

## **BILL ANALYSIS**

C.S.H.B. 26  
By: Metcalf  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the lack of warning provided when a dam operator is about to release water during a natural disaster that could result in increased flood conditions downstream. It has been suggested that impacted residents would benefit from notice of a dam release to better help preserve life and property. C.S.H.B. 26 seeks to address these concerns by providing for the notification of affected persons of certain releases of water from certain dams.

### **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 rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 26 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) to require the owner or operator of a state-regulated dam that has a spillway with gates used to regulate flood waters to notify local emergency operation centers in downstream communities when spillway releases are made to regulate flood waters, according to TCEQ emergency action plan guidelines. The bill requires the notified emergency operation centers to provide notice to the public when a release may contribute to flooding that may result in damage to life and property through all available means and to include certain specified information and a prescribed disclaimer regarding possible variance of actual flood conditions. The bill prohibits a notice provided under the bill's provisions from being considered an admission of liability and from being used as evidence in any suit related to the releases that are the subject of the notice, notwithstanding any other defense or immunity that may apply. The bill requires TCEQ to make and enforce rules and orders and to perform all other acts necessary to provide for the safe operation and emergency management of dams located in Texas.

C.S.H.B. 26 requires TCEQ, not later than January 1, 2020, to provide guidance for developing a notification plan through a dam owner's emergency action plan for state-regulated dams that have a spillway with gates used to regulate flood waters and requires a dam, not later than June 1, 2020, to deliver the notification plan for each dam to TCEQ.

### **EFFECTIVE DATE**

September 1, 2019.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 26 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions providing for the creation of the Texas Dam Release Alert System, to be implemented by TCEQ and activated on behalf of dam operators to warn potentially affected persons of certain water releases from dams and possible flooding, but the substitute includes provisions providing for the required notification of affected local emergency operation centers and the public of certain water releases from certain dams and possible flooding.