lease, property, or well is located.

The newly required information is confidential, except that the Comptroller may release aggregate amounts by county.

SB 1760 Senate Author: Creighton, Brandon House Sponsor: Bonnen, Dennis

Relating to the transparent and equitable application of ad valorem taxation procedures.

Allows a lessee designated by a property owner as owner's agent to designate an agent to act on his behalf.

Allows electronic forms for property tax purposes, including signatures.

Requires the Comptroller to annually prepare a list that includes the total tax rate imposed by each taxing unit in Texas, other than school districts, if the tax rate is reported to the Comptroller. The Comptroller must list the tax rates in descending order and publish the list on the agency's website.

Adds refunds to the list of documents, actions, and communications that a property owner may assign to an agent's address for delivery.

Allows an automatic refund to a homestead whose exemption application was approved late. Similar authority is imposed for a property owner receiving a correction in the appraisal roll.

Requires that a taxing unit adopting a property tax rate above its effective rate to do so by a vote of at least 60% of its governing board.

Requires a taxing unit holding an election to exceed its rollback rate to include in its public notice and on the ballot the purpose for the tax increase. A similar requirement is imposed for public hearings on a proposal to exceed the effective or rollback rate. For the public hearing, changes the date for the notice to the later of September 1 or the 30th day after the date the taxing unit's appraisal roll is certified, instead of September 1 in current law.

In testimony to a district court case appeal of value, allows the court to "give preference to" an appraisal district employee who is a licensed real estate appraiser.

Sets the refund interest rate at 9.5%, up from Prime+2 in current law.

SB 1985 Senate Author: Uresti, Carlos House Sponsor: Bonnen, Dennis

Relating to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place.

Amends Chapter 23 of the Tax Code, regarding property tax appraisal methods and procedures, to provide that, in some specified circumstances for purposes of appraising a real property interest in oil or gas in place, the price adjustment factor is calculated based on the U.S. Energy Information Administration's (EIA's) most recently published edition of the Annual Energy Outlook, rather than EIA's Early Release Overview of the Annual Energy Outlook. If on March 1 of the current calendar year the most recently published edition of the Annual Energy Outlook was published before December 1 of the preceding calendar year, requires the chief appraiser to use for the price adjustment factor calculations the projected current and preceding calendar year specified prices as stated in EIA's Short-Term Energy Outlook report published in January of the current calendar year.

For purposes of calculating the price adjustment factor, replaces references to the "price of imported low-sulfur light crude oil in nominal dollars" with "spot price of West Texas Intermediate crude oil in nominal dollars per barrel" and replaces references to the "spot price of natural gas at the Henry Hub in nominal dollars" with "spot price of natural gas at the Henry Hub in nominal dollars per million British thermal units."

Makes technical corrections to ensure property tax appraisers have oil and gas price information necessary to perform timely appraisals for the current tax year, but not

affecting taxable property values, tax rates, collection rates, or any other variable which might affect the revenues of units of local governments or the state.

SB 1985 Senate Author: Uresti, Carlos House Sponsor: Bonnen, Dennis

Relating to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place.

Replaces obsolete references to a report published by the Energy Information Administration ["EIA"] with those in current EIA reports. Requires that a short-term EIA forecast be used if the administration's *Annual Energy Outlook* report is not published by March 1.

SCR 13 Senate Author: Seliger, Kel House Sponsor: Anchia, Rafael

Urging the U.S. Congress to end the ban on crude oil exports.

Resolves that the Legislature urges Congress and the President of the United States to recognize that crude oil exports and free trade are in the national interest and take all necessary steps to eliminate the current ban on crude oil exports; and

That the secretary of state forward official copies of the resolution to the president of the United States, to the U.S. secretary of commerce, to the U.S. secretary of energy, to the majority leader of the Senate and the speaker of the House of Representatives of the United States Congress, and to all the members of the Texas delegation to Congress with the request that the resolution be entered in the Congressional Record as a memorial to Congress.

TRANSPORTATION

HB 13 House Author: Pickett, Joe Senate Sponsor: Nichols, Robert

Relating to the funding and operations of the Texas Department of Transportation and local transportation entities.

Requires the Texas Department of Transportation ["TxDOT"] to initiate a process to review and update the funding categories and formulas adopted by the Texas Transportation Commission ["TTC"] for the Unified Transportation Program ["UTP"].

Requires TxDOT to seek the input of metropolitan planning organizations ["MPO"] and TxDOT districts in the review process and to convene meetings to facilitate discussions among the planning organizations to achieve a consensus recommendation regarding updated UTP categories and formulas.

Requires the TTC to adopt rules updating the categories and funding formulas no later than May 1, 2016.

Requires each MPO, and applicable TxDOT districts for areas outside the boundaries of a MPO, to develop a 10-year plan for the use of funding allocated to the region.

Requires the chief financial officer of TxDOT to prepare and publish a 10-year cash flow projection to identify transportation project funding, commitments, and allocations.

Requires the TTC to hold a public hearing prior to the transfer of funds between categories in the UTP.

HB 20 House Author: Simmons, Ron Senate Sponsor: Nichols, Robert

Relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and local transportation entities.

Requires the Texas Department of Transportation ["TxDOT"] to develop and implement and the Texas Transportation Commission ["TTC"] to approve a performance-based planning and programming process to provide the executive and legislative branches of government with indicators that quantify progress toward the attainment of TxDOT goals and objectives established by the legislature and the TTC. Requires TxDOT to develop and implement performance metrics as part of the review of strategic planning in the statewide transportation plan, rural transportation plan, and the unified transportation program.

Requires all local transportation entities in Texas to develop, adopt, and submit to TxDOT guidelines governing the funding prioritization of the entities' transportation

projects. Establishes the criteria a local transportation entity is required to consider in developing the guidelines for funding prioritization. Requires each local transportation entity and TxDOT district, in prioritizing projects, to include projects that meet short-term and long-term needs of the entity's jurisdiction with emphasis given to projects already approved in a regional transportation plan. Requires each local transportation entity and TxDOT district to submit to TxDOT the funding prioritization for transportation projects in the entity's jurisdiction.

Requires TxDOT to prioritize and TTC to approve projects included in the statewide transportation plan in order to provide financial assistance. Requires TxDOT to establish and TTC to approve a performance-based process for setting funding levels for the categories of the projects in TxDOT's unified transportation program. Limits TTC authority to make discretionary funding decisions to no more than 10 percent of the current biennial budget of TxDOT.

SJR 5 Senate Author: Nichols, Robert House Sponsor: Pickett, Joe

Proposing a constitutional amendment dedicating certain revenue derived from the tax imposed on the sale of motor vehicles to the state highway fund.

Proposes a constitutional amendment to require that beginning in fiscal 2018, \$2.5 billion annually be transferred from sales tax collections to the State Highway Fund ["SHF"] that would otherwise be to general revenue ["GR"] during a fiscal year in which sales tax revenue exceeds \$28 billion. Note – sales tax is estimated to exceed \$31 billion by fiscal 2017. This transfer process expires after fiscal 2032, but can be extended in ten-year increments by resolution of the Legislature.

In addition to the sales tax transfer, beginning in fiscal 2020, the Comptroller shall transfer 35% of motor vehicle sales tax collected in excess of \$5 billion annually to the SHF. Note – motor vehicle sales tax is estimated to exceed \$5 billion by fiscal 2017. This transfer process expires after fiscal 2029, but can be extended in ten-year increments by resolution of the Legislature.

These two transfers may be reduced by as much as 50% by adoption of a resolution approved by a record vote of two-thirds of the members of each chamber of the Legislature.

No revenue impacts from the bill are expected in 2016-17, but a \$5.0 billion shift from GR to the SHF is expected during 2018-19.

HB 80 House Author: Craddick, Tom Senate Sponsor: Zaffirini, Judith

Relating to the use of a portable wireless communication device while operating a motor vehicle.

FAILED TO PASS. After passing his bill in previous sessions and having it vetoed by former Governor Perry, Representative Tom Craddick once again pushed legislation that would have prohibited texting while driving. This time he passed it through the House but fell one vote short of passage in the Senate.

Would have created a misdemeanor offense for using a portable wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped and is outside a lane of travel.

HB 4025 House Author: Keffer, Jim Senate Sponsor: Uresti, Carlos

Relating to county energy transportation reinvestment zones.

Amends current law (SB 1747 from last session -- 83rd Legislature, Regular Session, 2013) relating to funding to counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production, including money from county energy transportation reinvestment zones.

Due to constitutional concerns, changes "zone" to "county".

Revises the criteria for transportation grants to better reflect the purpose of the funds.

Requires that weight tolerance permits must be related to oil and gas activities when being used to factor grant rewards. Requires that horizontal wells be weighted much higher than vertical wells. This is due to the fact that horizontal wells can require more than five times the number of trucks in the drilling process. Requires that the volume criteria gauge the number of oil and gas sites.

Allows the Texas Department of Transportation to spend more on the administration of the program, widen the area in which projects may be completed to encompass the county, and restricts the amount that counties may spend on administration to \$100,000.

C.S.H.B. 4025 will "clean-up" the administration language of S.B. 1747 in order to ensure that that funds are administered smoothly and that they go to their intended purpose.

ENVIRONMENT

HB 1794 House Author: Geren, Charlie Senate Sponsor: Hancock, Kelly

Relating to maximum penalties for certain environmental violations.

Until the passage of this Act, the law allowed local governments to bring lawsuits for penalties and injunctive relief for alleged violations of state environmental laws and to share equally in any awards. This Act provides that the first \$4.3 million of an amount recovered shall be divided equally between the state and the local government that brought the lawsuit and that any amount in excess of \$4.3 million will be awarded to the state.

In consideration of any award of damages, requires the trier-of-fact to consider the same list of factors currently required of the TCEQ to consider when assessing any award of administrative penalties under a similar fact pattern (factors listed in Water Code, Section 7.053),

Requires a suit for a civil penalty that is brought by a local government under these provisions to be brought not later than the fifth anniversary of the earlier of the date the person who committed the violation:

(1) notifies the Texas Commission on Environmental Quality ["TCEQ"] in writing of the violation; or

(2) receives a notice of enforcement from TCEQ with respect to the alleged violation.

Applies prospectively.

HB 1184 House Author: Paddie, Chris Senate Sponsor: Eltife, Kevin

Relating to authorizing certain alternative fuel programs as eligible for local government energy savings performance contracts.

Adds "alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles" to the list of items eligible for a local government energy savings performance contract.

SB 709 Senate Author: Fraser, Troy House Sponsor: Morrison, Geanie

Relating to environmental permitting procedures for applications filed with the Texas Commission on Environmental Quality.

TCEQ Contested Case Reform.

Shifts the burden of producing evidence from the applicant to protesting parties in contested case hearings ["CCH"] regarding applications with the Texas Commission on Environmental Quality ["TCEQ"] for air quality; water quality; municipal, industrial and hazardous waste; and underground injection control permits.

Limits the issues that may be referred to the State Office of Administrative Hearings ["SOAH"] to the factual disputes actually raised by the "affected person."

Limits the time for a CCH to no longer than 180 days from the date of the preliminary hearing.

Requires TCEQ to provide notice of its rules related to administrative hearings to be posted on the internet.

Requires TCEQ to provide notice to the State Senator and State Representative of the area when a facility within that member's jurisdiction is issued a draft permit.

CIVIL PRACTICES

HB 1492 House Author: Miller, Doug Senate Sponsor: Schweitzer, Charles

Relating to consideration of asbestos or silica trust claims in certain actions asserting asbestos- or silica-related injuries.

Establishes greater transparency in asbestos and silica litigation and helps to ensure that damages are fairly divided among all potentially-liable defendants. Protects solvent businesses against double-dipping and ensures that resources, including trust fund balances, are available for future victims of asbestos-related injuries.

Requires a claimant who has filed an action for an asbestos- or silica-related injury to make a trust claim against each trust the claimant believes may owe damages for the injury. Requires the claimant to serve on each defendant trust claim material relating to each trust claim made by or on behalf of the exposed person. A multi-district litigation ["MDL"] pretrial court would be prohibited from remanding an action to a trial court unless the claimant has:

- (1) made each required trust claim; and
- (2) served the trust claim material relating to those claims.

Allows a defendant to file a motion to stay the proceedings by presenting a list of asbestos or silica trusts not disclosed by the claimant against which the defendant in good faith believes the claimant may make a successful trust claim. In such a proceeding, requires the court to grant the motion to stay if the court determines the claimant is likely to receive compensation from a trust identified by the motion. Requires that the stay continue until the claimant provides proof that the claimant has made the claim and served trust claim material relating to the claim.

HB 1692 House Author: Sheets, Kenneth Senate Sponsor: Huffman, Joan

Relating to the doctrine of forum non conveniens.

Closes a "loophole" in the Texas forum non conveniens statute.

Most other states consider the legal residency of the plaintiff as one of many factors in a balancing test, but, until passage of this Act, Texas allowed residency alone as a basis to maintain a lawsuit in Texas. Additionally, the Texas definition of legal resident was so broad as to allow resident intervenors or derivative plaintiffs to bring a case from non-residents into the state.

H.B. 1692 preserves Texas courts for Texas residents but requires non-residents to establish that claims arising in another state or country have a significant connection to Texas.

Prohibits a court from staying or dismissing a plaintiff's claim under the forum non conveniens statute if the plaintiff is a legal resident of this state or a derivative claimant of a legal resident of this state. Requires that the determination of whether a claim may be stayed or dismissed under forum non conveniens be made with respect to each plaintiff without regard to whether the claim of any other plaintiff may be stayed or dismissed under forum non conveniens and without regard to a plaintiff's country of citizenship or national origin. Requires a court, if an action involves both plaintiffs who are legal residents of this state and plaintiffs who are not, to consider the factors under forum non conveniens and to determine whether to deny the motion or to stay or dismiss the claim of any plaintiff who is not a legal resident of this state.

SB 455 Senate Author: Creighton, Brandon House Sponsor: Schofield, Mike
Relating to the creation of a special three-judge district court.

Civil Justice Reform of School Finance and Re-Districting Challenges.

Authorizes the Attorney General to petition the Chief Justice of the Supreme Court for the formation of a special three judge district court to preside over lawsuits involving any claim challenging:

(1) the finances and operations of the State's public school system; or

(2) any claim involving the apportionment of districts for the Texas House, Senate, Congress, State Board of Education, or state judicial districts.

Provides that one judge on the panel would be the district court judge from the court where the case was originally filed. Provides for the Chief Justice of the Texas Supreme Court to appoint the other two judges consisting of another district court judge from elsewhere in the state and an appellate court judge from an appellate district not represented by either of the first two judges.

Requires the Chief Justice, within a reasonable time after receipt of a petition from the Attorney General, to grant the petition and issue an order transferring the case to the special three-judge district court.

Requires consolidation of all related pending cases in another district or inferior court in Texas with the cause of action before the three-judge court.

SB 735 Senate Author: Fraser, Troy House Sponsor: King, Ken

Relating to the availability and use of certain evidence in connection with an award of exemplary damages.

Authorizes a trial court, on the motion of a party and after notice and a hearing, to allow discovery of evidence of a defendant's net worth only if the court finds in a written order that the claimant has demonstrated a substantial likelihood of success on the merits of a claim for exemplary damages.

Authorizes evidence submitted by a party to the court in support of or in opposition to such a motion to be in the form of an affidavit or a response to discovery.

If a trial court authorizes discovery of evidence of a defendant's net worth, requires the trial court to use of the least burdensome method available to obtain the net worth evidence.

Limits the evidence a reviewing court may consider when reviewing an order authorizing or denying discovery of net worth evidence to evidence submitted by the parties to the trial court in support of or in opposition to the motion authorizing the discovery.

Defines "net worth" as the total assets of a person minus the total liabilities of the person on a date determined appropriate by the trial court.

SB 1267 Senate Author: Estes, Craig House Sponsor: Clardy, Travis

Relating to contested cases conducted under the Administrative Procedure Act.

Administrative Law Contested Case Hearing Reform.

Aligns provisions of the Administrative Procedure Act more closely with the Texas Rules of Civil Procedure.

Amends the Government Code to specify that the "short, plain statement of the matters asserted" that is required to be included in a notice of a hearing in a contested case conducted under the Administrative Procedure Act is a "short, plain statement of the *factual* matters asserted."

Changes the deadline by which a more definite and detailed statement of the facts is required to be furnished following an authorized limited initial notice from not less than three days to not less than seven days before the date set for the hearing.

Requires a state agency that intends to rely on a section of a statute or rule not previously referenced in the notice of hearing, in a proceeding in which the state

agency has the burden of proof, to amend the notice to refer to the section of the statute or rule not later than the seventh day before the date set for the hearing. Provides that these provisions do not prohibit the state agency from filing an amendment during the hearing of a contested case provided the opposing party is granted a continuance of at least seven days to prepare its case on request of the opposing party.

Provides that in a suit for judicial review of a final decision or order of a state agency in a contested case, the state agency's failure to comply with certain specified requirements relating to the contents of a notice constitutes certain prejudice to the substantial rights of the appellant under the Administrative Procedure Act unless the court finds that the failure did not unfairly surprise and prejudice the appellant or that the appellant waived the appellant's rights.

Authorizes a state agency that has been granted the power to summarily suspend a license under another statute to determine that an imminent peril to the public health, safety, or welfare requires emergency action and to issue an order to summarily suspend the license holder's license pending proceedings for revocation or other action, provided that the agency incorporates a factual and legal basis establishing that imminent peril in the order. Establishes provisions relating to the initiation of the proceedings for revocation or other action and the appeal by a license holder of the summary suspension order. Provides that these provisions do not grant any state agency the power to suspend a license without notice and an opportunity for a hearing.

Provides that in a suit for judicial review of a final decision or order of a state agency brought by a license holder, the agency's failure to comply with the statutory provisions regarding the requisite notice and opportunity for license holder compliance before the institution of state agency proceedings constitutes certain prejudice to the substantial rights of the license holder under the Administrative Procedure Act unless the court determines that the failure did not unfairly surprise and prejudice the license holder.

Changes the requirement that a decision or order of a state agency that may become final that is adverse to any party in a contested case be in writing or stated in the record to instead be in writing and signed by a person authorized by the agency to sign the agency decision or order. Requires an order that may become final to include findings of fact and conclusions of law, separately stated. Requires an order, if a party submits under a state agency rule proposed findings of fact, to include a ruling on each proposed finding and requires a decision or order, if a party submits under a state agency rule proposed conclusions of law, to include a ruling on each proposed conclusion.

Revises the requirements relating to the notification of a party to a contested case regarding a decision or order and establishes that if an adversely affected party or the party's attorney of record does not receive the required notice or acquire actual knowledge of a signed decision or order before the 15th day after the date the decision or order is signed, a specified or agreed-to revised period begins, with respect to that party, on the date the party receives the notice or acquires actual knowledge of the signed decision or order, whichever occurs first. Establishes provisions relating to such a revised period.

Replaces a requirement that a decision or order that may become final in a contested case be rendered not later than the 60th day after the date on which the hearing is finally closed with a specification that such a decision or order should be signed by that date. In a contested case heard by other than a majority of the officials of a state agency, authorizes the person who conducts the contested case hearing to extend the period in which the decision or order may be signed as an alternative to the agency extending such a period.

Establishes criteria for when a decision in a contested case is final applicable to when an order in a contested case is final and changes certain criteria based on the date of certain decisions or orders being rendered to instead be based on the date such decisions or orders are signed. Provides that a decision or order that becomes final on the date the decision or order is signed based on the state agency finding that an imminent peril to the public health, safety, or welfare required immediate effect of the decision or order is only final provided that the agency incorporates in the decision or order a factual and legal basis establishing an imminent peril to the public health, safety, or welfare. Revises statutory provisions relating to the date a decision or order becomes final and makes an order that is final based on certain criteria appealable.

Revises statutory provisions governing the procedures for a motion for rehearing in a contested case and requires a motion for rehearing to identify with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. Requires the motion to also state the legal and factual basis for the claimed error. Establishes that a subsequent motion for rehearing is not required after a state agency rules on a motion for rehearing except under certain specified conditions and requires that a required subsequent motion for rehearing be filed not later than the 20th day after the date the order disposing of the original motion for rehearing is signed.

Establishes that, for purposes of a contested case in which a motion for rehearing is a prerequisite for seeking judicial review, a prematurely filed petition is effective to initiate judicial review and is considered to be filed on the date the last timely motion for rehearing is overruled and after the motion is overruled.

HB 2154 House Author: Dutton, Harold Senate Sponsor: Birdwell, Brian
Relating to the functions and operation of the State Office of Administrative Hearings.

Sunset Commission Review of the State Office of Administrative Hearings ["SOAH"].

Requires the Railroad Commission of Texas ["RRC"] by rule to provide for administrative hearings in contested cases to be conducted by one or more members of the RRC, by RRC hearings examiners, or by SOAH, rather than or by the utility division of SOAH. Requires that the rules provide for a RRC hearings examiner or SOAH, rather than or the utility division of SOAH, to conduct each hearing in a contested case that is not conducted by one or more members of the railroad commission.

Requires SOAH, if the legislature does not appropriate money for the payment of a fixed annual rate under this section, to charge the railroad commission an hourly rate set by SOAH under Section 2003.024(a), Government Code, for hearings conducted by SOAH under this section, rather than charge the railroad commission an hourly rate of not more than \$90 per hour for hearings conducted by SOAH under this section.

REFINING AND MARKETING

HB 239 House Author: Springer, Drew Senate Sponsor: Perry, Charles (F)

Relating to storage of flammable liquids at retail service stations in unincorporated areas and certain municipalities.

Provides that gasoline, diesel fuel, or kerosene may be stored in an aboveground storage tank at a retail service station located in an unincorporated area or in a municipality with a population of less than 5,000.

However, authorizes a commissioners court of a county with a population of 3.3 million or more to by order limit the maximum volume of an aboveground storage tank in an unincorporated area of the county in accordance with the county fire code.

Authorizes a retail service station to have a tank for each separate grade of gasoline, diesel fuel, or kerosene, but prohibits it from having more than one tank for the same grade.

Deletes existing language providing that gasoline, diesel fuel, or kerosene may be stored in an aboveground storage tank with a capacity of not more than 4,000 gallons at a retail service station located in an unincorporated area or in a municipality with a population of less than 5,000. Deletes existing language referencing the capacity of certain tanks.

HB 991 House Author: Bohac, Dwayne Senate Sponsor: Huffines, Donald

Relating to requiring notice of federal and state tax rates for motor fuel sold at retail.

Require the Texas Department of Agriculture to display on each face of a motor fuel pump a notice of the current rates of the federal and state motor fuel taxes.

GENERAL BUSINESS and MISCELLANEOUS

HB 910 House Author: Phillips, Larry Senate Sponsor: Estes, Craig

Relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun.

Authorizes open carry of handguns in Texas by anyone with a license, so long as the handguns are carried in shoulder or belt holsters. Authorizes individuals to obtain a license to carry openly a holstered handgun in all the places that allow the licensed carrying of a concealed handgun. Authorizes the Department of Public Safety to issue a license to carry an unconcealed holstered handgun, using the same criteria currently in place for a concealed handgun license. The new license to carry created by this bill will replace the existing concealed handgun license. Applicants would have to meet the same requirements that they currently do to get a concealed handgun license.

HB 1101 House Author: Turner, Sylvester Senate Sponsor: Whitmire, John

Relating to extending the period over which the balance of the system benefit fund is to be eliminated.

Extends the expiration date of the System Benefit Fund by one year, to September 1, 2017. Leaves the fee rate at zero. Permits the balance in the fund, for fiscal year 2017, to be used to assist low-income electric customers by providing a reduced rate for that year, at a rate the Public Utility Commission determines is necessary to exhaust the fund. The Legislative Budget Board estimates that \$227 million from the fund will be made available by the bill.

HB 1277 House Author: Ashby, Trenton Senate Sponsor: Bettencourt, Paul

Relating to requirements for annexation of certain commercial or industrial areas by a general-law municipality.

Authorizes general law municipalities to annex an area wherein 50% or more is used for commercial or industrial purposes *only if* written consent is obtained from a majority of property owners.

HB 1481 House Author: Murphy, Jim Senate Sponsor: Birdwell, Brian

Relating to prohibiting the operation of an unmanned aircraft over certain facilities.

Provides that a person commits an offense if the person intentionally or knowingly:

(1) operates an unmanned aircraft over a critical infrastructure facility (defined below) and the unmanned aircraft is not higher than 400 feet above ground level;

(2) allows an unmanned aircraft to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or

(3) allows an unmanned aircraft to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

Provides that an offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted for the same offense.

Defines "Critical infrastructure facility" as follows:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) a petroleum or alumina refinery;

(ii) an electrical power generating facility, substation, switching station, or electrical control center;

(iii) a chemical, polymer, or rubber manufacturing facility;

(iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(v) a natural gas compressor station;

(vi) a liquid natural gas terminal or storage facility;

(vii) a telecommunications central switching office;

(viii) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

(ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(x) a transmission facility used by a federally licensed radio or television station;

- (xi) a steelmaking facility that uses an electric arc furnace to make steel;
- or
- (xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or

(B) any portion of an aboveground oil, gas, or chemical pipeline that is enclosed by a fence or other physical barrier that is obviously designed to exclude intruders.

HB 2167 House Author: Smith, Wayne Senate Sponsor: Zaffirini, Judith
Relating to certain images captured by an unmanned aircraft.

Authorize the capturing of an image by an unmanned aircraft if the image is captured by:

(1) a registered professional land surveyor in connection with the practice of surveying, provided no person is identifiable in the captured image,

(2) a licensed professional engineer in connection with the practice of engineering, provided no person is identifiable in the captured image, and

(3) a person acting on behalf of a private or independent institution of higher education for the purposes of conducting professional or scholarly research development or for another academic purpose.

HB 3373 House Author: Miller, Doug Senate Sponsor: Hancock, Kelly
Relating to the liability of reimbursing employers under the Texas Unemployment Compensation Act.

Removes liability of a reimbursing employer for benefits paid to an individual if the individual's separation from work resulted from the their being discharged for misconduct, or voluntarily leaving work without good cause. If the Texas Workforce Commission bills the reimbursing employer in violation of this new provision, allows the employer to contest the billing using the agency's existing dispute resolution procedures.

HB 3858 House Author: Stephenson, Phil Senate Sponsor: Kolkhorst, Lois
Relating to fees charged by the Coastal Bend Groundwater Conservation District.

Authorizes the Coastal Bend Groundwater Conservation District to: assess a fee for exporting groundwater from the Coastal Bend Groundwater Conservation District in Wharton County not exceed 150 percent of the maximum wholesale water rate charged by the City of Houston. Allows to district to assess other fees authorized under Chapter 36.

SB 267 Senate Author: Perry, Charles House Sponsor: Huberty, Dan

Relating to the regulation by a municipality or county of the rental or leasing of housing accommodations.

With certain limited exceptions, prohibits a municipality or county from adopting or enforcing an ordinance that prohibits an individual from refusing to lease or rent a housing accommodation to a person due to a person's source of income to pay rent, including funding from a federal housing assistance program.

SB 900 Senate Author: Taylor, Larry House Sponsor: Bonnen, Greg

Relating to the operation of the Texas Windstorm Insurance Association and the renaming of the Texas Windstorm Insurance Association as the Texas Coastal Insurance Association.

Allows the Commissioner of Insurance to contract with an administrator to manage the Texas Windstorm Insurance Association ["TWIA"] and administer the plan of operation if it is determined by the commissioner to be in the best interest of the policyholders and the public. Grants the commissioner rulemaking authority to implement the contract.

Modifies the manner in which insured losses in excess of reserves and amounts available in the Catastrophe Reserve Trust Fund ["CRTF"] may be paid. Requires the Comptroller of Public Accounts to invest the portion of the CRTF that is above required balances.

Requires the Texas Department of Insurance ["TDI"] to conduct a biennial study of market incentives to promote participation in the voluntary windstorm and hail insurance market in the seacoast territory.