

- SUBJECT:** Allowing monthly reporting for certain sanitary sewer overflows
- COMMITTEE:** Natural Resources — committee substitute recommended
- VOTE:** 10 ayes — Keffer, Ashby, D. Bonnen, Burns, Kacal, T. King, Larson, Lucio, Nevárez, Workman
- 0 nays
- 1 absent — Frank
- WITNESSES:** For — Brian Butscher, City of Corpus Christi; Steve Coonan, Water Environment Association of Texas; Julie Nahrgang, Water Environment Association of Texas and Texas Association of Clean Water Agencies; (*Registered, but did not testify:* Mike Howe, American Water Works Association, Texas Section; Matt Phillips, Brazos River Authority; Tom Tagliabue, City of Corpus Christi; TJ Patterson, City of Fort Worth; Tony Privett, City of Lubbock; Russell Schreiber, City of Wichita Falls; Amy Beard, SouthWest Water Company; Dean Robbins, Texas Water Conservation Association; Amy Stelter, Trinity River Authority of Texas)
- Against — Steve Hupp, Bayou Preservation Association; (*Registered, but did not testify:* Kelly Davis and Lauren Ice, Save Our Springs Alliance; Ken Kramer, Sierra Club-Lone Star Chapter; David Weinberg, Texas League of Conservation Voters)
- BACKGROUND:** Under Water Code, sec. 26.039 when an accidental discharge or spill occurs that may cause pollution, the responsible party is required to notify the Texas Commission on Environmental Quality (TCEQ) as soon as possible and no later than 24 hours after the occurrence. The individual's notice to TCEQ must include the location, volume, and content of the discharge or spill.
- The individual running or responsible for the facility must notify appropriate local government officials and local media if the spill could affect a drinking water source.

A sanitary sewer overflow is a type of unauthorized discharge of partially treated or untreated wastewater from a collection system or its components — for example, a manhole, lift station, or cleanout — that occurs before the wastewater reaches a wastewater treatment facility.

DIGEST:

CSHB 2051 would allow individuals to notify the Texas Commission on Environmental Quality (TCEQ), local government officials, or local media of a sanitary sewer overflow on a monthly basis, rather than within 24 hours of the occurrence, if the sanitary sewer overflow:

- was 1,000 gallons or less;
- was not associated with another accidental discharge or spill;
- had been controlled or removed before it could enter state water or adversely affect a source of drinking water;
- would not endanger human health, safety, or the environment; and
- was not subject to other local regulations and reporting requirements.

TCEQ must adopt rules by June 1, 2016, that consider the compliance history of the individual and establish procedures for the individual to submit the monthly summary of sanitary sewer overflow incidents. Monthly summaries would have to include the location, volume, and content of each sanitary sewer overflow.

CSHB 2051 would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2051 would lessen the reporting burden on both utilities and TCEQ without putting the public at any additional risk from sanitary sewer overflow incidents. Under current law, a sanitary sewer overflow must be reported to TCEQ within 24 hours, regardless of volume. The bill would create a minimum reportable volume of 1,000 gallons for sanitary sewer overflows, and sanitary sewer overflows under the 1,000-gallon threshold would be submitted in a monthly report to TCEQ. A sanitary sewer overflow above the threshold, or if any amount affected a drinking source or endangered human health and safety, would still need to be reported within 24 hours of the occurrence.

An informal survey of Texas utilities indicates that a large percentage of reported sanitary sewer overflows are less than 1,000 gallons, including releases from events when city workers perform repairs or routine maintenance within the system. The majority of sanitary sewer overflows of this size do not reach waters of the state and do not cause an environmental impact. The requirement to report all sanitary sewer overflows within 24 hours regardless of amount creates a reporting burden on public utilities and an information management burden for TCEQ. It also has the potential to mislead the public into thinking that a serious public health and safety issue exists every time a sanitary sewer overflow is reported.

The bill would allow utilities to better organize reporting data to pinpoint potential impacts to public health and the environment. Creating the threshold of reportable quantities would not prevent any sanitary sewer overflow from being reported, but would make the paperwork and time frame for submitting reports on relatively low-volume sanitary sewer overflows more reasonable and less burdensome on the utilities and would provide more meaningful information to the public.

The bill would not eliminate the clean-up requirements for any sanitary sewer overflow, merely the reporting requirements for those under a certain threshold that did not affect state waters or drinking water sources, nor would it endanger human health, safety, or the environment.

OPPONENTS
SAY:

Current protocol enables TCEQ to pinpoint issues of concern and address them before they become major problems. Under CSHB 2051, a facility having problems with sanitary sewer overflows that were relatively low volume but occurred on an ongoing basis could escape the attention of TCEQ for up to a month. During that time, a bigger problem could develop. This could allow a facility to cover up a problem that should be brought to TCEQ's immediate attention and could interfere with TCEQ's ability to ensure that the discharge did not result in any impacts to human health, public safety, or the environment. Any measure that might compromise the ability of TCEQ to identify persistent problems and

enforce compliance would be counterproductive.

The bill also would remove the requirement to immediately report a sanitary sewer overflow below the threshold to local government officials and the local media, which could keep the public in the dark about potential problems at a facility.

The bill would allow the facility responsible for the sanitary sewer overflow to make a determination not only of the volume of the spill, but also whether the overflow had been controlled or removed, entered state water, harmed a source of drinking water or endangered human health or safety or the environment. A more objective party should be making that determination, especially if the sanitary sewer overflow occurred in the recharge or contributing zone of an underground aquifer.

Concerns that the current notification process involves a short time frame and a costly and cumbersome process could be addressed with changes to the reporting system. An alternative could be an electronic system to facilitate reporting by the facility and review by TCEQ. This could also improve the accuracy of the records kept by TCEQ.

NOTES:

The Senate companion bill, SB 912 by Eltife, was received by the House on April 15. It was approved by the Senate on April 14.