

**SUBJECT:** Terminating fees for surface water quality assessments in 1998

**COMMITTEE:** Natural Resources — favorable, without amendment

**VOTE:** 6 ayes — Counts, Yost, King, Puente, Stiles, Walker  
0 nays  
3 absent — Combs, Corte, R. Lewis

**WITNESSES:** For — Frank Sturzl, Texas Municipal League; Ronald Hudson, City of Houston; Wayne Halbert, Texas Irrigation Council  
Against — None

**BACKGROUND:** The Texas Clean Rivers Act of 1991 allows the Texas Natural Resource Conservation Commission (TNRCC) to impose fees on water and wastewater permit holders in each watershed to cover the cost of administering water quality assessment programs. The quality assessments are performed by river authorities, TNRCC and other entities.  
  
In 1993 the Legislature capped the amount of fees that could be collected at \$5 million annually for fiscal years 1994 and 1995. Also required was the adoption of rules to supervise and implement the water quality assessment and associated costs. The rules were to ensure that water users and dischargers do not pay excessive amounts. The 1993 enactments were in HB 2620 by Saunders and SB 1231 by Turner.

**DIGEST:** HB 1385 would terminate TNRCC authority to impose water quality fee assessments on August 1, 1998, and make the \$5-million annual cap on assessments apply until that date. TNRCC could not apply toward TNRCC overhead more than 10 percent of the costs recovered annually.  
  
TNRCC would file a final written report accounting for the costs recovered with the governor, lieutenant governor and speaker of the House by December 31, 1988.

HB 1385 would also provide that Water Code, sec. 26.0135(h) would expire on January 1, 1991. The subsection that would be repealed allows TNRCC to recover the cost of the assessments. The bill would take effect immediately if approved by two-thirds of the membership of each house.

**SUPPORTERS  
SAY:**

HB 1385 would freeze the total fee amount that TNRCC could recover in assessment fees through fiscal 1998 and would end TNRCC's authority to recover fees past January 1, 1999. If the program is such a valuable asset to the state, the 75th Legislature would have the opportunity to restart the program in 1999.

Limits on fee collection are badly needed for a program that was merely supposed to provide a one-time snapshot assessment of water quality in the state's riversheds. Instead, this program has become a cash cow for TNRCC, which uses too much of the funds for administrative costs rather than funding additional water quality assessments.

The assessment program should not cost very much to administer since river authorities and other entities are performing the actual assessments. Capping overhead costs at 10 percent of the costs recovered annually would ensure that no money is wasted.

The purpose of regional assessments of water quality under the Clean Rivers Act is not to mandate exhaustive and detailed water quality studies, but rather to identify significant issues affecting water quality within each watershed and river basin of the state and to provide sufficient information for TNRCC and other appropriate agencies to take corrective action to improve the quality of the state's water resources. Water rights holders and those who discharge water are tired of paying fees with no apparent benefit.

There is absolutely no need for the assessments to continue past August 1998. The state needs to stop assessing and start acting to remediate water quality problems. If the significant issues affecting water quality have not been identified in eight years, they will never be.

**OPPONENTS  
SAY:**

Prohibiting TNRCC from collecting fees after 1998 would effectively eliminate the regional water quality assessment program under the Clean Rivers Act, just as the benefits are beginning to manifest themselves.

Assessment fees are very reasonable and could get lower as the state has now learned valuable information about where and how the assessments should be done.

The irrigators, cities and others who want to stop the assessment program take a shortsighted view, since they stand to lose when water quality drops. If the assessments reveal, for example, a source of pollution upstream of a city or other entity, the state can pinpoint the source of pollution and require that source to comply with state water quality standards. This makes it less expensive (for water purification) and safer for everyone downstream.

Without the valuable technical information that the assessments provide, it would be harder to fine tune water quality regulations, and the state could be forced to err on the side of safety and promulgate overly restrictive regulations. Water quality is dynamic and the quality of rivers and watercourses can change dramatically over time. The state should always monitor water — the most precious of state resources.

Regional assessments involve committees of people from throughout the watershed and encourage them to cooperate on regional water issues. Assessment results are remarkably unbiased and objective.

The Texas Water Resource Institute at Texas A&M University recently assessed the state's regional water quality assessment program and found it to be one of the most innovative and effective programs in the country.

NOTES:

An almost identical bill, SB 1113 by Saunders, which would also repeal Water Code, sec. 26.0135(h), a duplicative provision of the Water Code, was referred to Senate Natural Resources on March 15.