

**PRESENTED AT****2023 Gas and Power Institute**

October 27, 2023

Houston, TX

**State Regulatory and Legislative Update****R. Dakota Parish**

## Author Contact Information:

R. Dakota Parish

Husch Blackwell LLP

Austin, TX

[dakota.parish@huschblackwell.com](mailto:dakota.parish@huschblackwell.com)

512.370.3318

## I. GAS MARKET DEVELOPMENTS

### A. Legislative Action: House & Senate

The 88<sup>th</sup> Legislature had less impact on the oil and gas industry than in previous sessions but still included bills that impact the oil and gas market in Texas, including Water Infrastructure, Hydrogen Regulation, Closed-Well Geothermal Injection Well Regulation, and Budget. Below is a brief summary of the most impactful legislation.

*SB28, Relating to financial assistance provided and programs administered by the Texas Water Development Board.*

SB 28 along with Senate Joint Resolution 75 modifies Texas Water Code §§ 10.010, 15.438(a), 15.472(a), 15.474(a), 15.944(c), 16.0121, 16.026, 16.401, 16.4021 and adds new Texas Water Code §§ 15.151, 15.152, 15.153, 15.154, 15.501, 15.502, 15.503, 15.504, 15.505, 15.506, 15.507 16.027 to establish a new water supply fund that will be administered by the Texas Water Development Board. The fund is to be established to finance water projects and upgrade water infrastructure in the State of Texas. The fund would include financing for desalination projects, import of water from other states, and would set aside money to help upgrade water infrastructure, especially in rural areas of the state. This program will likely have an impact on the oil and gas industry including with the ongoing endeavor to recycle water used during oil and gas drilling into usable water for other purposes. A portion of the legislation and funding relating to the creation of the Texas Water Fund is subject to voter approval of a constitutional amendment that be on the November 7, 2023 ballot as Texas Proposition 6. The portion of the bill not subject to voter approval is effective as of September 1, 2023. The portion related to Texas Proposition 6, will become effective on January 1, 2024 if approved by voters.

*HB2847, Relating to the jurisdiction of the Railroad Commission of Texas over and a study of the production, pipeline transportation, and storage of hydrogen.*

HB 2847 amends Section 81.051(a) of the Natural Resources Code and creates new Section 81.075 of the Natural Resources Code to give the Railroad Commission of Texas (RRC) the jurisdiction to regulate pipeline transportation and underground storage of hydrogen and establishes the Texas Hydrogen Production Policy Council which will be tasked with studying and make recommendations related to the development of facilities for production, pipeline transportation and storage of hydrogen, and monitor the progress of the hydrogen hubs in Texas. HB 2847 is effective as of September 1, 2023.

*SB 786, Relating to the regulation by the Railroad Commission of Texas of closed-loop geothermal injection wells.*

HB 786 creates new Section 27.037 of the Texas Water Code to give the RRC jurisdiction over closed-loop geothermal injection wells in the State of Texas. This includes the authority to require and issue permits relating to the drilling of closed-loop geothermal injection wells. Further, it gives the RRC the authority to adopt the necessary administrative rules to regulate closed-loop geothermal injection wells. HB 786 is effective as of September 1, 2023.

*HB 2263, Relating to the authority of a natural gas local distribution company to offer energy conservation programs.*

HB 2263 creates new Subchapter J of Chapter 104 of the Texas Utilities Code to authorize local gas distribution companies to offer energy conservation programs to customers and provides the RRC exclusive jurisdiction over such program offerings. The bill would prohibit a political subdivision served by a local distribution company that implements an RRC-approved energy conservation program from preventing customer participation in the program based on the type or source of energy delivered to the customer. Costs associated with these programs would be recoverable through an RRC-approved, expedited recovery mechanism. Lost revenue would also be recoverable if the RRC determines that the operation of the program caused the utility to earn below the authorized rate of return, as established in the company's most recent rate case. The utility would be required to submit annual reports on program result for the prior year and planned programs for the coming year. HB 2263 is effective as of June 12, 2023.

*HB 1, General Appropriations Bill.*

HB 1 increased the RRC budget to \$144.4 million for the next two years between legislative sessions. This includes funding to hire up to fifty new pipeline safety professionals to enhance inspections for thousands of miles of pipeline in the state. The increased funding also allows for new staff in the RRC's Oil and Gas Environmental Permits and Support Unit. The funding will allow the RRC to buy additional FLIR cameras to increase detection of emissions from wells and other oil and gas facilities during inspection. Lastly, the funding will allow for digitization of records to modernize the agency further. HB 1 was effective as of September 1, 2023.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: State Regulatory and Legislative Update

Also available as part of the eCourse

[2023 Gas and Power eConference](#)

First appeared as part of the conference materials for the

2023 Gas and Power Institute session

"State Regulatory and Legislative Update"