

**SUBJECT:** Delegation of authority at TNRCC

**COMMITTEE:** Environmental Regulation — favorable, without amendment

**VOTE:** 9 ayes — Chisum, Jackson, Allen, Dukes, Hirschi, Howard, Kuempel, Puente, Talton

0 nays

**WITNESSES:** For — None

Against — None

On — David Bolduc, Texas Natural Resource Conservation Commission

**BACKGROUND :** The 74th Legislature enacted SB 741 by Sims, allowing the Texas Natural Resource Conservation Commission (TNRCC) to delegate authority to the commission's executive director to decide uncontested matters. The executive director can only exercise this authority if the application or request is uncontested and the applicant has agreed in writing to a decision by the executive director. Decisions made by the executive director are appealable.

**DIGEST:** HB 1298 would provide that a person affected by an action of the TNRCC executive director could not appeal that action to the commission if the decision were specified as final and appealable by commission rule.

The bill would allow the executive director to delegate authority or duties to his staff, unless statute, rule or order specified otherwise.

HB 1298 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS SAY:** HB 1298 would save both applicants and TNRCC time and money by simplifying the appeals process and resolving current confusion over whether or not a decision of the TNRCC executive director must be appealed to the commission or the district court or both. Under HB 1298,

the commission could specify by rule that a decision was final and appealable only to district court, bypassing the commission.

There has been confusion over this matter since the 74th Legislature allowed uncontested matters to be decided by the executive director because the law also requires that delegated actions be appealed to the commission. To avoid losing an appeal on a technical question of procedure, parties have filed appeals both with the commission and in district court, causing delays and confusion. HB 1298 would resolve this uncertainty and clarify the appeals process. The bill would not affect the types of actions that may be delegated under the law; it would merely allow TNRCC to direct the path of appeal and help parties avoid costly and unnecessary duplication while appealing simple cases.

HB 1298 also would give clear statutory authority to the executive director to delegate duties to TNRCC staff, a common practice necessary to smoothly administer a large and complex agency. The director would still be answerable for any decision made by those to whom responsibilities were delegated. The executive director already delegates authority to the staff; HB 1298 would merely clarify that statutory authority exists for this process.

**OPPONENTS  
SAY:**

Allowing the executive director delegate authority so broadly could result in fragmented and inconsistent policies in different sections of the agency and undermine the executive director's accountability.

**NOTES:**

The companion bill, SB 1223 by Brown, has been referred to the Senate Natural Resources Committee.