

BILL ANALYSIS

C.S.H.B. 3036
By: King, Tracy O.
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that landowners who rely on certain aquifers for water supply or who have real property along certain streams are increasingly concerned about wastewater discharges degrading water quality and negatively impacting property values. C.S.H.B. 3036 seeks to address these concerns by providing for a restriction on permits authorizing direct discharges of waste or pollutants into certain watersheds.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3036 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ), in considering a permit application by a wastewater treatment facility for the land disposal of wastewater effluent in an area where runoff from precipitation flows into the portion of the Edwards Aquifer recharge zone that is southwest of the Colorado River, to subtract, for the purposes of facility design calculations, the reclaimed water amount from the total volume of effluent in order to determine the area of land required for effluent disposal and the amount of effluent storage required. The bill also requires TCEQ, in considering such a permit application, to adopt a procedure for the applicant to demonstrate the reclaimed water amount that includes provisions to ensure that no unauthorized discharge of effluent to state waters or contamination of groundwater will occur. The bill defines "reclaimed water amount" as the minimum volume of reclaimed water that can be guaranteed to be beneficially reused over a specified time for a particular facility and specifies that the term includes reclaimed water used for indoor or outdoor purposes. The bill establishes that the addition or modification of users or areas used in the land disposal of wastewater effluent in a demonstration of a reclaimed water amount is not a major amendment to the permit if the volume of the reclaimed water amount is not decreased and if the applicant complies with the procedure established by TCEQ for the demonstration of the reclaimed water amount. The bill requires an applicant demonstrating a reclaimed water amount to obtain a beneficial reuse authorization from TCEQ before the operation of the facility.

C.S.H.B. 3036 prohibits TCEQ from issuing a new permit authorizing the direct discharge of waste or pollutants into the Nueces, San Antonio, and Guadalupe River watersheds located in or north and west of the Edwards Aquifer recharge zone or into the portion of the Colorado River watershed located in Blanco, Hays, and Travis Counties that drains to or includes the Edwards

Aquifer recharge zone southwest of the Colorado River. The bill prohibits TCEQ from amending a permit issued before September 1, 2017, to authorize an increase in the amount of waste or pollutants that may be directly discharged into any such water. These prohibitions apply only to a permit for the direct discharge of waste or pollutants in the specified geographic area and do not affect definitions related to the Edwards Aquifer as they are used outside these bill provisions. The prohibitions expressly do not apply to on-site sewage disposal systems and do not affect TCEQ authority to authorize stormwater and certain non-stormwater discharges as specified in TCEQ individual permits for municipal separate storm sewer systems and TCEQ general permits for stormwater and associated non-stormwater discharges.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3036 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.02711 to read as follows:

Sec. 26.02711. CONSIDERATION OF RECLAIMED WATER USE FOR CERTAIN WASTEWATER DISPOSAL APPLICATIONS. (a) In this section, "reclaimed water amount" means the minimum volume of reclaimed water that can be guaranteed to be beneficially reused over a specified time for a particular facility. The term includes reclaimed water used for indoor or outdoor purposes.

(b) In considering a permit application by a wastewater treatment facility for the land disposal of wastewater effluent in an area where runoff from precipitation flows into the portion of the Edwards Aquifer recharge zone that is southwest of the Colorado River, the commission shall:

(1) for the purposes of facility design calculations, subtract the reclaimed water amount from the total volume of effluent in order to determine:

(A) the area of land required for effluent disposal; and

(B) the amount of effluent storage required; and

(2) adopt a procedure for the applicant to demonstrate the reclaimed water amount that includes provisions to ensure that no unauthorized discharge of effluent to the waters of the state or contamination of

groundwater will occur.

(c) The addition or modification of users or areas used in the land disposal of wastewater effluent in a demonstration of a reclaimed water amount is not a major amendment to the permit if:

(1) the volume of the reclaimed water amount is not decreased; and

(2) the applicant complies with the procedure established by the commission for the demonstration of the reclaimed water amount.

(d) An applicant demonstrating a reclaimed water amount under this section must obtain a beneficial reuse authorization from the commission before the operation of the facility.

SECTION 1. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0462 to read as follows:

Sec. 26.0462. RESTRICTION ON PERMITS FOR DIRECT DISCHARGES OF WASTE OR POLLUTANTS INTO WATER IN CERTAIN ZONES OF EDWARDS AQUIFER.

(a) The commission may not:

(1) issue a new permit authorizing the direct discharge of waste or pollutants into any water in the contributing zone associated with the portion of the recharge zone of the Edwards Aquifer that is southwest of the Colorado River; or

(2) amend a permit issued before September 1, 2017, to authorize an increase in the amount of waste or pollutants that may be directly discharged into any water described by Subdivision (1).

SECTION 2. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0462 to read as follows:

Sec. 26.0462. RESTRICTION ON PERMITS FOR DIRECT DISCHARGES INTO WATER THAT FLOWS INTO CERTAIN AREAS OF EDWARDS AQUIFER RECHARGE ZONE. (a) This section applies only to a permit for the direct discharge of waste or pollutants in the geographic area described in Subsection (b). This section does not affect definitions related to the Edwards Aquifer as they are used outside this section, including definitions of:

(1) Edwards Aquifer;

(2) Edwards Aquifer contributing zone;

(3) Edwards Aquifer recharge zone; and

(4) Edwards Aquifer transition zone.

(b) The commission may not:

(1) issue a new permit authorizing the direct discharge of waste or pollutants into:

(A) the Nueces, San Antonio, and Guadalupe River watersheds located in or north and west of the Edwards Aquifer recharge zone; or

(B) the portion of the Colorado River watershed located in Blanco, Hays, and Travis Counties that drains to or includes the Edwards Aquifer recharge zone southwest of the Colorado River; or

(2) amend a permit issued before September 1, 2017, to authorize an increase in the amount of waste or pollutants that may be directly discharged into any water described by Subdivision (1).

(b) This section does not affect the authority of the commission to authorize stormwater and certain non-stormwater discharges as specified in:
(1) the commission's individual permits for municipal separate storm sewer systems; and
(2) the commission's general permits for stormwater and associated non-stormwater discharges.

SECTION 2. The change in law made by this Act applies only to an application for a permit or permit amendment that is submitted to the Texas Commission on Environmental Quality on or after the effective date of this Act. An application for a permit or permit amendment that was submitted to the Texas Commission on Environmental Quality before the effective date of this Act is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

(c) This section:
(1) does not affect the authority of the commission to authorize stormwater and certain non-stormwater discharges as specified in:
(A) the commission's individual permits for municipal separate storm sewer systems; and
(B) the commission's general permits for stormwater and associated non-stormwater discharges; and
(2) does not apply to on-site sewage disposal systems.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.