

Texas Independent Producers & Royalty Owners Association

# 2017 Legislative Report



## MESSAGE FROM THE PRESIDENT

During the 2017 Texas Legislative Session, state lawmakers made significant strides on key issues impacting Texas today, including those of critical importance to members of the Texas Independent Producers & Royalty Owners Association (TIPRO). Altogether, more than 6,600 bills were filed for consideration during 85<sup>th</sup> Regular Texas Legislative Session - including over 4,444 in the Texas House of Representatives and 2,356 in the Texas Senate. Of these, TIPRO tracked nearly 300 pieces of legislation pertaining to the Texas oil and gas industry. In total, the Texas Legislature passed over 4,900 pieces of legislation during the 85<sup>th</sup> Regular Legislative Session.

Most significantly, this year, Texas legislators successfully approved legislation that will continue the state's primary oil and gas regulatory agency - the Railroad Commission of Texas - for the next 12 years. In the current political and economic climate, the legislature's vote to allow for the continuation of a strong regulatory agency in the state of Texas was seen as more important than ever, prompting the passage of this piece of legislation to be a top priority for TIPRO during the 2017 session. As the top oil and gas producing state in the nation, Texas must maintain a stable regulatory environment for our industry to thrive. With the legislature's approval of House Bill 1818 -- known as the Railroad Commission Sunset bill -- Texas will ensure regulatory certainty for the oil and gas industry while at the same time further strengthen oversight of energy development in the Lone Star State.

During the 140 days of session, TIPRO was also able to successfully advocate on a range of other noteworthy legislative issues, including: the state budget, funding for the Railroad Commission and the Texas Commission on Environmental Quality, brackish groundwater use, criminal offenses for the theft of oil, funding for county roads and the state's TexNet seismic research program, to name a few.

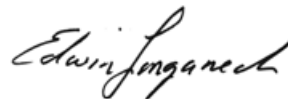
Since the association's inception more than 71 years ago, TIPRO has consistently provided Texas lawmakers with the proper information necessary to understanding the impact of their decisions on the oil and gas industry. Our association's ongoing efforts have proven to be instrumental in promoting beneficial legislation, helping to block onerous bills, and ultimately creating a regulatory environment that is conducive to economic growth and allowing for responsible exploration and production of oil and natural gas.

TIPRO continues to proudly serve as the leading voice for the Texas oil and gas industry. As one of the nation's largest statewide associations serving both independent producers and royalty owners, members of the association include small family businesses, the largest, publicly-traded independent producers, and mineral owners, estates, and trusts. Members of TIPRO are responsible for producing more than 85 percent of the natural gas and 70 percent of the oil within Texas, and own mineral interests in millions of acres across the state.

I hope you find value in reviewing *TIPRO's 2017 Legislative Report* as we strive to keep you informed of relevant policy developments and the many accomplishments of our organization and industry.

If you are not already engaged in our advocacy efforts, I encourage you to join one of our association's many standing committees. There is strength in numbers. Your participation and support directly enhances TIPRO's ability to effectively represent the industry at the state and federal level.

If you have any questions, please do not hesitate to contact me directly. Thank you.



Ed Longanecker  
TIPRO President

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### **RAILROAD COMMISSION SUNSET REVIEW (HOUSE BILL 1818):**

**AUTHOR: REP. LARRY GONZALES | SPONSOR: SENATOR VAN TAYLOR**

**ANALYSIS:** House Bill 1818 continues the Texas Railroad Commission for 12 years. The bill requires the Railroad Commission to develop a policy to encourage the use of alternative dispute resolution. The commission must coordinate the implementation of this policy, provide training as needed, and collect information concerning the effectiveness of those procedures.

House Bill 1818 also specifies that fees collected for pipeline safety are to be distributed to the Oil and Gas Regulation and Cleanup Fund.

It will remove the Alternative Fuels Program under the purposes of the Oil and Gas Regulation and Cleanup Fund.

Also, the bill allows the Railroad Commission to establish by rule pipeline safety and regulatory fees to be assessed for permits and/or registrations for pipelines under the commission's Pipeline Safety Program.

The Railroad Commission also will be allowed to establish fees to be assessed annually against permit or registration holders, along with individual fees for new, renewed or amended permits and registration. The fees must be sufficient to cover costs of the Pipeline Safety and Regulatory program including:

- Permitting and registration costs
- Administrative costs
- Costs of employees' salaries and benefits

The Railroad Commission may base the fees on any factor considered necessary to efficiently and fairly recover the Pipeline Safety and Regulatory Program costs, including:

- The length of the pipeline;
- The number of new, renewed, or amended permits or registrations; or
- The number of pipeline systems.

Under the bill, the Railroad Commission also can establish late payment penalties. The fees collected from this program are to be distributed to the Oil and Gas Regulation and Cleanup Fund.

The Railroad Commission will be prohibited from awarding a contract for goods or services to a contractor unless the contractor or subcontractor registers with and participates in the E-verify program. The contractor or subcontractor must continue to participate in the program during the term of the contract. Accordingly, the commission will have to develop procedures for the administration of the e-verify program for contractors.

Further, the commission will be required to adopt rules relating to safety standards for the prevention of damage to interstate and intrastate hazardous liquid carbon dioxide pipeline facilities. The Railroad Commission must also establish rules prescribing safety standards and best practices relating to the prevention of damage by a person to a facility to include interstate or intrastate pipeline facilities. The Railroad Commission also will now hold authority of interstate or intrastate gas pipelines in developing safety standards to prevent damage to facilities.

The Alternative Fuels Program and the Oil and Gas Regulation and Cleanup Fund Advisory Committees both will be repealed.

Lastly, the Railroad Commission's first Oil and Gas Division Monitoring and Enforcement Strategic Plan will be due no later than July 1, 2018.

### **RAILROAD COMMISSION SUNSET REVIEW (HOUSE BILL 1818):**

**TIPRO EFFORTS:** House Bill 1818 was TIPRO’s highest priority this legislative session. Before the start of the legislative session, TIPRO formed a Railroad Commission Sunset Task Force to develop the association’s “*Overview of Oil and Gas Regulations in Texas*” publication, which served as a resource for legislators and legislative staff. The task force also provided feedback to the Sunset Commission before and after the recommendations were developed. TIPRO testified in favor of House Bill 1818, and lobbied both chambers prior to their respective floor votes.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Greg Abbott on May 22, 2017. The bill is effective on September 1, 2017.

### **STATE AGENCY ONE-FOR-ONE-RULE REGULATIONS (HOUSE BILL 1290):**

**AUTHOR: REP. ROBERTS | SPONSOR: SENATOR KOLKHORST**

**ANALYSIS:** This bill prohibits a state agency from adopting a proposed rule unless on or before the effective date of the proposed rule the agency involved has repealed at least one agency rule. The requirements would not extend to rules specifically required by the legislature or necessary to protect the health and safety of residents of the state under the Health and Safety Code.

**TIPRO EFFORTS:** TIPRO worked on including an amendment to this legislation that exempted agencies with statewide elected officials, which includes the Railroad Commission.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1290 was signed by Governor Greg Abbott on June 15, 2017. The bill is effective on September 1, 2017.

### **DRILL CUTTINGS (SENATE BILL 1541):**

**AUTHOR: SENATOR ESTES | SPONSOR: REP. LAMBERT**

**ANALYSIS:** This bill adds a definition of “treatment” in statute relating to the treatment and recycling for the beneficial use of drill cuttings. Senate Bill 1541 also allows the Railroad Commission to adopt a criteria for beneficial use, defining “beneficial use” to mean:

- in the construction of oil and gas lease pads or oil and gas lease roads; or
- as part of a legitimate commercial product.

**TIPRO EFFORTS:** TIPRO supported Senate Bill 1541 in the House Committee on Energy Resources and the Senate Committee on Natural Resources, and advocated for its passage to the legislature prior to floor debates.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1541 passed and was signed by the governor on May 26, 2017. The bill takes immediate effect.

### **FEDERAL REGULATIONS RESOLUTION (SENATE CONCURRENT RESOLUTION 26):**

**AUTHOR: SENATOR ESTES | SPONSOR: REP. DARBY**

**ANALYSIS:** Senate Concurrent Resolution 26 urges the executive branch and Congress to work in conjunction with the state of Texas to identify federal regulations promulgated during the last eight years and determine whether the rules should be revised, delegated to state agencies, or eliminated in order to ease the overly burdensome regulatory patchwork on the oil and gas industry in Texas.

### FEDERAL REGULATIONS RESOLUTION (SENATE CONCURRENT RESOLUTION 26):

**TIPRO EFFORTS:** TIPRO submitted a card in favor of the bill in the Senate Committee on Natural Resources and Economic Development.

**BILL STATUS/EFFECTIVE DATE:** Senate Concurrent Resolution 26 was signed by the governor on June 15, 2017.

### TCEQ WATER RESOURCE MANAGEMENT (SENATE BILL 1105):

**AUTHOR:** REP. PHELAN | **SPONSOR:** SENATOR HINOJOSA

**ANALYSIS:** In order to provide additional flexibility for the Texas Commission on Environmental Quality's (TCEQ) water resource management programs, under the legislation, oil recycling fees from the oil recycling account would be moved to the water resource management account. When all the funds currently in the oil recycling account are transferred to the water resource management account, the oil recycling account is to be abolished.

**TIPRO EFFORTS:** TIPRO supported this bill by submitting a card in favor of Senate Bill 1105.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Abbott on June 12, 2017. The bill takes effect on September 1, 2017.

### RAILROAD COMMISSION NAME CHANGE (HOUSE BILL 237/HOUSE BILL 642/HOUSE BILL 4113/HOUSE JOINT RESOLUTION 47):

**HB 237 - AUTHOR:** REP. ANCHIA/**HB 642 - AUTHOR:** REP. PHILLIPS/**HB 4113 - AUTHOR:** REP. ALONZO/**HJR 47 - AUTHOR:** REP. PHILLIPS

**ANALYSIS:** Several legislative proposals sought to rename the Texas Railroad Commission as the "Texas Energy Resources Commission." One bill up for consideration this session specifically would have changed the agency's name only after approval from voters through a constitutional amendment.

**TIPRO EFFORTS:** TIPRO was neutral on the legislative efforts to change the name of the Railroad Commission due to differing opinions of TIPRO's membership. TIPRO did oppose including a name change amendment on House Bill 1818, the Railroad Commission Sunset bill, as TIPRO believed a name-change amendment could have endangered the passage of the legislation.

**BILL STATUS/EFFECTIVE DATE:** House Bills 237, 642, 4113, and House Joint Resolution 47 did not receive a vote in the House Committee on Energy Resources.

### ENFORCEMENT DATA POSTED ON RAILROAD COMMISSION WEBSITE (HOUSE BILL 247/SENATE BILL 568):

**HB 247 - AUTHOR:** REP. ANCHIA/**SB 568 - AUTHOR:** SENATOR RODRIGUEZ

**ANALYSIS:** Both House Bill 247 and Senate Bill 568 would have required the Railroad Commission to make information on inspections, enforcement activities, violations and penalties available on a searchable database. The information on the database would be required to be organized by county, operator, and well.

### ENFORCEMENT DATA POSTED ON RAILROAD COMMISSION WEBSITE (HOUSE BILL 247/SENATE BILL 568):

**TIPRO EFFORTS:** TIPRO opposed the proposal during committee hearings in the House Committee on Energy Resources and the Senate Committee on Natural Resources and Economic Development due to concerns on the cost of developing the website at a time when the Railroad Commission is facing a funding deficit. TIPRO also supported the enforcement changes included in House Bill 1818 and believed those reforms should be implemented before a database such as the one proposed in these legislative efforts was put in place.

**BILL STATUS/EFFECTIVE DATE:** House Bill 247 was left pending in the House Committee on Energy Resources and Senate Bill 568 did not receive a vote on the Senate floor.

### LIMITING LICENSING FEES CHARGED BY STATE AGENCIES (HOUSE BILL 1055):

**AUTHOR:** REP. BURKETT

**ANALYSIS:** House Bill 1055 would have prohibited a state agency from increasing the amount of a fee established on or before January 1, 2017, for a license. The bill did not apply to fees collected by the Railroad Commission.

**TIPRO EFFORTS:** TIPRO worked with the author of the bill to ensure that the legislation would not negatively affect the oil and natural gas industry.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1055 passed the House chamber, but did not receive a hearing in the Senate Committee on Business and Commerce.

### STATEWIDE UNITIZATION (SENATE BILL 177):

**AUTHOR:** SENATOR VAN TAYLOR

**ANALYSIS:** Senate Bill 177 would have required the Railroad Commission to determine if a "plan of unitization," including the participation formula for a common source, is fair, reasonable, equitable and necessary as to prevent waste for all interests concerned. The language required that the applicant must have made a good faith effort to voluntarily unitize, and on receipt of an application, the commission would be required to determine if:

- the unitization plan is reasonably necessary,
- the incremental recovery value exceeds expenses,
- the productive limits of the common source to establish unitizing is necessary,
- the unit operations will have a material adverse effect on the remainder of the supply,
- the unsigned owners of interests have been given the opportunity to enter into the unit,
- the applicant has obtained approval from at least 70 percent of mineral and working interests owners,
- all expenses of establishing a unit are allocated fairly, and
- working interests owners have a right to review all records pertaining to the unit.

The bill did not apply to:

- exploratory or primary recovery operations,
- secondary recovery operations in voluntary cooperative agreements,
- pooling of separately owned interests in oil and gas within an existing proration unit, and
- public land.

**TIPRO EFFORTS:** Due to the divisiveness among TIPRO's membership on this issue, TIPRO remained neutral on Senate Bill 177 when it was heard in the Senate Committee on Natural Resources.

### STATEWIDE UNITIZATION (SENATE BILL 177):

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 177 failed to receive a vote in the Senate Committee on Natural Resources.

### CENOZOIC ERA RESERVOIRS UNITIZATION (HOUSE BILL 1597):

**AUTHOR:** REP. BELL

**ANALYSIS:** This legislation required the Railroad Commission to determine whether a "plan of unitization," including the participation formula for a common source, is fair, reasonable, equitable and necessary as to prevent waste for all interests concerned. The bill, however, only applied to fields in Cenozoic Era reservoirs. Under House Bill 1597, the Railroad Commission would have been required to determine if:

- the unitization plan is reasonably necessary,
- the incremental recovery value exceeds expenses,
- the productive limits of the common source to establish unitizing is necessary,
- the unit operations will have a material adverse effect on the remainder of the supply,
- the unsigned owners of interests have been given the opportunity to enter into the unit
- the applicant has obtained approval from at least 70 percent of mineral and working interests owners,
- all expenses of establishing a unit are allocated fairly, and
- working interests owners have a right to review all records pertaining to the unit.

The bill did not apply to:

- exploratory or primary recovery operations,
- secondary recovery operations in voluntary cooperative agreements,
- pooling of separately owned interests in oil and gas within an existing proration unit, and
- public land.

**TIPRO EFFORTS:** Due to the divisiveness among TIPRO's membership on this issue, TIPRO remained neutral on House Bill 1597.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1597 was referred to the House Committee on Energy Resources but did not receive a hearing.

### ENHANCED OIL RECOVERY REINVESTMENT ZONES (HOUSE BILL 2621):

**AUTHOR:** REP. DREW DARBY

**ANALYSIS:** House Bill 2621 attempted to create enhanced recovery reinvestment zones, defined as:

- areas that comprise a single field and encompass a Cenozoic Era common source of supply,
- has an applicant that is going to begin tertiary recovery operations,
- the single field is projected to have a positive production response as a result of tertiary recovery,
- the designation of the area will be reasonably likely to encourage redevelopment and improvement of property in the reinvestment zone.

The Railroad Commission by order would have been able to designate an area as an enhanced recovery reinvestment zone. The order would describe the boundaries of the reinvestment zone and contain findings that the zone will likely encourage development and that the area met the eligibility requirements.



### ENHANCED OIL RECOVERY REINVESTMENT ZONES (HOUSE BILL 2621):

**ANALYSIS CONTINUED:** The legislation also provided a refund of state sales tax two years after the designation of the zone if:

- the taxable item was sold or used by the operator of record in the zone;
- the person claiming the refund is the operator of record;
- the sale or use occurs after the zone designation but prior to the two year anniversary;
- the item was directly used for tertiary recovery; and
- there was positive production as a result of operations.

An exemption also would be provided from production taxes for the incremental increase in oil production within the zone. This only applied to tertiary recovery. An operator utilizing a tax benefit under this section would have had to use the value received for the development and operation of tertiary recovery projects within the zone.

**TIPRO EFFORTS:** TIPRO was neutral on this legislation.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2621 was left pending in the House Committee on Ways and Means.

### SCHOOL AND DAY CARE MUNICIPAL SETBACKS (HOUSE BILL 3403):

**AUTHOR:** REP. CANALES

**ANALYSIS:** House Bill 3403 would have authorized cities or other political subdivisions to be able to regulate and prohibit the drilling of a new oil or gas well located within 1,500 feet of the property line of a child-care facility, private school, elementary or middle school.

**TIPRO EFFORTS:** House Bill 3403 directly conflicts with language in House Bill 40 from the 84<sup>th</sup> Session specifying what a city may or may not regulate with regard to oil and gas operations. TIPRO was opposed to this legislation.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3403 was referred to the House Committee on Energy Resources but did not receive a hearing.

### RAILROAD COMMISSION BONDING (SENATE BILL 1803):

**AUTHOR:** SENATOR MILES

**ANALYSIS:** Senate Bill 1803 would have made adjustments to the amount of financial securities an operator must secure in order to be compliant with Railroad Commission rules. It would have removed the calculation of \$2 for each foot of the well depth in determining an amount, modified to an amount determined by the Railroad Commission. The bill also would have changed the bonding amounts required for operators by number of wells they operate as such:

- Operator with 10 or less wells bond amount goes from \$25,000 to \$35,000 under the bill
- Operator with 11-20 wells, bond amount stays at \$50,000
- Operator with 21-35 wells, bond amount goes up to \$75,000
- Operator with 36-60 wells, bond amount goes up to \$130,000
- Operator with 61-99 wells, bond amount goes up to \$215,000
- Operators with 100 or more wells, bond stays at \$250,000

Senate Bill 1803 also would have required the commission at the beginning of each fiscal year to determine the average cost for each foot of well depth of plugging well located in each oil and gas division district during the preceding state fiscal year.

### **RAILROAD COMMISSION BONDING (SENATE BILL 1803):**

**TIPRO EFFORTS:** TIPRO opposed Senate Bill 1803. This legislation was similar to language discussed, but not included, in the debates over the Railroad Commission Sunset bill. TIPRO explained to legislators how the increase in the bonding requirements would prove to have a limited financial benefit to the agency, but would make it much more difficult for operators to obtain surety bonds.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1803 was referred to the Senate Committee on Natural Resources but did not receive a hearing.

### **OIL AND GAS DISPOSAL SITES NEAR RESERVOIRS (SENATE BILL 2162):**

**AUTHOR: SENATOR ZAFFIRINI**

**ANALYSIS:** Senate Bill 2162 would have prohibited the Railroad Commission from approving an application for a commercial surface disposal facility if the proposed site was located less than 20 miles upstream of or up-drainage from the maximum elevation of the surface of a reservoir project that had been constructed or was under construction by the U.S. Bureau of Reclamation or the U.S. Army Corps of Engineers or had been approved for construction by Texas Water Development Board as part of the State Water Plan.

**TIPRO EFFORTS:** TIPRO met with a group of stakeholders, as well as the author of the bill, to discuss this legislation once it was filed. Unable to come to any resolve, ultimately TIPRO opposed Senate Bill 2162 when it was heard in the Senate Committee on Natural Resources.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2162 was left pending in the Senate Committee on Natural Resources.

### **OIL AND GAS DISPOSAL SITES NEAR CITIES (SENATE BILL 747):**

**AUTHOR: SENATOR KOLKHORST**

**ANALYSIS:** Senate Bill 747 would have prohibited the Railroad Commission from approving an application for a commercial surface disposal facility if any part of the proposed site was less than five miles from the boundaries of the city.

**TIPRO EFFORTS:** TIPRO's membership did not take a vote on Senate Bill 747 since it was never set for a hearing. However, it is likely TIPRO would have been opposed.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 747 was referred to the Senate Committee on Natural Resources but did not receive a hearing.

## GENERAL APPROPRIATIONS BILL (SENATE BILL 1):

**AUTHOR: SENATOR NELSON | SPONSOR: REP. ZERWAS**

**ANALYSIS:** Senate Bill 1 appropriates \$216 billion for the 2018-2019 Biennium with at least \$1 billion being used from the Economic Stabilization Fund. The budget as approved provides funding for key agencies and programs including:

- Railroad Commission: \$216 million, including 827 Full-Time Equivalents (FTEs), and \$38 million pulled from the Economic Stabilization Fund. Several key riders are noted below:
  - Transfer Authority – The Railroad Commission is authorized to direct agency resources and transfer amounts better appropriation line items.
  - Unexpended Balances – Unobligated and unexpended balances in Fiscal Year 2018 are appropriated for Fiscal Year 2019.
  - Operational Stability Funding – \$19,825,000 dedicated in Fiscal Year 2018 and \$19,825,000 in Fiscal Year 2019 from the Gas Utility Pipeline Tax for operational stability.
  - Oil and Gas Regulation and Cleanup Account Fees – The Railroad Commission is appropriated any fees deposited in the Oil and Gas Regulation and Cleanup Account in excess of amounts indicated in the Comptroller’s Biennial Revenue Estimate.
- Texas Commission on Environmental Quality: \$846 million was provided for the next biennium, including 2,794 Full-Time Equivalents (FTEs), and several key riders below:
  - Barnett Shale Permit by Rule Study – The commission is not authorized to use any funds in its budget to implement a rule that would extend the “Barnett Shale Permit by Rule” to oil and gas sources outside the 23-county area until after August 31, 2017, and until a report on the economic impact of extending the rule is made available.
  - Transfer Authority – The commission is authorized to direct agency resources and transfer amounts from its Used Oil Recycling Fund to Water Resource Management Account if Senate Bill 1105 is signed into law.
- Bureau of Economic Geology: The Bureau of Economic Geology was appropriated \$3 million from The University of Texas System’s Available University Fund.
- Public Education: Funds growing enrollment at public schools.
- Department of Family and Protective Services: \$500 million in additional funds were appropriated for the reforms implemented to Child Protective Services.

**TIPRO EFFORTS:** TIPRO actively supported Senate Bill 1 throughout the process. TIPRO’s President Ed Longanecker testified in favor of a fully-funded Railroad Commission and advocated for funding the agency from the gas utility tax. TIPRO also worked with budget conferees to advocate for proper funding of the Railroad Commission and the Texas Commission on Environmental Quality in addition to the TexNet Seismic Monitoring Program managed by the Bureau of Economic Geology.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1 was signed by Governor Abbott on June 12, 2017.

However, before signing Senate Bill 1, Governor Abbott vetoed approximately \$120 million in spending from the 2018-2019 state budget as approved by the legislature. The governor cut funding from a variety of state programs, detailed on the page that follows.

## GENERAL APPROPRIATIONS BILL (SENATE BILL 1):

**BILL STATUS/EFFECTIVE DATE CONTINUED:** Specifically, Governor Abbott vetoed the following items that had been initially included in the state budget:

- Air Quality Planning
  - \$6,000,000 was vetoed from the Clean Air Account No. 151 for near non-attainment areas to use for air quality planning purposes.
- Study of Aquifers and Brackish Groundwater
  - \$2,000,000 was vetoed from the Texas Water Development Board's budget for brackish groundwater aquifer studies.
- Water Supply Enhancement
  - \$2,495,575 was eliminated for water supply enhancement projects.
- Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP)
  - \$87 million in funding was struck from the program.
- Colonia Initiatives
  - \$859,091 was vetoed from the Secretary of State's budget for colonia initiatives.
- Safety Education
  - \$4,741,451 was vetoed from the Department of Public Safety's budget.
- Public Safety Grant in Houston
  - \$4,000,000 was removed from the Department of Public Safety's budget for a public safety grant for the greater Houston area.
- Texas Lottery Commission's Retail Bonus Program
  - \$4,200,000 was vetoed from the Texas Lottery Commission's Retail Bonus program.
- Collaborative Dual Credit Program
  - \$144,262 was vetoed from the budget.
- University of Texas at Austin Legislative Law Clinic
  - \$150,000 was cut from The University of Texas at Austin budget.
- Guardianship Compliance Program
  - \$5,016,734 was vetoed from the Guardianship Compliance Program.
- Legislative Budget Board
  - The governor eliminated the ability for the Legislative Budget Board to transfer any funds left over from the 2016-2017 biennium.

## UPDATING THE OIL AND GAS REGULATION AND CLEANUP FUND (HOUSE BILL 2715):

**AUTHOR: REP. DARBY**

**ANALYSIS:** House Bill 2715 would have amended the Natural Resources Code to reflect the repeal of the Crude Oil Petroleum tax. The tax was previously deposited in GR, but was repealed entirely last session. This bill would have directed additional collections to the Oil and Gas Regulation and Cleanup Fund (OGRC), including:

- administrative penalties for natural gas related activities
- administrative penalties for violations of rules, laws and orders
- administrative penalties for persons aiding or abetting violation
- penalties for false applications, reports, and documents
- money received under Chapter 313 for liquefied petroleum gas
- penalties for compressed natural gas
- penalties received under the Texas Coal Mining and Reclamation Act
- Gas Utility Pipeline tax
- penalties for gas pipelines

**UPDATING THE OIL AND GAS REGULATION AND CLEANUP FUND (HOUSE BILL 2715):**

**ANALYSIS CONTINUED:** The bill also would have allowed the commission to use the OGRC to regulate rates and services of gas utilities and to administer the Surface Coal Mining program.

**TIPRO EFFORTS:** TIPRO supported efforts to pass House Bill 2715. Due to depressed market prices and subsequent decreases in production, the Railroad Commission was under significant budget constraints for the 2016-2017 Biennium. TIPRO educated members of the legislature on the importance of the agency and the need of the commission to be adequately funded. TIPRO also worked specifically to have the gas utility tax dedicated to the agency, which would have provided approximately \$44 million more per biennium for the agency.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2715 passed out of the House and was referred to the Senate Finance Committee, where it did not receive a hearing.

**STUDY OF RAILROAD COMMISSION FEES (SENATE BILL 2100):**

**AUTHOR: SENATOR GARCIA**

**ANALYSIS:** Senate Bill 2100 would have required the Railroad Commission to conduct a study to evaluate the ability to fund the agency through fees. Further, under Senate Bill 2100, the Railroad Commission would have been required to identify and evaluate the fees charged, identify and evaluate the costs associated with the administration of permits and other programs, and recommend any appropriate changes to the fee structure so the fees charged were sufficient to fund the administration of the program of which the fees are associated with, and lastly, evaluate the effects of any changes as recommended on the Railroad Commission's budget.

**TIPRO EFFORTS:** TIPRO was neutral on Senate Bill 2100.

**BILL STATUS/EFFECTIVE DATE:** The Senate chamber passed Senate Bill 2100, and though the bill was referred to the House Committee on Energy Resources, it never received a hearing.

## **MIDLAND WATER PROJECT (HOUSE BILL 101):**

**AUTHOR: REP. CRADDICK | SPONSOR: SENATOR SELIGER**

**ANALYSIS:** The law allows the City of Midland to enter into a contract, and grants legislative approval, of an agreement with a person or entity to design, construct, or reconstruct a reclaimed water facility.

**TIPRO EFFORTS:** TIPRO supported House Bill 101 in the House Committee on Natural Resources and the Senate Committee on Administration.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed into law on May 23, 2017, and took effect immediately.

## **BRACKISH GROUNDWATER PRODUCTION (HOUSE BILL 2377):**

**AUTHOR: REP. LARSON | SPONSOR: SENATOR SELIGER**

**ANALYSIS:** House Bill 2377 allows a Groundwater Conservation District to develop permitting rules for brackish groundwater in areas where a designated brackish groundwater production zone exists. A person may secure a permit to use brackish water from a Groundwater Conservation District for a municipal project or an electric generation project. The use of brackish water by oil and natural gas producers is not affected.

**TIPRO EFFORTS:** TIPRO was a part of the stakeholder group process that provided feedback on the language to House Natural Resources Committee Chairman Lyle Larson. Ultimately, the language offered was incorporated into the bill to ensure oil and natural gas producers were not affected. TIPRO supported the bill in both the House and Senate.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2377 was vetoed by the governor on June 15, 2017.

The Governor's Veto Proclamation stated: "The bill's permitting rules are unduly prescriptive and would create a separate and complex bureaucratic process for the permitting of brackish wells. The Texas Water Development Board already has significant authority in this area, including the ability to designate brackish groundwater production zones and to approve local water management plans. While the development of brackish water resources as a potential means of meeting our state's future water needs is important, House Bill 2377 went about it the wrong way. The next legislature should consider a simpler and less bureaucratic way to provide greater access to brackish water."

## **GROUNDWATER PERMITTING BILL (HOUSE BILL 31):**

**AUTHOR: REP. LARSON | SPONSOR: SENATOR PERRY**

**ANALYSIS:** House Bill 31 was an omnibus water bill relating to the applicability of Groundwater Conservation District rules, moratorium on permit applications and exportation of groundwater outside of the district. The pieces of this legislation were also addressed in separate legislation, including House Bill 4164, House Bill 4162 and House Bill 4166.

**TIPRO EFFORTS:** TIPRO supported House Bill 31 in the House Committee on Natural Resources and in the Senate Committee on Agriculture, Water and Rural Affairs.

**BILL STATUS/EFFECTIVE DATE:** House Bill 31 was placed on the intent calendar in the Senate, but was never brought up for discussion.

## **ABANDONED OR DETERIORATED WATER WELLS (HOUSE BILL 3025):**

**AUTHOR: REP. KING | SPONSOR: SENATOR RODRIGUEZ**

**ANALYSIS:** This bill requires a landowner who possesses a deteriorated well to have the well plugged no later than 180 days after learning of the well's condition. House Bill 3025 also allows a Groundwater Conservation District to require an owner or lessee of land with an open, uncovered or abandoned well to keep the well permanently closed or capped. Under House Bill 3025, the Groundwater District is authorized to require the owner or lessee of land with a deteriorated well to plug the well or repair the well to prevent pollution. If the owner or lessee does not plug the well within 10 days of receiving notice, the Groundwater Conservation District may send someone to plug it.

**TIPRO EFFORTS:** TIPRO worked with a stakeholder group to ensure the language as amended would not hinder the industry's use of water wells. TIPRO ultimately supported the passage of this legislation.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3025 passed but was vetoed by the governor on June 15, 2017.

The Governor's Veto Proclamation stated: "This would give groundwater districts greater discretion to infringe on private property rights and impose costs on landowners. The legitimate need to repair deteriorated wells should be addressed in a way that provides more protections for landowners."

## **GROUNDWATER FAIR SHARE (HOUSE BILL 3028):**

**AUTHOR: REP. BURNS**

**ANALYSIS:** House Bill 3028 attempted to codify existing groundwater rights in the same manner in which the rights to oil and gas mineral interests currently exist. The bill defined "fair share," and provided that groundwater ownership rights entitled a landowner to be afforded a fair share of groundwater under a person's tract of land overlying an aquifer.

**TIPRO EFFORTS:** TIPRO worked with Chairman Burns' staff on this legislation to determine what the practical application and impacts would be to the industry's use of groundwater and brackish water. TIPRO remained neutral on House Bill 3028 when it was heard in committee.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3028 was left pending in a subcommittee of the House Committee on Natural Resources.

## **PROPERTY TAX REFORM (SENATE BILL 2):**

**AUTHOR: SENATOR BETTENCOURT | SPONSOR: REP. DENNIS BONNEN**

**ANALYSIS:** During the interim before the start of the 85<sup>th</sup> Legislative Session, Lieutenant Governor Dan Patrick formed the Select Committee on Property Tax Reform and Relief. Lieutenant Governor Patrick appointed Senator Bettencourt as chair and the select committee held eight hearings in seven cities with almost 50 hours of testimony. The filed version of the bill did the following:

- lowered the rollback tax rate from the current 8 percent to 4 percent
- required automatic tax ratification elections if the taxing unit adopts a tax rate that exceeds the rollback rate
- required tax ratification elections to be held on the same date as the general election
- created a Property Tax Administration Advisory Board in the comptroller's office to oversee the entire property tax process
- statutorily set the deadlines for all property tax protests to be filed in Texas to May 15<sup>th</sup>
- required all appraisal districts to use the appraisal manuals issued by the comptroller
- established specialized Appraisal Review Boards (ARB) panels in counties with a population of 120,000
- clarified that a majority vote by ARB is binding for decisions, thus eliminating the requirement of some ARB panels for a unanimous vote
- eliminated Sunday ARB hearings and evening hearings that begin after 7 p.m. or before 5 p.m.
- mandated that all members of each Appraisal District Board of Directors must be elected officials within their respective counties
- increased the value of properties that have the option of going to binding arbitration to \$5 million
- raised the exemption from filing income producing business personal from \$500 in value to \$2,500 to cut compliance cost for taxpayers and appraisal districts
- prohibited local governments from being able to challenge the value of an entire class of properties

The bill was amended in the House to:

- require the comptroller to prescribe tax rate calculation forms to be used by taxing entities
- provide individual tax rate notices annually
- specialize appraisal review board panels
- require taxing entities to maintain an Internet website with specific budget, tax rate, tax revenue, and audit information
- create an advisory board for the comptroller and improvements in the appraisal process

**TIPRO EFFORTS:** TIPRO monitored the bill as it moved through the legislative process.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2 did not get a vote by the entire House of Representatives, but a version was amended to Senate Bill 669. Senate Bill 669 passed the House, although the Senate refused to concur on the House amendments. A conference committee was named, however, the House did not appoint any House conferees.

## **OIL AND GAS OPERATIONS AND OPEN-SPACE LAND APPRAISAL (HOUSE BILL 3198):**

**AUTHOR: REP. DARBY | SPONSOR: SENATOR ESTES**

**ANALYSIS:** Before the start of the legislative session, several county appraisal districts had challenged the eligibility of land qualifying for the special open-space appraisal if oil and gas operations begin on that land. House Bill 3198 allows landowners in oil-and-gas-producing-areas of the state to maintain the open-space status of their lands if the portion of the land on which oil and gas operations are conducted. The bill prevents the imposition of additional property taxes on family farmers and ranchers who have small portions of their land used for oil and gas development.



## **OIL AND GAS OPERATIONS AND OPEN-SPACE LAND APPRAISAL (HOUSE BILL 3198):**

**TIPRO EFFORTS:** TIPRO supported the bill in the House Committee on Ways and Means and the Senate Committee on Finance.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3198 was signed by Governor Greg Abbott on June 1, 2017, and will take effect on September 1, 2017.

## **EFFECTIVE TAX RATE FOR OIL AND GAS WELLS (HOUSE BILL 3614):**

**AUTHOR:** REP. MORRISON

**ANALYSIS:** The effective tax rate is the property tax rate that would produce the same amount of revenue this year if imposed on the same properties that were taxed last year. To date, oil and gas properties have not been excluded from truth in taxation tax rates – meaning production year to year has counted towards a county’s calculation of the effective tax rate, which ultimately triggers the county roll back rate. House Bill 3614 would have included oil and gas properties as “new real property” and excluded them from the truth in taxation rate, effectively allowing the counties to impose a higher tax rate for all property owners in the county.

**TIPRO EFFORTS:** TIPRO opposed the bill in the House Committee on Ways and Means.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3614 did not receive a vote in the House Committee on Ways and Means.

## **REACTIVATING TWO-YEAR INACTIVE WELL INCENTIVE (HOUSE BILL 3201):**

**AUTHOR:** REP. DARBY

**ANALYSIS:** House Bill 3201 would have provided a severance tax exemption for oil and gas wells that have been inactive for two years as defined in statute. It also would have required the Railroad Commission to certify the wells as inactive. Approved operators would have been eligible for the exemption for five years.

**TIPRO EFFORTS:** TIPRO helped develop language for House Bill 3201. TIPRO worked with membership and the comptroller’s office on the fiscal impact of the bill, and testified in support of the legislation in the House Committee on Energy Resources.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3201 was voted favorably from the House Committee on Energy Resources, but was left pending in the House Calendars Committee.

## **SEVERANCE TAX CUT WITH ECONOMIC STABILIZATION FUND CAP (SENATE JOINT RESOLUTION 41):**

**AUTHOR:** SENATOR SELIGER

**ANALYSIS:** Senate Joint Resolution 41 would have reduced the rate of severance taxes and suspended transfers into the Economic Stabilization Fund (ESF) when the balance exceeded \$5 billion. If the ending balance in the ESF for the preceding fiscal year was greater than \$5 billion, the rate of tax imposed on oil production for the current fiscal year would be calculated by subtracting the tax-rate-cut factor from one and multiplying the remainder by the tax rate for oil production provided by the legislature under general law.

## SEVERANCE TAX CUT WITH ECONOMIC STABILIZATION FUND CAP (SENATE JOINT RESOLUTION 41):

**TIPRO EFFORTS:** TIPRO advocated for the passage of the resolution prior to the bill being considered by members of the Senate Finance Committee. Legislators were sympathetic to current market conditions and understood how much the industry contributes to the state via severance taxes, property taxes and sales taxes; however, due to a constrained budget cycle, legislators were hesitant to reduce production taxes.

**BILL STATUS/EFFECTIVE DATE:** Senate Joint Resolution 41 was left pending in the Senate Finance Committee.

## OVERPAYMENT OF SEVERANCE TAX (HOUSE BILL 3471):

**AUTHOR:** REP. YVONNE DAVIS

**ANALYSIS:** This legislation would have provided a reimbursement to oil and gas producers or first purchasers for sales tax or severance tax amounts overpaid.

**TIPRO EFFORTS:** TIPRO supported House Bill 3471 in the House Committee on Ways and Means.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3471 was set on the House calendar, but did not receive a discussion on the floor.

## SEVERANCE TAX PENALTIES (HOUSE BILL 3232):

**AUTHOR:** REP. DARBY | **SPONSOR:** SENATOR BETTENCOURT

**ANALYSIS:** This bill provides that a person is not subject to a delinquent tax penalty (5 percent of amount due is forfeited as penalty, if not paid within 30 days from due date then another 5 percent is charged), if:

- The delinquent tax results from the person's filing of an amended report with the comptroller for a timely filed original report;
- The person paid the full amount of the tax due as indicated in the original report;
- The total amount of additional tax due as a result of the amended report does not exceed 25 percent of the amount of tax due as indicated in the original report; and
- The person files the amended report not later than the 730<sup>th</sup> day after the date on which the original report was due and remits the full amount of the additional tax due with the amended report.

**TIPRO EFFORTS:** TIPRO was neutral on House Bill 3232.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3232 was passed on the local calendar and was signed by the governor on June 12, 2017. The bill takes effect on January 1, 2018.

## TEMPORARY EXEMPTION/TAX REDUCTION FOR HIGH COST GAS (HOUSE BILL 2277):

**AUTHOR:** REP. DARBY | **SPONSOR:** SENATOR WATSON

**ANALYSIS:** House Bill 2277 requires the comptroller to use drilling and completion costs data to determine the median drilling cost, which shall be fixed as of the date of the comptroller's determination and should be used to compute the reduced High Cost Gas rate.

### TEMPORARY EXEMPTION/TAX REDUCTION FOR HIGH COST GAS (HOUSE BILL 2277):

**TIPRO EFFORTS:** TIPRO supported the House Bill 2277 in the House Committee on Ways and Means, and the Senate Committee on Finance.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2277 was signed by Governor Greg Abbott on June 1, 2017, and will take effect on September 1, 2017.



### **ROYALTY CHECK STUBS (HOUSE BILL 129):**

**AUTHOR:** REP. CRADDICK | **SPONSOR:** SENATOR ESTES

**ANALYSIS:** The bill requires a payor of oil and gas royalty payments to submit a paper check to secure the consent of a royalty interest owner before providing the check stub information in a manner different than printed on the check.

**TIPRO EFFORTS:** TIPRO worked with Chairman Craddick's office to amend House Bill 129 via committee substitute to limit the bill's impact on oil and gas producers utilizing electronic submission of check stubs and the accompanying detailed information. TIPRO supported House Bill 129 in the House Committee on Energy Resources and the Senate Committee on Natural Resources.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Greg Abbott on May 29, 2017, and will take effect on September 1, 2017.

### **LISTING OF MINERAL INTERESTS IN AD VALOREM TAX APPRAISALS (HOUSE BILL 119):**

**AUTHOR:** REP. CRADDICK

**ANALYSIS:** The legislation would have placed the responsibility for ascertaining the ownership of interests in minerals in place on the chief appraiser. The bill also would have prohibited the listing of an operator designated with the Railroad Commission to provide information regarding the ownership of separate interests as a condition for listing the interest of the operator separately from those other interests.

**TIPRO EFFORTS:** TIPRO's policy committee did not take a formal position on House Bill 119 since it was never set to be heard by the Texas legislature.

**BILL STATUS/EFFECTIVE DATE:** House Bill 119 never received a hearing.

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### **REPEAL OF COUNTY TRANSPORTATION REINVESTMENT ZONES (SENATE BILL 1305):**

**AUTHOR: SENATOR NICHOLS | SPONSOR: REP. DARBY**

**ANALYSIS:** The 83<sup>rd</sup> Legislature previously passed a law authorizing counties to create County Energy Transportation Reinvestment Zones (“CETRZ”) to allow those counties to use revenue from taxes designated to the zone to finance transportation projects. However, several issues with CETRZ began to develop, including two attorney general opinions highlighting the concern that the zones were unconstitutional. Legislation to fix some of the respective issues was vetoed by Governor Abbott during the 84<sup>th</sup> Legislative Session because of his belief that CETRZs are unconstitutional. Senate Bill 1305 repeals the ability for counties to establish County Energy Transportation Reinvestment Zones.

**TIPRO EFFORTS:** TIPRO supported the bill in both the Senate Committee on Transportation and the House Committee on Energy Resources.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed into law on May 28, 2017, and will take effect at the end of the year on December 31, 2017.

### **SEVERANCE TAX DEDICATION TO COUNTY ROAD FUNDING (HOUSE BILL 4231):**

**AUTHOR: REP. LARSON | SPONSOR: SENATOR SELIGER**

**ANALYSIS:** House Bill 4231 attempted to dedicate 2 percent of oil and gas production taxes that currently goes to GR for a severance tax trust fund for counties. The comptroller would collect the taxes and administer the fund on behalf of the counties. The comptroller would send the county treasurer a share of the revenue in the trust equal to the amount of revenue in the trust fund that is attributable to oil and gas production in that county by the 90<sup>th</sup> day after the last calendar month during which the revenue was deposited in the trust fund. The county may use the funds for building and maintenance of infrastructure in the county or may deposit the money in the county treasury.

**TIPRO EFFORTS:** TIPRO supported efforts to pass House Bill 4231. The association worked with stakeholders in the House to amend the original language to receive a favorable vote from the House Ways and Means Committee. Once the bill was not brought up for discussion on the House floor, TIPRO looked for other opportunities to move the bill. These efforts were ultimately unsuccessful due to fiscal constraints.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4231 was placed on the House calendar, but was not brought up on the House floor due to time limitations.

### **THEFT OF PETROLEUM PRODUCTS (SENATE BILL 1871):**

**AUTHOR: SENATOR ZAFFIRINI | SPONSOR: REP. RAYMOND**

**ANALYSIS:** Senate Bill 1871 makes the offense of theft of petroleum products a state jail felony if the total value of the product is less than \$10,000. It is a third-degree felony if the total value of product or equipment stolen is worth \$10,000 or more, but less than \$100,000. The offense is a second-degree felony if the total value of product or equipment stolen is more than \$100,000 or more but less than \$300,000. The offense is a first-degree felony if the total value of the product or equipment stolen is more than \$300,000.

**TIPRO EFFORTS:** TIPRO staff met with legislative offices advocating for the bill's passage and submitted a card in support of the bill when it received a hearing in the House Committee on Energy Resources and the Senate Committee on Natural Resources and Economic Development.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Abbott on May 19, 2017, and will take effect on September 1, 2017.

### **STATEWIDE BAN ON TEXTING AND DRIVING (HOUSE BILL 62):**

**AUTHOR: REP. CRADDICK | SPONSOR: ZAFFIRINI**

**ANALYSIS:** House Bill 62 adds knowledge of the effect of using a cell phone or other ways a driver can become distracted to the testing when someone is seeking a driver's license. It makes it an offense if a driver uses their phone to read, write, or send a message while the vehicle is moving. The bill also provides an affirmative defense that the driver was using a hands-free device, reporting illegal activity or to call for help, read a message they believe was an emergency, using it to relay information in the course of work. Exemptions are provided for emergency, law enforcement drivers, and FCC drivers operating radio frequency device. The offense is a misdemeanor punishable by a fine of at least \$25 and no more than \$99 unless parties have been found guilty of it before, then violations may be set at \$100 and no more than \$200. The Texas Department of Transportation will be required to post a sign at each point on an interstate highway or U.S. highway that enters the state. A peace officer who stops a motor vehicle for a violation of this offense is prohibited from taking possession of or inspecting a portable wireless communication.

**TIPRO EFFORTS:** TIPRO supported House Bill 62 in the Texas House and Texas Senate. TIPRO sent a letter to Governor Abbott urging him to sign the bill into law.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Greg Abbott on June 6, 2017. The bill takes effect on September 1, 2017.

### **LIMITING DRONE USE OVER CRITICAL INFRASTRUCTURE (HOUSE BILL 1643):**

**AUTHOR: REP. SPRINGER | SPONSOR: SENATOR SELIGER**

**ANALYSIS:** House Bill 1643 expands the definition of "critical infrastructure" to prevent drones from flying over specified areas, including oil and gas drilling sites, storage tanks, wells, facilities that have an active flare, wired and wireless telecommunications services and animal feed lots.

**TIPRO EFFORTS:** TIPRO worked with member companies to ensure that an amendment by Representative Craddick to add oil and gas sites to the list of critical infrastructure stayed in the bill in the Senate and during the conference committee process.

### **LIMITING DRONE USE OVER CRITICAL INFRASTRUCTURE (HOUSE BILL 1643):**

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Greg Abbott on June 6, 2017. The bill takes effect on September 1, 2017.

### **CRIMINAL BACKGROUND CHECKS AT THE RAILROAD COMMISSION (HOUSE BILL 2588):**

**AUTHOR:** REP. CLARDY | **SPONSOR:** SENATOR ESTES

**ANALYSIS:** Under House Bill 2588, the Railroad Commission will be allowed to obtain criminal history record information on employees from DPS, FBI, and other law enforcement agencies with criminal history record information. The commission may obtain records for an applicant for employment at the agency, consultant, contract employee, independent contractor, intern, or volunteer for the commission. Criminal history records obtained by Railroad Commission may only be used to evaluate an applicant for employment, current, or former employee of the agency. The Railroad Commission may not release or disclose information obtained, and must destroy the records after a period of time.

**TIPRO EFFORTS:** TIPRO monitored the bill to ensure it would not negatively affect the oil and natural gas industry.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2588 was signed by the governor on June 9, 2017, and took effect immediately.



### **TEXAS EMISSIONS REDUCTION PROGRAM REFORM (SENATE BILL 26/1731):**

**SB 26 - AUTHOR: SENATOR ESTES | SPONSOR: REP. LANDGRAF/SB 1731 - AUTHOR: SENATOR BIRDWELL | SPONSOR: REP. MEYER**

**ANALYSIS:** Senate Bill 1731 amends various statutes to abolish certain state advisory committees and other entities. Further, the bill was amended to include much of the language from Senate Bill 26. Of importance to the industry, as amended, Senate Bill 1731 extends the Texas Emissions Reduction Plan (TERP) program (previously set to expire on August 31, 2019) to the end of the biennium in which Texas attains the National Ambient Air Quality Standards for ground-level ozone. The Clean School Bus (CSB) program, the New Technology Implementation Grant (NTIG) program, the Texas Clean Fleet (CF) program, and the Texas Natural Gas Vehicle Grant (NGVG) program are also each extended to the same time frame.

**TIPRO EFFORTS:** TIPRO supported the passage of Senate Bill 26. In particular, TIPRO's membership advocated for the use of TERP funds for the New Technology Grant program, which includes projects that reduce emissions from upstream and midstream oil and gas operations through engines or flaring.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 26 was set on the House calendar, but failed to receive a discussion on the floor. A substantial amount of the language included under Senate Bill 26 was included in Senate Bill 1731. Senate Bill 1731 was signed by the governor on June 12, 2017. The majority of the bill takes effect on September 1, 2017.

### **AIR QUALITY PERMITTING ANALYSIS (HOUSE BILL 2753):**

**AUTHOR: REP. REYNOLDS**

**ANALYSIS:** The bill would have required the Texas Commission on Environmental Quality (TCEQ) to examine rules and requirements governing:

- inspection and maintenance programs, optical gas imaging programs 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 that could result in fugitive emissions;
- the use of venting and flaring;
- emissions of volatile organic compounds from storage tanks that have potential to emit more than one ton volatile organic compounds per year;
- emissions of nitrogen oxides from compressor engines with more than 100 horsepower;
- maintenance requirements and best practices for compressor stations; and
- emissions from and maintenance of pneumatic devices and controllers between wellhead and natural gas processing plant.

The bill would also would have required the TCEQ to prepare a report addressing issues raised concerning the rules, and suggest options for improving safety and preventing air emissions.

**TIPRO EFFORTS:** TIPRO opposed House Bill 2753.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2753 was voted out of the House Committee on Environmental Regulation, but did not get set on a House calendar.



### **TCEQ PERMIT SIGNS (HOUSE BILL 2497):**

**AUTHOR: REP. DUTTON**

**ANALYSIS:** House Bill 2497 would have required an applicant seeking a permit application at the TCEQ to place a sign with dimensions not less than 16 inches by 9 inches stating that a permit application had been filed. The sign would have to include the name of and contact information of the applicant, the proposed site use and the manner in which an applicant can be contacted for more information. The sign would be mandated to be placed no later than the 30<sup>th</sup> day after TCEQ determines the application is administratively complete.

**TIPRO EFFORTS:** TIPRO monitored the bill to ensure oil and natural gas producers would not be negatively affected.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2497 was voted out of the House Committee on Environmental Regulation, but was not placed on a House calendar.

### **REDEFINING AFFECTED PERSON IN CONTESTED CASES (HOUSE BILL 1115):**

**AUTHOR: REP. REYNOLDS**

**ANALYSIS:** House Bill 1115 would make the state senator, state representative, members of the city council and members of the county commissioners court who represent the area in which a facility is located or proposed as "affected persons" in a contested case.

**TIPRO EFFORTS:** TIPRO monitored House Bill 1115 to ensure it did not negatively affect the oil and natural gas industry.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1115 did not receive a vote in the House Committee on Natural Resources.

### **TERP FEE EXTENSION (SENATE BILL 1046):**

**AUTHOR: SENATOR ESTES**

**ANALYSIS:** Senate Bill 1046 would have set an expiration date for TERP surcharges and fees from various revenue streams to a time when the non-attainment areas of the state achieve attainment instead of a specific date.

**TIPRO EFFORTS:** TIPRO submitted a card in favor of Senate Bill 1046 in the Senate Committee on Natural Resources and Economic Development.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1046 was voted out of the Senate Committee on Natural Resources and Economic Development but did not receive a vote in the full Senate.

### **ACTUAL PROGRESS FOR REPURCHASE OF REAL PROPERTY (HOUSE BILL 528/HOUSE BILL 2076/SENATE BILL 628):**

**HOUSE BILL 528 - AUTHOR: REP. SCHOFIELD/HOUSE BILL 2076 - AUTHOR: REP. SCHUBERT/SENATE BILL 628 - AUTHOR: SENATOR SCHWERTNER**

**ANALYSIS:** The series of bills as proposed would have added a required action which a condemning entity must complete in order to demonstrate making actual progress towards development of a use in which the property was acquired. Currently, condemning entities must complete two of a series of actions. The bills would also reduce the number of available actions from seven to five that are defined as actual progress in statute. If the condemning entity does not show actual progress within ten years, the person who previously owned the property can repurchase the property.

**TIPRO EFFORTS:** TIPRO monitored these bills relating to eminent domain to ensure they did not negatively impact the oil and natural gas industry.

**BILL STATUS/EFFECTIVE DATE:** The three bills did not pass the legislature. Senate Bill 628 passed the Senate but did not receive a hearing in the House of Representatives.

### **EMINENT DOMAIN REFORM (SENATE BILL 740):**

**AUTHOR: SENATOR KOLKHORST**

**ANALYSIS:** As filed, Senate Bill 740 would have required an entity to disclose to the property owner any new, amended or updated appraisal report after making the initial offer and required this information be used in determining the opinion of value. The disclosure would have to be made no later than the tenth day after the entity receives the report or the third business day before the date of a special commissioner's hearing if the appraisal report is to be used at the hearing. Included with the final offer, a pipeline right-of-way easement would have to include:

- The maximum number of pipelines that may be installed in the right-of-way.
- A reasonable description of any use of the surface of the right-of-way that the entity intends to acquire.
- A metes and bounds or center line description of the location of the easement.
- The width of the easement.
- A reservation of the property owner's right to grant additional compatible easements in the easement area to other parties.
- A requirement that the entity access the easement area in a manner specified in the instrument.
- A right to damages arising from construction, maintenance, repair, replacement, or future removal of the pipeline in the easement, including any damages to growing crops or livestock.
- A covenant to lock and close all gates and fences as necessary to prevent damage to or destruction of live stock.
- A covenant to repair and restore areas used or damaged outside the easement area to their original condition or better.

Included with a final offer, an electrical transmission right-of-way easement would have to include:

- The type, spacing, and maximum number of the poles, towers, or other support apparatus to carry electrical lines over the easement.
- A reasonable description of any use of the surface of the right-of-way that the entity intends to acquire.
- A metes and bounds or center line description of the location of the easement.
- The width of the easement.
- A requirement that the entity access the easement area in a manner specified in the instrument.
- A right to damages arising from construction, maintenance, repair, replacement, or future removal of lines and support apparatus in the easement, including any damages to growing crops or livestock.

## EMINENT DOMAIN REFORM (SENATE BILL 740):

**ANALYSIS CONTINUED:** Included with a final offer, an electrical transmission right-of-way easement would have to include:

- A covenant to lock and close all gates and fences as necessary to prevent damage to or destruction of livestock.
- A covenant to repair and restore areas used or damaged outside the easement area to their original condition or better.

Other requirements to be included in a bone fide offer:

- A prohibition against any use of the property being conveyed, other than a use stated in the instrument, without the express written consent of the property owner.
- A covenant that the entity will indemnify and hold the property owner harmless against any claim brought against the property owner arising out of or relating to the use of condemned property by the entity, or the entity's agents or contractors.
- A covenant that the entity will secure and keep in full force and effect at all times while the entity continues to use the condemned property a policy or policies of liability insurance.

If special commissioners award damages that are at least 20 percent greater than the amount of the final offer, then the condemnor must pay all costs plus any reasonable attorney's fees and other professional fees incurred by the property owner in connection with the eminent domain proceeding. A nongovernmental condemnor would be required as a condition of appealing the decision of a trial court in a condemnation proceeding to pay the property owner the amount of just compensation awarded by the trial court, deposit that same amount with the court subject to the order of the property owner, or post a surety bond to secure payment of the trial court's award of just compensation. If the property owner moved to enforce this requirement and the condemnor failed to comply by the 30<sup>th</sup> day after the date of the property owner's motion is filed, then the court of appeals would need to dismiss the appeal with prejudice and order enforcement of the final judgment. The nongovernmental condemnor would lose the right to remain on the property owner's property and any interest in the property reverts to the property owner. The property owner would be entitled to any damages attributable to the condemnor's occupation of the property, all reasonable expenses incurred to remediate the property and all reasonable and necessary fees for attorneys, appraisers, photographers, and other experts hired in relation to the condemnation.

**TIPRO EFFORTS:** TIPRO worked with a large business community coalition - called the Coalition for Critical Infrastructure - to revise the language in a way that could possibly be amenable to all parties. A consensus was never achieved.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 740 passed the Senate and was referred to the House Committee on Land and Resource Management, but never received a hearing.

### **PROTECTING INTELLECTUAL PROPERTY OF THE RAILROAD COMMISSION (SENATE BILL 1422):**

**AUTHOR:** SENATOR ESTES | **SPONSOR:** REP. LARRY GONZALES

**ANALYSIS:** After groups used the Railroad Commission logo without the permission of the agency, the legislature passed a bill protecting the intellectual property of the Railroad Commission, including the agency's logo.

**TIPRO EFFORTS:** TIPRO supported Senate Bill 1422 in the House Committee on Energy Resources and the Senate Committee on Natural Resources.

**BILL STATUS/EFFECTIVE DATE:** The bill was signed by Governor Abbott on May 22, 2017, and took effect immediately.

### **TEXNET PROGRAM CODIFIED IN STATUTE (HOUSE BILL 2819):**

**AUTHOR:** REP. DARBY | **SPONSOR:** SENATOR ESTES

**ANALYSIS:** House Bill 2819 added the language that passed in House Bill 2 providing the funding for the TexNet program and advisory committee during the 84<sup>th</sup> Legislative Session to the Education Code so it is permanently listed in statute. Further, House Bill 2819 changes the advisory committee makeup to consist of three members appointed by the governor, three appointed by the lieutenant governor, three appointed by the speaker of the House, and one employee of the Railroad Commission appointed by the agency's executive director. At least one appointment provided by each of the elected officials must be in the oil and gas industry.

**TIPRO EFFORTS:** TIPRO advocated for the passage of House Bill 2819 in both chambers, testifying in support in the House Committee on Energy Resources and the Senate Committee on Natural Resources.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2819 was signed by the governor on June 15, 2017, and takes effect on September 1, 2017.

### **LIMITING POLITICAL CONTRIBUTIONS TO CANDIDATES FOR RAILROAD COMMISSION (HOUSE BILL 464):**

**AUTHOR:** REP. ANCHIA

**ANALYSIS:** The bill would have prohibited a Railroad commissioner from accepting a political contribution 17 months before their next general election, ending on the 30<sup>th</sup> day after the date of the election. The bill would also prohibited a Railroad commissioner from accepting a political contribution from an individual or party involved in a contested case before the commission. The Railroad Commission would be required to develop a list of contested cases and those individuals involved to help with compliance of the bill.

**TIPRO EFFORTS:** TIPRO was neutral on the bill and did not engage on this issue.

**BILL STATUS/EFFECTIVE DATE:** House Bill 464 received a favorable vote in the House Committee on General Investigating and Ethics but did not get set on a House calendar.

### **COMPTROLLER ENFORCEMENT OF UNCLAIMED PROPERTY (HOUSE BILL 2829):**

**AUTHOR:** REP. OLIVEIRA

**ANALYSIS:** This bill would have amended the Property Code to authorize the comptroller or the comptroller's designee to examine the books and records of any holder of property presumed abandoned to take the following actions: take testimony; administer oaths; subpoena witnesses; and issue subpoenas to produce any relevant data.

### COMPTROLLER ENFORCEMENT OF UNCLAIMED PROPERTY (HOUSE BILL 2829):

**TIPRO EFFORTS:** TIPRO's membership was opposed to this legislation and worked to keep the bill from getting to the House floor.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2829 was left pending in the House Calendars Committee.

### OWNER/CONTRACTOR LIABILITY (SENATE BILL 1215):

**AUTHOR:** SENATOR HUGHES | **SPONSOR:** REP. SHINE

**ANALYSIS:** Senate Bill 1215 limited the responsibility for any defects in plans, specifications, or repair of construction of real property to exclude a contractor from any associated liability.

**TIPRO EFFORTS:** TIPRO worked against this bill in the House Calendars Committee and on the House floor. Due to the opposition of a broad coalition of businesses, Senate Bill 1215 was turned into a study.

**BILL STATUS/EFFECTIVE DATE:** As passed, Senate Bill 1215 was amended to create a joint interim study for the issues in construction contracts which the original bill pertained to. Senate Bill 1215 was vetoed by the governor on June 15, 2017.

The Governor's Veto Proclamation stated: "The House and Senate can, and do, study topics in the interim without passage of a law. Legislation mandating legislative studies and legislative interim committees is unnecessary. The legislature is free to study construction contracts with or without this bill."



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**QUESTIONS?**

**PLEASE CONTACT TIPRO AT (512) 477-4452.**