

- SUBJECT:** Regulating the land application of Class B sludge
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Harless, Isaac, Kacal, Lewis, E. Thompson, C. Turner, Villalba
2 nays — Márquez, Reynolds
- WITNESSES:** For — Buddy Garcia, Partners Dewatering; Carter Mayfield, Beneficial Land Management LLC; Jess Mayfield, Beneficial Land Management, LLC.; Stephen Minick, Texas Association of Business; (*Registered, but did not testify*: Chuck Bailey, Vic Hilderbran; Tyson Sowell, Texas Campaign for the Environment; Bob Turner)
- Against — Eric Allmon; Dwayne Clarke, Southwaste Services; Andrew Dobbs, Texas Campaign for the Environment; John Hall; Jerry James, City of Victoria; Robin Schneider, Texas Campaign for the Environment; Jeff Thompson, Texas Permitted Liquid Waste Processors and Liquid Environmental Solutions; (*Registered but did not testify*: Rita Beving; Tim Brown, Central Texas Groundwater Conservation District; Hector Gonzalez, El Paso Water Utility; Stacy Guidry, Central Texas Zero Waste Alliance; Myron Hess, National Wildlife Federation; Steve Kosub, San Antonio Water System; Luke Metzger, Environment Texas; Cyrus Reed, Lone Star Chapter, Sierra Club; Brenda Terry; John Terry; David Weinberg, Texas League of Conservation Voters; Kaiba White, Public Citizen)
- On — David Galindo, Texas Commission on Environmental Quality
- BACKGROUND:** Health and Safety Code, sec. 361.121 requires that “Class B sludge” cannot be applied to land without a permit from the Texas Commission on Environmental Quality (TCEQ), that certain notices must be issued, that permits are subject to contested cases, and the permit holder must meet certain insurance requirements.
- Class B sludge is the product of municipal wastewater treatment. Class B sewage sludge is a classification of sewage sludge based on the levels of disease-causing organisms. Class A sewage sludge has been treated to reduce pathogens and its attractiveness to vectors to a greater extent than

is achieved in Class B sewage sludge.

Government Code, sec. 2006.001 defines a small business corporation, partnership, or sole proprietorship that is formed for the purpose of making a profit, is independently owned and operated, and has fewer than 100 employees or less than \$6 million in annual gross receipts.

DIGEST:

Land application by registration. CSHB 2295 would remove the requirement that a person receive a permit from TCEQ to land apply Class B sludge and require that they receive a registration from TCEQ to do so. The bill would make conforming changes throughout Health and Safety Code, sec. 361.121.

Grease and grit trap waste. CSHB 2296 would add an alternative definition to the current definition of Class B sludge to include Class B sludge that has combined and processed with grease trap waste, grit trap waste, or septage within the boundaries of wastewater treatment facility, and meet the existing Class B pathogen reduction requirement and certain vector attraction reduction requirements.

Notice and hearing requirements. CSHB 2295 would remove the requirement that an individual wishing to apply class B sludge to land must follow the notice and hearing requirements of Water Code, ch. 5. The bill would strike language requiring that notices be sent to landowners within a one-quarter mile radius of the land application site.

Insurance requirements. CSHB 2295 would provide that the small business applying class B sludge would be exempt from having to maintain commercial liability insurance and environmental impairment insurance.

The bill would take effect on September 1, 2013.

SUPPORTERS
SAY:

Land application by registration. Registration is a much quicker and significantly cheaper process than permitting. Switching to a registration process instead of a permitting does not weaken TCEQ rules related to the environmental safety of Class B sludge.

Grease and grit trap waste. Only grease and grit trap waste that has been mixed with Class B sludge and meets stringent pathogen and new vector attraction reduction requirements can be applied to land. TCEQ, through

its rulemaking process and under federal guidelines for pathogen and vector reduction, would adopt new rules for sludge application ensuring that the use of Class B sludge mixed with grease and grit trap waste was no more environmentally harmful than Class B sludge without grease and grit trap waste.

Class B sludge waste from grease and grit traps have a high concentration of water and could benefit dry soils.

Notice and hearing requirements. HB 2996 would replace the permit requirement with TCEQ's established registration process. Although opponents may argue that such a change undermines public participation, in fact, registration would require substantial notification requirements and allows for public participation through public meetings if the public requests the meetings.

HB 2296 would subject Class B sludge registration application to the notice requirements in commission rules for registrations. Notices must be mailed to adjacent property and elected public officials. The public would be provided the opportunity to request a public meeting. In the age of social networking, neighborhood and community list serves, and readily available information on the governmental and private websites, opponents' arguments that communities would not receive adequate notice are out of step with the reality of today's interconnected world.

Insurance requirements. The current insurance requirements for small businesses requesting to apply Class B sludge to land is excessive, far outstripping the ability of companies to afford the cost. The insurance requirements for Class B sludge application far exceed the dangers that the sludge imposes on the environment or human health. CSHB 2996 would remove an insurance requirement that is disproportional to the risk.

No other area regulated by TCEQ — petroleum storage tanks, landfills, industrial and hazard waste operators — are required to have this kind of insurance.

The state has ample remedies under its enforcement authority to address risk, including site restrictions, buffer zones, groundwater evaluations, and nutrient management plans, thus ensuring that Class B sludge could be applied a minimal risk.

OPPONENTS
SAY:

Land application by registration. CSHB 2993, by providing for registration, weakens environmental protections. The registration process significantly reduces the public right to seek redress for a poorly written permit, or a permit that is technically flawed. The state should be concerned about environmental protection, not the expediency of authorizing companies to apply Class B sludge.

Grease and grit trap waste. Grease and grit trap waste contain high levels of hydrocarbons and heavy metals. The material is currently dewatered and put in landfills. That practice should continue. Grease takes significantly longer to break down in the environment. Instead of benefitting soil, one of the purported purposes of sludge application, Class B sludge containing grease will clog porous soil and potential kill plants.

Notice and hearing requirements. CSHB 2993 would significantly weaken the public right to participate in decisions about whether to apply Class B sludge to particular areas. For example, CSHB 2993 deprives the public of contested case hearings. Parties directly affected by a poor permitting decision by TCEQ would be unable to confront the applicant and TCEQ over a flawed permit before an unbiased administrative law judge. A public meeting is not a substitute for a contested case hearing before an administrative law judge.

Insurance requirements. CSHB 2993 would remove important insurance requirements. Companies engaged in any commercial enterprise that involves the disposal of a waste product should at minimum maintain some liability insurance.

If a permit is poorly written and surface water or ground water is contaminated by Class B sludge, TCEQ would have to seek redress from the company. Unfortunately, a small business may not have the financial ability to remedy the environmental contamination and could easily be forced out of business by cleanup costs, thus leaving the state with the cost of environmental restoration.