

SUBJECT: Dismissing protests against wastewater discharge applications or permits

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 8 ayes — Morrison, Isaac, Kacal, K. King, P. King, Lozano, Reynolds,
E. Thompson

0 nays

1 absent — E. Rodriguez

WITNESSES: For — Barry Haydon; (*Registered, but did not testify*: John Kroll, Bob
White Investments; Stephen Minick, Texas Association of Business)

Against — Peggy Glass; Chris Herrington, City of Austin; Dan Wheelus,
Landowners Along Onion Creek; Kelly Davis, Save Our Springs Alliance;
(*Registered, but did not testify*: Tony Privett, City of Lubbock; Katherine
Romans, Hill Country Alliance; Cyrus Reed, Lone Star Chapter Sierra
Club; Lon Burnam, Public Citizen; Andrew Dobbs, Texas Campaign for
the Environment; David Weinberg, Texas League of Conservation Voters)

On — (*Registered, but did not testify*: David Galindo, Texas Commission
on Environmental Quality)

DIGEST: HB 912 would require the Texas Commission on Environmental Quality
(TCEQ) to dismiss certain protests filed by a municipality if the
municipality was subject to less stringent wastewater treatment
requirements than those established by the wastewater discharge permit
the municipality was protesting. Those protests would include:

- a request that TCEQ hold a contested case hearing on an application for a wastewater discharge permit;
- a request that TCEQ reconsider the decision of its executive director to issue a wastewater discharge permit;
- a motion requesting that TCEQ overturn its executive director's issuance of a wastewater discharge permit; or

- a motion requesting that TCEQ review its decision denying a request for a contested case hearing on an application for a wastewater discharge permit or approving an application for a wastewater discharge permit after a contested case hearing had been conducted.

The bill would take effect September 1, 2015, and would apply only to a request or motion filed with TCEQ on or after that date.

**SUPPORTERS
SAY:**

HB 912 would streamline the approval process for permitting new wastewater facilities by dismissing protests that were not well founded. Protests increase the cost and amount of time required to put new wastewater facilities in place.

The bill would provide clear standards for dismissals in cases where protesting municipalities were not treating their own effluent to the same level as the entity whose permit or application was being protested. The bill would improve fairness, speed up the approval process for new wastewater treatment facilities, and generally support responsible development in communities around the state.

**OPPONENTS
SAY:**

HB 912 would add unnecessary procedures to a process that already works and take away a legitimate protection for cities. Protests are rare, and municipalities pursue them only when necessary. Standards for wastewater discharge permits are determined by TCEQ and vary according to the size and flow of a waterway and other factors, including the downstream uses of the water. There is no reason to consider the standards followed by one municipality — which would have been approved by TCEQ when issued — in determining the validity of the protest of a permit or permit application of another. The protest should be evaluated on the merits of the particular situation and the need to protect water quality. Municipalities also would not be treated fairly compared to private landowners, who would not be held to the same standards.

**OTHER
OPPONENTS**

HB 912 would not adequately define “less stringent” for the purposes of making a determination about a municipality’s own wastewater permitting

SAY: standards. In addition, municipalities can hold multiple permits and it is not clear which permit would be the one used to make the determination under the bill.