1989 FEB 23 AM 10:57

HOUSE OF REPRESENTATIVES

FILED FEB 07 1989

HB 908
FEB 07 1989
Natural Resources

Chief Clerk of the House

By _____

H.B. No. 908

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. <u>Before adopting or amending water quality standards the commission must quantify and publish the public costs and benefits anticipated and determine that the public benefits will equal or exceed the public costs.</u>

SECTION 2. Section 26.024, Water Code, is amended to read as follows:

Sec. 26.024. HEARINGS ON STANDARDS; CONSULTATION. Before setting or amending water quality standards, the commission shall:

(1) hold public hearings at which any person may appear and present evidence under oath, pertinent for consideration by the commission; and

(2) consult with the executive administrator to insure that the proposed standards are not inconsistent with the objectives of the state water plan <u>and that the standards are based</u>

upon a determination that public benefits will equal or exceed public costs.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st Printing

By Junell H.B. No. 908

Substitute the following for H.B. No. 908:

By Junell C.S.H.B. No. 908

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. <u>Before adopting, modifying, amending or cancelling water quality standards the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the standards adopted, modified, amended, or cancelled. Provided however that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of water quality standards which are consistent with the Federal Clean Water Act, and the basis of the commission decision to not apply the provision is identified by the commission in the record of its rulemaking proceeding.</u>

SECTION 2. Section 26.029, Water Code (effective until

delegation of NPDES permit authority), is amended by adding a new subsection (f) to read as follows:

(f) Before adopting, modifying, amending or cancelling conditions prescribed in the permit the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or cancelled. Provided however that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision to not apply the provision is identified by the commission in the record of its proceeding.

SECTION 3. Section 26.029, Water Code (effective on delegation of NPDES permit authority), is amended by adding a new subsection (f) to read as follows:

(f) Before adopting, modifying, amending or cancelling conditions prescribed in the permit the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or cancelled. Provided however that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis

of the commission decision to not apply the provision is identified by the commission in the record of its proceeding.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

April 19, 1989
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 908 (measure) have had the same under consideration and beg to report back with the recommendation that it

( ) do pass, without amendment.
( ) do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes ( ) no

An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. ( ) yes (X) no

A criminal justice policy impact statement was prepared. ( ) yes (X) no

A water development policy impact statement was requested. ( ) yes (X) no

( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ( ) Local, ( ) Consent, or ( ) Resolutions Calendar.

This measure ( ) proposes new law. (X) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.			X	
Willy, V.C.	X			
Collazo, C.B.O.				X
Culberson				X
Holzheauser		X		
Junell	X			
Swift	X			
Wentworth	X			
Yost	X			

Total

5 aye
1 nay
1 present, not voting
2 absent

Terral Smith
CHAIRMAN

Deborah K. Wall
COMMITTEE COORDINATOR

HB 908 By: Junell
CSHB By: Junell

Committee on
Natural Resources

BILL ANALYSIS

Background

To comply with the Federal Clean Water Act the Texas Water Commission amends the Water Quality Standards for the state every three years. The costs associated with the adoption of new standards may be substantial, but at present there is no requirement that the costs and benefits of the proposed amendments be used in determining the standards. Federal agencies adopting rules are required to perform such an analysis, and it is felt that such a program at the state level would help provide public assurance that costly requirements are not mandated without adequate review. Similarly, the costs associated with permit requirements determined by the commission may place a substantial burden on industries and municipalities. At this time there is no provision for determination of the benefits incurred.

Purpose of the Bill

This bill would require that the Water Commission quantify and publish the public costs and benefits associated with changes to the water quality standards and permit standards.

Section by Section Analysis

Section 1. Amends Section 26.023, water Code, by adding the requirement that the Texas Water Commission consider the public cost/benefit impact of proposed water quality standards and publish the results, but that such consideration shall not apply if it is determined that it would prevent adoption of standards consistent with the Federal Clean Water Act.

Section 2. Amends Section 26.029, Water Code, (effective until NPDES delegation), by adding the requirement that consideration be given to public costs and benefits associated with permit conditions required by the commission, so long as such consideration not prevent adoption of a permit consistent with the Federal Clean Water Act.

Section 3. Makes identical amendment to Section 26.029, Water Code, (effective after NPDES delegation).

Section 4. Emergency Clause.

Rulemaking Authority

It is the opinion of this committee that this bill does not delegate rulemaking authority to any state agency, officer, department, or institution.

Comparison of Substitute to Original

The substitute removes the requirement in the original bill that there be an absolute determination that benefits exceed costs, and adds language to prevent interference with delegation of authority under the Federal Clean Water Act. Consideration of costs/benefit factors in commission permits is also included in the substitute.

Summary of Committee Action

HB 908 was considered in public hearing on March 3, 1989. Representative Junell introduced his bill. The following persons testified in favor of HB 908: Jim Matthews, representing the Texas Municipal League; Dan Dodson, representing the city of Duncanville; Eldridge Moak, reporesenting the city of Jacksonville, and Greg Vick, representing the city of Cedar Hill. Gordon Pierce and Jim Dunaway, representing the city of Jacksonville, did not testify but wished the record to reflect their support of the bill.

Curtis Carter, representing the Assn. of Electric Utilities and Dan McNamara, representing the Sierra Club tesified against the bill.

Allen Beinke of the Texas Water Commission served as a resource witness on the bill.

HB 908 was referred to a subcommittee at that time.

The subcommittee on HB 908 met in public hearing on March 20, 1989. Allen Beinke of the Texas Water Commission served as a resource witness on the bill.
Frank Struzl, representing the Texas Municipal League, testified for the bill. Tom Utter, representing the city of Corpus Christi, did not testify but wished the record to reflect his support of the bill.
The following persons testified against the bill: Mary Kelly, and Dan McNamara, both representing the Sierra Club.
HB 908 was left pending in subcommittee at that time.

The subcommittee on HB 908 met in formal meeting again on April 3, 1989. Representative Junell offered a substitute version of the bill. Allen Beinke of the Texas Water Commission testified as a resource witness on the bill. Tom Utter, representing the city of Corpus Christi, testified in favor of the bill. Jet Winkley, representing the city of Houston, did not testify but wished the record to reflect her support of the bill. Dan McNamara, representing the Sierra Club, testified against the bill.
The motion to report the bill favorably, with substitute, to the full committee carried with a vote of 2 ayes, 0 nays, 0 PNV, and 1 absent.

The full committee took up the subcommittee report in public hearing on April 19, 1989. The committee laid out the bill on committee report. A complete substitute of the bill was offered. There being no objection, the substitute was adopted. The motion

to report the bill favorably, as substituted, carried with a vote of 5 ayes, 1 nay, 0 PNV, and 3 absent.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 24, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: Committee Substitute for House Bill No. 908

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting, amending or concelling water quality standards or water quality permit conditions the Water Commission must quantify and publish the public costs and benefits anticipated and give consideration to certain factors.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, CKM

71FCSHB908

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 8, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 908
By: Junell

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting or amending water quality standards, the Water Commission must quantify and publish the public costs and benefits anticipated and determine that the benefits exceed the costs.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible. An additional potential fiscal implication of the bill is that it could place at risk the eligibility of the Water Commission to receive certain federal funds under the federal Clean Water Act. The bill would require at least a break even result from a cost/benefit analysis as a requirement for amending or adopting water quality standards. Federal law does not recognize failure to meet such a test as justification for failure to comply with federal water quality standards. Failure to comply with federally required standards could potentially jeopardize federal funds and delegation of the related federal program.

No fiscal implication to units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, LV

71FHB908

6

ADOPTED

MAY 8 1989

Betty Murray
Chief Clerk
House of Representatives

By Junell H.B. No. 908

Substitute the following for H.B. No. 908:

By Junell C.S.H.B. No. 908

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. Before adopting, modifying, amending, or cancelling water quality standards, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the standards adopted, modified, amended, or cancelled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of water quality standards ~~which~~ that are consistent with the Federal Clean Water Act, and the basis of the commission decision to not apply the provision is identified by the commission in the record of its rulemaking proceeding.

SECTION 2. Section 26.029, Water Code (effective until delegation of NPDES permit authority), is amended by adding a new subsection (f) to read as follows:

(f) Before adopting, modifying, amending or cancelling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or cancelled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision to not apply the provision is identified by the commission in the record of its proceeding.

SECTION 3. Section 26.029, Water Code (effective on delegation of NPDES permit authority), is amended by adding a new subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or cancelling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or cancelled. Provided, however, that the requirement that the commission give consideration to

1 the economic and social costs will not apply if such a
2 determination would prevent the adoption of a permit consistent
3 with the Federal Clean Water Act, and the basis of the
4 commission decision to not apply the provision is identified by
5 the commission in the record of its proceeding.
6 SECTION 4. The importance of this legislation and the
7 crowded condition of the calendars in both houses create an
8 emergency and an imperative public necessity that the constitu-
9 tional rule requiring bills to be read on three several days in
10 each house be suspended, and this rule is hereby suspended.

89 MAY -8 PM 12:58

ENGROSSED
SECOND READING

By Junell

H.B. No. 908

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. Before adopting, modifying, amending, or canceling water quality standards, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the standards adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of water quality standards that are consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its rulemaking proceeding.

SECTION 2. Section 26.029, Water Code (effective until

delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 3. Section 26.029, Water Code (effective on delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis

of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

By Junell

H.B. No. 908

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission and to the application of law regulating permitted but unconstructed reservoirs in certain populous counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. Before adopting, modifying, amending, or canceling water quality standards, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the standards adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of water quality standards that are consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its rulemaking proceeding.

SECTION 2. Section 26.029, Water Code (effective until delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 3. Section 26.029, Water Code (effective on delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a

permit consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 4. Section 11.153, Water Code, as added by H.B. 1329, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Subsection (f) to read as follows:

(f) This section does not apply in a county with a population of more than 1.5 million according to the most recent federal census.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 24, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: Committee Substitute for House Bill No. 908

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting, amending or concelling water quality standards or water quality permit conditions the Water Commission must quantify and publish the public costs and benefits anticipated and give consideration to certain factors.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 8, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 908
By: Junell

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting or amending water quality standards, the Water Commission must quantify and publish the public costs and benefits anticipated and determine that the benefits exceed the costs.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible. An additional potential fiscal implication of the bill is that it could place at risk the eligibility of the Water Commission to receive certain federal funds under the federal Clean Water Act. The bill would require at least a break even result from a cost/benefit analysis as a requirement for amending or adopting water quality standards. Federal law does not recognize failure to meet such a test as justification for failure to comply with federal water quality standards. Failure to comply with federally required standards could potentially jeopardize federal funds and delegation of the related federal program.

No fiscal implication to units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, LV

71FHB908

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 15, 1989

TO: Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: House Bill No. 908,
as engrossed
By: Junell

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 908, as engrossed (relating to the water quality standards established by the Texas Water Commission and to the application of law regulating permitted but unconstructed reservoirs in certain populous counties) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting, amending or concelling water quality standards or water quality permit conditions the Water Commission must quantify and publish the public costs and benefits anticipated and give consideration to certain factors.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible.

No fiscal implication to units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, BL

71FHB908ae

SENATE FAVORABLY AS AMENDED COMMITTEE REPORT 16

Lt. Governor William P. Hobby
President of the Senate

5-15-89
(date)/(time)

Sir:

We, your Committee on NATURAL RESOURCES to which was referred HB908 (measure) by Sewell (sponsor) have on 5-15 (hearing date), 1989, had the same under consideration and I am instructed to report it back with the recommendation (s) that it

✓ do pass with 1 amendments, and be printed

( ) do pass as amended, and be ordered not printed

( ) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ✓ yes ( ) no

A revised fiscal note was requested. ( ) yes ( ) no

An actuarial analysis was requested. ( ) yes ( ) no

Considered by subcommittee. ( ) yes ( ) no

Senate Sponsor of House Measure Sims

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Santiesteban, Chairman	✓			
Lyon, Vice Chairman				✓
Armbrister				✓
Bivins	✓			
Brown				✓
Carriker	✓			
Montford				✓
Ratliff	✓			
Sims	✓			
Uribe				✓
Zaffirini	✓			
TOTAL VOTES	6			5

Grace M. Klement
COMMITTEE CLERK

CHAIRMAN

Paper clip the original and one copy of this form to the original bill along with the original and one copy of each committee amendment adopted. Retain one copy of this form for your file.

By: Junell (Senate Sponsor - Sims) H.B. No. 908

(In the Senate - Received from the House May 10, 1989; May 11, 1989, read first time and referred to Committee on Natural Resources; May 16, 1989, reported favorably, as amended, by the following vote: Yeas 6, Nays 0; May 16, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Santiesteban	x			
Lyon				x
Armbrister				x
Bivins	x			
Brown				x
Carriker	x			
Montford				x
Ratliff	x			
Sims	x			
Uribe				x
Zaffirini	x			

COMMITTEE AMENDMENT NO. 1 By: Carriker

Amend H.B. 908 as follows:

Strike SECTION 4.

A BILL TO BE ENTITLED
AN ACT

relating to the water quality standards established by the Texas Water Commission and to the application of law regulating permitted but unconstructed reservoirs in certain populous counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.023, Water Code, is amended to read as follows:

Sec. 26.023. WATER QUALITY STANDARDS. The commission by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The commission has the sole and exclusive authority to set water quality standards for all water in the state. Before adopting, modifying, amending, or canceling water quality standards, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the standards adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of water quality standards that are consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its rulemaking proceeding.

SECTION 2. Section 26.029, Water Code (effective until delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 3. Section 26.029, Water Code (effective on delegation of NPDES permit authority), is amended by adding Subsection (f) to read as follows:

(f) Before adopting, modifying, amending, or canceling conditions prescribed in the permit, the commission must quantify and publish the public costs and benefits anticipated and shall give consideration to, among other factors, the economic and social costs and benefits that can reasonably be expected to be obtained as a consequence of the conditions adopted, modified, amended, or canceled. Provided, however, that the requirement that the commission give consideration to the economic and social costs will not apply if such a determination would prevent the adoption of a permit consistent with the Federal Clean Water Act, and the basis of the commission decision not to apply the provision is identified by the commission in the record of its proceeding.

SECTION 4. Section 11.153, Water Code, as added by H.B. 1329, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Subsection (f) to read as follows:

(f) This section does not apply in a county with a population of more than 1.5 million according to the most recent federal census.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
May 16, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Natural Resources to which was referred H.B. No. 908, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

Santiesteban, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 15, 1989

TO: Honorable H. Tati Santiesteban, Chairman
Committee on Natural Resources
Senate Chamber
Austin, Texas

In Re: House Bill No. 908,
as engrossed
By: Junell

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 908, as engrossed (relating to the water quality standards established by the Texas Water Commission and to the application of law regulating permitted but unconstructed reservoirs in certain populous counties) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting, amending or concelling water quality standards or water quality permit conditions the Water Commission must quantify and publish the public costs and benefits anticipated and give consideration to certain factors.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible.

No fiscal implication to units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, BL

71FHB908ae

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 24, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: Committee Substitute for House Bill No. 908

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting, amending or concelling water quality standards or water quality permit conditions the Water Commission must quantify and publish the public costs and benefits anticipated and give consideration to certain factors.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible.

No fiscal implication to units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 8, 1989

TO: Honorable Terral Smith, Chair
Committee on Natural Resources
House of Representatives
Austin, Texas

In Re: House Bill No. 908
By: Junell

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 908 (relating to the water quality standards established by the Texas Water Commission) this office has determined the following:

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require that, before adopting or amending water quality standards, the Water Commission must quantify and publish the public costs and benefits anticipated and determine that the benefits exceed the costs.

The administrative cost to the State of implementing the bill cannot be accurately determined; however, significant costs are possible. An additional potential fiscal implication of the bill is that it could place at risk the eligibility of the Water Commission to receive certain federal funds under the federal Clean Water Act. The bill would require at least a break even result from a cost/benefit analysis as a requirement for amending or adopting water quality standards. Federal law does not recognize failure to meet such a test as justification for failure to comply with federal water quality standards. Failure to comply with federally required standards could potentially jeopardize federal funds and delegation of the related federal program.

No fiscal implication to units of local government is anticipated.

Source: Water Commission;
LBB Staff: JO, JWH, AL, WRC, LV

71FHB908

H. B. No. 908

By [signature]

A BILL TO BE ENTITLED

AN ACT

relating to the water quality standards established by the Texas Water Commission.

FEB 7 1989 — 1. Filed with the Chief Clerk.

FEB 22 1989 — 2. Read first time and Referred to Committee on Natural Resources

~~APR 19 1989~~ — 3. Reported ___ favorably ~~(as amended)~~ (as substituted) and sent to Printer at 5:30pm MAY 2 1989

MAY 3 1989 — 4. Printed and distributed at 12:23am

MAY 4 1989 — 5. Sent to Committee on Calendars at 11:52am

MAY 8 1989 — 6. Read second time (as subs. ~~amended~~); passed to third reading ~~(failed)~~ by (Non-Record Vote) ~~(Record Vote of ___ yeas, ___ nays, ___ present, not voting)~~.

_____ 7. Motion to reconsider and table the vote by which H.B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

MAY 9 1989 — 9. Read third time (amended); finally passed ~~(failed)~~ by (Non-Record Vote) ~~(Record Vote of ___ yeas, ___ nays, ___ present, not voting)~~.

_____ 10. Caption ordered amended to conform to body of bill.

_____ 11. Motion to reconsider and table the vote by which H. B. _____ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 9 1989 — 12. Ordered Engrossed at 11:33am

~~MAY 9 1989~~ — 13. Engrossed.

MAY 9 1989 — 14. Returned to Chief Clerk at 2:39pm

MAY 10 1989 — 15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 10 1989 — 16. Received from the House

MAY 11 1989 — 17. Read, referred to Committee on NATURAL RESOURCES

MAY 16 1989 — 18. Reported favorably as amended

_____ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

_____ 20. Ordered not printed.

_____ 21. Regular order of business suspended by _____ (a viva voce vote.) (_____ yeas, _____ nays.)

89 MAY -9 PM 2:39

_____ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

_____ 23. Read second time _____ passed to third reading by:
(a viva voce vote.)
(_____ yeas, _____ nays.)

_____ 24. Caption ordered amended to conform to body of bill.

_____ 25. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.

_____ 26. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION: OTHER ACTION:

_____
Secretary of the Senate

_____ 27. Returned to the House.

_____ 28. Received from the Senate (with amendments.) (as substituted.)

_____ 29. House (Concurred) (Refused to Concur) in Senate (Amendments) (Substitute) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

_____ 30. Conference Committee Ordered.

_____ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 32. Ordered Enrolled at _____

89 MAY -8 AM 12:23 89 MAY -8 PM 12:53

408