



PERMIAN BASIN
PETROLEUM ASSOCIATION

The Texas Legislative Report

87th Regular Session

January 12, 2021-May 31, 2021

May 31, 2021

PBPA members:

The 87th Texas Legislature began with tremendous uncertainty for those who were sent to serve and those whom they serve. The ongoing effects of the global Covid-19 pandemic, and the vast impact on all economic sectors, including the Permian Basin oil and gas industry loomed large as the Session began.

Exiting the last session and the impact of the 2020 elections across the country, our membership anticipated multiple attempts at sweeping legislation from environmental lobby groups to promote major regulatory changes on issues like air, water, and other areas to hinder the our well regulated industry. These environmental priorities were seen in many pieces of anti-oil and gas pre-filed legislation.

We also expected budget challenges due to the decreased economic activity, and the yearlong decline in every taxpayer revenue stream-including severance, sales, and franchise taxes. While our budget focus is always ensuring state agencies like the Texas Commission on Environmental Quality (TCEQ) and the vital Railroad Commission of Texas (RRC) are funded to ensure that operators can promptly receive permits for regulated activities, this session a large concern was that the Texas Legislature would seek fill these budget gaps by targeting industrial operators, in particular oil and gas operators, that were already reeling from the global impacts of demand destruction and price wars led by foreign actors far from the Permian Basin.

As a reaction to potential concerns stemming from federal overreach and potential executive orders, PBPA hosted Governor Greg Abbott in Odessa, Texas, where he announced an executive order ensuring that state agencies would not implement federal actions that endangered the oil and gas industry and we were honored he worked with two Permian Basin operators and our association to plan and visit.

But as always, life happens when you make plans, and February brought a winter storm that the likes of which no living generation of Texans had never seen. As temperatures plunged across the Lone Star State, power was lost for millions of residential customers. The prolonged impact of the weather brought nearly every corner of the state to a halt, and left hundreds dead in its wake.

During and following Winter Storm Uri, the PBPA worked diligently with producers across the region to assist in restoring power to gas processing facilities that are vital for natural gas

production and worked with the RRC, Public Utility Commission (PUC), and the Electric Reliability Council of Texas (ERCOT), and so many others to help produce the natural gas that would bring Texas back from the brink.

At the same time PBPA also worked to inform Texas Legislators from across the state to inform them of conditions on the ground that were hindering production and some functional issues that our producers needed assistance with.

Immediately after the storm, PBPA hosted Lt. Governor Dan Patrick in Midland for a roundtable discussion to impacts of the winter storm and the steps the legislature could take to improve grid resiliency.

The storm led the largest shift of focus for the entire session, and our efforts helped lead the discussion to the most productive area to address the challenges that existed. The single greatest legislative items included reforms of the entire system of electric generation in the ERCOT grid, a complete overhaul of the PUC, a review of how electricity is generated, and broadly ensuring that all segments of the supply chain are reliable through mapping that will take place this summer and fall.

PBPA worked diligently to ensure that gas supplies remain adequate for electric generation and that proposed legislation did not create terrible hurdles for operators who are dealing with the lingering effects of the pandemic and are now trying to pivot into the post-Covid economic environment.

There are numerous rulemakings at various agencies that we have identified and our association will have our hands full in the interim working with agencies tasked with rulemakings that seek to prepare for weather we hope we never see again. Additionally, the Legislature is very likely to return this fall, if not sooner, to tackle other pressing issues, like redrawing election districts across the state and disbursing federal funds that filled the large shortfall in the existing state budget.

For America's Oilfield, this session presented real challenges and existential threats to the vibrancy and diversity of operations across the Permian Basin and the communities that call it home.

Given the unique and serious challenges facing the industry in January, I could not be more proud of the work that PBPA did this session.

This took a great deal of effort from PBPA members and staff, led by Michael Lozano, and we could not do it without your continued support. Your commitment to PBPA is what allows us to work to ensure that the Permian Basin remains the greatest place in the world to develop natural resources, as well as live, work, and raise a family.

In this report you will find a sincere attempt to cover all of the issues our team tackled, but there is no question there are items we likely were unable to include in this extensive report. This report again does not take into account the veto period that the Governor will have which extends until June 20, 2021.

Thank you for all that you do, and you can always count on PBPA to do what counts.

Regards,

Ben Shepperd

President

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Exploration and Production

Overview: Exploration and production issues are the priority for so many of our members across the Permian Basin and changes to the current regulatory framework in this area could impact operators in so many hosts of ways. Below are some of the bills that passed and did not pass that we want to ensure you have the opportunity to review.

Bills That Passed. Sent to the Governor or Signed by the Governor Date

HB 876 Relating to **fees charged** by certain persons **for the method used for payments** made under an agreement.

Summary. Online banking has become pervasive in recent years. However, many Texans still wish to receive payment by paper check and think it is inappropriate for them to pay a fee for a paper check. HB 876 prohibits an individual, corporation, trust, partnership, association, or other private legal entity that makes a payment to a payee from charging an additional fee to the payee for electing to receive the payment by paper check instead of by an electronic funds transfer. The bill also makes any provision in an agreement to pay a fee for a paper check void and unenforceable. For PBPA members, if a royalty owner or anyone requests payment with a paper check, you are now required to do so. You may not charge a fee for doing so even if you have a signed contract that allows you to pay with electronic funds.

05-22-21 G Sent to the Governor

HB 1284 Paddie, Chris(R) Relating to the jurisdiction of the Railroad Commission of Texas over the **injection and geologic storage of carbon dioxide (CO2)**.

Summary. The bill gives the Railroad Commission jurisdiction over all onshore and state waters CO2 injection wells, the injection of natural and anthropogenic (man-made) CO2, and injection for enhanced oil recovery and sequestration (storage). TCEQ's role in permitting/approval of injection for sequestration is removed. Funding for the Commission for this program will come from the anthropogenic CO2 storage trust fund. The Railroad Commission will seek primacy for CO2 injection wells from the EPA.

05-25-21 G Sent to the Governor

HB 1572 Relating to **electric service equipment**.

Summary. HB 1572 provides that an electric generator may rent generators on a per megawatt-hour, as opposed to a flat fee only. The current statutes prohibit any per megawatt-hour billing except by licensed retail electric providers. HB 1572 addresses this issue by clarifying that a retail electric provider includes a business that rents electric generation equipment and allowing such a business to lease on a per megawatt-hour rather than solely a flat fee.

05-22-21 G Sent to the Governor

HB 2201 Relating to the **location of pits** used in the production of oil and gas.

Summary. HB 2201 instructs RRC to establish rules formalizing their current practice of considering recent flood history, in addition to the 10-year flood plain, when deciding on the location of a commercial oil and gas waste facility.

05-30-21 As finally passed

HB 2361 Relating to the **new technology implementation grant program** administered by the Texas Commission on Environmental Quality.

Summary. HB 2361 increases funding for technology from three to six percent. Decreases funding for the clean fleet from five to two percent. Broadens the funding for flares and other site emissions by deleting "by capturing waste heat to generate electricity solely for on-site service." and adds "reduced flaring" grants to the preference list. Now allows grants to cover costs of operating and maintaining the emissions equipment. It should be helpful to fund new flare technology.

05-25-21 G Sent to the Governor

HB 3416 Relating to **indemnity agreements between contractors and subcontractors** for services pertaining to certain wells or mines.

Summary. HB 3416 ensures that when a staffing company employee arrives at your well site or facility, the staffing company and the staff employee have the necessary liability insurance to protect the worker, the contractor, and the operator. It requires notice of these coverages. Most importantly, it does not modify the provisions of the Texas Oilfield Anti-Indemnity Act.

05-28-21 G Sent to the Governor

HB 3516 Relating to the regulation of the recycling of oil and gas waste.

Summary. HB 3516 **directs the Railroad Commission (RRC) of Texas to conduct rulemaking to create a more transparent and predictable permitting process for commercial produced water recycling operations.** Rules are to encourage fluid oil and gas waste recycling for beneficial purposes and establish standards for the issuance of permits for commercial recycling of fluid oil and gas waste. In doing so, the RRC is to consider previously adopted rules for recycling fluid oil and gas waste. The rules will establish minimum siting standards for fluid recycling pits; uniform technical, construction, and placement standards; uniform standards for estimating closure costs; minimum and maximum bonding and financial security amounts based on factors determined by RRC; and standards for sampling and analysis of fluid oil and gas waste. Provides that the RRC will approve or deny a permit application within 90 days. If action is not taken, then on the 91st day, the permit is approved for one year.

05-26-21 G Sent to the Governor

HB 3794 Relating to **oil and gas liens.**

Summary. In re First River Energy, LLC, a recent court case resulted in a decision unfavorable to Texas oil and gas interest owners. The court found that the jurisdiction where the first purchaser is located, rather than where the oil and gas are produced, governs the applicable law on oil and gas production liens. The Texas first purchaser statute needed to be amended to resolve this issue. HB 3794 repeals the first purchaser statute and replaces it with Property Code provisions establishing oil and gas liens based on where the production occurred rather than the location of the first purchaser.

05-22-21 G Sent to the Governor

HB 4218 Relating to a cause of action for the **bad faith washout** of an overriding royalty interest in an oil and gas lease.

Summary. In response to the courts asking for legislative guidance on this issue, HB 4218 creates a cause of action for the bad faith washout of an overriding royalty interest in an oil and gas lease.

A bad faith washout is when a lessee cancels an oil and gas lease to wipe out an overriding royalty owner's interest, then takes another lease on the same property under which they do not have to pay the overriding royalty interest owner anything. HB 4218 amends the Property Code to authorize a person to bring a lawsuit for a bad faith washout of the person's overriding royalty interest in an oil and gas lease in a district court of a county in which any part of the property subject to the lease is located. The lawsuit must be brought within two years of actual knowledge of the washout. The bill authorizes an owner who prevails in the lawsuit to recover actual damages, court costs and attorney's fees, and the enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest, but not punitive damages.

05-27-21 As finally passed

SB 601. Relating to the creation and activities of the **Texas Produced Water Consortium.**

Summary. The bill creates the Texas Produced Water Consortium to be hosted at Texas Tech to gather "information resources to study the economics of and technology related to beneficial uses of produced water." "Not later than September 1, 2022," the consortium shall produce a report that includes: (1) suggested changes to the law to better enable beneficial uses of produced water; (2) an economically feasible pilot project for state participation in a produced water facility; and (3) an economic model for using produced water economically and efficiently. After October 1, 2022, the research and investigation goals of the consortium shall be directed by the sponsors of the consortium. The board and the host university shall create a fee structure for private sponsors. They are not to receive state money except for limited administrative costs. Sponsors get access to data based on their level of sponsorship.

House adopted conference report (Y: 132/N: 5) 5-29-21 100%

Senate adopted conference report (Y: 30/N: 1) 5-29-21

SB 900 Relating to the **safety of aboveground storage tanks.**

Summary. **Exempts** "(a) **tank used** in or associated with the production of crude oil or natural gas"

05-29-21 G Sent to the Governor

SB 905 Relating to guidance on the regulations applicable to the **potable reuse of wastewater.**

Summary. SB 905 directs the Texas Commission on Environmental Quality to create a direct potable reuse document so that entities will understand the process for having such a project. Sec. 341.0391. DIRECT POTABLE REUSE GUIDANCE. (a) Defines "direct potable reuse" to mean the introduction of treated reclaimed municipal wastewater either: (1) directly into a public water system; or (2) into a raw water supply immediately before the water enters a drinking water treatment plant. (b) Requires the Texas Commission on Environmental Quality (**TCEQ**) to develop and make available to the public a **regulatory guidance manual** to explain TCEQ rules that apply to **direct potable reuse.**

05-20-21 G Sent to the Governor

SB 1258 Relating to the duty of a lessee or other agent in control of certain state land to drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas.

Summary. SB 1258 amends current law relating to the duty of a lessee or other agent in control of General Land Office land to **drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas by a horizontal drainhole well** located on certain land. It does not apply to University Lands. Spacing requirements are "(1) the minimum distance established by the applicable lease-line spacing requirement of the Railroad Commission of Texas; or (2) a perpendicular distance of 330 feet."

05-26-21 G Sent to the Governor

SB 1259 Relating to **causes of action for withholding payments of the proceeds** from the sale of oil and gas production.

Summary. In 2018, the Texas Supreme Court held in *ConocoPhillips v. Koopman* that the statute on suspending royalty payments when title was in dispute did not protect companies that suspend royalties in compliance with Natural Resources Code Section 91.402(b) from a breach of contract cause of action. SB 1250 adds a new section that addresses this issue: "(b-1) A payee does not have a common law cause of action for breach of contract against a payor for withholding payments under Subsection (b) unless, for a dispute concerning the title, the

contract requiring payment specifies otherwise."

05-24-21 G Earliest effective date

SB 1260 Birdwell, Brian(R) Relating to the authority of the **Railroad Commission** of Texas to contract for the **treatment of and sell drill cuttings**.

Summary. SB 1260 expands the Texas Railroad Commission's (RRC) options for cleaning up and remediating waste sites by authorizing RRC's state-managed cleanup program to engage with mobile contractors to recycle oilfield waste materials, specifically drill cuttings at waste sites. In practice, RRC would pay a contractor to come to a waste site, treat the waste for subsequent beneficial reuse, and leave the treated waste at the site for sale or disposition by RRC. As such, the bill also authorizes RRC to sell the recycled waste materials at an authorized facility. Any proceeds earned through the sale of recycled materials would be credited to the oil and gas regulation and cleanup fund, which may be used to recover the costs incurred while cleaning and remediating waste sites.

05-18-21 G Earliest effective date

Bills that Did Not Pass

HB 167 Ortega, Lina (D) Relating to **common and public nuisances**.

05-18-21 S Referred to Senate Committee on Senate Jurisprudence

HB 947 Sherman, Carl (D) relating to the **electronic filing** with and the recording by county clerks of records conveying title to or an interest in real property.

Summary. A county clerk may not accept electronic documents that convey title to or an interest in real property. Adds a new section to the Uniform Real Property Electronic Recording Act, 15.0025: "This chapter does not apply to a document that conveys or purports to convey title to or an interest in real property."

03-01-21 H Introduced and referred to committee on House Business and Industry

HB 948 Sherman, Carl (D) Relating to the **authentication and recording of instruments** conveying real property.

Summary. To be eligible for recording, instruments/documents conveying real property must have a notary seal that leaves a physical impression on the instrument/document. The secretary of state shall prescribe the design for the required seal.

03-01-21 H Introduced and referred to committee on House Business and Industry

HB 960 Allen, Alma (D) Relating to the **location of certain public meetings for certain permits** issued by the Texas Commission on Environmental Quality.

Summary. Amends Section 5.554, Water Code, by adding a provision that when a Legislator asks the TCEQ for a public meeting on the permit, the meeting will be held in the house district where the proposed facility is to be located.

03-30-21 H Reported favorably from committee on House Environmental Regulation

HB 964 Treatment, recycling for beneficial use, or disposal of drill cuttings.

Summary. For recycling, treatment, or disposal, the bill expands the definition of drill cuttings to include: "(a)ny associated sand, silt, drilling fluid, spent completion fluid, workover fluid, debris, water, brine, oil scum, paraffin, or other material cleaned out of the wellbore." Expands the definition of Permit Holder to include: "Permit holder" means a person who holds a permit from the Commission to operate a stationary commercial solid oil and gas waste recycling facility or an oil and gas waste disposal facility. Finally, it expands tort protections to include "disposal of drill cuttings."

05-26-21 S Withdrawn from the Local Calendar

HB 1834 Relating to a mineral contractor or subcontractor's lien to secure payment related to mineral activities.

Summary. The bill amends Sec. 56.002 of the Property Code to read as follows: " Sec. 56.002. LIEN. A mineral contractor or subcontractor has a lien to secure payment for "material, machinery, supplies", labor, or services related to the mineral activities.

03-19-21 H Removed from hearing 03/22/21 - House Energy Resources

HB 2131 Ellzey, Jake (F) (R) Relating to the retention of instruments recorded in the property records of a county.

Summary. Adds to Section 13.002, Property Code on recorded instruments that a recorded instrument retention is permanent "unless a different retention period for the instrument is provided by a records retention schedule adopted under Section 441.158, Government Code (Local Record Retention Schedule), or by other law." Last Action. Filed H 02/23/21

03-15-21 H Introduced and referred to committee on House Business and Industry

HB 2381 Larson, Lyle(R) Relating to the establishment of the Texas Energy and Communications Commission to consolidate the functions of the Public Utility Commission of Texas and the Railroad Commission of Texas.

Summary. 59 page bill that abolishes the Public Utility Commission (PUC); renames the Railroad Commission (RRC) as the Texas Energy and Communications Commission (TECC) and creates the process for the functions of the PUC to move to TERCC by September 1, 2022.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2482 Reynolds, Ron (D) Relating to oil and gas operations.

Summary. 2000 feet or less \$200 to \$2,000 2000 to 4000 feet from \$225 to \$2,250 4000 to 9000 feet from \$250 to \$2500 9000 feet+ from \$300 to \$3,000 An inactive well must meet the following to become an active well, again: the well has reported production of at least 10 barrels of oil for oil wells or 100 MCF of gas for gas wells each month for at least three consecutive months; or reported production of at least one barrel of oil for oil wells or at least one MCF of gas for gas wells each month for 12 consecutive months.

03-16-21 H Introduced and referred to committee on House Energy Resources

HB 2814 Turner, Chris (D) Relating to the requirement of a public hearing on certain applications for a permit to drill an oil or gas well.

Summary. On drilling permit application, you would have to list whether "whether the proposed well site is located within 1,500 feet of the property line of a child-care facility, private school, or primary or secondary public school." RRC may not grant a permit unless a public hearing in the county of the well site and considers the comments received in making its decision to grant or deny the permit.

03-18-21 H Introduced and referred to committee on House Energy Resources

HB 2868 Longoria, Oscar (D) Relating to the **financial security requirements for operators** of oil and gas wells.

Summary. Summary. Same as SB 954 by Hinojosa and HB 2868 by Longoria.

Well Bonding Changes. (1) A person who operates 10 or fewer wells shall file a \$35,000 [\$25,000] blanket bond;

(2) a person who operates more than 10 but not more [fewer] than 20 [100] wells shall file a \$50,000 blanket bond;

(3) a person who operates more than 20 but not more than 35 wells shall file a \$75,000 blanket bond;

(4) a person who operates more than 35 but not more than 60 wells shall file a \$130,000 blanket bond;

(5) a person who operates more than 60 but fewer than 100 wells shall file a \$215,000 blanket bond; and

(6) [(3)] a person who operates 100 or more wells shall file a \$250,000 blanket bond.

Plugging Changes. an amount equal to the amount determined by the Commission under Section 91.1043 for the oil and gas division district in which the specified well is located multiplied by the number of feet [\$2 for each foot] of well depth, as determined in the manner specified by the Commission, for the [specified] well.

03-29-21 H Committee action pending House Energy Resources

HB 2881 Bailes, Ernest(R) Relating to the applicability of provisions governing **payment of the proceeds derived from the sale of oil or gas production to nonparticipating royalty interest** owners. Summary. Adds the following definition: "Nonparticipating royalty interest owner" means a mineral interest owner whose interest was conveyed without the right to negotiate lease terms or receive a bonus." This definition is then incorporated into the terms payee and royalty interest owner. The intent of the bill is to give a nonparticipating royalty interest owner the same rights as a royalty interest owner questions and information as to proceeds from production

03-18-21 H Introduced and referred to committee on House Energy Resources

HB 2882 Bailes, Ernest(R) Relating to **information provided** to a payee by a payor of proceeds of production from **an oil or gas well that traverses multiple tracts**.

Summary. Adds the following definition: "Nonparticipating royalty interest owner" means a mineral interest owner whose interest was conveyed without the right to negotiate lease terms or receive a bonus." This definition is then incorporated into the terms payee and royalty interest owner. The intent of the bill is to give a nonparticipating royalty interest owner the same rights as a royalty interest owner questions and information as to proceeds from production

03-18-21 H Introduced and referred to committee on House Energy Resources

HB 2883 Bailes, Ernest(R) Relating to the **information a payor of the proceeds of production from an oil and gas well is required to provide a payee**.

Summary. New Sections for Chapter 91 Natural Resource Code. Sec. 91.409. INFORMATION REQUESTED BY PAYEE. (a) This section applies to a payee who is requested by a payor to sign: (1) a ratification of a lease, pooling agreement, or unit designation; or (2) a division order. (b) On written request by a payee to whom this section applies, the payor must provide the payee with a copy of the document to be ratified or the lease underlying the division order, as appropriate. The payor must respond to the request not later than the 14th day after the date on which the request was received by the payor. (c) The failure of a payor to respond to a request described by Subsection (b) releases the obligation of the payee to sign the ratification or division order, as appropriate. A payee who is not obligated to sign a division order under this subsection is entitled to payment notwithstanding Section 91.402(c) (1). Sec. 91.410. REQUIRED INFORMATION IN PAYOR REQUEST. A payor's request that a payee ratify a lease, pooling agreement, or unit designation, or sign a division order, must include a statement that describes the payee's rights under Section 91.409

03-18-21 H Introduced and referred to committee on House Energy Resources

HB 2884 Bailes, Ernest(R) Relating to imposing on a payor of proceeds of production from an oil or gas well a duty to notify a payee when payments to the payee are suspended.

Summary. Adds a new section 409 to Chapter 91, Natural Resources.

Sec. 91.409. NOTIFICATION OF SUSPENSION OF PAYMENTS. (a) When a payor suspends a payment to a payee for a reason other than a reason described by Section 91.402(f), the payor shall send to the payee a written notice stating that payments have been suspended and explaining in reasonable detail the reason for the suspension. The notice must be sent not later than the 30th day after the date the payment was suspended and must include the information required by Section 91.502(1).

(b) A payor that suspends payment to a payee for a reason other than a reason described by Section 91.402(f) without sending to the payee notice of suspension as provided by Subsection (a) shall pay to the payee interest on the amount of the suspended payment for the period that begins on the 31st day after the date the payment is suspended and ends on the date notice of the suspension is delivered to the payee. The rate of interest to be paid under this subsection is a rate two points higher than the rate charged for that period on loans to depository institutions by the New York Federal Reserve Bank, unless a different rate is specified by a written agreement between the payor and payee.

03-18-21 H Introduced and referred to committee on House Energy Resources

HB 2957 Geren, Charlie(R) Relating to inspections and examinations by the Railroad Commission of Texas of certain sites and facilities conducted using unmanned aircraft.

Summary. Amends 423.002(a), Government Code (Drone Act) to allow the Railroad Commission to inspect an oil or gas site or facility, including a well, tank, or disposal or injection site; (B) a pipeline facility; or (C) a surface mining site. The bill does address the right of access via a drone, but should it require notice to the operator. 423.0045 of the Government Code prohibits flights like this one over oil and gas facilities.

05-13-21 Not heard in committee Senate Natural Resources/Economic Development

HB 3183 Rosenthal, Jon (D) Relating to the cold weather preparedness of gas wells and pipeline facilities.

Summary. The Railroad Commission (RRC) shall by rule require a gas well operator to: "(1) implement measures to prepare the well to operate during sustained periods of cold weather; and (2) provide to the commission a biannual report of the efforts the operator has taken to implement the measures required under Subdivision (1)." No definition of "sustained periods of cold weather. Penalties if we do not report. For pipes, the RRC by rule shall require "measures gas pipeline facility operators must implement to prepare gas pipeline facilities to

maintain service quality and reliability during sustained periods of cold weather. (d) Measures adopted under Subsection (a)(3) must require: (1) the installation of condensate drains in pipelines; (2) that drains installed under Subdivision (1) be installed in a manner that ensures the drains remain free of frost at all times; and (3) that valves, pumps, and other pressure-sensitive equipment be protected from weather by insulation or heaters." Penalties if they do not report

03-19-21 H Introduced and referred to committee on House Energy Resources

HB 3567 Goodwin, Vikki (D) Relating to a **study** by the Railroad Commission of Texas regarding the **use of flared natural gas for on-site electric generation**.

Summary. The Railroad Commission shall study the feasibility of and barrier to operators using flared natural gas for on-site generation. The Commission shall report the results by December 1, 2022, to the Lt. Governor, Speaker and standing committees with jurisdiction. Last Action. Filed H 031021

03-22-21 H Introduced and referred to committee on House Energy Resources

HB 3733 Bell, Cecil(R) Relating to the **regulation of outdoor lighting** in certain counties.

Remarks: HB 3733 by Bell County Regulation-Outdoor Lighting Summary. Gives counties the authority to regulate outdoor lighting...a county may. The bill brackets the authority to counties with a population of less than 75,000 that is adjacent to three counties with a population of 450,000 or more. Last Action. Filed H 031121

03-22-21 H Introduced and referred to committee on House County Affairs

HB 3866 Murr, Andrew(R) Relating to the **offense** of operating or loading an **overweight vehicle**.

Summary. 621.506 Transportation Code creates a misdemeanor offense with fines for the individual that causes to overload a truck. HB 3866 extends that criminal responsibility to the business entity that employees that individual. If the fine is unpaid, then a district or county attorney may sue to collect the fine. Last Action. Filed H 031121

03-24-21 H Introduced and referred to committee on House Transportation

HB 3881 Goldman, Craig(R) Relating to the creation of an **advisory committee** by the Railroad Commission of Texas to **facilitate the movement of natural gas to high priority customers during periods of emergency**.

Summary. The bill give the Railroad Commission (RRC) the authority to establish the Texas Energy Reliability Council to coordinate and facilitate natural gas supplies to human needs and other high priority needs during emergencies when the supply of natural gas may not be sufficient to meet the demand for natural gas.

04-12-21 H Committee action pending House Energy Resources

HB 3973 Walle, Armando (D) Relating to the **composition and use of money in the oil and gas regulation and cleanup fund.**

Summary. A study on abandoned oil and gas wells in this state and the use of the oil and gas regulation and cleanup fund. The Substitute turns the bill into a Joint House Senate (five Reps + five Senators) study of abandoned oil and gas wells in this state and the use of the oil and gas regulation and cleanup fund. See RRC Budget.

05-28-21 S Senate appointed conference committee Nichols, Nelson, Huffman, Kolkhorst and Taylor

SB 367 Miles, Borris (D) Relating to the requirements for an application for a **permit to drill** an oil or gas well at a site adjacent to a **well blowout site.**

Summary. Similar to his bill from the last session. Applies only in counties with a population over 750,000. An Operator in their application for a permit to drill must disclose whether: "the applicant was the operator of an oil or gas well: (1) located at a site adjacent to the site of the proposed well; (2) drilled through or into the same formations as the proposed well is to be drilled; and (3) from which an uncontrolled release of a subterranean fluid containing oil, gas, or condensate or of a well fluid that is caused by a loss of well control occurred while the applicant operated the oil or gas well."

Now has allocation amendment.

(d) Unless expressly prohibited by a lease, deed, or other contract, an operator or lessee with the right to drill an oil or gas well on or produce or develop oil or gas from each tract independently may, under a permit issued by the Commission, drill, operate, and produce oil or gas from an oil or gas well, whether or not adjacent to a well blowout site described by Section 91.118, that traverses multiple tracts in order to prevent waste, promote conservation, or protect correlative rights.

05-29-21 S Set on the Senate Items Eligible Calendar

Air Quality

Bills That Passed. Sent to the Governor or Signed by the Governor

Overview. One of the most important bills for Texas, HB 1284, on carbon dioxide injection passed. This ensures a framework can exist for what is quickly developing across the state of Texas. Air quality in Texas is not only a practical and political challenge for our members and lawmakers, it is one of the issues other states use against us on bringing new business to Texas. HB 1284 puts in place storage capability for man-made carbon dioxide that will soon be captured from many of our nonattainment areas. The Railroad Commission will manage the program, and will seek EPA Primacy for these injection wells. Though we tracked a number of Texas Emission Reduction Bills, very few passed, except for HB 2361 and SB 1263, which changes the program's approach and allows for funding for new technology for natural gas flaring. Finally, we note that no longer will local government be able to ban natural gas in their locales with the passage of HB 17.

HB 17 Deshotel, Joe (D) No Natural Gas Bans

Summary. "No regulatory authority, planning authority, or political subdivision of this state may adopt or enforce an ordinance, resolution, regulation, code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service based on the type or source of energy to be delivered to the end-use customer."

5-18-21 G Earliest effective date

HB 963 Lozano, Jose(R) Zaffirini, Judith (D) Relating to the Texas natural gas vehicle grant program.

Summary. Amends the natural gas vehicle grant program to allow "used natural gas vehicles" to qualify for the grant program. "(c) A used natural gas vehicle that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle must be of model year 2017 or later, provided that the model year may not be more than six years older than the current model year at the time of the submission of the grant application."

05-25-21 G Sent to the Governor

HB 1284 Paddie, Chris(R) Relating to the jurisdiction of the Railroad Commission of Texas over the injection and geologic storage of carbon dioxide.

Summary. The bill gives the Railroad Commission jurisdiction over all onshore and state waters CO2 injection wells, the injection of natural and anthropogenic (man-made) CO2, and injection for enhanced oil recovery and sequestration (storage). TCEQ's role in

permitting/approval of injection for sequestration is removed. Funding for the Commission for this program will come from the anthropogenic CO2 storage trust fund.

05-25-21 G Sent to the Governor

HB 2361 Relating to the **new technology implementation grant program** administered by the Texas Commission on Environmental Quality.

Summary. HB 2361 increases funding for technology from three to six percent. Decreases funding for the clean fleet from five to two percent. Broadens the funding for flares and other site emissions by deleting "by capturing waste heat to generate electricity solely for on-site service." and adds "reduced flaring" grants to the preference list. Now allows grants to cover costs of operating and maintaining the emissions equipment. It should be helpful to fund new flare technology.

05-25-21 G Sent to the Governor

HB 4472 Relating to the Texas emissions reduction plan fund and account.

Summary. The bill makes several **changes to the Texas Emission Reduction Plan**. The most significant change is 35% of the fund being sent to the Texas Department of Transportation to address air emissions due to traffic congestion in nonattainment areas. (TXDOT is to use the money to fix road locations where cars sit for hours every day emitting air emissions.)

05-30-21 As finally passed

Bills That Did Not Pass

HB 860 Collier, Nicole (D) Relating to changes to an application for an environmental permit before a contested case hearing on the application.

Summary. Amends Section 2003.047, Government Code, by adding Subsection (d-1) to read as follows: (d-1) An applicant whose application has been referred for a contested case hearing to be held in accordance with this section may not request changes to the application after the 31st day before the date scheduled for the preliminary hearing on the application. This subsection does not apply to a change made to an application for which: (1) a preliminary hearing has been held and parties to the hearing have been named; (2) all parties to the hearing have agreed in writing to the proposed changes; and (3) the applicant has complied with applicable notice requirements. Deletes 382.0291(d) of the Health and Safety Code An applicant for a license, permit, registration, or similar form of permission required by law to be obtained from the Commission may not amend the application after the 31st day before the date on which a public hearing on the application is scheduled to begin. If an amendment of an application would be necessary within that period, the applicant shall resubmit the application to the Commission and must again comply with notice requirements and any other

requirements of law or commission rule as though the application were originally submitted to the Commission on that date. Refile of HB 1006 by Collier from last session.

Last Action: 03-01-21 H Introduced and referred to committee on House Environmental Regulation

HB 896 Reynolds, Ron(D) Relating to air quality permits issued by the Texas Commission on Environmental Quality for certain oil and gas facilities.

Summary. Applies only to new facilities or modifications of existing facilities that belong to Standard Industrial Classification Codes 1311 (Crude Petroleum and Natural Gas), 1321 (Natural Gas Liquids), 4612 (Crude Petroleum Pipelines), 4613 (Refined Petroleum Pipelines), 4922 (Natural Gas Transmission), and 4923 (Natural Gas Transmission and Distribution). The only way to communicate the breadth of the bill is to provide the language. New Requirements. (1) the permit holder of a new facility or an existing facility that has been modified to establish a quarterly inspection and maintenance program for the detection and repair of leaks from all valves, pump seals, flanges, compressor seals, pressure relief valves, open-ended lines, tanks, and other process and operation components of the facility that could result in fugitive emissions; (2) for a new facility, a prohibition on the use of venting and limitations on the use of flaring; (3) for an existing facility that has been modified, the elimination of the use of venting and a reduction in the use of flaring; (4) limitations on emissions of volatile organic compounds from storage tanks that have the potential to emit more than one ton of volatile organic compounds per year; (5) limitations on emissions of nitrogen oxides from compressor engines with more than 100 horsepower; (6) maintenance protocols and best practices for compressor stations; and (7) the use and maintenance of no-bleed and low-bleed pneumatic devices and controllers between a wellhead and a natural gas processing plant and the monitoring of emissions from those devices. (b) A program described by Subsection (a) (1) must require the use of leak detection equipment such as optical gas imaging cameras.

Last Action: 04-19-21 H Committee action pending House Environmental Regulation

HB 897 Reynolds, Ron(D) Relating to the analysis of inspection and maintenance requirements for air quality permits issued by the Texas Commission on Environmental Quality for certain oil and gas facilities.

Last Action: 04-19-21 H Committee action pending House Environmental Regulation

HB 1721 Reynolds, Ron (D) Relating to a study by the Texas Commission on Environmental Quality of air contaminants in residential areas in certain counties.

Last Action: 03-29-21 H Committee action pending House Environmental Regulation

HB 1820 Zwiener, Erin (D) relating to the regulation, monitoring, and enforcement of matters under the jurisdiction of the Texas Commission on Environmental Quality.

Summary. This 13 page bill makes major changes to the number of emission events before you get either a major penalty or lose your permits. Other areas of change include: 1) in addition to other penalties you will pay \$1 per pound for each pollutant released; 2) Determinations that "will substantially endanger human health"; 3) Develop toxic chemical emergency alert system.

Last Action: 05-13-21 H Set on the House Calendar

HB 1821 Zwiener, Erin (D) Relating to climate change planning and reporting.

Summary. Not later than June 1, 2022, and before the end of each successive four-year period after that date, the Commission and the office shall prepare a report on the potential impact of climate change in this state. Not later than December 1, 2022, and before the end of each successive four year period after that date, the Commission and the office shall create a climate change action plan

Last Action: 03-11-21 referred to committee on House Environmental Regulation

HB 2369 Morales Shaw, Penny) Relating to the shutdown during a weather-related disaster of facilities that have reported emissions events to the Texas Commission on Environmental Quality.

Summary. TCEQ to "adopt rules to implement, in the event of a state or federally declared weather-related disaster, a system of staggered shutdowns for regulated entities located in the area covered by the disaster declaration that are required to report emissions events under Section 382.0215." TCEQ is to develop a list of regulated entities with highest emission events to be shut-down first.

Last Action: 03-15-21 H Introduced and referred to committee on House Environmental Regulation

HB 2468 Thompson, Ed(R) relating to programs established and funded under the Texas emissions reduction plan.

Summary. Adds grants and funding for "the purchase, maintenance, upgrade, and operation of air monitoring equipment as provided by Section 386.252(a)" with funding set at not more than \$10 million for this purpose "in nonattainment areas and affected counties." Increases air quality research from \$750,000 to \$1 million. Increases funding from \$2.5 million to \$5 million for research on foreign emissions or an exceptional event.

Last Action: 05-10-21 S Referred to Senate Committee on Senate Natural Resources

HB 2994 Lopez, Ray (D) Relating to programs that can be established and funded under the Texas emissions reduction plan.

Summary. Adds funding under TERP for projects that reduce emissions through improvements in energy production efficiency using supercritical carbon dioxide.

Last Action: 04-12-21 H Committee action pending House Environmental Regulation

HB 4253 Perez, Mary Ann (D) Relating to the procedure for qualifying for the exemption from ad valorem taxation of pollution control property.

Last Action: 03-29-21 H Introduced and referred to committee on House Ways and Means

SB 366 Miles, Borris (D) Relating to the minimum amount of an administrative penalty assessed by the Texas Commission on Environmental Quality for a violation of certain laws.

Summary. Amends Water Code Section Sec. 7.0521. MINIMUM PENALTY. "(a) Except as provided by Subsection (b), the amount of an administrative penalty assessed under this subchapter may not be less than \$250 a day for each violation. (b) This section does not apply to an administrative penalty assessed against a facility operator who violates Chapter 506 or 507, Health and Safety Code, or a rule adopted or order issued under those chapters."

Last Action: 03-09-21 S Introduced and referred to committee on Senate Water, Agriculture and Rural Affairs

SB 622 Gutierrez, Roland (F) (D) Relating to the new technology implementation grant program.

Summary. The bill modifies the statute to allow funding for reduced flaring and emissions. Projects that may be considered for a grant under the program include: "(C) the installation of systems that reduce flaring emissions and other site emissions." The "commission shall give preference to projects that: (5) systems that reduce flaring emissions and other site emissions."

Last Action: 02/08/2021 S Filed

Last Action: 03-11-21 S Introduced and referred to committee on Senate Natural Resources/Economic Development

SB 684 Blanco, Cesar (F) (D) Relating to an affirmative defense to a Texas Commission on Environmental Quality enforcement action for unauthorized emission events.

Summary. Repeals the affirmative defenses to an unauthorized release under Sections 382.0216(f) and (h), Health and Safety Code.

Last Action: 03-11-21 S Introduced and referred to committee on Senate Natural Resources/Economic Development

Broadband

Bills Signed by Governor or Sent to the Governor

Overview. For the second session in a row, PBPA pushed for rural broadband for those who live, work, and raise their families in the Permian Basin. The impact of Covid 19 on all of us and particularly the school-age students, further illustrated the fundamental importance of this vital educational tool. HB 5 provides a broad state program. HB 1505 and HB 3853 provide real-world solutions in terms of being able to attach wires to electric poles. SB 507 is another real-world solution in offering service providers access to the state highways' right of way.

HB 5 Ashby, Trent(R) Relating to the expansion of broadband services to certain areas.

Summary. Rural Texas suffers from a lack of broadband service. Improving broadband service in the Permian Basin is and has been a priority for the PBPA. HB 5 begins the steps for the state to increase broadband service. You will see other bills that support improved broadband service in rural Texas. The creates the State Broadband Development Office (SBD) to promote the expansion of access to broadband in Texas. It is administratively attached to The University of Texas System and is governed by an 11-member board of advisors. The SBD will serve as a resource for broadband service information and outreach to communities regarding expanding and adopting broadband service. SBD will create and publish a map that identifies areas where 80 percent of the addresses have access to broadband and those where they do not. The map will also display the number of service providers providing service in an area and also identify where there may be service at a speed of less than 25/3. The SBD will establish a Broadband Development Program to award grants, low-interest loans, and other financial incentives to expand access to broadband.

05-30-21 As finally passed

HB 1505 Relating to attachments for **broadband service on utility poles** owned by an electric cooperative.

Summary. Another bill to increase broadband access in rural Texas. It creates the process and the compensation process for a broadband provider to attach the service cables to poles owned by electric cooperatives.

05-28-21 House concurred in Senate amendments (Y: 128/N: 17)

HB 3853 Relating to middle mile **broadband service provided by an electric utility.**

Summary. HB 3853 allows electric utilities the ability to partner with internet service providers who agree to lease capacity on a utilities existing middle mile fiber or future fiber expansion. With oversight by the Public Utility Commission of Texas (PUC), electric utilities would develop and lease middle mile fiber assets. The PUC will determine the terms, conditions, and pricing for middle mile assets through rulemaking, with guidance from the legislature. Electric utilities will continue to utilize the same cost recovery mechanisms used today when building

out their internal fiber network. Electric utilities will determine the method of attachment and connection to transmission, distribution, and fiber assets.

05-30-21 As finally passed

SB 507 Accommodation process for broadband-only providers to use of state rights-of-way.

Summary. Under current law, utilities may use state highway rights-of-way. Broadband providers may not. SB 507 directs TxDOT to adopt rules to **allow broadband-only providers to use state highway rights-of-way** and removes this barrier to broadband deployment.

05-29-21 Sent to the Governor

Broadband Bills that Did Not Pass

HB 425 King, Ken(R) Relating to the use of the universal service fund for the provision of broadband service in underserved rural areas.

Summary. Use of the universal service fund for the provision of broadband service in underserved rural areas. If a provider elects to participate and meets PUC eligibility requirements, then PUC "shall provide from the universal service fund support for broadband service providers to offer retail broadband service in underserved rural areas of this state at rates comparable to the benchmark rates established by the Federal Communications Commission."

04-13-21 H Reported favorably from committee on House State Affairs

HB 1446 Ashby, Trent(R) Relating to the expansion of broadband services to certain areas.

Summary. Creates an 18 member council (o&g industry not an appointee) to study and advise on the issue and advise the Broadband Development Office (BDO) in the Comptroller's Office. The BDO will run the Broadband Development Program (Program). BDO will create a census block map showing which blocks have 80% or more broadband access. Under the Program, the BDO will award grants, low-interest loans, and other financial incentives to applicants to expand broadband. A general revenue account is created and funded by general appropriations, gifts, interest and available federal funds. See SB 506 by Nichols Companion.

Last Action. : 03-05-21 H Introduced and referred to committee on House State Affairs

HB 1452 Rosenthal, Jon(D) Relating to the establishment by the Railroad Commission of Texas of a policy to eliminate the routine flaring of natural gas from wells or other facilities regulated by the commission.

Summary. Amends Sec. 86.186. by adding that the Railroad Commission shall by rule eliminate "routine flaring" from wells and other facilities before December 31, 2025, by "(1) regulatory, incentive-based, or voluntary approaches for achieving the goals of the policy; and (2) interim

goals for individual wells or other facilities or for operators of wells or other facilities." The policy must allow flaring for safety or emergency purposes authorized under Section 86.185 on both a short and long term basis. Does not define "routine flaring."

Last Action. 03-05-21 H Introduced and referred to committee on House Energy Resources
HB 2531 Anderson, Doc(R) Relating to an accommodation process authorizing the use of state highway rights-of-way by broadband-only providers.

Last Action 04-01-21 H Not heard in committee House State Affairs

SB 154 Perry, Charles(R) Relating to the creation of the broadband office within the Public Utility Commission of Texas and the establishment of a broadband service investment grant program.

Summary. Creates within the PUC an underserved rural broadband office with the power to make grants. They are supposed to seek federal dollars. The broadband office shall facilitate and coordinate state agencies, hospitals, schools, and local units of government, including regional planning commissions, in connection with broadband service projects—lots of strings and maybes with this bill.

03-03-21 S Introduced and referred to committee on Senate Transportation

SB 506 Nichols, Robert(R) Relating to the expansion of broadband services to certain areas.

3- 5-21 H Introduced and referred to committee on House State Affairs

SB 506 by Nichols. Broadband Development Office/Program

Summary. Creates an 18 member council (o&g industry not an appointee) to study and advise on the issue and advise the Broadband Development Office (BDO) in the Comptroller's Office. The BDO will run the Broadband Development Program (Program). BDO will create a census block map showing which blocks have 80% or more broadband access. Under the Program, the BDO will award grants, low-interest loans, and other financial incentives to applicants to expand broadband. A general revenue account is created and funded by general appropriations, gifts, interest and available federal funds. See HB 1446 by Ashby Companion.

Last Action. 03-09-21 S Introduced and referred to committee on Senate Transportation

SB 1246 Perry, Charles(R) Relating to universal service fund assistance to high cost rural areas and the uniform charge that funds the universal service fund.

Last Action. 03-18-21 S Introduced and referred to committee on Senate Business and Commerce

Electricity

Overview. Winter Storm Uri left Texans cold and in the dark and given the breadth of its impact, every single member of the Legislature was affected and will have to answer for this failure throughout the interim. Because of that and more it changed the dynamics of the session. We tracked 152 electricity bills, likely a record. Out of 181 legislators, that is a lot on one subject. SB 3 is the omnibus bill on the subject. It is "Difficult for us, but doable." We will spend the interim at the Railroad Commission and the Public Utility Commission working on new regulations and legislative reports. (We will be providing a Regulatory and Reports Outline for more details in the coming days) HB 1520 is an example of the breadth of bills. We never expected the Railroad Commission to be in the "bond business." Still, they are, in an attempt, to spread the repayment cost of natural gas customers and gas utilities over time. We avoided a wholesale weatherization requirement, but there is much to be done for our industry to map the supply chain and facilities being designated as critical infrastructure. We know this track is long, but we wanted to give you a sense of the issue. We may not be done legislatively. We may see this issue in a Special Session this fall, if there are issues in the summer.

Bills That Passed. Sent to the Governor or Signed by the Governor Date

SB 3 Relating to preparing for, preventing, and responding to weather emergencies, power outages, and other disasters.

Summary. SB 3 would provide for the **preparation for, prevention of, and response to extreme weather emergencies and extended power outages** and establish related requirements for the Public Utility Commission (PUC), the ERCOT organization, the Railroad Commission (RRC), the Texas Division of Emergency Management (TDEM), and the Texas Commission on Environmental Quality (TCEQ). The bill would provide for the mapping of the state's electricity supply chain; require weather emergency preparedness for natural gas, electric, and water service entities; and provide for certain administrative and civil penalties. The bill would establish the Texas Energy Disaster Reliability Council and the State Energy Plan Advisory Committee and create a power outage alert. The bill also would set requirements for load management, provision of transmission service, and critical natural gas facilities during energy emergencies.

Supply chain mapping committee. The Texas Electricity Supply Chain Security and Mapping Committee would map the state's electricity supply chain, identify related critical infrastructure sources and establish best practices to prepare facilities to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities, and designate priority service needs to prepare for, respond to, and recover from an extreme weather event. The bill would define "electricity supply chain" to mean facilities and methods used for producing, treating, processing, pressurizing, storing, or transporting natural gas for delivery to electric generation facilities and critical infrastructure necessary to maintain

electricity service. Note that if your oil and gas facility is not designated on the map, you do not have to weatherize. There will be significant rulemaking and reports by the Railroad Commission and the Public Utility Commission. See PBPA Rulemaking and Report summaries.

05-30-21 House adopted conference report (Y: 142/N: 0)

05-30-21 Senate adopted conference report (Y: 30/N: 1)

HB 16 Hernandez, Ana (D) Relating to a **prohibition on the sale of wholesale indexed products** by retail electric providers.

Summary. A retail electric provider may not offer a wholesale indexed product to a residential customer.

09-01-21 G Earliest effective date

HB 1520 Securitization of extraordinary costs incurred by certain gas utilities.

Summary. A most extraordinary role for the Railroad Commission is that it provides a method of public financing for customer rate relief bonds authorized by the Railroad Commission. HB 1520 seeks to minimize the extraordinary cost of natural gas that customers might experience as a result of Storm Uri, as well as from future extraordinary costs from potential catastrophic events such as natural and man-made disasters or system failures, by providing securitization financing to enable gas utilities to recover these costs. This financing mechanism will provide rate relief to customers by extending the time frame over which the extraordinary costs are recovered and will support gas utility companies' financial strength and stability.

05-30-21 As finally passed

HB 1572 Craddick, Tom(R) Relating to electric service equipment.

Summary. HB 1572 provides that an **electric generator may rent generators on a per megawatt-hour, as opposed to a flat fee only**. The current statutes prohibit any per megawatt-hour billing except by licensed retail electric providers. HB 1572 addresses this issue by clarifying that a retail electric provider includes a business that rents electric generation equipment and allowing such a business to lease on a per megawatt-hour rather than solely a flat fee.

05-22-21 G Sent to the Governor

HB 3648 Designation of Certain Gas as Critical Infrastructure

Summary. The Public Utility Commission and the Railroad Commission shall adopt rules that designate certain gas entities and facilities as critical during an emergency. The Public Utility Commission of Texas (PUC), Railroad Commission of Texas (RRC), transmission and distribution utilities, municipally owned utilities, and electric cooperatives have developed and

distributed an Application for Critical Load Serving Electric Generation and Cogeneration, but the application continues to be voluntary. HB 3648 seeks to resolve this issue by requiring the PUC and the RRC to work together to adopt certain rules to designate certain gas entities and facilities as critical during an energy emergency. The transmission and distribution utilities, municipally owned utilities, and electric cooperatives, however retain discretion to prioritize power delivery and power restoration among the customers on their respective systems, as circumstances require.

05-30-21 As finally passed

SB 760 Springer, Drew (F) (R) Relating to the **removal of solar power facilities**.

Summary. Sets out the requirement to remove solar power facilities including underground cables and the standards by which the removal must be done. It includes remediation standards for holes created by the removal.

05-29-21 G Sent to the Governor

SB 1281 Certificates of public convenience and necessity for certain **transmission projects**.

Summary. Makes changes to the "tests" for the Public Utility Commission's decision-making process to approve new transmission projects by reinstating the "consumer impact test" to determine if the project will save consumers money.

05-30-21 House adopted conference report (Y: 137/N: 0)

05-30-21 Senate adopted conference report (Y: 31/N: 0)

SB 2154 Relating to the **membership of the Public Utility Commission** of Texas.

Summary. SB 2154 changes the **three member Commission to a five member Commission**

05-30-21 Senate adopted conference report (Y: 30/N: 1)

05-30-21 House adopted conference report (Y: 109/N: 26)

Bills they Did Not Pass

HB 10 Paddie, Chris(R) Relating to the governing body of the independent organization certified to manage the ERCOT power region.

Summary. HB 10 by Paddie ERCOT Board Reforms Summary. HB 10 is the House Bill on ERCOT Board Reforms. Adds the following members to the ERCOT Board: one member representing residential consumer interests appointed by the governor; two additional members appointed by the governor; one member appointed by the lieutenant governor; and one member appointed by the speaker of the house of representatives. The appointments must be made before September 1, 2021. The Governor shall designate the ERCOT Chair.

The Board Members serve staggered two year terms. Board members and ERCOT CEO must be Texas residents.

05-26-21 S Placed on the Senate Calendar for

HB 11 Paddie, Chris(R) Relating to the extreme weather emergency preparedness of facilities for providing electric service.

Summary. CSHB 11 would require the Public Utility Commission (PUC) by rule to require each provider of generation in the ERCOT power region and each electric cooperative, municipally owned utility, and transmission and distribution utility providing transmission or distribution service in the ERCOT power region to: implement measures to prepare facilities to provide adequate electric generation service or to maintain service quality and reliability during an extreme weather emergency; □ make efforts to prevent service interruptions during an extreme weather emergency and to reestablish service in the shortest time period after a service interruption; and make reasonable efforts to manage emergencies caused by service interruptions, including issuing instructions to employees on procedures to be followed. The bill would define an "extreme weather emergency" as a period of time when: the previous day's highest temperature did not exceed 10 degrees Fahrenheit and the temperature was predicted to remain at or below that level for the next 24 hours; or □ the National Weather Service issued a heat advisory for any county in the relevant service territory or when such an advisory had been issued on any one of the previous two days. The PUC would have to adopt rules by November 1, 2021, and the rules would have to address electric service for all neighborhoods, rural areas, communities of fewer than 1,000 people, and low-income areas in the ERCOT power region. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

05-03-21 S Committee action pending Senate Jurisprudence

HB 12 Raymond, Richard (D) Relating to a **study on a statewide disaster and extended power outage alert** system and implementation of that system.

05-03-21 S Committee action pending Senate Jurisprudence

HB 13 Paddie, Chris(R) Relating to the **establishment of the Texas Energy Disaster Reliability Council**.

Summary. HB 13 by Paddie Texas Energy Disaster Reliability Council Summary. The purpose of the council is prevent an extended power outage caused by a disaster. It is to study and make recommendations on methods to maintain reliability in the electric grid, including gas supply networks, during a disaster. It is made up of the RRC, PUC, ERCOT and the Division of Emergency Management who will serve as the presiding officer.

05-03-21 S Committee action pending Senate Jurisprudence

HB 14 Goldman, Craig(R) Relating to the creation of the **Texas Electricity Supply Chain Mapping Committee**.

05-13-21 S Committee action pending Senate Jurisprudence

HB 427 King, Ken(R) Imposing an **additional fee for the registration of electric and hybrid vehicles**.

Summary. Establishes a fee on electric (\$200) and hybrid (\$100) vehicles to help offset the costs of using the public highways that have been paid for with fuel taxes. Refile of HB 1971 last session.

04-20-21 H Committee action pending House Transportation

HB 433 King, Ken(R) Relating to imposing a **tax on the generation of electricity** by certain electric generators.

Summary. A tax is imposed on each electric generator in this state that generates electricity using an energy source other than natural gas. The rate of the tax imposed by this chapter is one cent for each kilowatt-hour of electricity generated using an energy source other than natural gas. Money goes to the Foundation School Fund.

02-25-21 H Introduced and referred to committee on House Ways and Means

HB 1607 Darby, Drew(R) Relating to **certificates of public convenience** and necessity for certain transmission projects.

Summary. The renewable/wind folks drafted the bill due to transmission and congestion constraints for their projects. Rep. Darby sent us a draft for review. PBPA's Electric Coalition has reviewed the bill. Permian producers also face transmission and congestion issues. As drafted, the Coalition would recommend we oppose the bill unless our intra-zonal congestion issue and other issues are resolved to our satisfaction.

05-03-21 Received in the Senate

HB 1672 Holland, Justin(R) Relating to the use of **electric energy storage** facilities in the ERCOT power region.

Summary. HB 1672 by Holland Batteries to the Grid. Summary. Allows the distribution companies to have batteries to provide "reliable delivery of electricity. Amends Sec. 35.151 Utilities Code. This subchapter applies only to the ownership or operation of electric energy storage equipment or facilities in the ERCOT power region that are intended to: (1) provide energy or ancillary services at wholesale, including electric energy storage equipment or facilities listed on a power generation company's registration with the commission or, for an exempt wholesale generator, on the generator's registration with the Federal Energy Regulatory Commission; or "(2) provide reliable delivery of electric energy to distribution customers."

04-07-21 H Reported from committee as substituted House State Affairs

HB 1731 Tinderholt, Tony(R) **Protection of the electric power transmission and distribution system.**

Summary. The Public Utility Commission (PUC) "by rule shall identify and implement design standards for the electric power transmission and distribution system to limit electromagnetic field levels and protect the transmission and distribution system." The PUC "by rule shall require the independent organization certified under this section to consider electromagnetic field levels when determining the public need for a transmission line."

03-10-21 H Introduced and referred to committee on House State Affairs

HB 1965 Beckley, Michelle (D) Relating to the authority of the Public Utility Commission of Texas to ensure the Electric Reliability Council of Texas has **adequate reserve power** to prevent blackout conditions.

Summary. The PUC "by rule shall develop a process for obtaining emergency reserve power generation capacity as appropriate to prevent blackout conditions caused by shortages of generated power in the ERCOT power region." Cost of reserve power is to be shared "equitably." Use of reserve power would only occur after all power sources and demand reduction have been used.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 1972

Gervin-Hawkins, Barbara (D) Relating to **statewide requirements for renewable electric generating capacity.**

Summary. HB 1972 by Gervin-Hawkins Renewable Energy Standard Summary. "Of the total amount of generating capacity installed in this state: (1) 50 percent must come from renewable energy technologies by January 1, 2030; and (2) 100 percent must come from renewable energy technologies by January 1, 2050."

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2015 Reynolds, Ron (D) Relating to a study regarding the **feasibility** of implementing certain **renewable energy standards.**

Summary. The PUC "shall conduct a study on the feasibility of expanding the renewable energy goal under Section 39.904, Utilities Code, to establish a goal that 50 percent of the generating capacity installed in this state comes from renewable sources by 2030 and 100 percent of the generating capacity installed in this state comes from renewable sources by 2050."

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2016 Thierry, Shawn(D) Relating to the authority of the Public Utility Commission of Texas to ensure the Electric Reliability Council of Texas has **adequate reserve power** to prevent blackout conditions.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2034 Raymond, Richard (D) Relating to the **governing body** of the independent organization certified to manage the **ERCOT** power region.

Summary. HB 2034 by Raymond ERCOT-Changes in Structure Summary. ERCOT Board members and the ERCOT CEO must be Texas residents.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2078 Reynolds, Ron (D) Relating to the **governing body** of the independent organization certified to manage the **ERCOT** power region.

Summary. HB 2078 by Reynolds ERCOT-Changes in Structure Summary. ERCOT Board members and the ERCOT CEO must be Texas residents.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2165 King, Phil(R) Relating to the **membership of the Public Utility Commission** of Texas.

Summary. HB 2165 by King P PUC Commissioner Changes Summary. The number of commissioners is increased from three to five. One must be from rural Texas. They continue to serve six years, but "one or two members terms expire every two years.

03-15-21 H Introduced and referred to committee on House State Affairs

HB 2243 Wilson, Terry(R) Relating to a **landowner petition to partition** and transfer a geographic portion of a service area of an electric cooperative.

04-08-21 H Not heard in committee House State Affairs

HB 2275 Zwiener, Erin (D) Relating to **critical infrastructure resiliency and financing**.

Summary. HB 2275 by Zwiener Creates Water Infrastructure Fund Summary. The Water Infrastructure Fund is created for weatherizing and hardening water and wastewater systems. It covers wells, purchases reserve power supply such as onsite generation and energy storage systems, and builds connectivity to neighboring water suppliers. It requires various matching amounts from entities requesting funds. Note that it does allow funds for micro-grids.

05-14-21 S Received in the Senate

This list more than any other does not include 23 other pages of bills that did not pass

Eminent Domain

Overview. Eminent Domain continued to be an important issue for legislators and striking a balance between the need for development within the law and concerns about property rights is a difficult thing to do. Several sessions of failed attempts are easy to point to. This session however, an omnibus eminent domain bill did pass, HB 2730. Below is a summary, and we hope it is a deal that will stick for time to come, however given the number of eminent domain bills that did not pass, it looks like we are not done with this issue.

Bills That Passed. Sent to the Governor or Signed by the Governor Date

HB 2730 Acquisition of real property by an entity with **eminent domain** authority.

Summary. HB 2730 addresses the acquisition of real property by an entity with eminent domain authority and the regulation of easement or right-of-way agents. Key Provisions

- Landowner's Bill of Rights (LOBR) remains at the Office of the Attorney General with public comment;
- LOBR will include the right to file a complaint against a registered easement or right-of-way agent;
- In dealing with private entities, landowners are given required easement terms, unless a waiver is signed or the landowner provides his or her own form;
- Addendum will be added to the LOBR with the easement terms attached;
- Right-of-way agent education at the Texas Real Estate Commission; and
- Special commissioner's front-end process (timeline, alternate appointments, and strike period).

05-30-21 As finally passed

HB 4107 Exercise of the **power of eminent domain by a common carrier pipeline.**

Summary. Requires the property owner be provided with: Written notice of the carrier's intent to enter the property. An indemnification provision in favor of the property owner for any damages resulting from the survey. Must be provided to the property owner two days before the date of entry. Must include the phone number of a person whom the property owner may contact regarding any questions or objections the property owner has relating to the survey. It may be provided by first-class mail, e-mail, personal delivery to an adult living on the property, or by any other method of service authorized by the Texas Rules of Civil Procedure.

Entry to the property is subject to conditions that: the entry is limited to only the portion of the property that is anticipated to be affected by the route of the proposed pipeline; is limited to the purpose of conducting surveys; unless otherwise authorized by the property owner, does not authorize the cutting, removal, or relocation of a fence to conduct the survey without the prompt restoration or repair of the fence; requires the restoration of property to be as close as reasonably possible to the original condition before entry; requires all equipment and tools used in the survey to be removed by a certain date; and requires that the property owner, on written request, be provided, at no charge, all non-privileged information gathered from the entry, including surveys, reports, maps, and photographs.

05-28-21 G Sent to the Governor

SB 721 Schwertner, Charles(R) Relating to the **disclosure of appraisal reports** in connection with the use of eminent domain authority.

Summary. SB 721 would require condemnors to provide appraisals used at commissioner court hearings at least three business days before the hearing.

09-01-21 G Earliest effective date

SB 725 Schwertner, Charles(R) Relating to the **qualification of land for appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax** imposed on such land if the use of the land changes as a result of a condemnation

Summary. SB 725 amends current law relating to the qualification of land for the appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax imposed on such land if the land use changes as a result of a condemnation.

09-01-21 G Earliest effective date

SB 726 Schwertner, Charles(R) Relating to **establishing actual progress for the purposes of determining the right to repurchase** the real property from a condemning entity.

Summary. If land acquired by eminent domain has not been used for its intended purpose for ten years, the landowner may acquire it back unless there has been "actual progress" toward the intended use. SB 726 tightens up the definition of what is "actual progress."

09-01-21 G Earliest effective date

Bills that Did Not Pass

HB 37 Zwiener, Erin (D) Relating to the **issuance of a permit by the Public Utility Commission of Texas for the routing of certain oil or gas pipelines.**

Summary. Would have to get a permit from the Public Utility Commission to route an oil and gas pipeline. Similar to her bill from the last session

02-25-21 H Introduced and referred to committee on House State Affairs

HB 448 Bailes, Ernest(R) Relating to the right of property owners **to file complaints against certain entities regulated by the Railroad Commission of Texas** regarding alleged misconduct by the entities while exercising eminent domain authority.

Summary. Sec.81.073. (a) An entity regulated by the (Railroad) commission may not use a landowner's bill of rights statement prepared under Section 402.031, Government Code, to harass, intimidate, or otherwise mislead a property owner. The civil penalty is not more than: (1) \$1,000 for the first violation; and (2) \$5,000 for each subsequent violation.

05-26-21 S Withdrawn from the Local Calendar

HB 901 Burns, DeWayne(R) Relating to the **acquisition of real property by an entity with eminent domain authority**.

Summary. HB 901, applies only to private entities with eminent domain authority (e.g., oil and gas pipelines, electric transmission utilities) and deals primarily with the contents of a bona fide offer and specific easement terms. It also requires the entity to notify the county judge before it makes an initial offer to a landowner in that county. These are among the provisions included in SB 421 by Sen. Lois Kolkhorst (R-Brenham), which passed the Senate last session. TCJL/CCI summary.

03-30-21 H Committee action pending House Land and Resource Management

HB 902 Burns, DeWayne(R) Relating to the **acquisition of real property by an entity with eminent domain authority**.

Summary. HB 902, represents proposed legislation developed by the Coalition for Critical Infrastructure (CCI), a group of public and private entities with eminent domain authority organized by TCJL at the beginning of the 2017 session. CCI's purpose is to achieve eminent domain reform that enhances fairness, accountability, and transparency for landowners without generating costly litigation. Like HB 901, though in a slightly different way, HB 902 addresses the contents of the bona fide offer and specifies minimum easement terms for oil and gas pipelines. HB 902 additionally applies to both public and private entities, provides different options for landowner meetings, creates an ombudsman program to assist landowners with questions about the process, requires certification of right-of-way agents, and inserts into the law a revised Landowner Bill of Rights written in plain language. Each of these provisions responds to concerns about the process expressed over the past three sessions. TCJL/CCI summary

03-01-21 H Introduced and referred to committee on House Land and Resource Management

HB 3385 Rogers, Glenn (F)(R) Relating to a **landowner's bill of rights** statement in connection with the acquisition of real property through eminent domain.

Summary. Adds the following requirement: "(6) submit to the appraisal district office in the county in which the property is taxable a report of decreased value for the owner's remaining property after the taking." And "a copy of the report of decreased value form issued by the comptroller."

05-26-21 S Withdrawn from the Local Calendar

HJR 92 Schofield, Mike(R) Proposing a **constitutional amendment** concerning the right to **repurchase real property** acquired by a governmental entity through eminent domain.

Summary. Gives the person or that person's heirs, successors or assigns the right to repurchase property that has been acquired by eminent domain for public use, if the public use has been

canceled, no actual progress has been made by a time certain, or the property is unnecessary for public use.

03-11-21 H Introduced and referred to committee on House Land and Resource Management

HJR 93 Schofield, Mike(R) Proposing a **constitutional amendment prohibiting the taking of property by eminent domain for the purpose of transferring the property to a private entity.**

Summary. Amends Section 17(b), Article I of the Texas Constitution that property acquired by Eminent Domain for public use cannot be transferred to a private entity. Delete the ability to make such a transfer for economic development or enhancement of tax revenues.

03-11-21 H Introduced and referred to committee on House Land and Resource Management

SB 423 Hinojosa, Chuy (D) Relating to the **service of notice of a special commissioners' hearing** in an eminent domain proceeding.

Summary. Deletes notice provision to a deceased person and a nonresident owner and no personal service on the owner. Amends 21.016(d) Property Code as follows: (d) Notice may be served by delivering a copy of the notice to the party "or to the party's agent "or attorney or in another manner provided by the Texas Rules of Civil Procedure for service of citation."

03-09-21 S Introduced and referred to committee on Senate State Affairs

SB 722 Schwertner, Charles(R) Relating to the **failure to disclose certain appraisal reports** by an entity with eminent domain authority in connection with an offer to acquire real property.

Summary. If you fail to disclose all Appraisal Reports within the last ten years at the time of the offer to purchase, then condemnor is liable to the property owner for all reasonable attorney fees incurred.

03-11-21 S Introduced and referred to committee on Senate State Affairs

SB 723 Schwertner, Charles(R) Relating to **certain requirements in connection with the acquisition of real property** for public use by an entity with eminent domain authority.

04-26-21 H Referred to House Committee on House Land and Resource Management

SB 724 Schwertner, Charles(R) Relating to the **award of attorney's fees** and other costs in an eminent domain proceeding.

Summary. If the special commissioners or court decision as to damages is 20% greater than the final offer, then the condemnor will pay all hearing/court costs and "may" be required to pay reasonable attorney fees and other professional fees incurred by the property owner.

Bill History: 03-11-21 S Introduced and referred to committee on Senate State Affairs

Flaring and Venting

Overview. More specific than general air issues, flaring and venting continue to be optical and financial challenges for operators and a boon for activists. These issues have clearly caught the attention of legislators over time with the number of bills and the broad range of issues associated with it. The breadth ranges from a 25% tax on flared gas to application of the severance tax at the current rate to flared gas to a reduction of flaring and prohibition on venting on University Lands. Fortunately, we did not have the anticipated budget shortfall; otherwise, one or two of these would have gotten more attention as lawmakers would have seen positive revenue on paper.

Bills That Passed. Sent to the Governor or Signed by the Governor Date

HB 2361 Landgraf, Brooks® Relating to the **new technology implementation** grant program administered by the Texas Commission on Environmental Quality.

Summary. HB 2361 increases funding for technology from three to six percent. Decreases funding for the clean fleet from five to two percent. Broadens the funding for flares and other site emissions by deleting “by capturing waste heat to generate electricity solely for on-site service.” And adds “reduced flaring” grants to the preference list. Now allows grants to cover costs of operating and maintaining the emissions equipment. **It should be helpful to fund new flare technology.**

05-25-21 G Sent to the Governor

Bills that Did Not Pass.

HB 1377 Gonzalez, Jessica (D) Relating to the repeal of the exemption from the severance tax for flared or vented gas.

Summary. Repeals the severance tax exemption for flared and vented gas. Deletes all of the "and saved" language regarding "produced and saved." Impacts low producing gas wells tax exemption as well.

03-05-21 H Introduced and referred to committee on House Ways and Means

HB 1452 Rosenthal, Jon(D) Relating to the establishment by the Railroad Commission of Texas of a policy to eliminate the routine flaring of natural gas from wells or other facilities regulated by the commission.

Summary. Amends Sec. 86.186. by adding that the Railroad Commission shall by rule eliminate "routine flaring" from wells and other facilities before December 31, 2025, by "(1) regulatory, incentive-based, or voluntary approaches for achieving the goals of the policy; and (2) interim goals for individual wells or other facilities or for operators of wells or other facilities." The policy must allow flaring for safety or emergency purposes authorized under Section 86.185 on both a short and long term basis. Does not define "routine flaring."

03-05-21 H Introduced and referred to committee on House Energy Resources

HB 1494 Goodwin, Vikki (D) Relating to the applicability of the gas production tax to flared or vented gas at an increased rate.

Summary. Imposes a 25% severance tax rate on "the market value of gas produced and flared or vented in this state by the producer." Does not change existing natural gas severance tax rate (7.5%) for existing exemption. A producer may exempt, "at the producer's election: (1) 1,000 mcf; or (2) 0.5 percent of the total amount of gas produced in this state by the producer during the calendar year" from the 25% tax. Excludes from gas marketing costs "the value of gas that is flared or vented; or any cost associated with flaring or venting gas." The Comptroller will set the monthly market value of flared or vented natural gas. Producers would be required to "keep accurate records of all gas the producer produces, including the amount of gas produced and saved and the amount of gas produced and flared or vented." A Producer would file two reports: 1) All gas produced and saved; and 2) all gas produced and flared or vented. Last Action. 02/01/2021 H Filed

03-05-21 H Introduced and referred to committee on House Ways and Means

HB 1521 Hinojosa, Gina (D) Relating to the reduction of methane gas flaring on land dedicated to the permanent university fund.

Summary. The board of regents of The University of Texas System shall adopt a formal policy goal to eliminate routine methane flaring on university lands by 2025. The University of Texas, Bureau of Economic Geology shall assist the board and lessees in matters relating to the plans. The bill does not define "routine flaring".

03-08-21 H Introduced and referred to committee on House Energy Resources

HB 1913 Hinojosa, Gina (D) Relating to a requirement that an applicant for a permit to drill an oil or gas well submit a gas capture plan for the well.

Summary. Sec. 86.186. GAS CAPTURE PLAN. (a) The commission may not issue a permit to drill, deepen, plug back, or reenter an oil or gas well unless the applicant submits with the application a gas capture plan to minimize flaring from the well. The plan must include: (1) the volume of gas anticipated to be produced from the well annually, measured in thousands of cubic feet; (2) the volume of oil anticipated to be produced from the well annually, measured in barrels; (3) the volume of condensate anticipated to be produced from the well annually, measured in barrels; (4) a detailed map depicting each existing, planned, and anticipated gas gathering system in the general area of the well; (5) the following information with regard to the gas gathering system that the operator of the well has contracted to use or, if the operator has not entered into a contract, the gas gathering system that is closest to the well: (A) the name of the operator of the gas gathering system; (B) a description of the approximate route

of the pipeline required to connect the well to the gas gathering system; (C) the distance in feet of the pipeline required to connect the well to the gas gathering system; (D) the volume of gas in thousands of cubic feet per day that the gas gathering system is capable of transporting; (E) the volume of gas in thousands of cubic feet per day that the gas gathering system is currently transporting; (F) the volume of gas in thousands of cubic feet per day that the gas gathering system is anticipated to be transporting on the date of first sale of gas from the well; (G) the reliability of the gas gathering system, including the average annual downtime of the system; and (H) the name and location of the gas processing plant that receives or is anticipated to receive gas from the gas gathering system; (6) any plans for expanding the gas gathering systems in the general area of the well; (7) any other issues affecting the gathering of gas in the general area of the well; (8) a plan for connecting the well to a gas gathering system, including: (A) a description of any potential right-of-way issues; (B) the schedule for constructing any necessary gas gathering facilities; (C) the date a gas gathering line will be available; (D) a statement of whether the gas gathering system described by Subdivision (5) has the capacity to accept the volume of gas anticipated to be produced from the well at the time of application for the permit; and (E) a description of any discussions the operator of the well has had with other upstream operators regarding the construction or availability of a gas gathering line; and (9) a description of any options available to the operator of the well for the beneficial use of gas from the well if the well cannot be connected to a gas gathering system, including: (A) on-site use of the gas; (B) the processing of liquids in the gas; (C) the use of the gas for electric power generation; (D) the conversion of the gas to liquid fuels; (E) the compression of the gas on the lease on which the well is located; (F) the reinjection of the gas for underground storage; (G) the reinjection of the gas for temporary storage; (H) the reinjection of the gas for enhanced oil recovery; and (I) shutting in the well, taking into account the effect of doing so on the reservoir as well as public health, safety, and the environment.

03-15-21 H Introduced and referred to committee on House Energy Resources

HB 1975 Gervin-Hawkins, Barbara (D) Relating to publication by the Railroad Commission of Texas of certain information regarding natural gas flaring.

Summary. "On a monthly basis, the commission shall publish on the commission's Internet website: (1) the names of the operators who report the highest 20 levels of flaring; and (2) for each operator named in Subdivision (1) the level of flaring and flaring intensity.

03-15-21 H Introduced and referred to committee on House Energy Resources

HB 1976 Gervin-Hawkins, Barbara (D) Relating to a study conducted by the Railroad Commission of Texas regarding reported gas flaring.

Summary. By September 1, 2020 the Railroad Commission shall report to the Legislature the results of a study of: "(1) audit data reported to the commission on natural gas flaring and compare that data to satellite data on natural gas flaring acquired from the National Centers for Environmental Information at the National Oceanic and Atmospheric Administration; (2)

investigate the cause of any discrepancies in the data audited and compared under Subdivision (1) of this section; (3) determine legislative changes necessary to improve reporting and surveillance on natural gas flaring.

03-15-21 H Introduced and referred to committee on House Energy Resources

HB 4384 Hefner, Cole(R) Relating to the **replacement of the light-duty motor vehicle purchase or lease incentive program with the gas flaring and venting reduction program.**

03-29-21 H Introduced and referred to committee on House Environmental Regulation

SB 388 Eckhardt, Sarah (F) (D) Relating to the **reduction of methane gas flaring** on land dedicated to the **permanent university fund.**

Summary. The board of regents of The University of Texas System shall adopt a formal policy goal to eliminate routine methane flaring on university lands by 2025. The University of Texas Bureau of Economic Geology shall assist the board and lessees in matters relating to the plans. The bill does not define "routine flaring".

03-09-21 S Introduced and referred to committee on Senate Natural Resources/Economic Development

SB 622 Gutierrez, Roland (F) (D) The **new technology implementation grant program.**

Summary. The bill modifies the statute to allow funding for reduced flaring and emissions. Projects that may be considered for a grant under the program include: "(C) the installation of systems that reduce flaring emissions and other site emissions." The "**commission shall give preference to projects that: (5) systems that reduce flaring emissions** and other site emissions."

03-11-21 S Introduced and referred to committee on Senate Natural Resources/Economic Development

SB 1293 Eckhardt, Sarah (F) (D) Relating to the applicability of the **gas production tax to flare or vented gas at an increased rate.**

Remarks: SB 1293 by Eckhardt Tax on Flared or Vented Gas Summary. Sets the **tax on flared or vented natural gas at 25% of market value.** Last Action. Filed S 030921

03-18-21 S Introduced and referred to committee on Senate Finance

Taxes

Overview. Chapter 313, Texas Economic Development Act, was not extended. It will expire on December 31, 2022. Suppose the debate on Chapter 313 is a glimpse of the future for tax incentives. A broad coalition supported extension, but an equally broad coalition of think tanks on both sides of the ideological spectrum opposed them. If (like the quote in A Hard Day's Night) this is an "early clue to a new direction" it will be difficult in upcoming sessions to make the case for new incentives. It won't be easy to defend those that exist today if they come under attack. For example, we included the High Cost Gas Tax Incentive bills filed this session. They did not pass this session. Fortunately, we did not have a budget shortfall this session, but if we do in the future, then we could anticipate this exemption will be on the menu.

Bills That Passed. Sent to the Governor or Signed by the Governor Date

HB 1195 Relating to the **forgiveness of a loan made under the Paycheck Protection Program** for **franchise tax** purposes.

Summary. If your company received a PPP Loan, please forward this bill to the tax department because it lowers your franchise tax payment. The PPP loan is not "income" under federal law and HB 1195 provides that it is not "income" under the Texas Franchise Tax.

05-08-21 earliest effective date

SB 63 Relating to the system for **appraising property for ad valorem tax purposes.**

Summary. The bill allows for electronic communications, distance ARB training, expands eligibility requirements of an appraisal district board of directors, expands restriction on employment by an appraisal district, sets various deadlines, allows for an electronic reminder of protest hearings and limits the amount of evidence the chief appraiser may offer at the hearing. TTARA Summary.

05-30-21 as finally passed

SB 833 Relating to a sales tax **refund for sales tax overpayments** by certain oil or gas severance taxpayers.

Summary. Oil and gas producers are registered with the comptroller to report and pay severance tax; however, many producers do not hold a sales tax permit because they do not make taxable sales. As such, they are generally required to obtain refund assignments from their vendors before they can file a refund claim with the comptroller. Because producers purchase a significant quantity of goods and services from a variety of vendors, and because assignment forms must be executed by a corporate officer for each vendor, the refund assignment requirement results in a cumbersome and inefficient process for all parties involved. SB 833 would amend Chapter 151, Tax Code, to **authorize oil and gas producers**

who already file severance tax returns but who do not hold sales tax permits to file refund claims for overpaid sales and use taxes directly with the comptroller.

05-19-21 G Sent to the Governor

Bills that Did Not Pass.

Chapter 313

HB 1556 Relating to the **Texas Economic Development Act.**

Summary. Extends the sunset date of the Texas Economic Development Act (Chapter 313 of the Tax Code) from 2022 to 2032 while making a number of reforms to the program. The new incentive is a tax exemption, rather than a value limitation. The project would be exempt from all school property taxes with the exception of taxes for enrichment (up to a maximum tax rate of \$0.08), and taxes for debt service. The bill eliminates certain unused categories of eligible projects, while adding battery storage projects. Investments greater than either \$10 million or \$50 million would be eligible, depending on a school district's property wealth. Application and reporting requirements are substantially simplified. The jobs creation requirement is replaced with a credit for wages paid. Supplemental and revenue protection payments are replaced by allowing schools to tax projects for enrichment, with the taxes collected being in addition to state aid guarantees. The new provisions would apply to projects after 2022. TTARA Summary. We have a six-page summary as well. Please let us know if you would like the longer summary. Note combined cycle natural gas electric generation units have been deleted and are no longer eligible for tax benefits under Chapter 313.

05-10-21 H Bill pronounced dead by procedural action

HB 4242 Extension of the expiration of the **Texas Economic Development Act.**

Summary. HB 4242 is a simple two-year extension of Chapter 313. "Sec. 313.007. EXPIRATION. Subchapters B and C expire December 31, 2024 [2022]."

05-26-21 S Placed on the Senate Calendar for

High-Cost Gas

HB 879 Relating to **phasing out the tax reduction for certain high-cost gas.**

Summary. No more applications for the High-Cost Gas Tax Exemption accepted after September 1, 2021. If you have the exemption, you get to keep it under the current law.

03-01-21 H Introduced and referred to committee on House Ways and Means

SB 127 Relating to **phasing out the tax reduction for certain high-cost gas.**

Summary. No more applications for the High-Cost Gas Tax Exemption accepted after September 1, 2021. If you have the exemption, you get to keep it under the current law.

03-03-21 S Introduced and referred to committee on Senate Finance

SB 310 Relating to the **repeal of the temporary tax reduction for certain high-cost gas.**

Summary. Repeals the high-cost gas exemption (i.e., reduced tax rate) on all gas produced after September 1, 2021, regardless of whether it had previously qualified for the exemption. The bill would take effect on September 1, 2021. TTARA Summary

03-09-21 S Introduced and referred to committee on Senate Finance

ALL SUBJECTS

Bills That Passed. Sent to the Governor or Signed by the Governor Date¹²

HB 5 Relating to the expansion of **broadband services** to certain areas.

Summary. Rural Texas suffers from a lack of broadband service. Improving broadband service in the Permian Basin is and has been a priority for the PBPA. HB 5 begins the steps for the state to increase broadband service. You will see other bills that support improved broadband service in rural Texas. The creates the State Broadband Development Office (SBD) to promote the expansion of access to broadband in Texas. It is administratively attached to The University of Texas System and is governed by an 11-member board of advisors. The SBD will serve as a resource for broadband service information and outreach to communities regarding expanding and adopting broadband service. SBD will create and publish a map that identifies areas where 80 percent of the addresses have access to broadband and those where they do not. The map will also display the number of service providers providing service in an area and also identify where there may be service at a speed of less than 25/3. The SBD will establish a Broadband Development Program to award grants, low-interest loans, and other financial incentives to expand access to broadband.

05-30-21 As finally passed

HB 7 Relating to the computation of the replenishment ratio used to determine an employer's **unemployment compensation tax rate**.

Summary. HB 7 reduces the unemployment compensation (UC) tax rate by excluding the calculation benefits paid resulting from the Governor's disaster/emergency order applicable to at least 50% of counties to reduce the compensation tax rate and pay unemployment compensation when the Workforce Commission ran out of money. The \$5.4 B tax reduction will be recouped over time with bond proceeds. TTARA Summary. Absent HB 7, PBPA member companies would have incurred a significant increase in their unemployment insurance payments.

05-13-21 G Earliest effective date

HB 17 Relating to a **restriction on** the regulation of utility services and infrastructure based on the **energy source to be used or delivered**.

Summary. HB 17 has been called the "No Natural Gas Ban" bill. All local governments are banned from passing ordinances that prohibit the use of any energy source in a residence or

¹ The Governor has until June 20 to sign, veto or let a bill become law without his signature. Texas does not have a pocket veto where a bill goes unsigned and dies. Rather an unsigned bill becomes law.

² To read a bill, go to <https://capitol.texas.gov/> and then type in the bill number. Click Text when the bill comes up. Select the format you want to use. Pdf or Word.

commercial building. In other states, local governments have passed ordinances prohibiting natural gas as a fuel source.

05-18-21 G Earliest effective date

HB 632 Relating to the establishment of an **advisory committee for the TexNet seismic monitoring program.**

Summary. The Texas Seismic Monitoring Program (TexNet) is housed at the Bureau of Economic Geology at The University of Texas at Austin. In coordination with the nine-member TexNet Technical Advisory Committee, its mission is to collect and analyze Texas seismic data and send a biennial report on such to the Governor, lieutenant governor, and the speaker of the Texas House of Representatives.

05-25-21 G Sent to the Governor

HB 876 Relating to **fees charged** by certain persons **for the method used for payments** made under an agreement.

Summary. Online banking has become pervasive in recent years. However, many Texans still wish to receive payment by paper check and think it is inappropriate for them to have to pay a fee for a paper check. HB 876 prohibits an individual, corporation, trust, partnership, association, or other private legal entity that makes a payment to a payee from charging an additional fee to the payee for electing to receive the payment by paper check instead of by an electronic funds transfer. The bill also makes any provision in an agreement to pay a fee for a paper check void and unenforceable. For PBPA members, if a royalty owner or anyone requests payment with a paper check, you are now required to do so. You may not charge a fee for doing so even if you have a signed contract that allows you to pay with electronic funds.

05-22-21 G Sent to the Governor

HB 963 Relating to the Texas **natural gas vehicle grant program.**

Summary. Amends the natural gas vehicle grant program to allow "used natural gas vehicles" to qualify for the grant program. "(c) A used natural gas vehicle that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle must be of model year 2017 or later, provided that the model year may not be more than six years older than the current model year at the time of the submission of the grant application."

05-25-21 G Sent to the Governor

HB 1195 Relating to the **forgiveness of a loan made under the Paycheck Protection Program** for **franchise tax** purposes.

Summary. If your company received a PPP Loan, please forward this bill to the tax department because it lowers your franchise tax payment. The PPP loan is not "income" under federal law and HB 1195 provides that it is not "income" under the Texas Franchise Tax.

05-08-21 Earliest effective date

HB 1284 Paddie, Chris(R) Relating to the jurisdiction of the Railroad Commission of Texas over the **injection and geologic storage of carbon dioxide (CO2)**.

Summary. The bill gives the Railroad Commission jurisdiction over all onshore and state waters CO2 injection wells, the injection of natural and anthropogenic (man-made) CO2, and injection for enhanced oil recovery and sequestration (storage). TCEQ's role in permitting/approval of injection for sequestration is removed. Funding for the Commission for this program will come from the anthropogenic CO2 storage trust fund. The Railroad Commission will seek primacy for CO2 injection wells from the EPA.

05-25-21 G Sent to the Governor

HB 1505 Relating to attachments for **broadband service on utility poles** owned by an electric cooperative.

Summary. Another bill to increase broadband access in rural Texas. It creates the process and the compensation process for a broadband provider to attach the service cables to poles owned by electric cooperatives.

05-28-21 House concurred in Senate amendments (Y: 128/N: 17)

HB 1520 Securitization of **extraordinary costs incurred by certain gas utilities**.

Summary. A most extraordinary role for the Railroad Commission is that it provides a method of public financing for customer rate relief bonds authorized by the Railroad Commission. HB 1520 seeks to minimize the extraordinary cost of natural gas that customers might experience as a result of Storm Uri, as well as from future extraordinary costs from potential catastrophic events such as natural and man-made disasters or system failures, by providing securitization financing to enable gas utilities to recover these costs. This financing mechanism will provide rate relief to customers by extending the time frame over which the extraordinary costs are recovered and will support gas utility companies' financial strength and stability.

05-30-21 As finally passed

HB 1572 Relating to **electric service equipment**.

Summary. HB 1572 provides that an electric generator may rent generators on a per megawatt-hour, as opposed to a flat fee only. The current statutes prohibit any per megawatt-hour billing except by licensed retail electric providers. HB 1572 addresses this issue by clarifying that a retail electric provider includes a business that rents electric generation equipment and allowing such a business to lease on a per megawatt-hour rather than solely a flat fee.

05-22-21 G Sent to the Governor

HB 2201 Relating to the **location of pits** used in the production of oil and gas.

Summary. "The commission (RRC) by rule shall establish standards governing permissible locations for pits used by commercial oil and gas disposal facilities. The rules must include a history of flooding in the 10 years preceding the construction of the pit as a factor in determining whether a proposed location of a pit is permissible."

05-30-21 As finally passed

HB 2361 Relating to the **new technology implementation grant program** administered by the Texas Commission on Environmental Quality.

Summary. HB 2361 increases funding for technology from three to six percent. Decreases funding for the clean fleet from five to two percent. Broadens the funding for flares and other site emissions by deleting "by capturing waste heat to generate electricity solely for on-site service." and adds "reduced flaring" grants to the preference list. Now allows grants to cover costs of operating and maintaining the emissions equipment. It should be helpful to fund new flare technology.

05-25-21 G Sent to the Governor

HB 2730 The acquisition of real property by an entity with **eminent domain** authority.

Summary. HB 2730 addresses the acquisition of real property by an entity with eminent domain authority and the regulation of easement or right-of-way agents. Key Provisions

- Landowner's Bill of Rights (LOBR) remains at the Office of the Attorney General with public comment;
- LOBR will include the right to file a complaint against a registered easement or right-of-way agent;
- In dealing with private entities, landowners are given required easement terms, unless a waiver is signed or the landowner provides his or her own form;
- Addendum will be added to the LOBR with the easement terms attached;
- Right-of-way agent education at the Texas Real Estate Commission; and
- Special commissioner's front-end process (timeline, alternate appointments, and strike period).

05-30-21 As finally passed.

HB 3416 Relating to **indemnity agreements between contractors and subcontractors** for services pertaining to certain wells or mines.

Summary. HB 3416 ensures that when a staffing company employee arrives at your well site or facility, the staffing company and the staff employee have the necessary liability insurance

to protect the worker, the contractor, and the operator. It requires notice of these coverages. Most importantly, it does not modify the provisions of the Texas Oilfield Anti-Indemnity Act.

05-28-21 G Sent to the Governor

HB 3516 Relating to the regulation of the recycling of oil and gas waste.

Summary. HB 3516 **directs the Railroad Commission (RRC) of Texas to conduct rulemaking to create a more transparent and predictable permitting process for commercial produced water recycling operations.** Rules are to encourage fluid oil and gas waste recycling for beneficial purposes and establish standards for the issuance of permits for commercial recycling of fluid oil and gas waste. In doing so, the RRC is to consider previously adopted rules for recycling fluid oil and gas waste. The rules will establish minimum siting standards for fluid recycling pits; uniform technical, construction, and placement standards; uniform standards for estimating closure costs; minimum and maximum bonding and financial security amounts based on factors determined by RRC; and standards for sampling and analysis of fluid oil and gas waste. Provides that the RRC will approve or deny a permit application within 90 days. If action is not taken, then on the 91st day, the permit is approved for one year.

05-26-21 G Sent to the Governor

HB 3648 Designation of Certain Gas as Critical Infrastructure

Summary. The Public Utility Commission and the Railroad Commission shall adopt rules that designate certain gas entities and facilities as critical during an emergency. The Public Utility Commission of Texas (PUC), Railroad Commission of Texas (RRC), transmission and distribution utilities, municipally owned utilities, and electric cooperatives have developed and distributed an Application for Critical Load Serving Electric Generation and Cogeneration, but the application continues to be voluntary. HB 3648 seeks to resolve this issue by requiring the PUC and the RRC to work together to adopt certain rules to designate certain gas entities and facilities as critical during an energy emergency. The transmission and distribution utilities, municipally owned utilities, and electric cooperatives, however retain discretion to prioritize power delivery and power restoration among the customers on their respective systems, as circumstances require.

05-30-21 As finally passed

HB 3794 Relating to **oil and gas liens.**

Summary. In re First River Energy, LLC, a recent court case resulted in a decision unfavorable to Texas oil and gas interest owners. The court found that the jurisdiction where the first purchaser is located, rather than where the oil and gas are produced, governs the applicable law on oil and gas production liens. The Texas first purchaser statute needed to be amended to resolve this issue. HB 3794 repeals the first purchaser statute and replaces it with Property

Code provisions establishing oil and gas liens based on where the production occurred rather than the location of the first purchaser.

05-22-21 G Sent to the Governor

HB 3853 Relating to middle mile **broadband service provided by an electric utility.**

Summary. HB 3853 allows electric utilities the ability to partner with internet service providers who agree to lease capacity on a utilities existing middle mile fiber or future fiber expansion. With oversight by the Public Utility Commission of Texas (PUC), electric utilities would develop and lease middle mile fiber assets. The PUC will determine the terms, conditions, and pricing for middle mile assets through rulemaking, with guidance from the legislature. Electric utilities will continue to utilize the same cost recovery mechanisms used today when building out their internal fiber network. Electric utilities will determine the method of attachment and connection to transmission, distribution, and fiber assets.

05-30-21 As finally passed

HB 4107 Exercise of the **power of eminent domain by a common carrier pipeline.**

Summary. Requires the property owner be provided with: Written notice of the carrier's intent to enter the property. An indemnification provision in favor of the property owner with respect to any damages resulting from the survey. Must be provided to the property owner two days before the date of entry. Must include the phone number of a person whom the property owner may contact regarding any questions or objections the property owner has relating to the survey. May be provided by first class mail, e-mail, personal delivery to an adult living on the property, or by any other method of service authorized by the Texas Rules of Civil Procedure.

Entry to the property is subject to conditions that the entry: is limited to only the portion of the property that is anticipated to be affected by the route of the proposed pipeline; is limited to the purpose of conducting surveys; unless otherwise authorized by the property owner, does not authorize the cutting, removal, or relocation of a fence for the purpose of conducting the survey without the prompt restoration or repair of the fence; requires the restoration of property to be as close as reasonably possible to the original condition before entry; requires all equipment and tools used in the survey to be removed by a certain date; and requires that the property owner, on written request, be provided, at no charge, all non-privileged information gathered from the entry, including surveys, reports, maps, and photographs.

05-28-21 G Sent to the Governor

HB 4218 Relating to a cause of action for the **bad faith washout** of an overriding royalty interest in an oil and gas lease.

Summary. In response to the courts asking for legislative guidance on this issue, HB 4218 creates a cause of action for the bad faith washout of an overriding royalty interest in an oil and gas lease.

A bad faith washout is when a lessee cancels an oil and gas lease to wipe out an overriding royalty owner's interest, then takes another lease on the same property under which they do not have to pay the overriding royalty interest owner anything. HB 4218 amends the Property Code to authorize a person to bring a lawsuit for a bad faith washout of the person's overriding royalty interest in an oil and gas lease in a district court of a county in which any part of the property subject to the lease is located. The lawsuit must be brought within two years of actual knowledge of the washout. The bill authorizes an owner who prevails in the lawsuit to recover actual damages, court costs and attorney's fees, and the enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest, but not punitive damages.

05-27-21 As finally passed

HB 4472 Relating to the Texas emissions reduction plan fund and account.

Summary. The bill makes several **changes to the Texas Emission Reduction Plan**. The most significant change is 35% of the fund being sent to the Texas Department of Transportation to address air emissions due to traffic congestion in nonattainment areas. (TXDOT is to use the money to fix road locations where cars sit for hours every day emitting air emissions.)

05-30-21 As finally passed

SB 3 Relating to preparing for, preventing, and responding to weather emergencies, power outages, and other disasters.

Summary. CSSB 3 would provide for the **preparation for, prevention of, and response to extreme weather emergencies and extended power outages** and establish related requirements for the Public Utility Commission (PUC), the ERCOT organization, the Railroad Commission (RRC), the Texas Division of Emergency Management (TDEM), and the Texas Commission on Environmental Quality (TCEQ). The bill would provide for the mapping of the state's electricity supply chain; require weather emergency preparedness for natural gas, electric, and water service entities; and provide for certain administrative and civil penalties. The bill would establish the Texas Energy Disaster Reliability Council and the State Energy Plan Advisory Committee and create a power outage alert. The bill also would set requirements for load management, provision of transmission service, and critical natural gas facilities during energy emergencies.

Supply chain mapping committee. The Texas Electricity Supply Chain Security and Mapping Committee would map the state's electricity supply chain, identify related critical infrastructure sources and establish best practices to prepare facilities to maintain service in an extreme weather event and recommend oversight and compliance standards for those facilities, and designate priority service needs to prepare for, respond to, and recover from an extreme weather event. The bill would define "electricity supply chain" to mean facilities and methods used for producing, treating, processing, pressurizing, storing, or transporting natural gas for delivery to electric generation facilities and critical infrastructure necessary to maintain electricity service. Note that if your oil and gas facility is not designated on the map, you do not have to weatherize. There will be significant rulemaking and reports by the Railroad Commission and the Public Utility Commission. See PBPA Rulemaking and Report summaries.

05-30-21 House adopted conference report (Y: 142/N: 0)

05-30-21 Senate adopted conference report (Y: 30/N: 1)

SB 13 Contracts and **investments in companies that boycott certain energy companies.**

Summary. When the state contracts with or invests funds in companies that boycott fossil fuel-based energy companies, it directly and adversely affects the Texas economy. SB 13 seeks to ensure that taxpayer dollars are not being used to promote an agenda that hurts the state's energy sector and economy as a whole by prohibiting investments by certain state entities in companies that boycott energy companies.

05-30-21 As finally passed

SB 63 Relating to the system for **appraising property for ad valorem tax purposes.**

Summary. The bill allows for electronic communications, distance ARB training, expands eligibility requirements of an appraisal district board of directors, expands restriction on employment by an appraisal district, sets various deadlines, allows for an electronic reminder of protest hearings and limits the amount of evidence the chief appraiser may offer at the hearing. TTARA Summary.

05-30-21 As finally passed

SB 507 Accommodation process for broadband-only providers to use of state rights-of-way.

Summary. Under current law, utilities may use state highway rights-of-way. Broadband providers may not. SB 507 directs TxDOT to adopt rules to **allow broadband-only providers to use state highway rights-of-way** and removes this barrier to broadband deployment.

05-29-21 Sent to the Governor

SB 601. Relating to the creation and activities of the **Texas Produced Water Consortium.**

Summary. The bill creates the Texas Produced Water Consortium to be hosted at Texas Tech to gather "information resources to study the economics of and technology related to beneficial uses of produced water." "Not later than September 1, 2022," the consortium shall produce a report that includes: (1) suggested changes to the law to better enable beneficial uses of produced water; (2) an economically feasible pilot project for state participation in a produced water facility; and (3) an economic model for using produced water economically and efficiently. After October 1, 2022, the research and investigation goals of the consortium shall be directed by the sponsors of the consortium. The board and the host university shall create a fee structure for private sponsors. They are not to receive state money except for limited administrative costs. Sponsors get access to data based on their level of sponsorship.

05-29-21 House adopted conference report (Y: 132/N: 5)

05-29-21 Senate adopted conference report (Y: 30/N: 1)

HB 721 Disclosure of appraisal reports in connection with the use of eminent domain authority.

Summary. SB 721 would require condemnors to provide appraisals used at commissioner court hearings at least three business days before the hearing.

09-01-21 G Earliest effective date

SB 725 Relating to the **qualification of land for appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax** imposed on such land if the use of the land changes as a result of a condemnation

Summary. SB 725 amends current law relating to the qualification of land for appraisal for ad valorem tax purposes as agricultural land and the liability for the additional tax imposed on such land if the use of the land changes as a result of a condemnation.

09-01-21 G Earliest effective date

SB 726 Relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity.

Summary. If land acquired by **eminent domain** has not been used for its intended purpose for ten years, the landowner may acquire it back unless there has been "actual progress" toward the intended use. SB 726 tightens up the **definition of what is "actual progress."**

09-01-21 G Earliest effective date

SB 760 Relating to the **removal of solar power facilities.**

Summary. Sets out the requirement to remove solar power facilities including underground cables and the standards by which the removal must be done. It includes remediation standards for holes created by the removal.

05-29-21 G Sent to the Governor

SB 833 Relating to a sales tax **refund for sales tax overpayments** by certain oil or gas severance taxpayers.

Summary. Oil and gas producers are registered with the comptroller to report and pay severance tax; however, many producers do not hold a sales tax permit because they do not make taxable sales. As such, they are generally required to obtain refund assignments from their vendors before they can file a refund claim with the comptroller. Because producers purchase a significant quantity of goods and services from a variety of vendors, and because assignment forms must be executed by a corporate officer for each vendor, the refund assignment requirement results in a cumbersome and inefficient process for all parties involved. SB 833 would amend Chapter 151, Tax Code, to **authorize oil and gas producers who already file severance tax returns but who do not hold sales tax permits to file refund claims for overpaid sales and use taxes directly with the comptroller.**

05-19-21 G Sent to the Governor

SB 900 Relating to the **safety of aboveground storage tanks.**

Summary. **Exempts "(a) tank used** in or associated with the production of crude oil or natural gas"

05-29-21 G Sent to the Governor

SB 901 Enforcement of commercial motor vehicle safety standards in certain counties.

Summary. It makes sheriffs and deputy sheriffs eligible to apply for certification to enforce commercial motor vehicle safety standards in counties located within 30 miles of New Mexico and adjacent to two or more counties that generated \$100 million or more in oil and gas production tax revenue during the preceding state fiscal year. Will subject **Permian Basin 18-Wheelers** to these **commercial motor vehicle inspections in these counties.**

05-29-21 Sent to the Governor

SB 905 Guidance on the regulations applicable to the potable reuse of wastewater.

Summary. SB 905 directs the Texas Commission on Environmental Quality to create a direct potable reuse document so that entities will understand the process for having such a project. Sec. 341.0391. DIRECT POTABLE REUSE GUIDANCE. (A) **Defines "direct potable reuse"** to mean the introduction of treated reclaimed municipal wastewater either: (1) directly into a public water system; or (2) into a raw water supply immediately before the water enters a drinking water treatment plant.

(b) Requires the Texas Commission on Environmental Quality (**TCEQ**) to **develop and make available to the public a regulatory guidance manual** to explain TCEQ rules that apply to direct potable reuse.

05-20-21 G Sent to the Governor

SB 1258 Relating to the duty of a lessee or other agent in control of certain state land to drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas.

Summary. SB 1258 amends current law relating to the duty of a lessee or other agent in control of General Land Office land to **drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas by a horizontal drainhole well** located on certain land. It does not apply to University Lands. Spacing requirements are "(1) the minimum distance established by the applicable lease-line spacing requirement of the Railroad Commission of Texas; or (2) a perpendicular distance of 330 feet."

05-26-21 G Sent to the Governor

SB 1259 Relating to **causes of action for withholding payments of the proceeds** from the sale of oil and gas production.

Summary. In 2018, the Texas Supreme Court held in *ConocoPhillips v. Koopman* that the statute on suspending royalty payments when title was in dispute did not protect companies that suspend royalties in compliance with Natural Resources Code Section 91.402(b) from a breach of contract cause of action. SB 1250 adds a new section that addresses this issue: "(b-1) A payee does not have a common law cause of action for breach of contract against a payor for withholding payments under Subsection (b) unless, for a dispute concerning the title, the contract requiring payment specifies otherwise."

05-24-21 G Earliest effective date

SB 1260 Birdwell, Brian(R) Relating to the authority of the **Railroad Commission** of Texas to contract for the **treatment of and sell drill cuttings**.

Summary. SB 1260 expands the Texas Railroad Commission's (RRC) options for cleaning up and remediating waste sites by authorizing RRC's state managed cleanup program to engage with mobile contractors for the purpose of recycling oilfield waste materials specifically drill cuttings at waste sites. In practice, RRC would pay a contractor to come to a waste site, treat the waste for subsequent beneficial reuse, and leave the treated waste at the site for sale or disposition by RRC. As such, the bill also authorizes RRC to sell the recycled waste materials at an authorized facility. Any proceeds earned through the sale of recycled materials would be credited to the oil and gas regulation and cleanup fund, which may be used to recover the costs incurred while cleaning and remediating waste sites.

05-18-21 G Earliest effective date

SB 1281 Certificates of public convenience and necessity for certain **transmission projects**.

Summary. Makes changes to the "tests" for the Public Utility Commission's decision-making process to approve new transmission projects by reinstating the "consumer impact test" to determine if the project will save consumers money.

05-30-21 House adopted conference report (Y: 137/N: 0)

05-30-21 Senate adopted conference report (Y: 31/N: 0)

SB 2154 Relating to the **membership of the Public Utility Commission** of Texas.

Summary. SB 2154 changes the **three member Commission to a five member Commission**

05-30-21 Senate adopted conference report (Y: 30/N: 1)

05-30-21 House adopted conference report (Y: 109/N: 26)