

BILL ANALYSIS

Senate Research Center

S.B. 1585
By: Brown
Natural Resources
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As Filed

DIGEST

Currently, the Texas Environmental Health and Safety Audit Privilege Act encourages companies to conduct voluntary audits of their compliance with environmental and health and safety requirements by providing two types of incentives: a limited privilege for voluntarily compiled information, and a penalty immunity for certain violations that are self-disclosed. Since its implementation in 1995, approximately 450 entities have given notice of intent to conduct a voluntary audit, and about 65 self-disclosures have been made to the Texas Natural Resource Conservation Commission. The Environmental Protection Agency (EPA) has expressed a reluctance to grant delegation of federal environmental programs to Texas, in part based on opposition to the state's Audit Privilege Act. However, the EPA concedes that the audit law will not conflict with delegation of federal programs if several changes are made to the law. S.B. 1585 enacts certain changes requested by the EPA in order to obtain delegation of federal environmental programs.

PURPOSE

As proposed, S.B. 1585 provides for environmental and health and safety audits.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8(a), Article 4447cc, V.T.C.S. (Texas Environmental, Health, and Safety Audit Privilege Act), to provide that the privilege described in this Act does not apply to material or information contained in the audit report that cannot be reproduced through any independent means, if a government official charged with the enforcement of an environmental or health and safety law demonstrates a compelling need for the information to protect human health or the environment.

SECTION 2. Amends Section 10, Article 4447cc, V.T.C.S., to delete the provision establishing that, except as provided by this section, a person who makes a voluntary disclosure of a violation of an environmental or health and safety law is immune from a criminal penalty for the violation disclosed. Authorizes a penalty to be assessed for a violation that has been voluntarily disclosed, notwithstanding any provision of this Act regarding the elimination of a penalty, if the regulatory agency with jurisdiction over the disclosed violation, the governor, and the attorney general unanimously agree that the penalty should be assessed. Makes conforming changes.

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.