

- SUBJECT:** Allowing monthly reporting for certain sanitary sewer overflows
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 11 ayes — Keffer, Ashby, D. Bonnen, Burns, Frank, Kacal, T. King, Larson, Lucio, Nevárez, Workman
- 0 nays
- SENATE VOTE:** On final passage, April 14 — 28-3 (Garcia, Menéndez, Watson)
- WITNESSES:** (*On House companion bill, HB 2051*)
- For — Brian Butscher, City of Corpus Christi; Steve Coonan, Water Environment Association of Texas; Julie Nahrgang, Water Environment Association of Texas, 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:** Water Code, sec. 26.039 requires a responsible party to notify the Texas Commission on Environmental Quality (TCEQ) as soon as possible, and no later than 24 hours after the occurrence, when an accidental discharge or spill occurs that may cause pollution. 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 a spill from a facility owned or operated by a local government 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:

Under SB 912, responsible individuals no longer would have to notify the Texas Commission on Environmental Quality (TCEQ), local government officials, and local media of a sanitary sewer overflow within 24 hours of its occurrence if the sanitary sewer overflow came from a facility owned or operated by a local government and:

- had a volume of 1,000 gallons or less;
- was not associated with another simultaneous accidental discharge or spill;
- had been controlled or removed before it could enter water in the state 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.

The individual would be required to calculate the volume of an accidental discharge or spill using a standard method, established by TCEQ rule, to determine whether the discharge or spill was exempt from the notification requirements.

The responsible individual would report to TCEQ a summary of such accidental discharges and spills at least once a month. The monthly summary would have to include the location, volume, and content of each sanitary sewer overflow.

TCEQ would adopt rules to implement the bill by June 1, 2016. Rules would consider the compliance history of the responsible individual and establish procedures for the individual to format and submit the monthly summary of sanitary sewer overflow incidents.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after the effective date of a rule adopted by TCEQ.

**SUPPORTERS
SAY:**

SB 912 would alleviate the reporting burden on local government-owned utilities and TCEQ without placing 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 its volume or source. For sanitary sewer overflows that originated from a local government-owned facility, the bill appropriately would require immediate reporting only for spills that exceeded 1,000 gallons or that posed a threat to human health or a source of drinking water.

An informal survey of Texas utilities indicates that a large percentage of reported sanitary sewer overflows involve less than 1,000 gallons, including releases from events when city workers perform repairs or routine maintenance within the system. The majority of such overflows do not reach waters of the state and do not cause an environmental impact. The current requirement to report all sanitary sewer overflows within 24 hours creates a reporting burden on public utilities owned by local governments and an information management challenge 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 most 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. It merely would reduce the reporting requirements for

many incidents under a certain threshold that did not affect water quality, human health and safety, or the environment.

OPPONENTS
SAY:

Current protocol enables TCEQ to pinpoint issues of concern and address them before they become major problems. Under SB 912, a local government-owned 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.

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 local government-owned facility.

SB 912 would charge TCEQ with establishing a method for facilities to use in calculating the volume of a spill, but it still would allow the facility responsible for the sanitary sewer overflow to determine whether the overflow had been controlled or removed, entered state water, harmed a source of drinking water, or endangered health, 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 also could improve the accuracy of the records kept by the commission.

NOTES:

The House companion bill, HB 2051 by Crownover, was approved by the House on April 23 by a vote of 138-0 and was received by the Senate on April 27.