By: Fraser, et al.  S.B. No. 1165

A BILL TO BE ENTITLED

AN ACT

relating to the express preemption of regulation of oil and gas
operations and the exclusive jurisdiction of those operations by
the state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that the laws and policy of
this state have fostered successful development of oil and gas
resources in concert with the growth of healthy and economically
vibrant communities for over 100 years. The legislature
acknowledges this cooperative progress and mutual benefit is
derived from current statutes that provide effective and
environmentally sound regulation of oil and gas operations that is
so comprehensive and pervasive that it occupies the field, while
facilitating the overriding policy objective to fully and
effectively exploit oil and gas resources and protecting the
environment and public's health and safety. The legislature
recognizes that in order to continue this prosperity and the
efficient management of a key industry in this state it is in the
state's interest to explicitly confirm the authority for regulation
of oil and gas activities within the state. The legislature intends
that this Act expressly preempts regulation of oil and gas
operations by municipalities and other political subdivisions that
is already impliedly preempted by state law.

SECTION 2. Chapter 81, Natural Resources Code, is amended
by adding a new Section to read as follows:

Sec. 81.071. EXPRESS PREEMPTION. (a) In this section:

(1) "Commercially reasonable" is defined as a condition that permits a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas.

(2) "Oil and gas operation" is defined as an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery techniques, and remediation activities.

(b) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality is authorized to enact, amend, or enforce an ordinance or other measure that regulates only surface activity that is incident to an oil and gas operation, is commercially reasonable, does not effectively prohibit an oil and gas operation, and is not otherwise preempted by state or federal law.

(c) Except as to the authority recognized in Subsection (b), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an existing ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within its boundaries or extraterritorial jurisdiction. An oil and gas operation is
subject to the exclusive jurisdiction of the state.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.