

BILL ANALYSIS

Senate Research Center

S.C.R. 56
By: Lindsay
Natural Resources
4/7/1999
As Filed

DIGEST

Currently, the federal Clean Water Act contains a comprehensive program for protecting our nation's waters. Under Section 404 of the Act, the U.S. Army Corps of Engineers regulates the discharge of dredged and fill materials to waters of the United States, including wetlands. Section 401 of the Act recognizes a state role in water quality regulation by providing that states may grant, deny, or waive certification that a proposed activity complies with applicable state water quality standards. The Texas Natural Resource Conservation Commission (TNRCC) has revised its approach to Section 401 certification decisions recently, and is re-reviewing federal permitting decisions on wetland habitat impacts. This legislation declares it to be the intent of the legislature that TNRCC should eliminate duplication with the federal program and waive Section 401 certification for projects already reviewed by the Corps of Engineers, except under certain circumstances.

PURPOSE

As proposed, S.C.R. 56 submits the following resolutions:

That it is the intent of the legislature that the Texas Natural Resource Conservation Commission (TNRCC) should amend its rules to provide that, except where necessary to maintain delegation or approval of a federally delegated or approved program, TNRCC shall waive Section 401 certification, in accordance with the authority of the federal Clean Water Act, for those projects for which the United States Army Corps of Engineers has conducted a review under Section 404(b) of the Act (33 U.S.C. Section 1344).

That it is the intent of the legislature that, if some review is required to maintain delegation or approval of a federally delegated or approved program, TNRCC shall develop a review process in compliance with approved water quality standards that is no more stringent than specifically required by federal law that, to the maximum extent practicable, implements acreage thresholds, geographic limitations, expedited review processes, waivers of project types, and similar provisions necessary to eliminate duplication of federal activities and assist compliance by permit applicants.

That it is the intent of the legislature that savings that can be realized from eliminating duplication of the United States Army Corps of Engineers Section 404 permit evaluations shall be utilized by TNRCC to meet the demands of the water quality protection program.