

- SUBJECT:** Notifying affected persons of certain releases of water from dams
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 8 ayes — Larson, Metcalf, Farrar, Harris, T. King, Lang, Price, Ramos  
0 nays  
3 absent — Dominguez, Nevárez, Oliverson
- WITNESSES:** For — Dean Robbins, Texas Water Conservation Association;  
(*Registered, but did not testify:* Michael Booth, Booth, Ahrens & Werkenthin PC; Matt Phillips, Brazos River Authority; Aimee Bertrand, Harris County Commissioners Court; Tom Oney, Lower Colorado River Authority; Adrian Shelley, Public Citizen; James Montagne, Sabine River Authority; Julia Parenteau, Texas Realtors; Stacey Steinbach, Texas Water Conservation Association; Bill Kelberlau; Ronda McCauley)  
  
Against — None  
  
On — (*Registered, but did not testify:* Kelly Cook, Texas Commission on Environmental Quality)
- BACKGROUND:** Water Code sec. 12.052 requires the Texas Commission on Environmental Quality to make and enforce rules and orders and to perform all other necessary acts to provide for the safe construction, maintenance, repair, and removal of dams located in the state.
- DIGEST:** CSHB 26 would require the Texas Commission on Environmental Quality (TCEQ) to provide for the safe operation and emergency management of dams, in addition to TCEQ's existing responsibilities relating to dams.  
  
The commission would require the owner or operator of a state-regulated dam with a gated spillway for flood regulation to notify local emergency operation centers in communities downstream of the dam when water was released for flood control, according to the TCEQ's emergency action plan

guidelines.

Notified emergency operation centers would alert the public when a water release could contribute to flooding that might result in damage to life and property. At a minimum, the notification would have to include:

- the names of the dam and reservoir;
- the communities downstream that might be impacted and the estimated time of impact;
- the names of affected river basins and tributaries;
- the expected duration of the water release;
- the level of potential flooding according to the National Water Service River Forecast Center; and
- the roads or bridges expected to be affected.

The notification also would include a disclaimer that read: “Actual flood conditions may vary significantly from the alert based on new or changed conditions; advanced alerts of changed conditions may not be possible.”

A notification required under the bill could not be considered an admission of liability or used as evidence in any suit related to the water releases.

TCEQ would be required to provide guidance for developing a notification plan through a dam owner’s emergency action plan no later than January 1, 2020.

A dam would have to deliver the required notification plan to the TCEQ no later than June 1, 2020.

The bill would take effect September 1, 2019.

**SUPPORTERS  
SAY:**

CSHB 26 would establish a process for providing prompt notice of water releases that could cause flooding to any potentially impacted downstream communities. This would better protect the public in the case of a potential flood event.

In the aftermath of Hurricane Harvey, there was a clear need for a comprehensive system for notifying residents who lived downstream from a gate-operated dam about when a release would occur and the potential impact of a release. CSHB 26 would ensure that effective and adequate notice was provided to Texas citizens who could be impacted by a necessary release of water from a dam, helping to save lives and property in the event of resulting flooding.

CSHB 26 would require dam owners and operators to work with local offices of emergency management in order to provide the notice, ensuring no undue burden was placed on dam operators. The bill also would make it clear that a warning sent out under its requirements would not constitute an admission of liability. This would help ensure that dam owners and operators did not hesitate to provide the required warning out of fear of the legal ramifications.

OPPONENTS  
SAY:

No concerns identified.