

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1385  
By: Hancock  
Natural Resources  
4/3/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1385 improves public access to information and procedures related to enforcement actions by the Texas Commission on Environmental Quality (TCEQ).

C.S.S.B. 1385 allows complaints and notices filed with TCEQ to be filed electronically and published on its website. Additionally, the bill clarifies the process for giving notice to and receiving assent from entities participating in TCEQ's groundwater protection programs.

C.S.S.B. 1385 is a logical approach to using technology to keep the public better informed about, and active in, environmental cleanup in Texas.

C.S.S.B. 1385 amends current law relating to notification procedures regarding the Texas Commission on Environmental Quality.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 7 (Section 7.305, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subdivision (1), Section 7.001, Water Code, to redefine "commission" to mean the Texas Commission on Environmental Quality (TCEQ), rather than the Texas Natural Resource Conservation Commission.

SECTION 2. Amends Section 7.003, Water Code, by adding Subsection (d), to require TCEQ to publish each report required under Subsection (a) (relating to requiring TCEQ to report at least once each month on enforcement actions taken by TCEQ or others and the resolution of those actions) on TCEQ's Internet website not later than the 15th day before the date of any meeting of TCEQ for which public notice is given.

SECTION 3. Amends Section 7.056, Water Code, to authorize the person charged, not later than the 30th day, rather than not later than the 20th day, after the date on which notice is received, to give to TCEQ written or electronic consent to the executive director's report, including the recommended penalty, or make a written or electronic request for a hearing.

SECTION 4. Amends Section 7.060, Water Code, to require TCEQ, if TCEQ is required to give notice of a penalty under Section 7.057 (Default) or 7.059 (Notice of Decision), to publish notice of its decision in the Texas Register and on TCEQ's Internet website not later than the 10th day after the date on which the decision is adopted.

SECTION 5. Amends Section 7.075(a), Water Code, to require that notice of the opportunity to comment to be published in the Texas Register and on TCEQ's Internet website not later than the 30th day before the date on which the public comment period closes.

SECTION 6. Amends Section 7.110(b), Water Code, to make a conforming change.

SECTION 7. Amends Section 7.305, Water Code, as follows:

Sec. 7.305. PROCEDURES. Requires TCEQ by rule to establish procedures for public notice and any public hearing under this subchapter. Requires that the procedures require notice to be posted on TCEQ's Internet website.

SECTION 8. Amends Section 7.355, Water Code, to authorize a local government or person affected to file with TCEQ a written or electronic complaint and to request an investigation of an alleged violation by a person who holds a permit subject to TCEQ's jurisdiction.

SECTION 9. Amends Section 7.357, Water Code, to authorize a person affected as defined in that chapter to bring suit in the county in which the alleged violation occurred or is about to occur, if TCEQ does not have suit filed before 121st day after the date on which the written or electronic complaint is filed under Section 7.355.

SECTION 10. Amends Subdivision (2), Section 26.001, Water Code, to redefine "commission" to mean TCEQ, rather than the Texas Natural Resource Conservation Commission.

SECTION 11. Amends Section 26.022(b), Water Code, to require that notice of the hearing be published on the TCEQ's Internet website and at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, TCEQ has reason to believe persons reside who may be affected by the action that is authorized to be taken as a result of the hearing.

SECTION 12. Amends Section 26.025(a), Water Code, to require TCEQ to provide notice of a hearing under Section 26.024 (Hearings on Standards; Consultation) of this code by publishing the notice in the Texas Register and on TCEQ's Internet website.

SECTION 13. Amends Section 26.026, Water Code, to require TCEQ to publish on its Internet website its water quality standards and amendments and to make copies available to the public on written request.

SECTION 14. Amends Section 26.3465, Water Code, to provide that an owner or operator of an underground storage tank who fails or refuses to provide, before the 21st day after request of TCEQ, proof of registration of or certification of compliance for an underground storage tank is liable for a civil penalty under Subchapter D (Civil Penalties), Chapter 7.

SECTION 15. Amends Section 26.3512(k), Water Code, to require an owner or operator of a site for which a closure letter has been issued under Section 26.3572 to pay under Subsection (b)(1) (relating to prohibiting funds from the petroleum storage tank remediation account from being used to pay certain expenses including the owner or operator contribution) not more than the first \$50,000 of expenses for corrective action for each occurrence.

SECTION 16. Amends Section 26.352(f), Water Code, to prohibit the amount of an administrative or civil penalty imposed under this subsection from being less than the annual cost, as estimated by TCEQ, of maintaining the minimum insurance coverage required in the State of Texas for the tank as determined under Subsection (c) (relating to requiring TCEQ to seek the assistance of the Texas Department of Insurance in developing the minimum requirements for insurance coverage).

SECTION 17. Amends Section 26.3572, Water Code, by adding Subsections (e), (f), and (g), as follows:

(e) Requires TCEQ to give notice of its decision to approve or disapprove a site assessment under this section not later than the 10th day after the date on which the decision is adopted.

(f) Prohibits TCEQ from issuing a closure letter under Subsection (b) (relating to requiring TCEQ, in administering the program, to perform certain actions) for a site at which a responsible party is conducting corrective action until the owner or operator submits a signed statement certifying that the requirements of the corrective action plan

have been accomplished. Provides that this subsection does not apply to sites at which TCEQ is conducting corrective action.

(g) Requires TCEQ, if an owner or operator of a site submits to TCEQ a signed certification under Subsection (f), to notify the state senator and state representative in whose district the site lies of that certification.

SECTION 18. Amends Section 26.362, Water Code, to provide that TCEQ is immune from liability in any action against TCEQ to test the validity of a closure letter issued under Section 26.3572 if the letter is issued in accordance with that section and TCEQ rules.

SECTION 19. Amends Section 26.408(b), Water Code, to require TCEQ, not later than the 30th day after the date TCEQ receives notice under Subsection (a) (relating to requiring a state agency to notify TCEQ if the state documents a case of groundwater contamination) or obtains independent knowledge of groundwater contamination, to post the notice on its Internet website and to make every effort to give notice of the contamination by first class mail to each owner of a private drinking water well that may be affected by the contamination and to each applicable groundwater conservation district.

SECTION 20. Effective date: upon passage or September 1, 2013.