

- SUBJECT:** Investigating land application of municipal sewage sludge
- COMMITTEE:** Environmental Regulation — favorable, without amendment
- VOTE:** 9 ayes — Chisum, Allen, Culberson, Dukes, Howard, Kuempel, Palmer, Talton, Zbranek
0 nays
- WITNESSES:** For — Sparky Anderson, Clean Water Action
Against — Chris Coffman, Panhandle Regional Solid Waste Advisory Committee and Panhandle City Council; David Landis
- DIGEST:** HB 3144 would require the Texas Natural Resource Conservation Commission (TNRCC), upon receipt of a credible complaint by an interested person, to investigate whether sewage sludge that was being applied to land for a beneficial use met standards set by TNRCC rules and whether the land application was being conducted in accordance with statutory requirements and rules governing solid waste, toxic chemicals, sewage, litter, and water.

TNRCC could enter property to investigate activities related to land application of sewage sludge or to inspect records related to those activities.

An interested person would include a person who had leased hunting or grazing rights on land affected by the application of sludge. A person who had a lease interest in real property, including a lease of hunting or grazing rights, would have a cause of action against the owner of the property for damages to the value of the lease or other injury caused by the land application of sewage sludge.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.
- SUPPORTERS SAY:** HB 3144 would ensure that if a credible complaint were made concerning the land application of sewage sludge, TNRCC would have to investigate that complaint.

City sewer sludge can be beneficial if properly applied, but improper sludge application can harm the property on which the sludge is applied as well as neighboring properties. TNRCC rules require that anyone wishing to apply sewage sludge must apply for a registration, test the sludge for metals, treat it to destroy any pathogens, and be careful not to exceed certain levels of nutrients in the soil. TNRCC rules also forbid anyone to apply sludge when it is raining or when the ground is flooded, saturated, or frozen.

HB 3144 also would ensure that someone who had a lease interest in land, including hunting or grazing rights, would have a legal cause of action against the owner of the property for damages to the value of the lease or other injuries caused by the land application of sludge. This would ensure that those who apply sludge would take extra care to apply it in the manner prescribed by TNRCC rules. This would help protect not only the health and safety of those nearby but the health of the land itself.

OPPONENTS
SAY:

HB 3144 is unnecessary because TNRCC already has the authority to enter property, investigate complaints, and enforce laws and rules pertaining to the application of sludge. The state needs to encourage beneficial sludge application rather than hinder it with unnecessary regulation.

The bill would remove TNRCC's authority to prioritize complaints about sludge, since it would require the agency to investigate all complaints made by someone who would qualify as an interested person. If many frivolous complaints were made, this could present a problem, since the agency has limited resources to devote to complaints of this kind and would wish to respond first to those that threatened public health and safety.

The bill does not define a "credible" complaint and would provide for a cause of action for "damages to the value of a lease or other injury." The latter phrase is rather broad and might lead to frivolous complaints by those who merely wanted to harass a landowner.

NOTES:

A related bill, HB 3288 by Greenberg, which would prohibit TNRCC from charging a solid waste disposal and transportation fee on sewage sludge that had been treated to a certain level, passed the House on the Local, Consent, and Resolutions Calendar on April 23 and was reported favorably by the Senate Natural Resources Committee on May 10.

HB 3144
House Research Organization
page 3