

SUBJECT: Exempting permits for dust and fire suppression in sediment control ponds

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — Ritter, Callegari, Corte, Creighton, Frost, T. King, Lucio,
Martinez Fischer, D. Miller, Smithee

0 nays

1 absent — Laubenberg

WITNESSES: For — David Dunn, Shannon Lucas, Texas Mining and Reclamation Association; (*Registered, but did not testify*: Phil Berry, Sabine Mining Company; Jay Dauenhauer, Clean Coal Technology Foundation of Texas; Leonard Dougal, Texas Mining and Reclamation Association; Gary Gibbs, American Electric Power Company; Chris Miller, Association of Electric Companies of Texas; Mike Nasi, Gulf Coast Lignite Coalition; Michael Stewart, Texas Aggregates and Concrete Association; Stephanie Strother, Luminant)

Against — None

On — Kellye Rila, Texas Commission on Environmental Quality (TCEQ)

BACKGROUND: Surface coal mine operators are subject to state and federal laws requiring water to be available and applied for dust and fire suppression.

Under Water Code, sec. 11.142(d), without obtaining a permit, a person may construct or maintain a reservoir for the sole purpose of sediment control as part of a surface coal mining operation under the Texas Surface Coal Mining and Reclamation Act, VTCS, art. 5920-11.

Natural Resources Code, ch. 134 outlines the Texas Surface Coal Mining and Reclamation Act.

DIGEST: CSHB 3805 would amend Water Code, sec. 11.142(d) by adding that a surface coal mining operation reservoir also could be used to divert and use the water to satisfy environmental and safety regulations for fire or dust suppression in addition to sediment control.

TCEQ would have to adopt rules to implement this change no later than January 1, 2010.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

NOTES:

The companion bill, SB 1711 by Hegar, passed the Senate by 31-0 on April 8 and was reported favorably, without amendment, by the House Natural Resources Committee on April 23, making it eligible to be considered in lieu of HB 3805.