

BILL ANALYSIS

Senate Research Center

S.B. 1788
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Natural Resources
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As Filed

DIGEST

The Texas Natural Resource Conservation Commission's (commission) decisions to exercise its authority under Section 5.115, Water Code, have recently been reversed by the Travis County District Court. One of the reversals was based on the court's disagreement with the commission's decision that a hearing request was not "reasonable." Another was based upon the court's belief that the legislation's use of the term "competent evidence" required a contested case hearing to make the reasonableness determination. S.B. 1788 regulates persons entitled to a contested case hearing before the Texas Natural Resource Conservation Commission.

PURPOSE

As proposed, S.B. 1788 regulates persons entitled to a contested case hearing before the Texas Natural Resource Conservation Commission.

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 5.115, Water Code, by amending Subsection (a), to require the Texas Natural Resource Conservation Commission (commission) to make a determination based on the person's request for hearing, the executive director's review of the application, and the rules adopted pursuant to this subsection, rather than is not required to hold a hearing if the commission determines that the basis of a person's request for a hearing as an affected person is not reasonable or is not supported by competent evidence. Provides that the commission is not required to hold an evidentiary hearing to make this determination.

SECTION 2. Amends Section 382.056, Health and Safety Code, by amending Subsection (d), to prohibit the commission from granting a request for a hearing on a permit amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. Makes conforming changes.

SECTION 3. Emergency clause.
Effective date: upon passage.