

BILL ANALYSIS

Senate Research Center

S.B. 1758
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Natural Resources
4-14-97
As Filed

DIGEST

Currently, the process to obtain a Standard Exemption No. 71 for ready mix concrete plants includes the possibility of a contested case hearing. Public testimony given during the hearings process is presently subjected to the stringent rules of evidence and cross examination. Therefore, to fully participate in the process, the affected persons must retain counsel to represent their interests in a trial-like public hearing. For most individuals, the financial implications associated with the hiring of a qualified environmental attorney is often too expensive for them to undertake. Furthermore, the affected persons are informed by the hearing examiner when they appear at the public hearing that their testimony is to be solely limited to issues pertaining to air emission standards. S.B. 1758 would alleviate the constraint of the current contested case process and allow for the affected persons to have more access to public hearing. Also, it would allow for public testimony on any issue that a person deems important. Additionally, the current public hearing process is costly to the state insofar as the money and time associated to complete the application process. This legislation would relieve the state of these costly burdens without changing the level of environmental requirements currently provided for public protection.

PURPOSE

As proposed, S.B. 1758 provides for hearings on certain exemptions from permitting procedures under the Texas Clean Air Act.

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 382.058, Health and Safety Code, by adding Subsections (d) and (e), to require a hearing, when the Texas Natural Resource Conservation Commission (commission) determines that a public hearing is required, to be held within 45 days after the date of the commission's determination and conducted in accordance with the procedure for public hearings held under Section 382.0561. Prohibits dispersion modeling of emissions from being received at such hearing or otherwise reviewed or considered in connection with a proposed facility governed by this section. Requires any appeal of commission action regarding a facility governed by this section to be brought pursuant to Section 382.032. Requires the record on appeal to consist of all written and oral substantive public comments, responses to comments, and other information on which the commission based its decision.

SECTION 2. Emergency clause.
Effective date: upon passage.