

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 555  
By: Chisum (Armbrister)  
Natural Resources  
4/17/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The 77th Texas Legislature amended the notice provisions of the Texas Clean Air Act (TCAA), as they apply to the relocation of portable facilities. The intent of the legislation was to provide an exemption from the TCAA's notice requirements for the relocation of a portable facility to a site if the portable facility had been located at the site during the previous two years. Instead, the language that was included in the final legislation has the opposite effect, requiring notice only if no portable facility had been located at the site within the prior two years.

Rules drafted by the Texas Commission on Environmental Quality (TCEQ) provide for a public notice exemption for portable facilities that relocate to a site after a prolonged absence (over 24 months). However, they also require public notice for the relocation of a portable facility to a site where the plant has been located at any time during the past two years. Essentially the rules require notice for short-term relocations and exempt portable facilities from public notice when they are relocated to a site that has been vacant for several years. This puts an undue burden on the owners and operators of portable facilities as most are required to provide public notice every time they relocate their facility to a previous site.

C.S.H.B. 555 clarifies that a portable facility relocated to a site where a portable facility permitted by TCEQ has been located at any time within the previous two years, is exempt from the permitting requirements of Section 382.056. This bill also prohibits TCEQ from issuing permits, permit amendments, or other authorization for certain portable facilities or rock crushing facilities.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 382.056, Health and Safety Code, as follows:

(r) Provides that this section does not apply to the relocation or change of location of a portable facility to a site where a portable facility permitted by the Texas Commission on Environmental Quality (TCEQ) has been located at any time during the previous two years. Deletes existing text relating to the location of a portable facility.

(s) Prohibits TCEQ from issuing a permit, permit amendment, or other authorization for certain portable facilities or rock crushing facilities. Requires TCEQ to mail notice of intent to obtain a permit to the affected municipality of its receipt of the application, within 30 days of the date TCEQ determines that an application has been filed for a permit or permit amendment that is prohibited from being issued pursuant to this subsection.

(t) Requires TCEQ to prohibit a currently permitted rock crushing facility from being associated with blasting operations that are or will be located on a tract over an aquifer comprised in whole or in part of water bearing limestone or dolomite that is the primary source of drinking water for a municipality if the facility is located in a county adjacent to a county with a population of 500,000, or more and in which is located a portion of a

water body into which a discharge is prohibited by TCEQ under 30 Texas Administrative Code Chapter 311 and if the blasting operations have not taken place on the tract for ten or more years prior to April 10, 2003.

(u) Requires that for any permit application subject to this section, the measurement of distances to determine compliance with any location or distance restriction required by this chapter be taken toward structures that are in use as of the date that the application is filed with TCEQ.

SECTION 2. Effective date: upon passage or September 1, 2003.