



Permian Basin Petroleum Association

Texas Legislative Report

86th Regular Session

January 8, 2019-May 27, 2019



MDL

Midland-Austin-Santa Fe
www.pbpa.info

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PERMIAN BASIN
PETROLEUM ASSOCIATION



Introduction

Sunday, June 16, 2019 marked the end of Governor Abbott's veto period, and with that, the work of the Texas Legislative Session is finally concluded.

Since 1961, the Permian Basin Petroleum Association has worked arduously to serve as the voice of the Permian Basin petroleum industry and represent those that work diligently to safely and responsibly produce our natural resources.

As you know, this session, PBPA has been hard at work advocating for the Permian Basin throughout the 140 days between January and May that the Texas Legislature convened for the 86th Regular Session.

However, the work did not end there. PBPA also actively engaged during the 20 days after session, where the Governor has the opportunity to sign, veto, or allow legislation to become law without his signature.

This session, the PBPA worked on a broader range of issues than ever before. In addition to the traditional topics of energy and natural resources, we were very active on transportation, budget, school finance, taxes, economic development, public safety, health education for rural areas, and several other issues.

While the prosperity that is produced in the Permian Basin has brought untold value to the region and state alike, it has also created challenges that those of us who live and work in the region can easily see.

As a means to address these challenges in the energy sector, PBPA focused strongly on legislative solutions to enrich the health, safety, and welfare of those living, working, and raising their families in the Permian Basin, and in other producing regions of the state.

As you work through this legislative report we will share examples of our efforts, but more broadly it is important that you know, when the time came for the oil and gas industry to have a voice on these wide range of issues, no group carried a more comprehensive engagement between each legislative chamber nor the office of the Governor, than the PBPA.

Our historical efforts and building and maintaining effective and constructive relationships in the public policy arena allowed for the industry to have a voice at critical junctures on a wide range of issues.

Because of the leadership of PBPA and our members, the industry was able to defend itself from burdensome regulatory changes as well as costly new mandates. Our efforts in the cycle should also be viewed through the lens of the veto period. While marking the third highest veto count in history, (behind Rick Perry in 2001 and Preston Smith in 1969) Governor Abbott vetoed zero bills that were supported by PBPA.

The top priorities of legislative leaders this session were school finance and property tax reform. With an addition of \$11.6 billion of state funding for school districts that come largely from oil and gas taxes collected; roughly \$5 billion of that to fund tax compression/relief, and more funds for teacher pay increases, many school districts will see funding increases and a decrease in recapture payments or “Robin Hood” payments, as they are called.

While appraisal values may still drive tax payments, these steps are positive for community schools and necessary to improve and educate our youngest Texans.

Transparency for taxing entities and reform became law this session with the passage of Senate Bill 2. These changes will take effect over time, but the big takeaways are the notices provided to taxpayers that better inform them of the taxes being assessed and the requirement of voter approved tax rates will more broadly allow for voters to determine how local taxes are levied.

Transportation has long been a concern and this session, PBPA stood at the forefront to deliver \$250 million in new funds for county roads. While the state has worked hard to deliver funding for state highways, county roads have not been prioritized.

Because a vital source of routes within operations remains local county roads, we steadfastly supported using dollars derived from oil and gas production taxes to fund these important infrastructure arteries and provide aid without raising taxes for county residents.

Legislation pushed by PBPA, authored by Rep. Geannie Morrison (R-Victoria) and sponsored by Sen. Pete Flores (R-Pleasanton), to modernize the County Transportation Infrastructure fund and focus those dollars to producing areas was also passed and signed by Governor Greg Abbott.

Our industry has also long looked to address water use by promoting the use of recycling and this session we supported and led the charge on House Bill 3246 which member companies crafted with House author Rep. Drew Darby (R-San Angelo) and Senate sponsor Sen. Kelly Hancock (R-North Richland Hills).

The budget process also allowed PBPA to advocate for funds to keep our vital regulatory agencies the resources they need to modernize processes and promote government efficiency at lower cost to taxpayers. House Bill 1 appropriates approximately \$283.6 million for the biennium, including an increase of 22 full-time employees. These include 22 new oil and gas and pipeline safety inspectors, \$26.9 million to replace antiquated mainframe permitting system, and \$39.1 million to fund a robust well plugging and site remediation program.

This was ultimately a positive session, however these victories, and others listed in this legislative report, were not without the great activity of our staff, and the incredible work of our talented PBPA Legislative Committee.

Over the course of these 140-plus days before, during, and after the session, participation in our weekly meetings were full of great discourse and active engagement by representatives of our member companies.

Often including participation from elected officials and other guests, these meetings were the heart of our member-driven focus. We have to thank our Legislative Committee Chair Julie Williams (Chevron) for her leadership and dedication this session.

Additionally, the active engagement from Midland to Austin and everywhere via the call-in line, helped make PBPA a dominant force this legislative session and we look forward to continuing this success on behalf of the operators and service providers in the greatest, largest, and most prosperous operating basin in the world.

Thank you to all our members for their support and commitment to the PBPA during this legislative session. Thank you also for your trust. We look forward to working with you to ensure that the Permian Basin continues to produce prosperity for generations to come.

Sincerely,

The Permian Basin Petroleum Association



PERMIAN BASIN
PETROLEUM ASSOCIATION

Key Legislation Passed by Subject

E&P

HB 2203 Miller/Kolkhorst. Relating to notice of a radioactive substance release. E&P. Summary. Any state agency that receives a required report of a release of a radioactive substance into the environment shall immediately provide notice to each political subdivision of this state into which the substance was released. The notice must include the name, quantity, and state of matter of the radioactive substance released, if known. "Radioactive Substance" has the meaning assigned by Section 401.003 and 401.003(b) States: "Radioactive substance" includes: (B) naturally occurring radioactive material waste, excluding oil and gas NORM waste. Effective Immediately

HB 2675 Geren, Repeal of the provisions providing for the suspension of the collection of certain fees when the balance in the oil and gas regulation and cleanup fund exceeds a specified amount. E&P. Summary. Repeals 81.067(b) of the Natural Resource Code. "(b) The commission shall certify to the comptroller the date on which the balance in the fund equals or exceeds \$30 million. The oil-field cleanup regulatory fees on oil and gas shall not be collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller shall resume collecting the fees on receipt of a commission certification that the fund has fallen below \$25 million. The comptroller shall continue collecting the fees until collections are again suspended in the manner provided by this subsection." 09-01-19
G Earliest effective date

HB 2726 Kuempel/Creighton. Relating to the commencement of construction of a project following the issuance of a draft permit for a permit amendment to an air quality permit. E&P. Summary. Gives an applicant the ability to begin construction, at their own risk, if it is a permit amendment situation and once a draft permit with the amendment has been issued by TCEQ. 01-01-20 Effective date

HB 3226 Geren/Birdwell. Relating to the terms of dissolution of an oil or gas pooled unit. E&P. Summary. Changes the dissolution date for a pooled unit from one year to two years to match up with the two-year term on a drilling permit. 09-01-19 Effective date

HB 3557 Paddie/Birdwell. Relating to civil liability for engaging in certain conduct involving a critical infrastructure facility. E&P. Summary. A person commits an offense if, without the effective consent of the owner, the person enters or remains on or in a critical infrastructure facility and intentionally or knowingly damages a facility. Provides that an offense under this section is a felony of the third degree. (2 to 10 Years). If intentionally or knowingly impairs or interrupts the operation of a facility, then the offense is a state jail felony punishable by 180 days to two years in state jail and a fine of up to \$10,000.

Key Legislation Passed by Subject (Continued)

(HB 3557 Continued) If proven their intent was to impair or interrupt the operation of a facility, then the offense is a Class A Misdemeanor punishable up to a year in a county jail, and a fine of up to \$4,000. Additional provisions: If corporation or association was an actor, then subject to \$500,000 fine; Restitution for damages may be part of the judgment; May be subject to civil damages that include court costs, actual damages and exemplary damages; and a Critical Infrastructure facility now includes gas plants, gas compressors, and if enclosed by a fence or physical barrier to keep people out, then above ground pipelines, drill sites, storage tanks, well head or any oil and gas facility with an active flare are all included in the definition. 09-01-19 G Earliest effective date

SB 698 Birdwell/Lozano. Relating to the expedited processing of certain applications for permits under the Texas Clean Air Act. E&P. Summary. TCEQ is not able to process permits in timely manner. SB 698 provides for additional staffing for expedited permitting; removes cap on TCEQ employees for program and allows for retention bonus for permit writers. 09-01-19 G Earliest effective date

Health

HB 1065 Ashby/Kolkhorst. Relating to the establishment of a rural resident physician grant program. Health. Summary. The bill would require the Texas Higher Education Coordinating Board (THECB) to establish and administer the Rural Resident Physician Grant Program as a competitive grant program to encourage the creation of new graduate medical education positions in rural and nonmetropolitan areas. The bill would require THECB to award grants to new or expanded physician residency programs at teaching hospitals and other appropriate health care entities as defined in the provisions of the bill. The bill would require THECB to establish criteria for the grant program in consultation with one or more physicians. Fiscal Note shows \$500,000 each year for the next five years. 6/10/19 Earliest effective date

Roads

HB 4280 Morrison/Flores. Relating to funding for counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production. Roads. Summary. County Transportation Infrastructure Fund (CTIF). Disbursement mechanism for county road appropriations. 09-01-19 G Earliest effective date

Royalty

HB 3838 Bailes/Birdwell. Relating to a disclosure in certain offers to purchase or lease a mineral or royalty interest. Royalty. Summary. Changes the law on disclosures in offers to purchase or lease mineral or royalty interests. Floor amendment took out exemplary damages and returned statute of limitations to two-years. 9/1/19 Effective date

Key Legislation Passed by Subject (Continued)

Schools

HB 3 Huberty/Taylor. Relating to public school finance and public education. School/Property Tax. Provides \$5.1 billion in tax relief. Average of \$0.08 rate reduction in 2019-20. Average of \$0.13 rate reduction in 2020-21. Provides \$6.5 billion in additional funding to public education and school employee compensation. Recapture is reduced by \$3.6 billion (47%) for the biennium as a result of formula changes. Increases state share of public education funding to 45% (from 38%). If you need a more detailed summary, let us know. Effective September 1, 2019 except Sections 11.184 and 47, Education Code effective January 1, 2020 and Sections 48.1021, 48.1041, Article 2, and Section 5.010 immediately.

HJR 151 Huberty/Taylor. Proposing a constitutional amendment allowing increased distributions to the available school fund. School. Passed. Sent to Secretary of State. (Governor has no veto authority over constitutional amendments). 11-05-19 G Election date

Sunset Legislation

HB 1311 Thompson, S/Watson. Texas Board of Professional Geoscientists. Sunset. Summary. New sunset date is September 1, 2025. The governor shall designate a member of the Texas Board of Professional Geoscientists as the presiding officer of the board. From there they elect their board. Set out training and licensing procedures. 09-01-19 Effective date

HB 1523 Nevarez/Buckingham Relating to the continuation of the regulation of land surveyors and the transfer of the regulation to the Texas Board of Professional Engineers and Land Surveyors. Sunset. Summary. The Sunset Advisory Commission found the Texas Board of Professional Land Surveying has failed to meet its fundamental duties and responsibilities. H.B. 1523 provides for the continued regulation of land surveying and consolidates land surveyors under the Texas Board of Professional Engineers and Land Surveyors. 09-01-19 Effective date

SB 608 Watson/Paddie. Relating to the continuation and functions of the School Land Board. Sunset. Summary. School Land Board Sunset Bill. Continued to September 1, 2031. Changes from one citizen to two citizens appointed by the Governor and the Attorney General. Note one of those appointees by the Governor and Attorney General must come from a list provided by the State Board of Education. Board and Board of Education to have annual meeting to discuss allocation of permanent school fund money and investments. Creates formula for determination of amount in fund on even number years. 09-01-19 Effective date.

Key Legislation Passed by Subject (Continued)

Tax

HB 3 Huberty/Taylor. Relating to public school finance and public education. School/Property Tax. TTARA Summary. Provides \$5.1 billion in tax relief. Average of \$0.08 rate reduction in 2019-20. Average of \$0.13 rate reduction in 2020-21. Provides \$6.5 billion in additional funding to public education and school employee compensation. Recapture is reduced by \$3.6 billion (47%) for the biennium as a result of formula changes. Increases state share of public education funding to 45% (from 38%). If you need a more detailed summary, let us know. Note. Effective September 1, 2019 except Sections 11.184 and 47, Education Code effective January 1, 2020 and Sections 48.1021, 48.1041, Article 2, and Section 5.010 immediately.

HB 279 Craddick/Seliger. Relating to authorizing the Midland County Hospital District of Midland County, Texas, to impose a sales and use tax. Tax. Summary. Authorizes the Midland County Hospital District of Midland County, Texas, to impose a sales and use tax. Note that the Hospital District "may not adopt a tax under this subchapter or increase the rate of the tax if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the district and all other political subdivisions of this state having territory in the district would exceed two percent in any location in the district." Increases must be "approved by a majority of the voters of the district at an election called for that purpose." Effective Immediately

HB 380 Geren/Hancock. Relating to the authority of a district court to hear and determine certain ad valorem tax appeals. Tax. Summary. Expands the rights of a property owner to appeal determinations and motions by the Appraisal Review Board. In particular, the property owner has the right to appeal to the district court even if the property was not listed in the Notice of Protest. Gives the district court the jurisdiction to return the case to the review board to cure any "failure to exhaust administrative remedies" arguments. 09-01-19 Effective Date

HB 1743 King T/Creighton Relating to the additional ad valorem tax and interest imposed as a result of a change of use of certain land. Tax Property. Summary. Another bill on taxation due to the change in use of the land. The look back is decreased from five years to three years. The interest rate on the back taxes due is decreased from seven to five percent. 09-01-19 Effective Date

HB 2256 Sanford/Perry. Relating to procedures for tax auditing and determining amounts of overpayments of gas production taxes. Tax. Summary. Comptroller Bill. SB 2079 by Perry Companion. Introduces the term "Selected marketing cost sampling" as a way to determine marketing costs in computing the amount of over-payment of taxes. Provides for "Managed Audits" that the Comptroller may authorize in writing as to the audit period and procedure. 09-01-19 Effective Date

Key Legislation Passed by Subject (Continued)**Tax Continued**

HJR 38 Leach/Fallon. Proposing a constitutional amendment prohibiting the imposition of an individual income tax. Income Tax. TTARA Summary. Repeals “Bullock Amendment,” which sets process by which voters must approve a tax on the incomes of “natural persons” and how revenue must be used. •Adds a simple prohibition against a tax on the incomes of “individuals”. •Legally speaking, “individual” could include partnerships and other registered types of businesses, and could negate some current franchise taxes. •HB 4542 was amended to define “individuals” as “natural persons”. 11-5-19 Election date

SB 2 Bettencourt/Burrows. Relating to ad valorem taxation. Texas Property Tax Reform and Relief Act of 2019. Tax. TTARA Summary. Most comprehensive changes to property tax policy since enactment of the Property Tax Code in 1979. Reduces the rollback tax rate (or threshold over which voters must approve tax increases) for cities, counties, and special districts from 8% to 3.5% beginning in 2020; exceptions are taxing units with rates of 2.5 cents per \$100 valuation or less, junior colleges, and hospital districts, which remain at 8%; and school districts which have a 2.5% rate (HB 3 and the Education Code). Requires elections in November for tax rate increases that exceed the threshold rates and allows voter petitions under certain circumstances. Effective January 1, 2020, except section 92 effective September 1, 2019, and multiple sections effective September 1, 2020 and January 1, 2021.

SB 533 Birdwell/Paddie. Relating to the severance tax exemption for oil and gas produced from certain inactive wells. Tax. Summary. Get a five-year severance tax exemption if a well that has been inactive for two-years is brought back into production. 09-01-19 Effective Date

SB 925 Flores/Bailes. Relating to calculation of daily production for purposes of the oil and gas production tax credits for low-producing wells and leases. Tax. Summary. Changes the daily production calculation for low-producing well tax credits to: Greater of a) production reported to the Railroad Commission; or b) the monthly production reported to the Comptroller. Current law is monthly well production reports to the Commission. 09-01-19 Effective Date

Trucks

HB 61 White/Nichols. Relating to the use of certain lighting equipment on escort flag vehicles. Trucks. Summary. “escort flag vehicles” and allows them to use alternating blue and amber flashing lights. 09-01-19 G Effective Date

HB 105 Minjarez/Perry. Relating to the inclusion of information about oversize and overweight vehicles in the curriculum of driver education and driving safety courses. Trucks. Summary. “The commission by rule shall require that information relating to methods of safely operating a motor vehicle near an oversize or overweight vehicle, including safe following distances and safe passing methods, be included in the curriculum of each driver education course and driving safety course.” 09-01-19 Effective Date

HB 917 Craddick/Flores. Relating to the enforcement of commercial motor vehicle safety standards in certain municipalities. Trucks Summary. Gives cities with a county population of less than 50,000, that generated severance tax in excess of \$20 million or a city in a county that is adjacent to two or more counties with \$20 million in severance tax the authority to do city safety inspections of trucks. 09-01-19 Effective Date

Key Legislation Passed by Subject (Continued)

Water

HB 720 Larson/Perry. Relating to appropriations of water for use in aquifer storage and recovery projects. Water. Summary. Appropriations of water for use in aquifer storage and recovery projects. Clarifies that you have the right to retrieve water that you stored in an aquifer. Classifies the water stored as percolating groundwater. Sets out criteria for an authorization of a new appropriation of water for storage and recovery project. Special provisions for appropriations in the Rio Grande Basin.

06-10-19 Effective Date

HB 807 Larson/Buckingham Relating to the state and regional water planning process. Water. Summary. Goal of the bill appears to put more emphasis on regional water planning that gets incorporated in the state plan. Creates an Inter-regional Planning Council with the purposes of: Improved coordination among the regional planning groups; facilitate dialogue on water management strategies that could affect multiple regional water planning; and share best practices on the operation of regional water planning process. From there the regional water plan will be submitted to the Water Development Board.

06-10-19 Effective Date

HB 2771 Lozano/Hughes. Relating to the authority of the Texas Commission on Environmental Quality to issue permits for the discharge into water of this state of produced water, hydro-static test water. Water. Summary. Railroad Commission has authority over produced water discharges etc. from oil and gas operations. "The commission (TCEQ) may issue permits for the discharge into water of this state of produced water, hydro-static test water, and gas plant effluent resulting from the activities described by Subsection (a). The discharge of produced water, hydro-static test water, and gas plant effluent into water in this state under this subsection must meet the water quality standards established by the commission." 09-01-19 Effective Date

HB 3246 Darby/Hancock. Relating to treating and recycling for beneficial use certain liquid or semi-liquid waste arising out of or incidental to drilling for or producing oil or gas. Water. Summary. Amends Section 122.002(1), Natural Resources Code is to read as follows: (1) when fluid oil and gas waste is produced and utilized by or transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the waste is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use;" 09-01-19 Effective Date

SB 530 Birdwell/Wray. Relating to civil and administrative penalties assessed or imposed for violations of laws protecting drinking water, public water supplies, and bodies of water. Water. Summary. Increases penalties maximum penalty from \$1000 to \$5,000 for violations of laws protecting drinking water, public water supplies and bodies of water. Each day the violation occurs is a separate violation. 09-01-19 G Effective Date

Key Legislation That Did Not Pass

This session PBPA supported and opposed numerous pieces of legislation. Below is largely a reflection of legislation that PBPA monitored and either supported or opposed. While this is not an entirely exhaustive list of legislation that did not pass, it should illustrate the large number of bills that are filed, on a vast range of issues, that if passed will have an impact on the Texas oil and gas industry.

We include the legislation below to provide you with a perspective and understanding of some legislation that would benefit the region, but also of the significant number of bills that could negatively impact the industry and provide you with a broad view of the legislative landscape that PBPA staff and member companies engaged with daily.

HB 42 White. Relating to allocating a portion of oil and gas production tax revenue to the counties from which the oil and gas originated and to the use of that revenue. **Road. Summary.** The Comptroller will remit 2% of the oil and gas severance tax back to each county based upon that county's oil and gas production. The "county may use money received under this section only to supplement construction and maintenance of county roads and bridges that are impacted by oil and gas exploration and production activities."

HB 485 Phelan. Relating to the applicability of the law regarding the authority to construct or maintain a facility or structure on state land. **E&P. Summary.** Requires that you get permission/permit to construct a "facility or structure" from the Land Commissioner on state lands. Adds definition for "facility or structure" to mean: "any structure, work, fixture, or improvement constructed on, affixed to, or worked on land owned by the state, including...roads... utility transmission lines, pipelines, and equipment for the exploration for or production, storage, or processing of oil, gas, or other minerals."

HB 518 Springer. Relating to fire safety inspections. **E&P. Summary.** Changes what training and approval a fire inspector must have. New-A fire safety inspection required by a state or local law, rule, regulation, or ordinance, "may only be conducted by an individual trained in accordance with the Standard for Professional Qualifications for Fire Inspector and Plan Examiner as established by the National Fire Protection Association (NFPA) and certified by: (either) (1) the Texas Commission on Fire Protection, (2) the State Firemen's and Fire Marshals' Association, (3) the National Fire Protection Association, (4) the International Code Council, OR (5) any other state agency with authority over fire safety inspections.

HB 564 Nevarez. Relating to the definition of "heavy equipment" for purposes of the ad valorem taxation of certain dealer's heavy equipment inventory. **Tax. Summary.** Amends Section 23.1241(a)(6), Tax Code, definition of "Heavy Equipment" to exclude "a natural gas compressor package or unit."

HB 858 Anchia. Relating to the posting by the Railroad Commission of Texas on its Internet website of certain enforcement information. **E&P. Summary.** Refile of HB 247 by Anchia from last session. the Railroad Commission shall post on the commission's Internet website everything you wanted to know about enforcement actions, permits, inspections, penalties, complaints, etc.

Key Legislation That Did Not Pass

HB 859 Anchia. Relating to the acceptance of political contributions by a member of the Railroad Commission of Texas and of political contributions made in connection with the office of railroad commissioner. E&P. Summary. Refile of HB 464 by Anchia from last session. Limits contributions to RRC Commissioners to 17 months before the next general election and 30 days after that general election. No contributions from a party that has a contested case before the commission.

HB 860 Anchia. Relating to the imposition of administrative, civil, and criminal penalties for violating certain statutes under the jurisdiction of, rules or orders adopted. E&P. Summary. Refile of HB 2932 by Anchia and SB 567 by Rodriguez. Increases the penalty from \$10,000 per day to \$25,000 per day for each violation that is not related to pipeline safety. Deletes statutory language on things the RRC should consider on setting the penalty. Adds the RRC shall adopt guidelines on determining the amount of the penalty.

HB 1522 Paddie. Relating to a prohibition against covenants not to compete for independent contractors in connection with oil and gas operations. E&P Summary. Prohibition against covenants not to compete for independent contractors in connection with oil and gas operations. Creates an oil & gas exception to Sec. 15.50(a) Business & Commerce Code on elements of an enforceable covenant not to compete. "An entity engaged in a downstream, midstream, or upstream oil and gas operation may not require an independent contractor with whom the entity contracts to enter into a covenant not to compete that restricts the independent contractor from performing work or providing a service for another entity engaged in a downstream, midstream, or upstream oil and gas operation."

HB 1919 Bailes. 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. Eminent Domain. Summary.

Amends the Landowner's Bill of Rights to give property owners right file a complaint against an entity regulated by the Railroad Commission for misconduct while exercising eminent domain authority. Effective January 1, 2020.

HB 1987 Leman. Relating to reporting requirements regarding eminent domain authority. Eminent Domain. Summary. Adds new reporting requirement to Comptroller. If an entity is challenged as to their eminent domain authority, then the entity must report outcome of lawsuit within 30 days of the decision in the lawsuit.

HB 2055 Thompson. Relating to the provision of information regarding certain enforcement actions by the Texas Commission on Environmental Quality. E&P. Summary. Local hearings on final enforcement actions where someone from the facility/company must attend the local hearing and must make a reasonable effort to respond to questions.

HB 2154 Landgraf Relating to the allocation of certain constitutional transfers of money to the economic stabilization fund, the state highway fund, and the "Generate Recurring Oil Wealth for Texas Fund", "GROW Texas Fund".

Key Legislation That Did Not Pass

HB 2545 Guillen/Hinojosa. Relating to franchise tax, oil production tax, and gas production tax incentives for certain desalination facility operations. Water. Summary. Get to deduct from taxes any amount received from minerals or materials extracted from water. Tax credit ranging from \$1 to \$5 to \$17 per 1000 gallons of water that meets certain ranges of dissolved solids and the water is used for beneficial use. Ability to: a) carryforward the credit; and b) sell or assign the credit. Flows thru TCEQ, then to Comptroller.

HB 2676 Geren. Relating to the composition and use of money in the oil and gas regulation and cleanup fund. E&P. Summary. Changes the name from "Oilfield Cleanup Fund" to "oil and gas regulation and cleanup fund". Adds three new sources of funds: " (28) penalties collected under Section 81.0531; (29) taxes collected under Chapter 122, Utilities Code; and (30) penalties and interest collected under Subchapter E, Chapter 122, Utilities Code." Adds penalties collected under 81.0531. New uses of the fund would include: alternative fuels regulatory programs related to liquefied petroleum gas, compressed natural gas, and liquefied natural gas safety, the regulation of the rates and services of gas utilities, the administration of surface mining regulatory programs. Pipeline tax, along with penalties and interest, would be credited to the fund. Again, repeals 81.067(b).

HB 2773 Lozano/Zaffirini. Relating to a prohibition on the issuance by the Railroad Commission of Texas of a permit for a commercial surface disposal facility located near a school. E&P. Summary. The Railroad Commission "may not approve an application for a commercial surface disposal facility if any part of the site of the facility is located less than two miles from a school."

HB 2854 Middleton/Hughes. Relating to judicial deference regarding an interpretation of law by a state agency. E&P. Summary. SB 2371/HB 2854 expressly prohibits state courts from deferring to a state agency's interpretation of a statute or regulation the agency administers and implements.

HB 2855 Landgraf. Relating to a study by the Texas A&M Transportation Institute on the impacts to state and local roads and bridges from increasing maximum weight limits for certain vehicles transporting sand. Trucks Summary. Increased Weight Sand Truck Study. "Texas A&M Transportation Institute shall conduct a study on the estimated impacts to state and local roads and bridges, including impacts on traffic volume and safety on those roads and bridges, resulting from increasing the maximum allowable weight limits established by Subtitle E, Title 7, Transportation Code, for a truck-tractor and semitrailer combination transporting sand at the gross weights and axle requirements specified by Section 623.402, Transportation Code..."

HB 3067 Ashby. Relating to an oil and gas production tax credit for oil and gas producers that provide produced water for recycling. Water. Summary. Creates an oil severance tax credit of 2.3% x Barrels of Water x Monthly Ave. Price of WTI. Total credit is capped at \$25 million per year. Have to clean up produced water with greater than 90,000 milligrams per liter to the point it can meet water quality standards for discharge under an NPDES permit.

HB 3275 Gonzalez, J. Relating to the repeal of the exemption from the severance tax for flared or vented gas. Tax. Summary. Makes flared gas subject to the 7.5% severance tax. Makes all gas "produced" subject to 7.5% severance tax.

Key Legislation That Did Not Pass

HB 3372 Craddick/Fallon. Relating to causes of action for withholding payments of the proceeds from the sale of oil and gas production. Royalty. Summary. SB 1988 by Fallon Companion Amends 91,402, Natural Resource Code by adding: "(b-1) A payee may not bring an action for breach of contract against a payor for withholding payments under Subsection (b)."

HB 3717 Dominguez/Hinojosa. Relating to an oil and gas production tax credit for oil and gas producers that provide treated produced water to aquifer storage and recovery project operators. Water. Summary. You get a severance tax credit for produced water that is treated and then injected into an aquifer for storage. Total amount of all credits under this program is capped at \$25 million

HB 4001 Nevarez. Relating to the issuance of a permit by the Public Utility Commission of Texas for the routing of certain oil or gas pipelines. Routing. Summary. 1) May not begin construction of pipeline until a pipeline route is obtained; 2) In making decision must consider: (1) community values; (2) recreational and park areas; (3) historical and aesthetic values; and (4) environmental integrity; and 3) PUC has one-year to make a decision.

HJR 13 White. Proposing a constitutional amendment authorizing the legislature to allocate a portion of oil and gas production tax revenue to the counties from which the oil and gas originated. Roads. Summary. It is a constitutional amendment authorizing the legislature to allocate a portion of oil and gas production tax revenue to the counties from which the oil and gas originated. Resolves any constitutional issues with HB 42. Note if HJR 13 is not approved by the voters in the November 2019 election, then HB 42 has no effect.

HJR 82 Craddick. Proposing a constitutional amendment providing for the creation of and use of money in the generate recurring oil wealth for Texas (GROW Texas) fund and allocating certain general revenues to that fund. Roads. Summary. Constitutional Amendment to allow money from the Rainy-Day Fund to flow to the TEXAS GROW FUND. Change in allocation to 38% to Rainy Day Fund, 12% to TEXAS GROW FUND and rest to state highway fund. HJR 82 provides the fund may be used for public roadways; public safety concerns, fund grants to agencies and political subdivisions to address safety concerns and supplement educational opportunities.

HB 2277 Zwiener, Erin Relating to requirements for the construction of a natural gas pipeline. Remarks: HB 2277 by Zwiener E&P Status: Introduced 02-22-19 Summary. Before construction begins on a pipeline an environmental assessment must be performed and the results delivered to the Railroad Commission..."identify and assess potential impacts on endangered and threatened species, air and water quality, aquifers, and historic, cultural, and archaeological sites..." Bill History: 03-06-19 H Introduced and referred to committee on House Energy Resources

HB 3035 Zwiener, Erin Relating to the relationship between the amount of an administrative penalty imposed by the Texas Commission on Environmental Quality and the economic benefit of the violation to the alleged violator. Companions: HB 4025 Rodriguez, Eddie (Refiled from 85R Session) Remarks: HB 3035 by Zwiener. Adds a new provision to ensure a violator does not get an economic benefit greater than the penalty for the violation. "the commission shall, to the extent practicable, ensure that the amount of the penalty is at least equal to the value of any economic benefit gained by the alleged violator through the violation. Bill History: 05-01-19 H Committee action pending House Environmental Regulation

HB 3320 Zwiener, Erin Relating to the authority of the Texas Commission on Environmental Quality to require water pollution abatement plans from certain facilities regulated by the Railroad Commission of Texas. Remarks: HB 3320 by Zwiener E&P Status: Introduced 03-05-19 Summary. Water pollution abatement plans from certain facilities regulated by the Railroad Commission of Texas. Applies to only those facilities located in the recharge zone of the Edwards Aquifer. Bill History: 03-18-19 H Introduced and referred to committee on House Natural Resources

HB 3324 Zwiener, Erin Relating to groundwater impact contingency planning by pipeline operators. Remarks: HB 3324 by Zwiener E&P/Water Requires a groundwater impact contingency plan be prepared and submitted to the Railroad Commission that "describes measures to be taken to control, contain, and collect any discharge of fluids from the pipeline to minimize impacts to groundwater in this state." RRC may accept or reject plan. Bill History: 04-02-19 H Committee action pending House Natural Resources

HB 3326 Zwiener, Erin Relating to the authority of a municipality to require that an intrastate pipeline be buried to a certain depth. Remarks: E&P Status: Introduced 03-06-19 Summary. Municipality may require an intrastate pipeline that transports hazardous liquid, carbon dioxide or natural gas to bury a pipeline to a depth of not more than 12 feet. Bill History: 03-18-19 H Introduced and referred to committee on House Energy Resources

HB 3327 Zwiener, Erin Relating to the acquisition of real property for a proposed oil and gas pipeline through eminent domain by a common carrier. Summary. Notice to county judge, each county within five miles of pipeline and the board of directors of any groundwater conservation district. Sets out public meeting requirements after notice. Bill History: 04-25-19 H Committee action pending House Land and Resource Management

HB 4060 Zwiener, Erin Relating to a program administered by the Railroad Commission of Texas to provide grants to promote pipeline emergency preparedness. Remarks: HB 4060 Railroad Commission (RRC) shall assess fees for pipeline permits or registration to use for grants for emergency preparedness expenses (evacuation plan etc.) for local government that has first responder services in case of a "pipeline-related emergency" and is located within five miles of a pipeline. Bill History: 04-08-19 H Committee action pending House Energy Resources

HB 4116 Zwiener, Erin Relating to a voluntary financial assurance program for permit holders under the National Pollutant Discharge Elimination System. Remarks: Attempt at financial assurance in case of a violation of an NPDES Permit. "(c) The program established under this section shall require an agreement between the permit holder and interested parties in the community affected by the facility or proposed facility. The agreement may be entered into at any time before the issuance of the relevant NPDES permit." Has provisions on calculation and return of amount. Bill History: 05-07-19 S Referred to Senate Committee on Senate Natural Resources and Economic Develop

HB 4148 Zwiener, Erin Relating to municipal regulation of outdoor lighting. Remarks: HB 4148 by Zwiener Lighting/cities Introduced 03-08-19 Summary. Gives cities that have International Dark Sky Community designation or "applied for" the authority to regulate lighting both inside the city and their extraterritorial jurisdiction after the effective date of their ordinance. A violation is a Class C misdemeanor. Bill History: 03-25-19 H Introduced and referred to committee on House Urban Affairs

Key Legislation That Did Not Pass

HB 4154 Zwiener, Erin Relating to the possession of condemned property by the condemnor pending the results of further litigation. Remarks: HB 4154 by Zwiener. If the condemnor does not pay the damages assessed by the special commissioners during an appeal, then the condemnor may not take possession of the property for 180 days.

Bill History: 03-25-19 H Introduced and referred to committee on House Land and Resource Management

HB 4156 Zwiener, Erin Relating to the exercise of power of eminent domain by private pipeline companies for the construction of common carrier pipelines.

Remarks: HB 4156 by Zwiener Eminent Domain Moratorium Introduced 03-07-19 Summary. Calls for a moratorium on the exercise of eminent domain for pipelines through September 1, 2021 so the legislature can study any changes in land use controls and "to protect and preserve its natural resources, environment, and vital areas." Bill History: 03-25-19 H Introduced and referred to Land and Resource Management

HB 4382 Zwiener, Erin Relating to the issuance by the Railroad Commission of Texas of a certificate of convenience and necessity for certain common carrier pipelines. Remarks: HB 4382 by Zwiener Pipes RRC CCNs Introduced 03-08-19 Summary. Creates Certificate of Convenience and Necessity (CCN) process at the Railroad Commission (RRC) for common carrier pipelines and a route hearing process that the RRC must conduct.

Bill History: 03-25-19 H Introduced and referred to committee on House Energy Resources

HB 4423 Zwiener, Erin Relating to surface remediation and the restoration of land disturbed by the installation of a pipeline. Remarks: HB 4423 by Zwiener Pipes/RRC/Restoration Introduced 03-08-19 Summary. Grants the Railroad Commission (RRC) the authority to monitor and to do actual restoration of lands disturbed by a pipeline. Gives the RRC authority to recover costs for restoration from the pipeline. Requires the pipeline to post a bond equal to \$1,000 per mile of the pipeline for restoration. Bill History: 04-08-19 H Committee action pending House Energy Resources

HB 4573 Zwiener, Erin Relating to best management practices for landowners regarding the exercise of power of eminent domain for landowners. Remarks: HB 4573 by Zwiener. Would have required Parks and Wildlife to advise property owners subject to eminent domain on the following: (1) Negotiating best management practices for land restoration following construction of common infrastructure projects that use eminent domain such as roads, rail lines, pipelines, and power lines; and (2) Recommendations on how to ensure an accurate valuation of wildlife lands; and (3) reasonable indemnification, including proof of appropriate insurance overages, sound risk management practice policies, hold harmless agreements, and other provisions that provide the property owner with reasonable liability protection from any and all possible claims associated with the condemnation process; and (4) the maximum acceptable width of permanent easements, resulting from condemnation; and (5) liability for damages and losses caused by or arising out of construction, maintenance, replacement, or operations such as, but not limited to loss of livestock, wildlife, exotic game, crops, fences, gates, trees, buildings, and other improvements; and (6) non-interference clauses with regard to other operations on property, such as grazing, farming, hunting, oil and gas operations, and other normal activities found on private properties in Texas; and (7) timetable requirements for completion of construction." Bill History: 03-26-19 H Introduced and referred to committee on House Land and Resource Management

Key Legislation That Did Not Pass

SB 185 Miles. Relating to the response to certain oil or gas well accidents by state agencies and responsible parties. E&P. Summary. Senate Floor Amendment. Strike below enacting clause. Only applies to counties with 750,000 or more population, as to notice of well adjacent to well where violation occurred.

SB 421 Kolkhorst/Burns. Relating to the acquisition of real property by an entity with eminent domain authority. Eminent Domain. House Substitute Version. Initial offers must be equal to or greater than one of the following: appraisal; or at least three comparable sales based on either a Market Study, Comparative Market Analysis or Broker Price Opinion; or 140% of County Appraisal District (CAD) appraisal. County Judge must be notified of the new pipeline project no later than the initial offer letter. Initial Easement Provisions must include: number of pipelines to be initially installed, maximum diameter, substances to be transported, general description of the easement route, maximum easement width, and minimum depth initially installed. Proposals can then be negotiated after initial provisions are provided. Private entity and landowner can mutually agree to enter into an easement and not follow the bona-fide offer and easement requirements. Group meetings are only required for new a pipeline project that traverses more than 25 separate tracts owned by unaffiliated owners, and that are classified as agriculture, residential or commercial property by CAD. Requires the appointment of review commissioners within 15 days after a petition filing, and hearing be held no later than 45 days from appointment, with findings posted no later than three days after the hearing. Excluding technical and non-substantive changes, the Legislature will not add, amend or repeal a provision dealing with eminent domain authority until December 31, 2030, unless stakeholders mutually agree.

SB 552 Schwertner/Ashby. Relating to notice of a property owner's rights relating to the examination or survey of property by an entity with eminent domain authority. Eminent Domain. Summary. Amends Landowner's Bill of Rights. Condemning entity's responsibility for any actual damages arising from an examination or survey of the property; Property owner's right to negotiate the terms of the examination or survey of the property; and the condemning entity's ability to sue to obtain a court order authorizing the examination or survey.

SB 553 Schwertner/Ashby. Relating to the acquisition of certain real property in conjunction with the acquisition of real property for a public us through eminent domain. Eminent Domain. Summary. Amends Landowner's Bill of Rights. Requires a condemnor to make a separate offer for desired land that the condemnor will not seek to condemn (either because the condemnor does not have authority to take the land or because the condemnor chooses not to exercise the power of eminent domain for that parcel).

SB 555 Schwertner/Ashby. Relating to liability for the additional tax imposed on land appraised for ad valorem tax purposes as agricultural land if the use of the land changes as a result of a condemnation. Eminent Domain. Summary. Payment of back taxes due to change of use from eminent domain. The additional taxes and interest are the obligation of the condemning entity, not the property owner.

SB 817 Hinojosa. Relating to the information required to be provided by a payor of the proceeds derived from the sale of oil or gas production to a royalty interest owner. Royalty. Summary. Adds to the information to be provided on royalty check stub: "the BTU factor for gas sold"

Key Legislation That Did Not Pass

SB 1417 Johnson. Relating to phasing out the tax reduction for certain high-cost gas. Tax. Summary. "(f) To qualify for the tax reduction provided by this section, the person responsible for paying the tax must apply to the comptroller. Notwithstanding any other provision of this section, the application must be filed with the comptroller before September 1, 2019."

SB 1930 Zaffirini. Relating to the eligibility of property used for a water desalination project for ad valorem tax benefits under the Texas Economic Development Act. Water. Summary. Makes desalination projects for "water produced in oil or gas drilling, completion, flowback, or production, to produce fresh water of usable quality for public, agricultural, industrial, environmental, or other beneficial uses" eligible for Chapter 313 property tax credits.

SB 1994 Birdwell. Relating to reporting requirements for certain accidental discharges or spills. E&P. Summary. SB 1994 by Birdwell E&P/Spills Introduced 03-07-19 Summary. Amends 26.039(b) and (g) of the Water Code on notification of accidental spills to now include "appropriate local government officials".

SB 2064 by Menendez Air Quality Introduced 03-07-19 Summary. Requires a "methane reduction plan" for each University Lands Lease that must be approved by the University of Texas Regents. Includes a methane study by the Texas Bureau of Economic Geology on the "best practices" to reduce methane emission from oil and gas operations. Introduced and referred to committee on Senate Higher Education 3-21-19

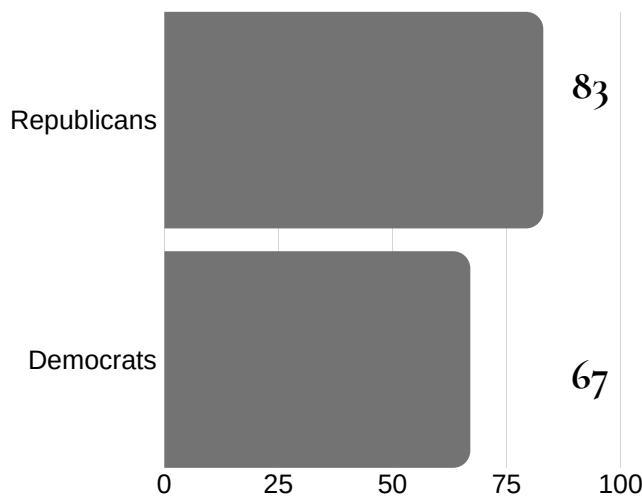
SB 2276 Buckingham. Relating to the issuance of a permit by the Railroad Commission of Texas for the routing of certain oil or gas pipelines. Routing. Summary. May not begin construction until the pipeline has a Railroad Commission (RRC) routing permit that "moderates the negative effects on affected communities and landowners after consideration of all relevant factors". RRC has one year to issue permit and if not, then mandamus action. Must publish notice of route for four weeks before making permit application. Contested case process for affected parties. Pay a permit fee to cover the costs of the RRC.

SJR 77 Taylor. Proposing a constitutional amendment relating to the dedication of certain severance tax collections for school district ad valorem tax compression. Tax. Summary. Dedication of certain severance tax collections for school district ad valorem tax compression. Cuts in half (50% to 25%) dedicated severance tax to Rainy Day fund with that money then dedicated to school district ad valorem tax rate compression.



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The 86th Texas Legislature by the Numbers

HOUSE**SENATE**