



TEXAS INDEPENDENT PRODUCERS  
& ROYALTY OWNERS ASSOCIATION

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# 2023 LEGISLATIVE REPORT



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Texas Independent Producers & Royalty Owners Association.

TIPRO is one of the oldest and largest oil and natural gas advocacy non-profit organizations in the state of Texas. TIPRO's nearly 3,000 members include small family-owned oil and gas businesses and the largest publicly traded independent producers, in addition to large and small mineral estates and trusts.

The association's mission is to preserve the ability to explore and produce oil and natural gas and to promote the general welfare of its members.

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# MESSAGE FROM THE PRESIDENT

During Texas' 88<sup>th</sup> Regular Legislative Session, Texas lawmakers passed into law a wide range of important policies addressing the needs of our state and advancing priorities to better the future for all Texans.

Altogether, 8,345 bills and constitutional amendments were filed by Texas legislators during the 2023 regular legislative cycle, setting a new record, of which 1,242, or about 15 percent, passed. Pursuant to Article IV, Section 14, of the Texas Constitution, Governor Greg Abbott exercised his authority and vetoed a total of 76 bills, more than ever before. Within this volume of legislation put forth by lawmakers this year, TIPRO tracked 250 bills of relevance to the oil and natural gas industry and took formal positions on 99 pieces of legislation.

This year, our association's focus once again encompassed a variety of critical issues, with particular attention on protecting the state's pro-regulatory environment, advocating for tax relief, supporting appropriation requests from key state energy agencies, backing water infrastructure funding and generally opposing all onerous policies specifically targeting the oil and natural gas industry.

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# MESSAGE FROM THE PRESIDENT CONTINUED...

Throughout the legislative session, TIPRO's team participated in regular meetings with elected officials to voice the association's support or concerns over legislation under consideration by the 88<sup>th</sup> Legislature, while simultaneously conducting weekly meetings with TIPRO committees and providing frequent communication with our full membership to keep them apprised of the status of our policy agenda. Thanks to the concerted work of our policy team and members, I am happy to report that 100 percent of the bills opposed by TIPRO this year failed and 75 percent of bills supported by our association passed.

I would like to commend the work of TIPRO's Director of State Government and Regulatory Affairs Ryan Paylor and thank TIPRO's entire staff, our members and consultants for their support throughout the legislative session.

In addition to TIPRO's focused advocacy efforts in 2023 at the state capitol, our association continued with the dissemination of data and analysis through our research-oriented reports to quantify and reinforce the significant economic contributions of the oil and gas industry, which ties directly into our legislative work advising the broader implications of policy actions not only for oil and natural gas, but the Texas state economy at large. Our association's collective efforts, encompassing lobbying, a targeted communication strategy, leading data and industry research, have proven to be instrumental in promoting beneficial legislation, helping to block onerous bills, and ultimately creating a policy environment conducive to economic growth supported by the responsible development of oil and natural gas.

TIPRO's Texans for Natural Gas (TNG) platform also has further bolstered our ability to inform state leaders and the public about energy development in the Lone Star State. Together, we continue to maintain a comprehensive statewide oil and natural gas campaign in Texas, comprised of data, analysis, grassroots engagement and rapid response capabilities designed to provide accurate and timely information about the industry and its unprecedented contributions, including vital facts used by legislators working on new laws for the energy industry. These resources will continue to be imperative to TIPRO's work to counter poorly-conceived policies and campaigns targeting our industry at all levels of government and to help educate the general public about oil and natural gas.

If you have any questions regarding this report or other oil and gas legislative issues in Texas, please do not hesitate to contact me directly.

Thank you,

Ed Longanecker



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# STATE BUDGET

## THE TEXAS STATE BUDGET FOR FISCAL YEAR 2024-2025 (HOUSE BILL 1/SENATE BILL 1)

**AUTHORS: REP. BONNEN AND SEN. HUFFMAN**

**ANALYSIS:** At the beginning of each regular session of the Texas legislature, the Texas Constitution requires the comptroller of public accounts to submit a statement showing the state's financial condition and estimating the revenue it can expect to receive during the next two-year budget cycle. Texas Comptroller Glenn Hegar's Biennial Revenue Estimate (BRE) issued January 9, 2023, noted that for the 2024-2025 biennium, the state could expect to have \$188.2 billion in funds available for general-purpose spending, a 26.3 percent increase from the corresponding amount of funds available for the 2022-23 biennium, \$169.5 billion of which were general revenue related.

The Texas state budget for Fiscal Years 2024 and 2025 expended \$144 billion in general revenue funds, not including \$12.3 billion allocated for a property tax relief fund. Major funding items include funding for the Texas Water Development Board (TWDB). One billion dollars in general revenue was allocated to capitalize the Texas Water Fund, contingent on enactment of legislation, for financing water projects in the state and \$625 million in general revenue to be transferred to the Flood Infrastructure Fund to increase funding for flood control, drainage and mitigation projects. Contingent on enactment of legislation that establishes the Texas Energy Fund, the budget appropriates \$5 billion to support the construction, maintenance and modernization of dispatchable electric generating facilities. The budget also increases funding to the Texas Department of Transportation (TxDOT) for highway planning and design, right-of-way acquisition and construction and maintenance by approximately \$5.0 billion that includes \$2.5 billion in federal funds and \$2.5 billion in the State Highway Fund.

Agencies of importance to the Texas oil and natural gas industry were also fully funded. For the continuation of essential health, safety and environmental oversight of the state's energy sector, the Railroad Commission of Texas (RRC) received its baseline budget request totals of \$452,715,332. The request includes \$125.8 million and 56 full-time equivalent (FTE) workers for part of the first two years of the Infrastructure Investment and Jobs Act (IIJA) well plugging formula grant from the U.S. Department of the Interior. The agency's oil and gas division estimates this funding will plug 2,200 wells in addition to the 2,000 wells in the baseline Oil & Gas Regulation and Clean-up (OGRC) funding. The commission's funding also included capital budget authority for the continuation of two critical IT projects, phase three of the Mainframe Transformation Project (\$21,475,647) and phase four of the Inspection and Enforcement Tracking and Reporting Project (\$3,000,000).

The Texas Commission on Environmental Quality (TCEQ) received \$374,264,847 million and 2,848 FTEs in 2024 and \$357,259,896 million and 2,848 FTEs in 2025. The funding includes \$56 million for targeted salary increases for mission critical staff, \$6.3 million for agency website usability enhancements inclusive of nine FTEs to implement the program, and \$7.1 million to increase access to public records. The agency also received \$2.25 million for the biennium for expedited air quality permitting.

The Bureau of Economic Geology (BEG) at the University of Texas at Austin was fully funded at its requested \$3.6 million per biennium and also received an additional \$4.75 million per biennium for Project STARR. The bureau also received an additional \$1.4 million to allow TexNet to employ the following: an additional five seismic analysts for 24/7 TexNet operations; a field engineer to work on seismometer maintenance; two information technology/computer science specialists devoted solely to TexNet; and a scientist dedicated to creating velocity models to be used in reducing the bias and errors on earthquake hypocentral depth estimation in TexNet operations.

**TIPRO EFFORTS:** At the beginning of the 88th Legislative Session, as with past sessions, TIPRO made the full funding of the oil and gas industry's regulatory agencies a priority. Early in session, TIPRO, members and board met with leaders of the RRC, TCEQ and BEG to understand their needs and legislative appropriations requests.



## THE TEXAS STATE BUDGET FOR FISCAL YEAR 2024-2025 (HOUSE BILL 1/SENATE BILL 1) CONTINUED

**TIPRO EFFORTS CONTINUED:** RRC Chairman Christi Craddick, TCEQ Commissioner Emily Lindley and BEG Director Dr. Scott Tinker attended a number of TIPRO meetings to outline their funding requests and answer questions.

TIPRO articulated to budget writers, members of the legislature and the office of the governor that the full funding of the oil and gas industry's regulatory agencies and the BEG was a priority to the organization. TIPRO closely monitored the budget process with specific focus on Articles VI (Natural Resources), VII (Business and Commerce), and VIII (Regulatory).

**BILL STATUS/EFFECTIVE DATE:** The state budget, House Bill 1, was passed by the House and the Senate, and sent to the comptroller for his certification on May 30, 2023. Following certification, House Bill 1 was sent to the governor on June 7, 2023, for his approval where he maintains the ability to veto individual line items. House Bill 1 was signed by the governor on June 18, 2023, and becomes effective on September 1, 2023.

## CARBON CAPTURE

### **CARBON CAPTURE AND SEQUESTRATION AND ADVANCED CLEAN ENERGY PROJECTS (HOUSE BILL 1158/SENATE BILL 2243)**

**AUTHORS: REP. DARBY AND SEN. JOHNSON**

**ANALYSIS:** Under the legislation proposed, the Texas Emissions Reduction Plan (TERP) would have to be altered to offer financial incentives to eligible businesses and other entities for the reduction of emissions from vehicles and equipment. The TCEQ administers the program, funded by revenues from fees and surcharges relating to certain off-road equipment and on-road vehicles. TERP is intended to help Texas meet the goals of reduced pollution and improved air quality. Carbon capture, utilization, and storage (CCUS) technology is an emerging technology that reduces carbon emissions by capturing carbon dioxide (CO<sub>2</sub>) and storing it underground. Additionally, direct air capture technology is a new technology designed to directly remove atmospheric CO<sub>2</sub>.

Currently, facilities capturing and injecting CO<sub>2</sub> operate in five main industry sectors: chemical production, hydrogen production, natural gas processing, fertilizer production and power generation. Making projects that implement these technologies eligible for funding under TERP would have benefited the state both economically and environmentally. House Bill 1158 sought to address this issue by revising the qualifications for an advanced clean energy project and expanding the projects eligible for consideration for a grant under the new technology implementation grant program under the plan.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support allowing carbon capture and sequestration projects to be eligible for funding under TERP. TIPRO worked with Representative Darby and the Carbon Neutral Coalition to have the bill set for hearing in committee. TIPRO was included on a one-pager shared with members of the House and Senate indicating support for the legislation, stating that, "carbon capture projects will help maintain and expand industries and jobs while protecting the environment. Making carbon capture projects explicitly eligible for TERP grant programs can help support new carbon capture ventures, which will be a benefit to the state economically and environmentally." TIPRO also publicly supported House Bill 1158 in the House Committee on Energy Resources.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1158 passed out of the House Committee on Energy Resources 7 to 0. The bill was sent to the House floor, where representatives voted to send the bill to the Senate 108 to 34. The bill, however, was never brought up for a hearing in the Senate Committee on Natural Resources & Economic Development and died due to statutory deadlines. The Senate companion bill, Senate Bill 2234, was also never brought up for a hearing in committee and died.

## **STATE CARBON CAPTURE AND STORAGE (SENATE BILL 2107/HOUSE BILL 4484)**

**AUTHORS: SEN. BIRDWELL AND REP. BONNEN**

**ANALYSIS:** Senate Bill 2107/House Bill 4484 was the industry-supported carbon capture and sequestration bill from this past session. The bill recognized the dominance of the mineral estate and provided a requirement that there be no harm or injury to minerals when conducting a project (currently required in permitting statute at state level – RRC Rules for CO<sub>2</sub> Geologic Storage). The bill defined CO<sub>2</sub> as one carbon atom and two oxygen atoms (the current definition is restricted to man-made CO<sub>2</sub>). The bill made clear that the CO<sub>2</sub> would be stored in pore space in the ground that is owned by the surface owner. The bill provided a voluntary option for a CO<sub>2</sub> storage operator to transfer ownership and custody to the state of Texas to assume long-term liability for a fee. To acquire pore space, an operator would have had to receive full consent, if not, the bill allowed the operator to petition the RRC to bring in non-consenting parties if 60 percent consent to the project.

The bill included a requirement to receive an integration order that the RRC must find that the injection and geologic storage of CO<sub>2</sub> will not endanger or injure any oil, gas or other mineral formation in any material respect, or has been addressed in an arrangement between the applicant and the mineral lessee or mineral owner.

The final committee substitute to Senate Bill 2107 dwindled the bill to just defining pore space, establishing who owns pore space and making clear that neither changes current law regarding mineral and surface estates. "Pore space" meant the geologic structures beneath the surface of land, including voids and cavities, to be used for the storage of CO<sub>2</sub>. The ownership of pore space was vested in the owner or owners of the surface estate of the land.

**TIPRO EFFORTS:** After the 87th Legislative Session concluded, and the passage of House Bill 1284 that makes clear that Class VI injection wells fall under the regulatory authority of the RRC alone and directs the RRC to seek primacy over Class VI injection wells, talks began regarding the structure, content and requirements that would be needed for an effective carbon capture and sequestration bill in the state of Texas. TIPRO met with numerous stakeholders throughout the process. As previously mentioned, the first draft of Senate Bill 2107/House Bill 4484 was substantial and raised concerns. TIPRO facilitated meetings between TIPRO members, the drafters of the legislation, supporters and opponents. TIPRO sought a means to reach consensus between all parties. While consensus was never reached, the TIPRO State Issues Voting Committee voted to support the conceptual idea of Senate Bill 2107/House Bill 4484, with the understanding that the bill would be a work in progress and one that TIPRO needed to be involved in. TIPRO signed onto a one-pager supporting the issue that outlined the basic tenets of the bill and argued, "Texas must pass a bill establishing statutory and regulatory framework for carbon storage because projects are being built around the county and world, and Texas landowners and the Texas economy should not miss out on the vast opportunities, jobs and investment this industry can bring to our state."

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2107 passed out of the Senate Committee on Natural Resources and Economic Development 9 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 29 to 2. The bill was referred to the House Committee on Energy Resources, where it was never brought up for a hearing and died due to statutory deadlines. The House companion bill, House Bill 4484, was never brought up for a hearing in committee and died.

## **LIABILITY FOR CAPTURING AND STORING CO<sub>2</sub> (HOUSE BILL 4557)**

**AUTHOR: REP. DARBY**

**ANALYSIS:** House Bill 4557 would have established in law that stored CO<sub>2</sub> is not a pollutant or nuisance and would prohibit a person from bringing a nuisance action or similar cause of action on the basis that captured CO<sub>2</sub>, stored CO<sub>2</sub> or a process associated with either constitutes a nuisance. The bill limited liability for injection, migration and release of captured CO<sub>2</sub> or for interference with access to underground minerals and water due to storage of captured CO<sub>2</sub> unless the claimant could prove actual damages and other factors required by law.



## LIABILITY FOR CAPTURING AND STORING CO2 (HOUSE BILL 4557) CONTINUED

**TIPRO EFFORTS:** TIPRO discussed House Bill 4557 with its author and sought feedback from royalty owners and other TIPRO members. The bill was then presented and explained at a TIPRO State Issues Committee meeting, where a consensus to support or oppose the legislation could not be reached. TIPRO agreed to remain neutral on the bill and continued to monitor the bill as it progressed through the legislative process.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4557 passed out of the House Committee on Judiciary & Civil Jurisprudence 5 to 3, with one member absent. The bill was sent to the House floor, where it was ultimately postponed until January 10, 2024, causing it to die by procedure.

## TEXAS PARKS AND WILDLIFE DEPARTMENT CARBON CREDITS FOR CCUS PROJECTS (HOUSE BILL 4018)

**AUTHOR: REP. ASHBY**

**ANALYSIS:** House Bill 4018 will allow the Texas Parks and Wildlife Department (TPWD) to work with private entities to generate carbon credits through construction of nature-based solutions such as living shorelines. Private dollars will aid in funding construction of the living shoreline adjacent to select public lands and provide insurance to assure long-term sustainability in the face of catastrophic events.

**TIPRO EFFORTS:** TIPRO discussed the concept of House Bill 4018 prior to the 88th Legislative Session with a carbon capture stakeholder group. TIPRO analyzed the bill upon its filing and discussed the bill with its author. While the bill did pertain to carbon capture and sequestration, the practicability was minimal. The TIPRO State Issues Committee elected to remain neutral on the bill and monitor the legislation as it progressed through the legislative process.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4018 passed out of the House Committee on Culture, Recreation & Tourism 8 to 0, with one member absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 126 to 18, with one member present not voting. The bill was referred to the Senate Committee on Water, Agriculture & Rural Affairs, where it was passed out of committee 8 to 0, with one member absent. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 28 to 2. The bill was sent to the governor on May 18 and signed on June 2. It will become effective on September 1, 2023.

## ELECTRICITY

## DISPATCHABLE RELIABILITY RESERVE SERVICE FIRMING PROGRAM (SENATE BILL 7/HOUSE BILL 4832)

**AUTHORS: SEN. SCHWERTNER AND REP. HUNTER**

**ANALYSIS:** Senate Bill 7 sought to address the reliability and resilience of the Electric Reliability Council of Texas (ERCOT) power grid in Texas by providing guidance to the Public Utility Commission (PUC) regarding the implementation of the Performance Credit Mechanism (PCM) and require ERCOT to ensure minimum performance standards for new energy resources. The PCM is a proposal to improve Texas' power grid reliability during extreme weather events whereby power generators commit to producing more energy during high demand periods, selling credits to electricity retailers for additional income. The credits offer assurance to the retailers that power will be available to them during times of scarcity, which under the old system would trigger higher prices. The proposal was meant to increase the reliability of the grid by incentivizing companies to build and operate the type of power generation that can be turned off and on regardless of the weather, unlike wind and solar power.

**TIPRO EFFORTS:** TIPRO identified Senate Bill 7 as a priority bill for the Senate early in session. The TIPRO State Issues Committee, however, had significant concerns regarding who would be footing the bill for the PCM and noted that, without implementing any guardrails for the proposal, it was like writing a blank check that ratepayers would be obligated to pay.

## **DISPATCHABLE RELIABILITY RESERVE SERVICE FIRING PROGRAM (SENATE BILL 7/HOUSE BILL 4832) CONTINUED**

**TIPRO EFFORTS CONTINUED:** The TIPRO State Issues Committee voted to remain neutral on the bill but worked to ensure that Senate Bill 7 was amended to require a net cost cap of \$1 billion annually less the cost of any interim bridge program, consumer protections and other market operational efficiencies.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 7 passed out of the Senate Committee on Business & Commerce 11 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on State Affairs, where it was voted favorably 13 to 0 and sent to the House floor. House members amended and then voted in favor of the bill 134 to 11, with one member present not voting. Ultimately, the Senate and the House could not agree to work out the differences in the House and Senate versions of the bill, so the bill died in conference committee due to statutory deadlines. The House companion bill, House Bill 4832, was left pending in committee and died. Many of the provisions of Senate Bill 7, however, were amended onto the PUC Sunset bill, House Bill 1500, inclusive of the cap and consumer protections that TIPRO fought for on behalf of our members.

As far as Senate Bill 7 amendments that were added onto House Bill 1500, the final bill included the following:

- Allocates interconnection costs above an “allowance” to new generators; under ERCOT’s current rules, all interconnection costs are socialized in transmission rates, and this moves the Texas program closer to the models used by the RTOs.
- Requires a new DA & RT ancillary service with 2-hour response time and 4-hour minimum run time.
- Requires generators that sign an IA after January 1, 2027, and have been in operation for at least one year to “demonstrate to the commission the ability of the owner or operator’s portfolio to operate or be available to operate when called on for dispatch at or above the seasonal average generation capacity during the times of highest reliability risk...” (Firming)
- Allocates the cost of AS back to generators and LSEs based on a yet-to-be-determined “in proportion to their contribution to unreliability during the times of highest reliability risk.”
- If a reliability program is implemented (PCM proposal), requires:
  - Costs capped at \$1 billion net of cost of any interim or bridge solution.
  - Credits allocated on a “seasonal” basis.
  - Requires penalties for non-performance.
  - IMM determines whether the program “reasonably balances the incremental reliability benefits against the incremental costs.”
  - Requires a single ERCOT-wide clearing price.
  - Generators cannot retire units before September 1, 2028, if they participate.
- Requires ERCOT to set up a REC tracking database.

## **THE POWERING TEXAS FORWARD ACT (SENATE BILL 2627/SENATE JOINT RESOLUTION 93)**

**AUTHOR: SEN: SCHWERTNER**

**ANALYSIS:** Senate Bill 2627 and Senate Joint Resolution 93, the “Powering Texas Forward Act,” established the Texas Energy Fund to be used by the PUC to provide loans to finance new dispatchable electric generating facilities as well as upgrades to existing facilities. The bill allows the PUC to provide for completion bonus grants for the construction of dispatchable electric generating facilities in the ERCOT power region and zero interest loans for new generation builds up to 10 gigawatts (GW), as well as for additions to existing generation facilities.

**TIPRO EFFORTS:** Rules were suspended by the Senate to allow Senate Bill 2627 and Senate Joint Resolution 93 to be filed past certain parliamentary deadlines, indicating the importance of the legislation to the upper chamber.

## THE POWERING TEXAS FORWARD ACT (SENATE BILL 2627/SENATE JOINT RESOLUTION 93) CONTINUED

**TIPRO EFFORTS CONTINUED:** The TIPRO State Issues Committee voted to support the bills, but also had concern that they would become vehicles for other electricity market redesign bills that were failing to move through the legislative process. TIPRO worked to ensure that the House committee removed maintenance and modernization language, including any reference to fuel transport infrastructure, which we were successful in doing in conference.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2627 was passed by both the Senate and the House with overwhelming support. The corresponding constitutional amendment, Senate Joint Resolution 93, was passed along side Senate Bill 2627 with corresponding support. The Senate bill was amended in both the House and Senate and the two chambers worked out the differences between the differing amended versions of the bill in conference committee. Senate Bill 2627 was sent to the governor on May 29, 2023, and signed into law by the governor on June 9, 2023. Texas voters have to approve amendments to the constitution. Thus, Senate Joint Resolution 93 will be a ballot proposal presented to voters in the November 7, 2023, election. The ballot language will read: "The constitutional amendment providing for the creation of the Texas energy fund to support the construction, maintenance, modernization, and operation of electric generating facilities." Both Senate Bill 2627 and Senate Joint Resolution 93 will become effective pending the outcome of the ballot proposition.

## IDENTIFYING AND EXPEDITING ELECTRIC TRANSMISSION (HOUSE BILL 5066)

**AUTHOR: REP. GEREN**

**ANALYSIS:** House Bill 5066 will allow utilities to build transmission in time to serve Texas' growing needs, will help build new transmission based on reasonable future load so utilities can get ahead of reliability needs, and will require the PUC to create a plan to resolve known deficiencies in serving critical areas of the state, specifically in high oil and gas regions. The bill expedites commission action on new transmission and specifically identifies the Permian Basin, requiring that a reliability plan for the Permian region be developed.

**TIPRO EFFORTS:** At the beginning of the 88th Legislative Session, TIPRO, allied trades and TIPRO member companies attended a briefing following the publishing of a study forecasting the energy needs of the Permian Basin into the future. The report identified that to meet strategic targets in the Permian, projected load demand within the basin will need to increase from the current level (2022) on the grid (4.2 GW) to 17.2 GW by 2032 and reach 17.6 GW by 2040. Recognizing this need, the TIPRO State Issues Committee supported the language in House Bill 5066 prior to the bill being filed and worked tirelessly to move the bill through legislative process. TIPRO publicly supported the bill in the House Committee on State Affairs and worked to have the bill set on the House calendar. TIPRO also distributed one-pagers to the House and Senate educating members on the importance of House Bill 5066 and TIPRO's support. TIPRO worked to have the bill set in the Senate Committee on Business & Commerce, publicly supported the bill when it was heard in committee and continued to advocate on behalf of the bill through the end of the legislative session.

**BILL STATUS/EFFECTIVE DATE:** House Bill 5066 passed House and Senate committees with unanimous support and also received unanimous support on the floors of both chambers. The bill was sent to the governor on May 30, 2023, and was signed into law on June 13, 2023. The bill became effective immediately as it more than exceeded the required majority support expedite bills into law.

## ALLOWING FOR EXCEPTIONS TO CRITICAL INFRASTRUCTURE DESIGNATIONS (HOUSE BILL 3244/SENATE BILL 1847)

**AUTHORS: REP. GOLDMAN AND SEN. SCHWERTNER**

**ANALYSIS:** During the 87th Legislative Session, the legislature passed Senate Bill 3 to improve the reliability of the Texas electric grid. Among other important things, the legislation directed the RRC to adopt rules designating certain oil and gas facilities as "critical," facilities with the most impact on electrical power generation. The legislation also directed the RRC to adopt rules requiring the energy industry to weatherize facilities: (1) designated as "critical" and that were (2) included on the state's electricity supply chain map.



## **ALLOWING FOR EXCEPTIONS TO CRITICAL INFRASTRUCTURE DESIGNATIONS (HOUSE BILL 3244/SENATE BILL 1847) CONTINUED**

**ANALYSIS CONTINUED:** Under current PUC rules, a facility designated as “critical” by the RRC is ineligible to participate in ERCOT’s Load Resource Program – a longstanding tool used by ERCOT to manage the electric grid. The program allows ERCOT to shut-off power to large energy consumers, enabling that power to be dispatched to higher-priority facilities. Per ERCOT, in the ERCOT markets, the value of a load resource’s load reduction is “equal to that of an increase in generation by a generating plant.”

Under House Bill 3244, critical facilities (not located on the map) would become eligible to participate in the Load Resource Program. To participate, an operator must make operational investments, for example, constructing surface facilities to have the ability to shut-off within short notice, executing an interruptible contract with its pipeline gatherer (usually resulting in higher fees), and turning off cash flow due to shut-in production.

House Bill 3244 would have allowed the RRC to process violations of its weatherization rules pursuant to its longstanding enforcement policies and procedures, prior to possible referral to the attorney general’s office. Further, if the RRC requires remedial weatherization requirements, an operator may do this in-house as opposed to hiring an outside consultant, thereby maintaining confidential operations and allowing a person familiar with the operations to make prudential, remedial measures.

Lastly, if a facility is on the map, there is no due process right to challenge inclusion. House Bill 3244 would have allowed an operator for good cause to request exclusion by the RRC. The RRC could render a decision in executive session to protect the confidential critical infrastructure information from public disclosure. Practically, this would afford the electricity supply chain map greater precision. Examples of good cause could include an operator selling gas out-of-state, shipping natural gas infrequently to a critical gas plant, operating an enhanced oil recovery project (waterflood or CO2 flood), as well as participation in the Load Resource Program.

In summary, House Bill 3244 would have allowed the RRC to consider good cause in obtaining exceptions to critical status and allow the RRC to determine if an operator acted as a reasonably prudent operator in determining penalties to assess against an operator.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 3244. TIPRO signed on to a one-pager in support of the bill and assisted in meeting with and educating members of the legislature on the need for the bill. TIPRO President Ed Longanecker also penned a letter of support, arguing that under current law “if a facility is on the map, there is no due process right to challenge inclusion. House Bill 3244 allows an operator for good cause to request exclusion by the RRC. The RRC can render a decision in executive session to protect the confidential critical infrastructure information from public disclosure. Practically, this affords the electricity supply chain map greater precision.” The letter was distributed to members of the House Committee on Energy Resources and the House Committee on Calendars to assist in the movement of the bill.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3244 passed out of the House Committee on Energy Resources 8 to 1, with two members absent. The bill was sent to the House Calendars Committee but never set on a House calendar. The Senate companion bill, Senate Bill 1874, was never brought up for a hearing in Committee and died.

## **COST CAP/ALLOWANCE FOR INTERCONNECTION OF GENERATION RESOURCES (SENATE BILL 1287)**

**AUTHOR: SEN. KING**

**ANALYSIS:** Senate Bill 1287 would have required the PUC to establish an allowance for capital costs incurred to interconnect generation resources and electric energy storage resources with the ERCOT transmission system. The allowance would be applied on a per megawatt basis. The allowance created by the PUC must: take into account average historical interconnection costs and system upgrade costs and be designed to lower costs to consumers and to encourage owners of generation resources and electricity storage resources to locate resources closer to load.

## **COST CAP/ALLOWANCE FOR INTERCONNECTION OF GENERATION RESOURCES (SENATE BILL 1287) CONTINUED**

**ANALYSIS CONTINUED:** Currently, the costs arising from the interconnection of certain electric generation facilities with the ERCOT transmission system are socialized and paid for by Texas consumers while the interconnecting generator bears none of the costs. Because generators do not pay for interconnection costs, they are not incentivized to look for the best locations to efficiently interconnect new resources and instead often opt for cheap land that is far from the consumers they wish to serve, thus causing millions of dollars of costs to the system for all consumers. It has been noted that outside of the ERCOT region this practice is less common and generators are often made to bear some or all of the costs associated with the interconnection of their generation assets. Because there are about \$1 billion of interconnection costs associated with pending generation projects in the ERCOT queue, it is essential that reform is undertaken so that Texas consumers are not forced to bear the totality of these costs. Senate Bill 1287 sought to provide for a cap on the amount of capital costs incurred to interconnect generation resources and electric energy storage resources with the ERCOT transmission system that may be socialized and would require that any excess costs be borne directly by the applicable generation resource or electric energy storage resource.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 1287. TIPRO supported the bill for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one pager that was distributed to legislative members explaining Senate Bill 1287 and indicating TIPRO and industry support.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1287 passed out of the Senate Committee on Business & Commerce 8 to 4, with one member absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 19 to 12. The bill was referred to the House Committee on State Affairs, where it was voted favorably and sent to the House floor. The bill was ultimately postponed until June 1, 2023, causing it to die by procedure.

### **PREVENTING MARKET ABUSE (SENATE BILL 2010/HOUSE BILL 4862)**

**AUTHORS: SEN. SCHWERTNER AND REP. SLAWSON**

**ANALYSIS:** Senate Bill 2010 would have required the PUC to provide a public report that describes: the number of instances in the previous 12 months in which the market monitor reported potential market manipulation to the PUC or PUC staff; the laws, regulations and ERCOT requirements alleged to have been violated by the reported entities; and the number of instances report that resulted in the PUC or PUC staff initiating an enforcement action.

Senate Bill 2010 would have brought much needed transparency to detect and prevent market manipulation by requiring reports by the independent market monitor (IMM) and the PUC on potential violations and enforcement actions. The IMM is responsible for monitoring the ERCOT wholesale electric market to detect and prevent market manipulation strategies and recommends measures to enhance the efficiency of the market. Under current law, there is no statutory requirement that these activities be made public or be published by the PUC.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 2010/House Bill 4862. TIPRO supported the bills for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one pager that the association helped distribute to legislative members explaining Senate Bill 2010/House Bill 4862 and indicating TIPRO and industry support.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2010 passed out of the Senate Committee on Business & Commerce 9 to 0, with two members absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on State Affairs, where it was voted favorably and sent to the House floor. House members voted in favor of the bill 144 to 2, with one member present not voting. The bill was sent to the governor on May 19 but it was ultimately vetoed on June 18, with the governor noting that “while Senate Bill 2010 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.”

## **POWER MITIGATION (SENATE BILL 2011/HOUSE BILL 4821)**

**AUTHORS: SEN. SCHWERTNER AND REP. SLAWSON**

**ANALYSIS:** Senate Bill 2011 will increase the penalty for a violation of laws overseen by the PUC or due to violation of a rule or order adopted by the PUC from a maximum of \$25,000 to a maximum of \$1,000,000. It will also require that voluntary mitigation plans (VMP) be updated at least once every two years. The bill repeals the provision that imposes a \$1,000,000 fine for violations of certain emergency-related provisions, as all maximum fines are brought up to \$1,000,000 under the change in law.

A VMP is an important tool to help prevent market power abuse in the ERCOT wholesale market. However, the VMP rules do not reflect the dynamic and evolving nature of the ERCOT market and do not require proactive updates to an existing VMP, which undermines the effectiveness of a VMP in combating potential market abuse. Senate Bill 2011 updates VMP requirements to ensure that such plans provide meaningful protections against market power abuse while maintaining a fair and balanced approach for the companies that enter into a VMP.

**TIPRO EFFORTS CONTINUED:** The TIPRO State Issues Committee voted to support Senate Bill 2011/House Bill 4821. TIPRO supported the bills for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one-pager that the association helped distribute to legislative members explaining Senate Bill 2011/House Bill 4821 and indicating TIPRO and industry support.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2011 passed out of the Senate Committee on Business & Commerce 9 to 0, with two members absent. The bill was sent to the Senate floor where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on State Affairs, where it was voted favorably and sent to the House floor. After a number of amendments to the bill failed, House members voted in favor of the bill 73 to 67, with two members present not voting. The bill was sent to the governor on May 29 and signed on June 18. It will become effective on September 1, 2023.

## **PCM GUARD RAILS AND MARKET POWER PROTECTIONS (SENATE BILL 2012)**

**AUTHOR: SEN. SCHWERTNER**

**ANALYSIS:** Senate Bill 2012 would have prohibited the PUC from adopting a reliability program for the ERCOT power region that requires purchasing credits earned by generators based on their availability during times of high demand and low supply at a determined clearing price unless the PUC ensures that: the net cost to the ERCOT market of the program does not exceed \$500 million; credits are available only for dispatchable generation; cost of credits is assigned on a cost-causation basis; program includes appropriate penalties for failure to provide required program service; ERCOT implements real-time co-optimization of energy and ancillary services before the credit program is implemented; and the entire program begins on a single starting date. The bill also created the Grid Reliability Legislative Oversight Committee to oversee implementation of various laws including the reliability program. The bill would have limited a retail provider (or their corporate parent) from providing retail market service to more than 20 percent of the customers in the competitive retail market in a power region. Retail providers who violate this limitation would have been required to submit a plan to the PUC for reducing the provider's market share. The PUC would have been required to determine whether at least 5,000 MW of dispatchable generation capacity have been installed in the ERCOT power region between June 1, 2023, and December 31, 2026. If the PUC found that goal had not been met, the PUC is required to make transmission and distribution utilities install dispatchable generation capacity sufficient to ensure an additional 5,000 MW of dispatchable capacity is available compared to the amount on June 1, 2023.

In the 87th Legislative Session, the legislature directed the PUC to develop a reliability program to procure ancillary services on a cost-causation basis. The PUC hired a third-party consultant to scrutinize the state of Texas' electrical grid and recommend reforms to improve market design. The PUC adopted the PCM, a resource adequacy mechanism to pay generators to be available during times of peak demand.



## **PCM GUARD RAILS AND MARKET POWER PROTECTIONS (SENATE BILL 2012) CONTINUED**

**ANALYSIS CONTINUED:** Senate Bill 2012 would have built on the attributes of the PCM, but added clear guardrails to prevent runaway rates and ensure reliability. These guardrails included penalties for generators that do not provide the electricity they commit to, creates a legislative oversight committee to oversee implementation, enhances oversight of voluntary mitigation plans, and caps the net-cost of the program.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 2012. TIPRO supported the bills for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one-pager that the association helped distribute to legislative members explaining Senate Bill 2012 and indicating TIPRO and industry support.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2012 passed out of the Senate Committee on Business & Commerce 11 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on State Affairs, where it was voted favorably and sent to the House floor. The bill was ultimately postponed until June 1, 2023, causing it to die by procedure.

## **RENEWABLE PORTFOLIO STANDARD (SENATE BILL 2014)**

**AUTHOR: SEN. KING**

**ANALYSIS:** Senate Bill 2014 would have permitted the PUC to adopt rules that require renewable power facilities to have reactive power control capabilities or other feasible technology to reduce the facilities' effects on system reliability. The PUC and ERCOT would have been required to study the need for increased transmission and generation capacity and report the results to the legislature with any recommendations for legislation. The bill also would have repealed the provision in law that establishes the state goal for renewable energy as well as the provision in statute that governs interconnection of distributed renewable generation.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 2014. TIPRO supported the bill for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one-pager that the association helped distribute to legislative members explaining Senate Bill 2014 and indicating TIPRO and industry support.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2014 passed out of the Senate Committee on Business & Commerce 9 to 0, with two members absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 30 to 1. The bill was referred to the House Committee on State Affairs, where it was left pending and never received a hearing.

## **ADDITIONAL PCM GUARDRAILS (HOUSE BILL 4831)**

**AUTHOR: REP. HUNTER**

**ANALYSIS:** House Bill 4831 would have prohibited the PUC from implementing a reliability program for the ERCOT power region that provides for purchase of credits earned by generators based on generator availability during times of high demand and low supply at a centrally-determined clearing price until an updated assessment on the cost and impact of the program is conducted by ERCOT and the independent market monitor. The bill also would have established some minimum components of any reliability program including: credits centrally cleared to avoid market manipulation; participation limited to dispatchable resources; etc.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 4831. TIPRO supported the bills for the public record when the bill was heard in the Senate Committee on Business & Commerce and the House Committee on State Affairs. TIPRO also lent support to a one-pager that the association helped distribute to legislative members explaining House Bill 4831 and indicating TIPRO and industry support.

## **ADDITIONAL PCM GUARDRAILS (HOUSE BILL 4831) CONTINUED**

**BILL STATUS/EFFECTIVE DATE:** House Bill 4831 was heard in the House Committee on State Affairs but was left pending and never received a vote by the committee.

## **THE TEXAS ENERGY RELIABILITY FUND (HOUSE BILL 4834/HOUSE JOINT RESOLUTION 180/SENATE JOINT RESOLUTION 92)**

**AUTHOR: REP. HUNTER**

**ANALYSIS:** House Bill 4834/House Joint Resolution 180/Senate Joint Resolution 92 would have established the Texas Energy Fund to be used by the PUC to provide loans to finance new dispatchable electric generating facilities or additional generating capacity for electric generating facilities as well as upgrades to existing facilities.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 4834. TIPRO supported the bill for the public record when House Bill 4834 was heard in the House Committee on State Affairs. The bill, however, was incorporated into Senate Bill 2627 and Senate Joint Resolution 93, directing TIPRO's efforts away from House Bill 4834 and to the moving bill.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4834/House Joint Resolution 180 were heard in the House Committee on State Affairs but were left pending and never received a vote by the committee. Senate Joint Resolution 92 never received a hearing in the Senate Committee on Business & Commerce. The Texas Energy Reliability Fund was ultimately passed in the "Powering Texas Forward Act," Senate Bill 2627 and Senate Joint Resolution 93 (above).

## **EXPEDITING TRANSMISSION PROJECTS (HOUSE BILL 2848/SENATE BILL 1296)**

**AUTHORS: REP. DARBY AND SEN. SCHWERTNER**

**ANALYSIS:** House Bill 2848/Senate Bill 1296 would have changed the criteria the PUC uses to evaluate granting a certificate for a transmission project serving the ERCOT region that is not necessary to meet state or federal reliability standards. The bill would repeal the current criteria and instead, require that the criteria: include a comparison of estimated cost of the transmission project to consumers and estimated congestion cost savings for consumers considering both current and expected congestion levels and the project's ability to reduce those levels. The criteria would also address: other benefits of the transmission project; solutions to relieve generic transmission constraints; potential for increasing transmission system reliability, resiliency, and operational flexibility; potential for minimizing outage and transmission system congestion by employing planning criteria; and operational benefits and reduced impacts on affective landowners of constructing new transmission lines operating below 345 KW. The criteria must also evaluate: the costs and benefits of the project levelized over the life of the project. The bill would have imposed additional considerations in high growth areas and areas experiencing rapid growth in power demand. The bill would also shorten the timespan for commission approval or denial of an application for a new transmission facility from one year after the date the application is filed to requiring a decision no later than 181 days after the application is filed.

**TIPRO EFFORTS:** At the beginning of the 88th Legislative Session, TIPRO, allied trades and TIPRO member companies attended a briefing following the publishing of a study forecasting the energy needs of the Permian Basin into the future. The report identified that in order to meet strategic targets in the Permian, projected load demand within the basin will need to increase from the current level (2022) on the grid (4.2 GW) to 17.2 GW by 2032 and reach 17.6 GW by 2040. Recognizing this need, the TIPRO State Issues Committee supported the language in House Bill 2848/SB 1296 prior to the bill being filed and worked to move the bill through legislative process. TIPRO publicly supported the bill in the House Committee on State Affairs and worked to have the bill set on the House calendar. House Bill 5066, however, became the vehicle to address projected load demand, specifically naming and requiring attention to the Permian Basin. TIPRO shifted focus away from House Bill 2848/Senate Bill 1296 to House Bill 5066 that ultimately passed.

## EXPEDITING TRANSMISSION PROJECTS (HOUSE BILL 2848/SENATE BILL 1296) CONTINUED

**BILL STATUS/EFFECTIVE DATE:** House Bill 2848 was passed out of the House Committee on State Affairs 8 to 0, with five members absent. The bill was sent to the House Calendars Committee but was never set on a House calendar. Senate Bill 1296 was heard in the Senate Committee on Business & Commerce but was left pending and never received a vote.

## ENVIRONMENTAL ISSUES

### TEXAS ORPHANED WELL REDUCTION ACT (HOUSE BILL 4046/SENATE BILL 1686)

**AUTHORS:** *REP. GUILLEN AND SEN. BLANCO*

**ANALYSIS:** House Bill 4046 and Senate Bill 1686 would have allowed an operator or landowner to take over an orphaned well from the RRC. If the operator or landowner plugged the well within a one-year time frame, the operator or landowner was entitled to receive a reimbursement from the Oilfield Clean-Up Program in the amount of either half of the plugging cost or half of the commission's average plugging cost for similar wells in that area, whichever is lower. This would have allowed orphaned wells to be plugged at half the cost to the state and this liability to the state would have been capped at \$500,000. If an operator, however, chose to adopt the orphaned well and not plug the well within one year, the operator would then assume normal responsibility for that well and standard laws apply regarding the duty of the operator to plug the well. If the operator brings the well back into production, the operator becomes entitled to the same tax incentive already in law for returning inactive wells to production and be responsible for the well as currently prescribed by law.

**TIPRO EFFORTS:** TIPRO met with the comptroller of public accounts and the RRC during the interim prior to the 88th Legislative Session to address concerns that the agencies could potentially foresee with the concept of the bills. TIPRO drafted House Bill 4046 and Senate Bill 1686 with input from TIPRO members. TIPRO met with the members and offices of the House Committee on Energy Resources and the Senate Committee on Natural Resources & Economic Development and secured authors for the bill. TIPRO drafted and distributed a one-pager to key member offices articulating the tenets of the bill and arguing that the "proposal is a proactive approach that will provide another tool in the state's arsenal of programs to combat orphaned oil and gas wells in Texas." TIPRO also created personalized documents for each member of the key committees identifying potential qualifying wells in each member's district. Finally, TIPRO provided public testimony to the House Committee on Energy Resources when House Bill 4046 was heard in public hearing.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4046 was heard in the House Committee on Energy Resources but was left pending and never received a vote by the committee. Senate Bill 1686 never received a hearing in the Senate Committee on Natural Resources & Economic Development.

## EMINENT DOMAIN

### EMINENT DOMAIN PRICE REQUIREMENTS (HOUSE BILL 2628)

**AUTHOR:** *REP. MOODY*

**ANALYSIS:** House Bill 2628 was an eminent domain related bill that would have changed the resale price of real property repurchased from a condemning entity by a previous owner or the owner's heirs, successors or assigns from the price paid to the owner by the entity at the time the entity acquired the property through eminent domain to the amount the entity was ordered to pay the owner for the property interest in the final judgment in the condemnation proceeding through which the entity acquired the property interest.



## EMINENT DOMAIN PRICE REQUIREMENTS (HOUSE BILL 2628) CONTINUED

**TIPRO EFFORTS:** Last session, TIPRO was involved in the arduous process of reforming the eminent domain statute. House Bill 2730 was the result of three sessions of work between many stakeholders who all agreed that there would be a 10-year moratorium on eminent domain legislation. House Bill 2628 violated that agreement, which could allow for further eminent domain legislation or amendments to the bill. Additionally, the passage of the bill would have resulted in a negative fiscal impact for the state. Accordingly, the TIPRO State Issues Committee voted to oppose House Bill 2628 and TIPRO opposed the bill on public record in the House Committee on Land & Resource Management, when a public hearing on the bill was held.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2628 was only heard in public hearing in the House Committee on Land & Resource Management but never received a vote and died in committee.

## REGULATORY

### **TCEQ SUNSET BILL (SENATE BILL 1397/HOUSE BILL 1505)**

**AUTHORS: SEN. SCHWERTNER AND REP. BELL**

**ANALYSIS:** Senate Bill 1397 was the TCEQ Sunset Bill. The bill requires the TCEQ to create and issue a standard permit for a temporary concrete plant that performs wet batching, dry batching, or central mixing to support a public works project. The bill requires that the TCEQ keep the public comment period open for a permit application under the Clean Air Act for at least 36 hours after the end of a public meeting. The bill also requires the executive director of TCEQ to create a training manual that shall be distributed annually to each member of the commission. Each member must sign and submit a statement acknowledging the member has received and reviewed the training manual. Public notices issued by the TCEQ are required to include the name of the permit applicant, the type of permit applied for, and the address of each proposed or existing site subject to the proposed permit. The bill also requires that the TCEQ post permit applications on their website at the time the permit becomes administratively complete. The bill amends provisions of the water code that deal with permitting under air, waste and water programs overseen by the TCEQ. The TCEQ is permitted to publish notice of permit application by electronic means instead of printed means. The commission is also permitted to hold public meetings virtually, provided that members of the general public are able to participate in the meeting. In instances where federal law requires an in-person public meeting, TCEQ is required to hold an in-person meeting. Individuals who hold a temporary permit of a permit with an indefinite term are required to report whether activity subject to the permit is ongoing annually. The bill would require TCEQ to set the number of major, moderate, and minor violations needed to be classified as a repeat violator for the purposes of classifying a person's compliance history. The commission is permitted to review, suspend or reclassify a person's compliance history at any time if the commission determines exigent circumstances exist. The bill increases the maximum penalty that may be imposed for a second violation and subsequent violations from \$25,000 to \$40,000. The bill requires the TCEQ to establish an enforcement diversion program for small businesses and local governments that would include resources developed for the small business compliance assistance program; compliance assistance training; and on-site technical assistance and training performed by commission staff. Small businesses and local governments may be enrolled into the enforcement diversion program before initiating an enforcement action for a violation. If the small business or local government successfully completes the enforcement diversion program, the commission is prohibited from initiating an enforcement action for the violation that resulted in enrollment in the diversion program. Violations that result in an imminent threat to public health or are classified by law as a major violation would render a small business or local government ineligible for the diversion program. Additionally, if the small business or local government was enrolled in the program within the previous two years prior to the violation, they are ineligible. The bill requires the environmental flows advisory group to periodically review the environmental flow standards for each river basin and bay system. TCEQ is required to submit a biennial report to the advisory group on the implementation and effectiveness of environmental flow standards. The bill requires the TCEQ to provide notice to each state representative and state senator who represents an area inside a proposed water districts' boundaries.

## **TCEQ SUNSET BILL (SENATE BILL 1397/HOUSE BILL 1505) CONTINUED**

**TIPRO EFFORTS:** TIPRO monitored the Sunset Committee hearing on TCEQ throughout the interim prior to the 88th Legislative Session and updated TIPRO members on developments. TIPRO updated members with such information as details and summaries of Sunset Committee hearings, the agency's self-evaluation report, the Sunset Commission staff's report as well as their recommended decisions, the legislature's actions and final results. TIPRO discussed the report with the TCEQ and key members of the House Committee on Environmental Regulation and the Senate Committee on Natural Resources & Economic Development. The recommendations and the original draft of Senate Bill 1397 were innocuous and would have little to no effect on the oil and gas industry, although sunset bills often become vehicles for a variety of other bills. Thus, the TIPRO State Issues Committee voted to support the continuation of the TCEQ but remain neutral on Senate Bill 1397 and continue to monitor the bill as it made its way through the legislative process prepared to intervene if anti-oil and gas amendments were made to the bill.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1397 passed out of the Senate Committee on Natural Resources & Economic Development 9 to 0. The bill was sent to the Senate floor where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on Environmental Regulation, where it was passed out of committee 7 to 0, with two members absent. The bill was sent to the House floor, where House members voted in favor of the bill 142 to 2, with one member present not voting. The bill was sent to the governor on May 29 and signed on June 18. It will become effective on September 1, 2023.

### **ALLOWING TCEQ DISMISSAL OF VEXATION COMPLAINTS (SENATE BILL 471)**

**AUTHOR: SEN. SPRINGER**

**ANALYSIS:** Senate Bill 471 allows the TCEQ the flexibility to dismiss vexatious complaints while ensuring the civil liberties of those filing legitimate complaints. This would allow the TCEQ the ability to protect and enhance access to resources and protect against unnecessary impediments that may arise out of multiple complaints by the same individual for which the TCEQ finds no infractions. Specifically, Senate Bill 471 provides that the TCEQ is not required to investigate a complaint that: may be addressed during other TCEQ activities; or was filed by an individual when there is not a reasonable probability that TCEQ can substantiate the complaint, and the complaint is repetitious or redundant of other complaints concerning the same site investigated in the preceding 12 months that were not substantiated by TCEQ; or the complainant has filed at least five complaints that were not substantiated by TCEQ in the preceding seven years.

**TIPRO EFFORTS:** TIPRO first spoke with association members regarding the bill and then the TCEQ who indicated support of the legislation. The TIPRO State Issues Committee voted to support Senate Bill 471. TIPRO provided its logo for a one-pager and began working with interested parties to pass the bill. The one-pager clearly defined what the bill did and did not do, explaining "Senate Bill 471 does allow TCEQ flexibility to dismiss vexatious complaints while ensuring the civil liberties of those filing legitimate complaints. Senate Bill 471 does not eliminate the public complaint process at TCEQ and does not limit, in any way, Texans' ability to file complaints to be reviewed by TCEQ." TIPRO distributed the one-pager to members of the legislature and met with key offices to assist the movement of the bill through the legislative process.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 471 passed out of the Senate Committee on Water, Agriculture & Rural Affairs 7 to 0, with two members absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 22 to 9. The bill was referred to the House Committee on Environmental Regulation, where it was passed out of committee 5 to 4. The bill was sent to the House floor, where House members voted in favor of the bill 85 to 59, with two members present not voting. The bill was sent to the governor on May 29 and signed on June 18. It will become effective on September 1, 2023.

## **EXTENSION OF TORT LIABILITIES FOR THE TREATMENT, RECYCLING FOR BENEFICIAL USE, OR DISPOSAL OF DRILL CUTTINGS (SENATE BILL 502/HOUSE BILL 618)**

**AUTHORS: SEN. HUGHES AND REP. DARBY**

**ANALYSIS:** Senate Bill 502/House Bill 618 amends the Natural Resources Code to remove a provision that exempts a person who generates drill cuttings and transfers the drill cuttings to a permit holder with the contractual understanding that the drill cuttings will be used in connection with road building or another beneficial use from liability in tort for a consequence of the subsequent use of the drill cuttings by the permit holder or by another person. The bill replaces that provision with a provision that, unless otherwise provided by a contract or other written agreement, exempts a person who generates drill cuttings and transfers the drill cuttings in an arm's length transaction to an unaffiliated third-party permit holder under a contract that requires that the drill cuttings be used in connection with road building or another beneficial use or disposed of from liability in tort for a consequence of the subsequent use or disposal of the drill cuttings by the permit holder or by another person under the following conditions:

- the person who generates the drill cuttings has the legal and contractual right to transfer the drill cuttings to the permit holder;
- the method and location of the use or disposal are not prohibited by law, contract, or other written agreement; and
- the consequence was caused solely by the permit holder.

Senate Bill 502/House Bill 618 includes as a permit holder for purposes of provisions relating to the treatment and recycling for beneficial use of drill cuttings a person who holds a permit from the RRC to operate a commercial oil and gas waste disposal facility. The bill includes as drill cuttings any associated sand, silt, drilling fluid, spent completion fluid, workover fluid, debris, water, brine, oil scum, paraffin, or other material cleaned out of the wellbore.

**TIPRO EFFORTS:** TIPRO had detailed discussions with the authors of Senate Bill 502/House Bill 618. TIPRO's Voting State Issues Committee carefully analyzed the legislation and voted to support the bills but continued to monitor the bill throughout the legislative process. TIPRO supported the bills for the public record when they were heard in the House Committee on Energy Resources and the Senate Committee on Natural Resources & Economic Development.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 502 passed the House Committee on Energy Resources and the Senate Committee on Natural Resources & Economic Development unanimously. The bill passed both the House and Senate and was signed by the governor on May 23, 2023. The provisions of the bill became effective immediately.

## **REQUIRING ADMINISTRATIVE PENALTY NOTICE TO ELECTED OFFICIALS (SENATE BILL 813)**

**AUTHOR: SEN. MILES**

**ANALYSIS:** Senate Bill 813 would have required the TCEQ to provide notice to a state representative and senator that preside over an area where an administrative penalty has been assessed. The bill also would have required the same notification by the TCEQ prior to approval of an administrative order or proposed agreement to settle the administrative enforcement action.

**TIPRO EFFORTS:** The TIPRO State Issues Committee did not find a need for the bill. Public notices are already provided for both the assessment of administrative penalty and approval of an administrative order or proposed agreement to settle the administrative enforcement action. The TCEQ, however, did not have an issue fulfilling the directive if the legislature passed the bill and the bill had zero fiscal impact to the state. As a result, the TIPRO State Issues Committee voted to remain neutral on the bill.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 813 passed out of the Senate Committee on Natural Resources & Economic Development 8 to 0, with one member absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 30 to 1. The bill was referred to the House Committee on Environmental Regulation, where it was passed out of committee 8 to 0, with one member absent. The bill was sent to the House floor, where House members voted in favor of the bill 107 to 31, with one member present not voting. The bill was then sent to the governor on May 29, 2023, where the bill was vetoed on June 17.



## **REQUIRING ADMINISTRATIVE PENALTY NOTICE TO ELECTED OFFICIALS (SENATE BILL 813) CONTINUED**

**BILL STATUS/EFFECTIVE DATE CONTINUED:** Governor Abbott noted the same redundancy with the bill that the TIPRO State Issues Committee did in vetoing the bill, stating that the bill “would add unnecessary bureaucratic duties to what is already required by Texas law. Our goal should be to eliminate bureaucracy, not add to it.”

### **PUC AND OPUC SUNSET BILL (HOUSE BILL 1500/SENATE BILL 1368)**

**AUTHORS: REP. HOLLAD AND SEN. SCHWERTNER**

**ANALYSIS:** House Bill 1500, the PUC and OPUC sunset bill, continues the PUC and the Office of Public Utility Counsel (OPUC) until September 1, 2029. The enabling statute for both agencies would no longer be subject to expiration. The bill also will:

- specify and limit the ways PUC could give directives to ERCOT;
- add a PUC commissioner other than the chairperson as an ex officio non-voting member of the ERCOT board;
- limit the conditions under which the ERCOT board could enter a closed executive session and authorize the board to exclude PUC commissioners from such sessions;
- require PUC to develop a communications plan;
- require PUC to allow public testimony on all agenda items at regular meetings;
- modify reporting requirements for PUC and ERCOT; and
- limit the duration of temporary manager appointments for certain utilities.

**TIPRO EFFORTS:** TIPRO monitored the Sunset Committee hearing on the PUC and OPUC throughout the interim prior to the 88th Legislative Session and updated TIPRO members on developments. TIPRO updated members with such information as details and summaries of Sunset Committee hearings, the agency's self-evaluation report, the Sunset Commission staff's report as well as their recommended decisions, the legislature's actions and final results. TIPRO discussed the report with the PUC and key members of the House Committee on State Affairs and the Senate Committee on Business & Commerce. The recommendations and the original draft of House Bill 1500 were innocuous and would have little to no effect on the oil and gas industry, although sunset bills often become vehicles for a variety of other bills. Thus, the TIPRO State Issues Committee voted to support the continuation of the PUC and OPUC, but remain neutral on House Bill 1500 and continue to monitor the bill as it made its way through the legislative process prepared to intervene if anti-oil and gas amendments were made to the bill.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1500 passed out of the House Committee on State Affairs 12 to 0 with one member absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 140 to 1, with one member present not voting. The bill was referred to the Senate Committee on Business & Commerce, where it was passed out of committee 11 to 0. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 30 to 0, with one member absent. After numerous changes in conference between the House and Senate, the bill was sent to the governor on May 30 and was signed by the governor on June 9. The bill becomes effective on September 1, 2023.

### **INCREASE IN BONDING REQUIREMENTS FOR OIL & GAS OPERATORS (SENATE BILL 1550/HOUSE BILL 3044)**

**AUTHORS: SEN. BLANCO AND REP. ZWIENER**

**ANALYSIS:** House Bill 3044 would have increased blanket bond amounts for operators of oil and gas wells as follows: (1) a person who operates less than 10 wells shall file a \$40,000 blanket bond up from \$25,000. (2) a person who operates more than 10 but not more than 20 (down from 100) wells shall file a \$50,000 blanket bond. (3) 20-35 wells = \$75,000. (4) 35-60 wells = \$130,000. (5) 60-100 wells = \$250,000 (6) 100+ wells = \$400,000. The bill also sought to increase the cost of individual bonds by requiring the RRC, at the beginning of each fiscal year, to determine the average cost of plugging a well in each oil and gas division district during the preceding state fiscal year and multiplying that by the number of feet of the well.

**TIPRO EFFORTS:** Bills increasing bonding requirements are filed each session and each session the TIPRO State Issues Committee votes to oppose the measures. In past sessions, TIPRO has testified publicly in hearings against similar bills.

## **INCREASE IN BONDING REQUIREMENTS FOR OIL & GAS OPERATORS (SENATE BILL 1550/HOUSE BILL 3044) CONTINUED**

**TIPRO EFFORTS CONTINUED:** This session, TIPRO met early with members of the House Committee on Energy Resources and the Senate Committee on Natural Resources & Economic Development to articulate issues with the bill. Since bonding accounts for a small portion of the fees that finance the RRC's Oil & Gas Regulation and Cleanup Fund, a widespread misconception holds that steeper bonding requirements would slash the number of Texas' orphaned wells. TIPRO analyzed the data and found that higher bonding fees would fund about 40 additional plugged well each year. Meanwhile, the RRC meets and often exceeds its annual plugging goals and increasing bonding requirements would have a disproportionate impact on smaller producers and would make it more difficult to secure bonding for drilling ventures.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3044 was referred to the House Committee on Energy Resources but never received a hearing. Senate Bill 1550 was referred to the Senate Committee on Natural Resources & Economic Development but never received a hearing.

## **RAILROAD COMMISSION INSPECTIONS BY DRONE (HOUSE BILL 1302)**

**AUTHOR: REP. GEREN**

**ANALYSIS:** House Bill 1302 would have amended law regarding unmanned aircrafts to allow for drone inspections and examinations by the RRC of an oil or gas site or facility, including a well, tank or disposal or injection site; a pipeline facility; or a surface mining site.

**TIPRO EFFORTS:** Prior to supporting House Bill 1302, TIPRO had in-depth conversations with the RRC about what sort of notice would be provided to operators in advance of drones flying over their facilities. TIPRO was assured that there would be no change from the current inspection process. A RRC inspector with identification in a marked RRC truck would be onsite if a drone were to be used for inspection at a site. Given these assurances, the TIPRO State Issues Voting Committee voted to support House Bill 1302. TIPRO spoke with the author of the bill in addition to members of the House and Senate committees regarding our support. TIPRO also issued support on the public record for the bills before both the House and Senate committees.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1302 passed out of the House Committee on Energy Resources 8 to 0, with three members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 145 to 3, with one member present not voting. The bill was referred to the Senate Committee on Natural Resources & Economic Development, where it was passed out of committee 6 to 3. The bill was sent to the Senate floor, where it was never taken up on the Senate intent calendar and was eventually removed from the intent calendar.

## **WEATHERIZATION ENFORCEMENT DISCRETION (HOUSE BILL 2140)**

**AUTHORS: REP. CUNNINGHAM**

**ANALYSIS:** House Bill 2140 would have changed the 'shall' to 'may' in statute, which would have provided the attorney general discretion as to whether to initiate a suit to recover a penalty for violation of RRC rules requiring gas supply chain facility operators to implement measures to prepare to operate during a weather emergency.

**TIPRO EFFORTS:** In the 87th Legislative Session, TIPRO worked tirelessly on bills that sought to require the weatherization of critical infrastructure. Many proposals were expensive, arduous, and did not take into account the varying dynamic of the oil and gas industry in Texas. The legislation that passed, Senate Bill 3, was positive in bringing the various facets of critical infrastructure to the table during times of inclement weather, however, drafting a bill to consider all possible unforeseen and unmitigable circumstances proved to be nearly impossible. Recognizing this, the TIPRO State Issues Committee voted to support House Bill 2140 to allow the Texas attorney general to consider circumstances that led to a gas supply chain facility operator failing to implement measures to prepare to operate during a weather emergency.

## WEATHERIZATION ENFORCEMENT DISCRETION (HOUSE BILL 2140) CONTINUED

**BILL STATUS/EFFECTIVE DATE:** House Bill 2140 received a hearing in the House Committee on Energy Resources but was left pending and never received a vote.

## ROYALTY OWNER ISSUES

### THE OVERRIDING ROYALTY INTEREST ACT (HOUSE BILL 450/SENATE BILL 501)

**AUTHORS:** *REP. CRADDICK AND SEN. HUGHES*

**ANALYSIS:** House Bill 450/Senate Bill 501 are identical to CSHB 4218 from last session that was sent to the governor and then vetoed. House Bill 450 allows an individual to bring suit for a bad faith washout of an individual's overriding royalty interest. An owner of an overriding royalty interest who prevails in an action related to a washout of their interest would be entitled to recover actual damages; enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest; and court costs and attorney's fees.

**TIPRO EFFORTS:** Last session, TIPRO supported CSHB 4218, however, this session based on the language of Governor Abbott's veto from last session, the TIPRO State Issues Committee voted to remain neutral on House Bill 450. TIPRO presented and discussed the bill with royalty owners and members, and kept the organization apprised of the bill's progress throughout the legislative process.

**BILL STATUS/EFFECTIVE DATE:** House Bill 450 passed out of the House Committee on Judiciary & Civil Jurisprudence 9 to 0. The bill was sent to the House floor, where House members voted to send the bill to the Senate 143 to 0, with one member present not voting. The bill was referred to the Senate Committee on Administration, where it was passed out of committee 7 to 0. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 31 to 0. The bill was sent to the governor on May 2 and was filed without the governor's signature on May 13. The bill becomes effective on September 1, 2023.

### CHARITABLE ORGANIZATION ROYALTY INTEREST TAX EXEMPTION (HOUSE BILL 456/SENATE BILL 834)

**AUTHORS:** *REP. CRADDICK AND SEN. KING*

**ANALYSIS:** As originally drafted, House Bill 456 simply allows for royalty interests held by a charitable organization to be exempt from ad valorem taxation. On the Senate floor, however, the Texas Senate amended the bill to limit the charitable organizations to which the tax exemption applied. The tax exemption applies only to a non-profit hospital, certain shelters, elderly care facilities, museums, zoos, libraries, performing art theaters, volunteer fire departments, and organizations that provide direct human, health and welfare services.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 456 and Senate Bill 834. TIPRO articulated support for the bill to members of the House Committee on Ways & Means and the Senate Committee on Local Government.

**BILL STATUS/EFFECTIVE DATE:** House Bill 456 passed out of the House Committee on Ways & Means 9 to 0, with two members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 145 to 1, with two members present not voting. The bill was referred to the Senate Committee on Local Government, where it was passed out of committee 9 to 0. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 29 to 2. After numerous changes in conference between the House and Senate, the bill was sent to the governor on May 30, and was signed by the governor on June 12. The bill becomes effective on January 1, 2024.

## **ESTABLISHING CLEAR OWNERSHIP OF GEOTHERMAL RESOURCES (SENATE BILL 785/HOUSE BILL 1336)**

**AUTHORS: SEN. BIRDWELL AND REP. DARBY**

**ANALYSIS:** Senate Bill 785 establishes that, except as otherwise provided by certain binding obligations, the geothermal energy and associated resources below the surface of land are owned as real property by the landowner or, if the surface estate and the mineral estate of the land were severed, the owner of the surface estate of the land. Senator Kevin Sparks added a floor amendment to the bill which was included in the final version that held that the provisions of the bill do not effect or apply to minerals dissolved or otherwise contained in groundwater, including in hot brines; or changes in existing law regarding oil, gas or mineral extraction regardless of its heat or energy potential, the rights of the dominant and servient estates, or of groundwater ownership and use.

**TIPRO EFFORTS:** Prior to the 88th Legislative Session, TIPRO met with the Geothermal Association to discuss their planned efforts for session and how they might involve TIPRO. One proposal establishing ownership of geothermal resources, Senate Bill 785 and House Bill 1336, was a bill of interest to TIPRO due to the association's large number of royalty owners. TIPRO facilitated conversations between TIPRO royalty owner members and the Geothermal Association. The Geothermal Association also presented Senate Bill 785 and House Bill 1336 to the TIPRO State Issues Committee and answered committee questions. The TIPRO State Issues Committee voted to support Senate Bill 785 and House Bill 1336, but actively monitor the bills to ensure the preservation of the mineral estate.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 785 passed out of the Senate Committee on Natural Resources & Economic Development 8 to 1. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 30 to 1. The bill was referred to the House Committee on Energy Resources, where it was passed out of committee 8 to 0, with three members absent. The bill was sent to the House floor, where House members voted in favor of the bill 140 to 0, with two members present not voting. The bill was sent to the governor on May 29. The bill was filed without the governor's signature on June 18. The bill became effective immediately.

## **REQUIRING WATER POLLUTION ABATEMENT PLANS (HOUSE BILL 2941)**

**AUTHOR: REP. ZWIENER**

**ANALYSIS:** House Bill 2941 would have required an oil or gas pipeline regulated by the RRC and constructed or expanded in the recharge zone of the Edwards Aquifer to submit to the RRC a water pollution abatement plan. The bill required the RRC in consultation with the TCEQ to adopt standards for water pollution abatement plans. Willful disregard of the law would have resulted in criminal and civil penalties.

**TIPRO EFFORTS:** TIPRO had immediate concerns with House Bill 2941. The creation of a criminal penalty for the lack of an abatement plan was deeply problematic and would set an extreme precedent. TIPRO was also concerned with the cost of implementation of the program. After speaking with the RRC and understanding that the program would cost \$1,932,581 in just its first year, TIPRO's State Issues Committee voted to oppose the legislation. TIPRO was the only trade to oppose the legislation in committee. In addition to opposing the legislation in committee, TIPRO also voiced concerns to members of the committee and the Senate Committee on Natural Resources & Economic Development.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2941 was amended to remove the criminal penalty portion of the legislation, which allowed the bill to be voted out of the House Committee on Natural Resources and out of the House. The bill, however, never received a hearing in the Senate Committee on Natural Resources & Economic Development.



# STATE PREEMPTION

## **THE TEXAS REGULATORY CONSISTENCY ACT (HOUSE BILL 2127/SENATE BILL 814)**

**AUTHORS: REP. BURROWS AND SEN. CREIGHTON**

**ANALYSIS:** House Bill 2127/Senate Bill 814 enacts "field preemption" across a variety of statutes. In so doing, the state government hopes to preclude municipalities and counties from adopting any order, rule, policy, ordinance, etc. in a field that is occupied by a provision of state law unless the political subdivision is expressly authorized to do so by statute. Any ordinance the municipality or county passes that violates the effective preemption by state law is considered void and unenforceable. The bill applies this "field preemption" in the following areas: the Agriculture Code, Business & Commerce Code, the Finance Code, the Insurance Code, the Labor Code, the Local Government Code, the Natural Resources Code, the Occupations Code and the Property Code. The bill also confers standing to bring an action against a municipality, county or official to any person adversely affected by an ordinance, order, rules etc. adopted by a municipality, county, municipal or county official acting in their official capacity in violation of the provisions where the state has enacted field preemption statutes. Claimants are entitled to declaratory and injunctive relief as well as costs and reasonable attorney's fees. Official and qualified immunity may not be asserted as a defense in these instances.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. The local ordinances related to labor and employment practices, environmental regulation and other topics have created a confusing and complex patchwork of requirements that can vary widely. The lack of consistency is especially burdensome for businesses that operate in multiple jurisdictions and must navigate compliance with potentially contradictory regulatory schemes that can impede economic growth and job creation, especially for small businesses. Recognizing this ever-growing issue, the TIPRO State Issues Committee voted to support the "Texas Regulatory Consistency Act," House Bill 2127/Senate Bill 814 and similar legislation. TIPRO supported the legislation for the public record in the House Committee on State Affairs and the Senate Committee on Business & Commerce when the bills were scheduled for public hearings.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2127 passed out of the House Committee on State Affairs 8 to 3, with two members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 92 to 55, with one member present not voting. The bill was referred to the Senate Committee on Business & Commerce, where it was passed out of committee 6 to 2, with three members absent. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 18 to 13. The bill was sent to the governor on May 24 and was signed by the governor on June 14. The bill becomes effective on September 1, 2023.

## **THE TEXAS ENERGY INDEPENDENCE ACT (HOUSE BILL 33/SENATE BILL 470)**

**AUTHORS: REP. LANDGRAF AND SEN. SPRINGER**

**ANALYSIS:** House Bill 33 prohibits Texas state agencies and officials from contracting with or providing assistance to any federal agency or official regarding the enforcement of a federal statute, order, rule or regulation regulating oil and gas operations if the regulation does not already exist in Texas law.

**TIPRO EFFORTS:** TIPRO met with Representative Landgraf, who laid out and explained House Bill 33 to members of TIPRO's State Issues Committee. The State Issues Committee voted to support the legislation and TIPRO supported the legislation for the public record in the House Committee on Energy Resources and the Senate Committee on Natural Resources & Economic Development when the bills were scheduled for public hearings.

**BILL STATUS/EFFECTIVE DATE:** House Bill 33 passed out of the House Committee on Energy Resources 7 to 0, with four members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 99 to 44, with one member present not voting.

## **THE TEXAS ENERGY INDEPENDENCE ACT (HOUSE BILL 33/SENATE BILL 470) CONTINUED**

**BILL STATUS/EFFECTIVE DATE CONTINUED:** The bill was referred to the Senate Committee on Natural Resources & Economic Development, where it was passed out of committee 5 to 3, with one member present not voting. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 19 to 12. The bill was sent to the governor on May 30 and was signed by the governor on June 14. The bill becomes effective on September 1, 2023.

### **PROHIBITING LOCAL GOVERNMENTS FROM REGULATING GAS BUILDING COMPONENTS (HOUSE BILL 734/SENATE BILL 783)**

**AUTHORS:** *REP. DEAN AND SEN. BIRDWELL*

**ANALYSIS:** House Bill 734 would have prohibited a municipality or county from regulating the use of an appliance, system, or component that is fueled by natural gas or propane in a residential or commercial building.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws, and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. Cities such as San Francisco and New York City, for example, have recently used local governments to pass regulations to prohibit natural gas appliances, systems or components from being used in new construction within their cities. Aware of this trend, TIPRO supported both House Bill 734 and Senate Bill 783 almost as soon as the bills were filed. In the beginning of session, as TIPRO met with key committee offices, TIPRO discussed our organization's support of House Bill 734 and Senate Bill 783 and similar legislation. Senate Bill 1017 became the main vehicle for legislation of this nature. Thus, TIPRO focused our efforts on passing Senate Bill 1017.

**BILL STATUS/EFFECTIVE DATE:** House Bill 734 and Senate Bill 783 were only referred to the House Committee on State Affairs and the Senate Committee on Natural Resources & Economic Development respectively but were never heard. Senate Bill 1017 was passed in their stead (see below).

### **PROHIBITING LOCAL GOVERNMENTS FROM REGULATING USE OR SALE OF GAS-POWERED EQUIPMENT (HOUSE BILL 744/HOUSE BILL 764)**

**AUTHORS:** *REP. DEAN AND SEN. BIRDWELL*

**ANALYSIS:** Both House Bill 744 and House Bill 764 would have prohibited a political subdivision of the state from regulating the use or sale of gasoline-powered landscaping equipment. The bills were drafted identically.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. Some cities, for example, have contemplated and even outlawed the use or sale of gasoline-powered landscaping equipment. Recognizing this trend, TIPRO supported both House Bill 744 and House Bill 764 almost as soon as the bills were filed. In the beginning of session, as TIPRO met with key committee offices, TIPRO discussed our organizations support of House Bill 734 and Senate Bill 783 and similar legislation. Senate Bill 1017 became the main vehicle for legislation of this nature. Thus, TIPRO focused our efforts on passing Senate Bill 1017.

**BILL STATUS/EFFECTIVE DATE:** House Bill 744 and House Bill 764 were only referred to the House Committee on State Affairs but were never heard. Senate Bill 1017 was passed in their stead (see below).

### **PROTECTING ENERGY CHOICE (SENATE BILL 1017/HOUSE BILL 2374)**

**AUTHORS:** *SEN. BIRDWELL AND REP. LANDGRAF*

**ANALYSIS:** Senate Bill 1017 and House Bill 2374 prohibits any political subdivision of the state from banning or limiting access to an energy source or engine based on its energy source.

## **PROTECTING ENERGY CHOICE (SENATE BILL 1017/HOUSE BILL 2374) CONTINUED**

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. Some communities outside the state have even banned new gas stations entirely. Recognizing this trend, TIPRO supported Senate Bill 1017 and House Bill 2374 as soon as they were filed. TIPRO signed on to a one-pager arguing that protecting energy choice is essential to ensure that consumers and business owners have access to affordable, reliable energy and that regulatory certainty is imperative. TIPRO distributed the one pager to legislative offices and key committee members and supported the bills in the House Committee on State Affairs and the Senate Committee on Business & Commerce for the record when the bills were scheduled for public hearing.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2374 passed out of the House Committee on State Affairs 10 to 1, with two members absent. Senate Bill 1017 was passed through the Senate and was substituted on the House floor in lieu of the House Bill. The bill was sent to the House floor, where House members voted in favor of the bill 116 to 30, with two members present not voting. The bill was sent to the governor on May 2 and was signed by the governor on May 13. The bill becomes effective on September 1, 2023.

## **PROHIBITING POLITICAL SUBDIVISION REGULATION SALE OF LEGAL PRODUCTS (HOUSE BILL 3856/SENATE BILL 1114)**

**AUTHORS: REP. GOLDMAN AND SEN. HANCOCK**

**ANALYSIS:** House Bill 3856/Senate Bill 1114 would have prohibited a political subdivision, for the purpose of reducing greenhouse gas emissions or conserving natural resources, from adopting or enforcing an ordinance, order, regulation or other measure that prohibits or restricts the use or sale of a product that is otherwise permitted by state and federal law.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. A patchwork of local ordinances create confusing and complex set of requirements that can vary widely. The lack of consistency is especially burdensome for businesses that operate in multiple jurisdictions and must navigate compliance with potentially contradictory regulatory schemes that can impede economic growth and job creation, especially for small businesses. Recognizing this ever-growing issue, the TIPRO State Issues Committee voted to support the House Bill 3856/Senate Bill 1114 and similar legislation. TIPRO supported the legislation for the public record in the House Committee on State Affairs and the Senate Committee on Natural Resources & Economic Development when the bills were scheduled for public hearings. The intent of House Bill 3856/Senate Bill 1114 was included in the "Texas Regulatory Consistency Act," House Bill 2127/Senate Bill 814, which ultimately became the vehicle. TIPRO focused efforts on passing that legislation.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1114 passed out of the Senate Committee on Natural Resources & Economic Development 6 to 1, with two members absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on State Affairs, where it never received a hearing. House bill 3856 was referred to State Affairs and never received a hearing.

## **PROHIBITED MUNICIPALITY REGULATION OF COMMERCIAL ACTIVITY (SENATE BILL 149)**

**AUTHOR: SEN. SPRINGER**

**ANALYSIS:** Senate Bill 149 would have prohibited a municipality from adopting or enforcing an ordinance, regulation or other measure that imposes a restriction, condition or regulation on commercial activity.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws, and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. A patchwork of local ordinances create confusing and complex set of requirements that can vary widely.

## **PROHIBITED MUNICIPALITY REGULATION OF COMMERCIAL ACTIVITY (SENATE BILL 149) CONTINUED**

**TIPRO EFFORTS CONTINUED:** The lack of consistency is especially burdensome for businesses that operate in multiple jurisdictions and must navigate compliance with potentially contradictory regulatory schemes that can impede economic growth and job creation, especially for small businesses. Recognizing this ever-growing issue, the TIPRO State Issues Committee voted to support the Senate Bill 149 and similar legislation. TIPRO supported the legislation for the public record in the Senate Committee on Business & Commerce when the bill was scheduled for public hearing. The intent of Senate Bill 149 was included in the "Texas Regulatory Consistency Act," House Bill 2127/Senate Bill 814, which became the vehicle. TIPRO ultimately focused efforts on moving that legislation.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 149 was heard in the Senate Committee on Business & Commerce on March 14, 2023, but was left pending in committee. The intent of Senate Bill 149 was included in the "Texas Regulatory Consistency Act," House Bill 2127/Senate Bill 814, which ultimately passed.

## **ESTABLISHING STATE JURISDICTION OF GREENHOUSE GAS EMISSIONS (SENATE BILL 784/ HOUSE BILL 2211)**

**AUTHORS:** *SEN. BIRDWELL AND REP. LANDGRAF*

**ANALYSIS:** Senate Bill 784/House Bill 2211 reserves exclusive jurisdiction over regulation of greenhouse gas emissions to the state government, to the extent that state regulations are not preempted by federal law on the subject. Municipalities and other political subdivisions are prohibited from adopting or enforcing ordinances or other measures that directly regulate greenhouse gas emissions.

**TIPRO EFFORTS:** Political subdivisions nationwide and even in the state of Texas have started to use local government rules, laws and regulations to carry out political agendas often to the detriment of business and industry and in particular, fossil fuels. A patchwork of local ordinances creates confusing and complex requirements that can vary widely. The lack of consistency is especially burdensome for businesses that operate in multiple jurisdictions and must navigate compliance with potentially contradictory regulatory schemes that can impede economic growth and job creation, especially for small businesses. Recognizing this ever-growing issue, the TIPRO State Issues Committee voted to support the Senate Bill 784/HB 2211 and similar legislation. TIPRO supported the legislation for the public record in the House Committee on Environmental Regulation and the Senate Committee on Natural Resources & Economic Development when the bills were scheduled for public hearings.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 784 passed the Senate 25 to 6. The Senate bill was laid out on the House floor in lieu of House Bill 2211. Senate Bill 784 passed the House 96 to 43. The bill was sent to the governor on May 15 and was signed by the governor on May 24. The bill becomes effective on September 1, 2023.

## **REQUIRING STATE APPROVAL OF CLIMATE CHARTERS (SENATE BILL 1860/ HOUSE BILL 4930)**

**AUTHORS:** *SEN. HUGHES AND REP. CRADDICK*

**ANALYSIS:** Senate Bill 1860/House Bill 4930 requires a municipality or charter commission to receive approval on a climate charter from the appropriate state agency with proper jurisdiction to propose a climate charter for a municipality or an amendment to a municipality's climate charter. A "climate charter" means an overarching or comprehensive ordinance, rule or other policy statement that purports to set out or address climate change or environmental impact on areas such as water, energy and emissions.

**TIPRO EFFORTS:** Municipalities around the United States and even in Texas have started drafting and implementing climate charters as a way to attack the use of oil, natural gas and other fossil fuels. Recognizing this trend, the need for regulatory certainty throughout the state, and having an established regulatory agency, the TIPRO State Issues Committee voted to support both Senate Bill 1860 and House Bill 4930. TIPRO publicly supported both bills in the House Committee on State Affairs and the Senate Committee on Natural Resources & Economic Development. TIPRO also discussed the legislation and articulated the organization's support of the bill to key committee members.



## REQUIRING STATE APPROVAL OF CLIMATE CHARTERS (SENATE BILL 1860/ HOUSE BILL 4930) CONTINUED

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1860 passed out of the Senate Committee on Natural Resources & Economic Development 5 to 2, with two members absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 18 to 13. The bill was referred to the House Committee on State Affairs, where it was passed out of committee 7 to 4, with two members absent. The bill was sent to the House floor, where House members voted in favor of the bill 101 to 41, with two members present not voting. The bill was sent to the governor on May 19 and was signed by the governor on June 2. The bill becomes effective on September 1, 2023.

## TAXES

### THE TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT (HOUSE BILL 5)

**AUTHORS:** REP. HUNTER AND SEN. SCHWERTNER

**ANALYSIS:** House Bill 5, the “Texas Jobs, Energy, Technology and Innovation Act,” final language is a far departure from the heavily negotiated House version, but the House and Senate were able to work out differences and finally get the bill over the finish line. Industry is concerned that the new program will be hard to comply with considering the new jobs requirements and the oversight committee that will approve applications moving forward.

The bill that was finally passed includes the following:

- Eligible projects include:
  - Construction or expansion of a manufacturing facility, dispatchable electric generation facility, facility related to natural resources development, or a facility engaged in the research, development, or manufacture of high-tech equipment or technology; or
  - Construction or expansion of critical infrastructure.
- Eligible projects do not include:
  - Nondispatchable electric generation facility; or
  - Electric energy storage facility.
- Projects in a county with a population of at least 750,000 must:
  - Create at least 75 jobs by the end of the first tax year of the incentive period.
  - Make an investment of at least \$200 million by the end of the first tax year.
- Projects in a county with a population between 750,000 and 250,000 must:
  - Create at least 50 jobs by the end of the first tax year of the incentive period.
  - Make an investment of at least \$100 million by the end of the first tax year.
- Projects in a county with a population between 250,000 and 100,000 must:
  - Create at least 35 jobs by the end of the first tax year of the incentive period.
  - Make an investment of at least \$50 million by the end of the first tax year.
- Projects in a county with a population of less than 100,000 must:
  - Create at least 10 jobs by the end of the first tax year of the incentive period.
  - Make an investment of at least \$20 million by the end of the first tax year.
- Electric generation facility projects are exempt from jobs requirements.
- The taxable value for school district M&O tax purposes of eligible property subject to an agreement is equal to 50 percent of the market value, or 25 percent of the market value if the property is located in a qualified opportunity zone, over a period of 10 years.
- The comptroller will determine whether to recommend an application and will base that recommendation on a number of factors, including whether the agreement is a compelling factor in a competitive site selection determination and that the applicant would not make the investment in this state without the agreement.
- The governor and school district will determine whether they are agreeable to enter into the agreement.
- An oversight committee made up of three House members, three Senate members, one House/Senate member who serves as chair will manage compliance with the program.
- The program expires December 31, 2033.

## THE TEXAS JOBS, ENERGY, TECHNOLOGY, AND INNOVATION ACT (HOUSE BILL 5) CONTINUED

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 5 early in session. TIPRO supported the bill for the public record in the House Committee on Ways & Means and the Senate Committee on Business & Commerce when the bill was scheduled for public hearing. TIPRO recognized and articulated to members that the bill would undergo several amendments, but committed to remaining engaged and working to make sure the bill was fair and transparent. TIPRO worked with members of the House and the Senate as the bill moved through the legislative process and supported a one-pager that was distributed to all members of the legislature.

**BILL STATUS/EFFECTIVE DATE:** House Bill 5 passed out of the House Committee on Ways & Means 11 to 0. The bill was sent to the House floor, where House members voted to send the bill to the Senate 120 to 24, with one member present not voting. The bill was referred to the Senate Committee on Business & Commerce, where it was totally rewritten and was eventually passed out of committee 6 to 2, with three members present not voting. The bill was sent to the Senate floor, where it took on additional amendments. Senate members ultimately voted in favor of the bill 27 to 4. The bill was sent to the governor on May 30 and was signed by the governor on June 9. The bill becomes effective January 1, 2024, except Section 10 takes effect on September 1, 2023.

### **PRODUCTION TAX CREDIT FOR VENTED OR FLARED GAS CONSUMED ONSITE (HOUSE BILL 591/SENATE BILL 1407)**

**AUTHORS: REP. DARBY AND SEN. KING**

**ANALYSIS:** House Bill 591/Senate Bill 1407 provides for a production tax exemption for gas that would have otherwise been lawfully vented or flared.

**TIPRO EFFORTS:** House Bill 591/Senate Bill 1407 were identified as bills intended to benefit miners of Bitcoin and could apply to a small number of operators. TIPRO State Issues Committee voted to support House Bill 591/Senate Bill 1407 but to focus efforts on other incentives of priority to industry.

**BILL STATUS/EFFECTIVE DATE:** House Bill 591 passed out of the House Committee on Ways & Means 9 to 0, with two members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 141 to 1, with one member present not voting. The bill was referred to the Senate Committee on Finance, where it was passed out of committee 13 to 2, with two members absent. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 26 to 4, with one member absent. The bill was sent to the governor on May 18, 2023, and was signed by the governor on June 2. The bill becomes effective on September 1, 2023.

### **RE-STIMULATION OF DEPLETING WELLS (HOUSE BILL 2056/SENATE BILL 1549)**

**AUTHORS: REP. CAPRIGLIONE AND SEN. BLANCO**

**ANALYSIS:** House Bill 2056/Senate Bill 1549 would have provided a well that has five years of reported production to apply for a severance tax reduction for a re-stimulation project for up to five years or 50 percent of the cost of a re-stimulation operation. The bill would also provide that if re-stimulation treatment was performed using hydraulic fracturing pumps powered exclusively by an 'electric power' source (electricity natural gas i.e. electric motors in combination with natural gas turbines), then the incentive would be 75 percent of cost of a re-stimulation operation. The bill excludes high-cost gas operations and provides for a \$10,000 civil penalty plus the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due plus AG penalty for an operator that applies for an exemption but knows the well is not a qualifying well.

House Bill 2056 was a preemptive measure to keep low-producing wells from going into an inactive status. Wells going inactive for more than two years have over an 80 percent chance of being plugged.

**TIPRO EFFORTS:** TIPRO met with the comptroller of public accounts and the RRC during the interim prior to the 88th Legislative Session to address concerns that the agencies could potentially foresee with the concept of the bills. TIPRO also met with House and Senate members to assist in pitching and finding authors for the bills. The TIPRO State Issues Committee voted to support House Bill 2056/Senate Bill 1549.

## RE-STIMULATION OF DEPLETING WELLS (HOUSE BILL 2056/SENATE BILL 1549) CONTINUED

**TIPRO EFFORTS CONTINUED:** In addition to meeting with committee offices on the bill, TIPRO President Ed Longanecker testified along with other experts in support of the House Bill 2056/Senate Bill 1549 in the House Committee on Ways and Means.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2056 was referred to the House Committee on Ways & Means and was considered in a public hearing on April 10, 2023, but never received a vote.

## TRANSPORTATION

### ELECTRIC VEHICLE ROAD USE PARITY (SENATE BILL 505/HOUSE BILL 2199)

**AUTHORS:** SEN. NICHOLS AND REP. CANALES

**ANALYSIS:** Senate Bill 505 imposes new, additional fees for electric vehicles. The bill defines "electric vehicle" as a motor vehicle with a gross weight of 10,000 pounds or less and uses electricity as its only source of motor power. The bill requires that at the time of registration or renewal of registration of an electric vehicle, the applicant pay an additional fee of: (1) \$400 for a new vehicle to which the two-year initial inspection period for passenger car or light truck applies; or (2) \$200 for a vehicle to which the general one-year inspection period applies. The bill requires that the fees collected be deposited to the Highway Fund.

**TIPRO EFFORTS:** The TIPRO State Issues Voting Committee voted to support Senate Bill 505/House Bill 2199 and similar efforts to require electric vehicles to fairly pay taxes that combustion vehicles pay for road use and maintenance and repair. TIPRO articulated support for Senate Bill 505/House Bill 2199 and similar legislation to members of the House and Senate Committees on Transportation. TIPRO also publicly supported House Bill 2199 when the bill was heard in the House Committee on Transportation.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 505 passed out of the Senate Committee on Transportation 9 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on Transportation and was passed out of committee 12 to 0, with one member absent. The bill was sent to the House floor, where House members voted in favor of the bill 145 to 0, with one member present not voting. The bill was sent to the governor on May 2 and was signed by the governor on May 13. The bill becomes effective on September 1, 2023.

### ELECTRIC VEHICLE ROAD USE PARITY (HOUSE BILL 820)

**AUTHOR:** REP. KING

**ANALYSIS:** House Bill 820 would have required additional registration fees for electric and hybrid vehicles: \$200 for electrics and \$100 for hybrids. The fees would have gone to the State Highway Fund, except for 10 percent of the fees that would be deposited to the "electric vehicle battery disposal account," which would be administered by the TCEQ and used only to reimburse costs incurred by the state or political subdivision that are associated with the disposal of electric vehicle batteries. The bill was a refile of House Bill 427 from last session that only received a hearing.

**TIPRO EFFORTS:** The TIPRO State Issues Voting Committee voted to support House Bill 820 and similar efforts to require electric vehicles to fairly pay taxes that combustions vehicles pay for road use and maintenance and repair. TIPRO articulated support for House Bill 820 and similar legislation to members of the House and Senate Committees on Transportation. TIPRO also publicly supported House Bill 820 when the bill was heard in the House Committee on Transportation.

**BILL STATUS/EFFECTIVE DATE:** House Bill 820 was heard in the House Committee on Transportation but was left pending and never received a vote. Senate Bill 505 (above) became the vehicle for road use tax parity for electric vehicles, which passed and was signed into law.

## **GENERATE RECURRING WEALTH FOR TEXAS FUND (HOUSE JOINT RESOLUTION 27/HOUSE BILL 1392)**

**AUTHOR: REP. CRADDICK**

**ANALYSIS:** House Joint Resolution 27 was the constitutional amendment authorizing the GROW Texas Fund paid for with oil and gas production taxes that would dedicate money in the fund to benefit areas of the state from which oil and gas are produced. The GROW Texas Fund would have been established in the treasury and would have been added to the list of funds eligible for transfers from oil and gas production tax revenues, currently the Economic Stabilization ("Rainy Day") Fund, or ESF, and the Highway Fund. The bill preserved the legislative authority to protect transfers to the ESF by general law. In determining the amount otherwise to be transferred to the ESF, the bill required the comptroller to reduce it by 12 percent and to transfer that amount to the GROW Texas Fund, up to a maximum of \$250 million in a fiscal biennium. The bill restricted appropriations from the GROW Texas Fund to areas from which oil and gas are produced and only to address infrastructure needs as defined by general law in areas determined by the legislature to be significantly affected by oil and gas production. It allowed general law to provide for the appropriation for grants to state agencies and political subdivisions and requires the comptroller to transfer any unobligated and unappropriated money that remains in the GROW Texas Fund at the end of a biennium to the ESF. The bill established a GROW Texas Fund Commission to administer the appropriations and to advise the legislature on making appropriations, which would be comprised of seven members serving four-year terms. The lieutenant governor and House speaker would have been required to appoint two members each from their respective chambers and the governor would appoint three members of the public, including the commission's presiding officer.

House Bill 1392 by Rep. Craddick was the enabling legislation for House Joint Resolution 27 that created the GROW Texas Fund in the constitution. House Joint Resolution 27, which established the GROW Texas Fund Commission and the transfer of 12 percent of what would otherwise have been revenue deposited to the ESF, required the commission and the comptroller to jointly establish a program under which the commission would select applicants to receive grants provided by the comptroller to construct or maintain roads, schools, health care facilities and other infrastructure in the areas the commission determines to be significantly affected by oil and gas production. The bill required the comptroller to adopt rules to implement and administer the program.

**TIPRO EFFORTS:** TIPRO has long supported a long-term funding solution to the energy sector's transportation infrastructure needs and believed House Bill 1392/House Joint Resolution 27 was an appropriate way to address such challenges. The TIPRO State Issues Voting Committee, like last session, voted to support House Bill 1392/House Joint Resolution 27. TIPRO spoke with Rep. Craddick's office, articulated our support, and offered our assistance in moving the bill. TIPRO President Ed Longanecker spoke before the House Committee on Appropriations in support of House Bill 1392/House Joint Resolution 27.

**BILL STATUS/EFFECTIVE DATE:** House Bill 1392/House Joint Resolution 27 was once again voted out of the House Committee on Appropriations and the Texas House of Representative with overwhelming support. The bill was then referred to the Senate Committee on Finance where it did not receive a hearing and died for the second straight session.

## **SEVERANCE TAX REVENUE AND OIL AND NATURAL GAS DEFENSE FUND (HOUSE JOINT RESOLUTION 111/HOUSE BILL 2207)**

**AUTHOR: REP. LANDGRAF**

**ANALYSIS:** House Joint Resolution 111 was the constitutional amendment creating the Texas Severance Tax Revenue and Oil and Natural Gas (Texas STRONG) Defense Fund (House Bill 2207). The House joint resolution decreased the current 50 percent amount of severance taxes going to ESF by 12 percent and directed 10 percent of the 12 percent to the STRONG Defense Fund, 1 percent to the Oil and Gas Cleanup Fund and 1 percent to TERP.

House Bill 2207 was the enabling legislation to House Joint Resolution 111 that created the Texas STRONG Defense Fund and established permissible uses for the fund. To qualify for use of the fund, you would be required to be in a county where the amount of severance taxes collected by the comptroller during the preceding two state fiscal years was at least 0.5 percent of the total amount of those taxes collected in the state during that same period.



## **SEVERANCE TAX REVENUE AND OIL AND NATURAL GAS DEFENSE FUND (HOUSE JOINT RESOLUTION 111/HOUSE BILL 2207) CONTINUED**

**ANALYSIS CONTINUED:** The bill allowed the legislature to appropriate funds from the fund for: (1) A governor's grant program to address the needs of areas with significant oil and gas production in this state by providing financial assistance to nonprofit organizations, public institutions of higher education, school districts and other political subdivisions, prioritizing allocation for first responder, emergency and trauma care services, health care, mental health care, educational, and workforce preparedness needs; (2) TxDOT oil and gas port/navigation district activities; (3) The governor's economic development programs; and (4) Department of Public Safety salaries and resources.

**TIPRO EFFORTS:** TIPRO has long supported a long-term funding solution to the energy sector's transportation infrastructure needs and believed House Joint Resolution 111/House Bill 2207 was an appropriate way to address such challenges. The TIPRO State Issues Voting Committee voted to support House Joint Resolution 111/House Bill 2207. TIPRO spoke with Rep. Landgraf's office, articulated our support, and offered our assistance in moving the bill. TIPRO President Ed Longanecker spoke before the House Committee on Appropriations in support of House Joint Resolution 111/House Bill 2207.

**BILL STATUS/EFFECTIVE DATE:** House Joint Resolution 111/House Bill 2207 were voted out of the House Committee on Appropriations and the Texas House with overwhelming support. The bill was then referred to the Senate Committee on Finance, where it did not receive a hearing.

### **EXPANDING THE NATURAL GAS VEHICLE GRANT PROGRAM STATEWIDE (HOUSE BILL 2222/SENATE BILL 1190) AUTHORS: REP. LOZANO AND SEN. ZAFFIRINI**

**ANALYSIS:** House Bill 2222 would have expanded the TCEQ's TERP Texas Natural Gas Vehicle (NGV) Grant Program funding statewide, so fleets in the Permian Basin, I-69 Corridor, and Rio Grande Valley would be eligible for funding. Currently, only the Clean Transportation Zone qualifies. The program would have funded both natural gas and propane vehicles. House Bill 2222 would have aligned the NGV Grant Program with other TERP programs that are also statewide. No additional funding would have been required for the bill's implementation.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 2222. TIPRO joined a one-pager in support of the bill that was distributed to members of the House Committee on Environmental Regulation and the Senate Committee on Natural Resources & Economic Development and supported the bill for the public record when the bill was considered in public hearing.

**BILL STATUS/EFFECTIVE DATE:** House Bill 2222 received a hearing in the House Committee on Environmental Regulation but was left pending and never received a vote. The Senate companion, Senate Bill 1190, never received a hearing in the Senate Committee on Natural Resources & Economic Development.

### **PERMANENT ALLOCATION OF SEVERANCE TAX REVENUE TO TRANSPORTATION (HOUSE BILL 2230/SENATE BILL 225/SENATE BILL 1232) AUTHORS: REP. CANALES AND SEN. NICHOLS**

**ANALYSIS:** In 2014, Texas voters approved a constitutional amendment to the Texas Constitution requiring the comptroller to transfer a certain portion of revenue from oil and gas production taxes to the ESF and State Highway Fund in each fiscal year. The enabling legislation, however, had an expiration date for the transfers. House Bill 2230/Senate Bill 225 removes the expiration dates in statute relating to the determination of the sufficient balance of the ESF, funded by oil and gas severance taxes, for the purpose of allocating constitutional transfers of money to ESF and the State Highway Fund. The bill will allow the state to continue to use this funding mechanism for transportation infrastructure investments in the future.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to remain neutral on the bill and monitor the legislation through the legislative process.

## **PERMANENT ALLOCATION OF SEVERANCE TAX REVENUE TO TRANSPORTATION (HOUSE BILL 2230/SENATE BILL 225/SENATE BILL 1232) CONTINUED**

**BILL STATUS/EFFECTIVE DATE:** House Bill 2230 passed out of the House Committee on Appropriations 25 to 0, with two members absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 146 to 1, with one member present not voting. The bill was referred to the Senate Committee on Finance and was passed out of the committee 13 to 0, with four members absent. Senate members passed the bill 31 to 0. The bill was sent to the governor on May 22 and was signed on June 9. The bill becomes effective on September 1, 2023.

## **WATER**

### **THE TEXAS PRODUCED WATER CONSORTIUM (SENATE BILL 1047/HOUSE BILL 2757)**

**AUTHORS: SEN. PERRY AND REP. TEPPER**

**ANALYSIS:** Last session, TIPRO supported and helped to pass Senate Bill 601, establishing the Texas Produced Water Consortium, to gather "information resources to study the economics of and technology related to beneficial uses of produced water." One of the charges of the consortium, that TIPRO was a member of, was to produce an economically-feasible pilot project for state participation in a produced water facility. This session, Senate Bill 1047 and House Bill 2757 requires the Texas Produced Water Consortium to choose a pilot project and allows the use of state dollars to fund the project.

**TIPRO EFFORTS:** TIPRO met with the office of Senator Perry, members of the Produced Water Consortium and allied stakeholders to discuss Senator Perry's intention to request state funding for a Texas Produced Water Consortium pilot project. The TIPRO State Issues Voting Committee voted to support the effort and Senate Bill 1047/House Bill 2757. TIPRO articulated support for the bill and worked to secure funding in the budget through contingency riders in Article XI of both the House and Senate budgets to provide funding for Senate Bill 1047/House Bill 2757. Additionally, TIPRO supported the bill on the public record in both the House and Senate Committees.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1047 was laid out in lieu of House Bill 2757 and passed the House and Senate nearly unanimously. The bill was sent to the governor on May 2 and was signed on May 13. The bill became effective immediately.

### **THE NEW WATER SUPPLY FOR TEXAS FUND (SENATE BILL 28/HOUSE BILL 10 AND SENATE JOINT RESOLUTION 75/HOUSE JOINT RESOLUTION 28)**

**AUTHORS: SEN. PERRY AND REP. KING**

**ANALYSIS:** Senate Bill 28 and Senate Joint Resolution 75 establish the New Water Supply for Texas Fund, the Texas Water Fund, and the Statewide Water Public Awareness Account to be administered by the TWDB. The fund is to be used to provide financial assistance to political subdivisions to develop water supply projects that create new water sources for the state. Potential new water sources outlined in the bill include desalination projects, produced water treatment projects, aquifer storage and recovery projects and the development of infrastructure to transport water. The fund can also be used to make transfers for financial assistance to the State Water Implementation Fund for Texas (SWIFT), to the Texas Water Development Fund II and to the water bank account only for the acquisition or transfer of water originating outside the state.

Additionally, Senate Bill 28 creates the Texas Water Fund which can disperse money to the water assistance fund, the New Water Supply for Texas Fund, SWIFT fund, the State Water Implementation Revenue Fund for Texas (SWIRFT) Fund, a revolving water fund, a rural water assistance fund, statewide water public awareness account, and the TWDB Fund II for water financial assistance. A portion of the fund is required to be used for projects in rural Texas and small municipalities (less than 150,000). The bill also creates a technical assistance program for water loss audits and requires the TWDB to report updates to the legislature every five years.

## THE NEW WATER SUPPLY FOR TEXAS FUND (SENATE BILL 28/HOUSE BILL 10 AND SENATE JOINT RESOLUTION 75/HOUSE JOINT RESOLUTION 28) CONTINUED

**TIPRO EFFORTS:** TIPRO met with the office of Senator Perry and allied stakeholders to discuss Senator Perry's Senate Bill 28 and Senate Joint Resolution 75. Industry conversations with Chairman Perry's office centered on the possibility of utilizing public private partnerships in order to appropriately scale qualified projects and the chairman's intent to work to secure ~\$3 billion. The TIPRO State Issues Committee voted to support Senate Bill 28/House Bill 10 with the understanding that Senator Perry's office intended to move quickly with the intent of amending the bill to suit stakeholders as the bill moved through the legislative process. TIPRO articulated support for Senate Bill 28 and Senate Joint Resolution 75 to members of the Senate Committee on Water, Agriculture & Rural Affairs and House Committee on Natural Resources and supported the legislation for public record when the bills were considered in public hearing. TIPRO also worked to secure funding in both the House and Senate budgets for Senate Bill 28 and Senate Joint Resolution 75.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 28 passed out of the Senate Committee on Water, Agriculture & Rural Affairs 9 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on Natural Resources and was passed out of committee 7 to 0 with four members absent. The bill was sent to the House floor, where House members voted in favor of the bill 136 to 8, with one member present not voting. The bill was sent to the governor on May 29, and was signed by the governor on June 9. The bill takes effect September 1, 2023, except Section 6 takes effect January 1, 2024, if Senate Joint Resolution 75 is approved by voters.

### ESTABLISHING JURISDICTION OVER RECHARGE INJECTION WELLS (HOUSE BILL 4856)

**AUTHOR:** REP. DARBY

**ANALYSIS:** House Bill 4856 provides that in addition to the exclusive jurisdiction over the regulation and permitting of recharge injection wells, the TCEQ also has exclusive jurisdiction over the injection of recycled fluid oil and gas waste that has been treated to a standard approved by the commission.

**TIPRO EFFORTS:** TIPRO met with the TCEQ to establish that they currently have exclusive jurisdiction over the regulation and permitting of recharge injection wells, which apply to a wide variety of activities that release water or another liquid into the ground. TIPRO ascertained that House Bill 4856 would simply allow for the injection of recycled fluid oil and gas waste to be added to the list. The TIPRO State Issues Committee voted to support House Bill 4856 and articulated support for the bill to members of the Senate Committee on Water, Agriculture & Rural Affairs and House Committee on Natural Resources and supported the legislation for public record when the bill was considered in public hearing.

**BILL STATUS/EFFECTIVE DATE:** House Bill 4856 passed out of the House Committee on Natural Resources 11 to 0. The bill was sent to the House floor, where House members voted to send the bill to the Senate 136 to 1, with one member present not voting. The bill was referred to the Senate Committee on Water, Agriculture & Rural Affairs and was passed out of committee 9 to 0. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 31 to 0 on the Local and Consent calendar. The bill was sent to the governor on May 28 and was signed by the governor on June 18. The bill took effect immediately.

## **PROHIBITING FINANCIAL INSTITUTIONS FROM USING ESG/SOCIAL CREDIT SCORES (HOUSE BILL 709)**

**AUTHORS:** *REP. CODY HARRIS*

**ANALYSIS:** House Bill 709 would have prohibited the use of environmental, social, or governance scores and social credit scores by financial institutions and other lenders in Texas. An ESG score is defined as a credit score that is based on measuring a customer's exposure to long-term environmental, social, and governance risks. Civil penalties to the state begin at \$50,000 and attorney's fees for the first violation and \$250,000 for subsequent violations.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 709.

**BILL STATUS/EFFECTIVE DATE:** House Bill 709 was referred to the House Committee on Pensions, Investments & Financial Services but never received a hearing.

## **PENALIZING DAMAGE TO A CRITICAL INFRASTRUCTURE FACILITY (SENATE BILL 947/HOUSE BILL 2997)**

**AUTHORS:** *SEN. KING AND REP. HUNTER*

**ANALYSIS:** Senate Bill 947/House Bill 2997 categorizes the intentional, or knowing damage, destruction, vandalism or impairment of function of any critical infrastructure facility that directly results in an extended power outage as a second-degree felony. If pecuniary damage to the critical infrastructure facility is \$100,000 or more or if the actor uses a firearm or explosive when committing the offense, the offense is a first-degree felony. Additionally, if the conduct that constitutes an offense under this law also constitutes an offense under any other law, the bill would permit the individual to be prosecuted under this statute, the other law, or both.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 947/House Bill 2997. TIPRO articulated support for the bills to members of the Senate Committee on Criminal Jurisprudence and House Committee on Criminal Justice and supported the legislation for public record when the bill was considered in public hearing.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 947 passed out of the Senate Committee on Criminal Justice 7 to 0. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on Criminal Jurisprudence and was passed out of committee 8 to 0, with one member absent. The bill was sent to the House floor, where House members voted in favor of the bill 147 to 0, with one member present not voting. The bill was sent to the governor on May 29 and was signed by the governor on June 18. The bill takes effect September 1, 2023.

## **TEXAS BUSINESS TRIAL COURT (HOUSE BILL 19/ SENATE BILL 27)**

**AUTHORS:** *SEN. KING AND REP. HUNTER*

**ANALYSIS:** House Bill 19 creates the Business Court Judicial District, composed of all counties of the state, and with the same jurisdiction provided to a district court by the constitution, including the power to issue writs of injunction, mandamus, attachment, garnishment; and the ability to grant any relief that could be granted by a district court.

Texas' judicial system is already highly specialized from top to bottom. Texas is one of only two states with specialized high courts: the Supreme Court of Texas, which hears civil and juvenile cases; and the Court of Criminal Appeals, which hears criminal cases. At the trial court level, Texas has over 200 specialized courts, from probate courts in some counties to specialized district courts designated to hear family cases, juvenile cases, or veterans' cases. The one specialty court that Texas does not have is one specializing in resolving complex business disputes. In this respect, Texas lags behind other states.



## TEXAS BUSINESS TRIAL COURT (HOUSE BILL 19/ SENATE BILL 27) CONTINUED

**ANALYSIS CONTINUED:** As of 2021, 29 states were operating some form of business or complex litigation court or court system. Texas can strengthen its reputation as the best state in which to do business by creating a specialized business trial court. Staffed by qualified and skilled judges, this court will quickly develop a reputation for fairness, efficiency, and consistency, giving businesses confidence in Texas' legal system and encouraging them to incorporate and headquartered in Texas. A business trial court will have jurisdiction over business law cases, such as actions arising between or among business organizations or their governing authorities, governing persons, members, or owners. It will also have jurisdiction over shareholder derivative proceedings, actions arising out of or relating to qualified transactions, and actions regarding the governance or internal affairs of an organization, among other proceedings and actions. Personal injury lawsuits would not be within the jurisdiction of the court. Benefits of creating such a court include: a specialized docket; appointed judges who consistently hear this type of dispute; assignment of a single judge to handle each dispute from beginning to end, who actively manages the case to reduce the amount of time to resolve the dispute; the issuance of written opinions, which would allow Texas to build a bank of business law precedent, taking the surprise element out of business litigation; and the diversion of these lengthy and complicated cases away from non-specialized courts, which would allow those judges to focus on other cases.

**TIPRO EFFORTS:** TIPRO met with the authors of the bill and had Texans for Lawsuit Reform attorneys meet with the TIPRO State Issues Committee to discuss the bill and take questions from the committee. Following the layout of the bill, the TIPRO State Issues Committee voted to support the legislation. TIPRO contributed to a one-pager to the bill that was distributed to all members of the legislature and articulated support for the bills to members of the Senate Committee on Jurisprudence and House Committee on Judiciary & Civil Jurisprudence and supported the legislation for public record when the bill was considered in public hearing.

**BILL STATUS/EFFECTIVE DATE:** House Bill 19 passed out of the House Committee on Judiciary & Civil Jurisprudence 5 to 3, with one member absent. The bill was sent to the House floor, where House members voted to send the bill to the Senate 90 to 51, with one member present not voting. The bill was referred to the Senate Committee on Jurisprudence and was passed out of committee 3 to 2. The bill was sent to the Senate floor, where Senate members voted in favor of the bill 24 to 6. The bill was sent to the governor on May 30 and was signed by the governor on June 9. The bill takes effect September 1, 2023.

## FIFTEENTH COURT OF APPEALS (SENATE BILL 1045/HOUSE BILL 3166)

**AUTHORS: SEN. HUFFMAN AND REP. MURR**

**ANALYSIS:** Senate Bill 1045 provides for the creation of the Fifteenth Court of Appeals. The Fifteenth Court of Appeals will have exclusive intermediate appellate jurisdiction in the following civil actions:

- Matters brought by or against the State of Texas;
- Matters brought by or against a state commission, board, department, office, or agency (to include a university system or public institute of higher education);
- Matters brought by or against an officer or employee of the state arising out of his or her official conduct;
- Matters in which a party to the proceeding files a pleading challenging the constitutionality or validity of a state statute or rule, and in which the Attorney General is a party; and
- Any other matter as provided by law (which includes an appeal from the business court, if the business court is created by statute).

**TIPRO EFFORTS:** TIPRO met with the authors of the bill and had Texans for Lawsuit Reform attorneys meet with the TIPRO State Issues Committee to discuss the bill and take questions from the committee. Following the layout of the bill, the TIPRO State Issues Committee voted to support the legislation. TIPRO contributed to a one-pager to the bill that was distributed to all members of the legislature and articulated support for the bills to members of the Senate Committee on Jurisprudence and House Committee on Judiciary & Civil Jurisprudence and supported the legislation for public record when the bill was considered in public hearing.

## **FIFTEENTH COURT OF APPEALS (SENATE BILL 1045/HOUSE BILL 3166) CONTINUED**

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 1045 passed out of the Senate Committee on Jurisprudence 3 to 2. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 19 to 12. The bill was referred to the House Committee on Judiciary and Civil Jurisprudence and was passed out of committee 5 to 4. The bill was sent to the House floor, where House members voted in favor of the bill 91 to 47, with two members present not voting. The bill was sent to the governor on May 23, 2023 and was signed by the governor on June 9. The bill takes effect September 1, 2023.

## **ADDRESSING TUBULAR STEEL THEFT (HOUSE BILL 3368/SENATE BILL 1321)**

**AUTHORS:** *REP. DEAN AND SEN. SPARKS*

**ANALYSIS:** House Bill 3368/Senate Bill 1321 would have added tubular steel to the list of regulated metals, which would subject tubular steel resellers to record-keeping and reporting requirements to reduce theft.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support House Bill 3368/Senate Bill 1321. TIPRO articulated support for the bills to members of the Senate Committee on Natural Resources & Economic Development and House Committee on Homeland Security & Public Safety and supported the legislation for public record when the bill was considered in public hearing. TIPRO also discussed the bill with members of the House Calendars Committee to have the bill set on the House Floor.

**BILL STATUS/EFFECTIVE DATE:** House Bill 3368 passed out of the House Committee on Homeland Security & Public Safety 7 to 0, with two members absent. The bill was sent to the House Calendars Committee, but was never set on a House calendar. Senate Bill 1321 never received a hearing in the Senate Committee on Natural Resources & Economic Development.

## **PROHIBITING STATE CONTRACTS WITH OIL & GAS BOYCOTTERS (SENATE BILL 2530)**

**AUTHORS:** *REP. DEAN AND SEN. SPARKS*

**ANALYSIS:** Senate Bill 2530 would have prohibited a state governmental entity from entering into a contract with a company unless the contract contained a written verification from the company that it does not boycott energy companies and will not during the term of the contract.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to support Senate Bill 2530. TIPRO articulated support for the bills to members of the Senate Committee on Natural Resources & Economic Development and supported the legislation for public record when the bill was considered in public hearing.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 2530 passed out of the Senate Committee on Natural Resources & Economic Development 8 to 1. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 23 to 8. The bill was referred to the House Committee on State Affairs but never received a hearing.

## **UPDATING THE DEFINITION OF LANDMAN SERVICES (SENATE BILL 604/HOUSE BILL 1915)**

**AUTHORS:** *SEN. KING AND REP. HEFNER*

**ANALYSIS:** Senate Bill 604 updates the definition of land services performed by a landman. The bill modifies the Occupations Code to expand landman services to include all energy sources. The bill also expands the definition of land services to allow landmen to assist in solar and wind projects, subjecting the landmen to certain regulations.

**TIPRO EFFORTS:** The TIPRO State Issues Committee voted to remain neutral on Senate Bill 604.

**BILL STATUS/EFFECTIVE DATE:** Senate Bill 604 passed out of the Senate Committee on Natural Resources & Economic Development 8 to 0, with one member absent. The bill was sent to the Senate floor, where Senate members voted to send the bill to the House 31 to 0. The bill was referred to the House Committee on Energy Resources and was passed out of committee 7 to 0, with four members absent. The bill was sent to the House floor where House members voted in favor of the bill 129 to 13, with one member present not voting. The bill was sent to the governor on May 12 and was signed by the governor on May 24. The bill takes effect immediately, except Section 3 takes effect January 1, 2024.

