

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 2912  
By: Bosse (Harris)  
Natural Resources  
5/7/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The Texas Natural Resource Conservation Commission (TNRCC) protects the state's natural resources and human health by ensuring clean air, clean water, and the safe management of waste. The legislature created the agency in 1993, by consolidating the Texas Water Commission, Texas Air Control Board, and environmental programs from the Texas Department of Health. The agency implements state and federal environmental regulatory laws by issuing permits and authorizations for the control of air pollution, the safe operation of water and wastewater facilities, and the treatment, storage, and disposal of hazardous, industrial, municipal, and low-level radioactive waste. TNRCC ensures compliance with environmental laws by conducting inspections of regulated facilities, monitoring air and water quality, providing technical assistance, encouraging voluntary compliance, and taking formal enforcement action against suspected violators. The agency also develops programs for the cleanup and eventual reclamation of contaminated industrial and abandoned hazardous waste sites.

TNRCC is subject to the Texas Sunset Act and will be abolished September 1, 2001 unless it is continued by the legislature. In its review of TNRCC, the Sunset Advisory Commission (commission) found that the traditional, prescriptive regulatory approach focuses on outputs and does not adequately support innovation, provide incentives to reward performance, or solve persistent environmental problems. The commission also found that TNRCC lacks tools needed to better support its environmental protection mission and that additional changes are needed to ensure greater public access to the agency's decision making process. The commission's recommendations would give regulated entities a larger stake in and enable all affected groups to take a greater role in protecting the environment. C.S.H.B. 2912 continues TNRCC for 12 years and contains the commission's recommendations to better position the agency to address the state's environmental regulatory needs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in the following SECTIONS: 1.09 (Sections 5.127, 5.129, and 5.131, Water Code); 1.17 (Section 5.228, Water Code); 1.21 (Section 7.0025, Water Code); 2.02 (Section 5.701, Water Code); 2.04 (Section 26.0291, Water Code); 3.01 (Sections 5.753 and 5.754, Water Code); 4.02 (Sections 382.0215 and 382.0216, Health and Safety Code); 4.05 (Section 382.0518, Health and Safety Code); 4.06 (Sections 382.05183, 382.05184, 382.05185, and 382.05186, Health and Safety Code); 5.01 (Sections 5.802, 5.803, 5.804, and 5.805, Water Code); 6.01 (Section 3A, Article 6243-101, V.T.C.S.); 7.03 (Section 366.076, Health and Safety Code); 8.02 (Section 361.119, Health and Safety Code); 8.05 (Section 361.121, Health and Safety Code); 10.02 (Section 26.504, Water Code); 16.06 (Section 27.051, Water Code); 16.08 (Section 361.084, Health and Safety Code); 17.02; 17.03; 17.04; 17.05; 17.08; 17.10; and 17.11 of this bill. Rulemaking authority is expressly granted to the Texas Department of Health in SECTION 4.09 (Section 382.056, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. ADMINISTRATION AND POLICY

SECTION 1.01. Amends Section 5.014, Water Code, as follows:

Sec. 5.014. SUNSET PROVISION. Provides that unless in existence as provided by that chapter, the Texas Natural Resource Conservation Commission (commission) is abolished and this chapter expires September 1, 2013, rather than 2001.

SECTION 1.02. Amends Section 5.052(c), Water Code, to require appointments to the commission to be made without regard to certain factors.

SECTION 1.03. Amends Section 5.053(a), Water Code, to prohibit a person from being a member of the commission if the person or the person's spouse meets certain criteria. Deletes text regarding eligibility to serve on the commission.

SECTION 1.04. Amends Chapter 5C, Water Code, by adding Section 5.0535, as follows:

Sec. 5.0535. REQUIRED TRAINING PROGRAM FOR COMMISSION MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of the commission from voting, deliberating, or being counted as a member in attendance at a meeting of the commission until the person completes a training program that complies with this section.

(b) Requires the training program to provide the person with certain information.

(c) Entitles a person appointed to the commission to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.05. Amends Section 5.054, Water Code, as follows:

Sec. 5.054. (a) Provides that it is a ground for removal from the commission that, rather than if, a member meets certain conditions.

(b) Makes conforming changes.

(c) Requires the executive director, if the executive director or a member has knowledge that a potential ground for removal exists, to notify the presiding officer, rather than chairman, of the commission of the potential ground. Requires the presiding officer, rather than chairman of the commission, to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director or another member of the commission, if the potential ground for removal involves the presiding officer, to notify the member of the commission with the most seniority, who will then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.06. Amends Sections 5.058(a)-(d), Water Code, as follows:

(a) Requires the governor to designate a member of the commission as the presiding officer, rather than chairman, of the commission to serve in that capacity at the pleasure of the governor. Deletes text regarding the chairman.

(b) Authorizes the presiding officer to designate another commissioner to act for the presiding officer in the presiding officer's absence. Makes conforming and nonsubstantive changes.

(c) Makes a conforming change.

(d) Makes conforming changes.

SECTION 1.07. Amends Sections 5.059 and 5.060, Water Code, as follows:

Sec. 5.059. Defines "Texas trade association." Prohibits a person from being a member of the commission and being a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if certain conditions exist. Deletes text regarding certain persons affiliated with a trade association.

Sec. 5.060. Prohibits a person from being a member of the commission or acting as general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because, rather than by virtue, of the person's activities for compensation on behalf of a profession related to the operation of the commission. Deletes text regarding certain persons serving on the commission. Makes conforming and nonsubstantive changes.

SECTION 1.08. Amends Section 5.107, Water Code, as follows:

Sec. 5.107. New heading: **ADVISORY COMMITTEES, WORK GROUPS, AND TASK FORCES.** (a) Authorizes the commission or the executive director to create and consult with groups for certain purposes.

(b) Requires the commission to identify affected groups of interested persons for advisory committees, work groups, and task forces and to make reasonable attempts to have balanced representation on all advisory committees, work groups, and task forces. Provides that this subsection does not require the commission to ensure that all representatives attend a scheduled meeting. Prohibits a rule or other action of the commission from being challenged solely because of the composition of an advisory committee, work group, or task force.

(c) Requires the commission to monitor the composition and activities of advisory committees, work groups, and task forces appointed by the commission or formed at the staff level and to maintain that information in a form and location that is easily accessible to the public, including making the information available on the Internet.

SECTION 1.09. Amends Chapter 5D, Water Code, by adding Sections 5.127-5.131, as follows:

Sec. 5.127. **USE OF ENVIRONMENTAL TESTING LABORATORY DATA AND ANALYSIS.** (a) Authorizes the commission to accept environmental testing laboratory data and analysis for use in commission decisions regarding any matter under the commission's jurisdiction relating to permits or other authorizations, compliance matters, enforcement actions, or corrective actions only if the data and analysis is prepared by an environmental testing laboratory accredited by the commission under Subchapter R or an environmental testing laboratory described in Subsection (b).

(b) Authorizes the commission to accept for use in commission decisions data and analysis prepared by certain entities.

(c) Authorizes the commission by rule to require that data and analysis used in other commission decisions be obtained from an environmental testing laboratory accredited by the commission under Subchapter R.

(d) Requires the commission to periodically inspect on-site or in-house environmental

testing laboratories described in Subsection (b).

Sec. 5.128. ELECTRONIC REPORTING TO COMMISSION; REDUCTION OF DUPLICATE REPORTING. (a) Requires the commission to encourage the use of electronic reporting through the Internet, to the extent practicable, for reports required by the commission. Requires an electronic report to be submitted in a format prescribed by the commission. Authorizes the commission to consult with the Department of Information Resources on developing a simple format for use in implementing this subsection.

(b) Requires the commission to strive to reduce duplication in reporting requirements throughout the agency.

Sec. 5.129. SUMMARY FOR PUBLIC NOTICES. (a) Requires the commission by rule to provide for each public notice issued or published by the commission or by a person under the jurisdiction of the commission as required by law or by commission rule to include at the beginning of the notice a succinct statement of the subject of the notice. Requires the rules to provide that a summary statement be designed to inform the reader of the subject matter of the notice without having to read the entire text of the notice.

(b) Prohibits the summary statement from being grounds for challenging the validity of the proposed action for which the notice was published.

Sec. 5.130. PRIORITY AREAS. Requires the commission to give priority to monitoring and enforcement in areas in which regulated facilities are concentrated.

Sec. 5.131. ENVIRONMENTAL MANAGEMENT SYSTEMS. (a) Defines “environmental management system.”

(b) Requires the commission by rule to adopt a comprehensive program that provides regulatory incentives to encourage the use of environmental management systems by regulated entities, state agencies, local governments, and other entities as determined by the commission. Sets forth elements that may be included as incentives.

(c) Requires the commission to perform certain duties.

SECTION 1.10. Amends Chapter 5E, Water Code, by adding Section 5.1733, as follows:

Sec. 5.1733. ELECTRONIC POSTING OF INFORMATION. Requires the commission to post public information on its website. Sets forth information required to be included on the website.

SECTION 1.11. Amends Chapter 5E, Water Code, by adding Section 5.1765, as follows:

Sec. 5.1765. PUBLICATION OF INFORMATION REGARDING COMPLAINT PROCEDURES AND POLICIES. Requires the commission to establish a process for educating the public regarding the commission's complaint policies and procedures. Requires the commission, as part of the public education process, to make available to the public in pamphlet form an explanation of the complaint policies and procedures, including information regarding and standards applicable to the collection and preservation of credible evidence of environmental problems by members of the public.

SECTION 1.12. Amends Sections 5.176 and 5.177, Water Code, as follows:

Sec. 5.176. (a) Requires the commission to maintain a, rather than keep an information, file on each written complaint other than an anonymous complaint filed with the commission about a

matter within the commission's regulatory jurisdiction. Requires the files to include certain information.

- (b) Requires the commission to establish and implement procedures for receiving complaints submitted by means of the Internet and orally and to maintain files on those complaints as provided by Subsection (a).

Sec. 5.177. New heading: NOTICE OF COMPLAINT PROCEDURES; NOTICE OF INVESTIGATION STATUS. (a) Requires the agency to provide to the person filing the complaint about a matter within the commission's regulatory jurisdiction and to each person who is the subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

- (b) Requires the commission, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of, rather than parties to, the complaint the of the status of the investigation, rather than complaint, unless the notice would jeopardize an undercover investigation. Deletes text regarding written complaint.

- (c) Provides that the commission is not required to provide the information described in Subsection (a) or (b) to a complainant who files an anonymous complaint or provides inaccurate contact information.

SECTION 1.13. Amends Chapter 5E, Water Code, by adding Sections 5.1771, 5.1772, and 5.1773, as follows:

Sec. 5.1771. COORDINATION OF COMPLAINT INVESTIGATIONS WITH LOCAL ENFORCEMENT OFFICIALS: TRAINING. (a) Requires the commission to share information regarding a complaint about a matter within the commission's regulatory jurisdiction made to the commission with local officials with authority to act on the complaint in the county or municipality in which the alleged action or omission that is the subject of the complaint occurred or is threatening to occur.

- (b) Requires the commission, on request, to provide training for local enforcement officials in investigating complaints and enforcing environmental laws relating to matters under the commission's jurisdiction under this code or the Health and Safety Code. Requires the training to include certain information.

- (c) Authorizes the commission to charge a reasonable fee for providing training to local enforcement officials as required by Subsection (b) in an amount sufficient to recover the costs of the training. Requires money collected under this subsection to be deposited to the credit of the water resource management account.

Sec. 5.1772. AFTER-HOURS RESPONSE TO COMPLAINTS. (a) Requires the commission to adopt and implement a policy to provide timely response to complaints during periods outside regular business hours.

- (b) Provides that this section does not require availability of field inspectors for response 24 hours a day, seven days a week, in all parts of the state; or authorize additional use of overtime.

Sec. 5.1773. COMPLAINT ASSESSMENT. (a) Requires the commission annually to conduct a comprehensive analysis of the complaints it receives, including analysis of certain categories.

- (b) Requires the commission, in addition to the analysis required by Subsection (a), to assess the impact of changes made in the commission's complaint policy.

SECTION 1.14. Amends Section 5.178(b), Water Code, to require the report due by December 1 of an even-numbered year to include certain information.

SECTION 1.15. Amends Section 5.227, Water Code, to require the executive director or his designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions, rather than transactions, are made without regard to certain factors. Requires the policy statement to include certain information. Requires the policy statement to meet certain conditions. Deletes text regarding procedures and reasonable methods and a biennial report to the legislature. Makes conforming changes.

SECTION 1.16. Amends Chapter 5F, Water Code, by adding Section 5.2275, as follows:

Sec. 5.2275. STATE EMPLOYEE INCENTIVE PROGRAM. Requires the executive director or the executive director's designee to provide to commission employees information and training on the benefits and methods of participation in the state employee incentive program under Chapter 2108(B), Government Code.

SECTION 1.17. Amends Section 5.228, Water Code, as follows:

- (b) Requires the executive director to be named a party in hearings before the commission in a matter in which the executive director bears the burden of proof.
- (c) Authorizes the executive director to participate as a party in contested case permit hearings before the commission or the State Office of Administrative Hearings for the sole purpose of providing information to complete the administrative record. Requires the commission by rule to specify the factors the executive director must consider in determining, case by case, whether to participate as a party in a contested case permit hearing. Requires the commission to consider certain factors in developing the rules under this subsection.
- (d) Prohibits the executive director or the executive director's designated representative, in a contested case hearing relating to a permit application, from rehabilitating the testimony of a witness unless the witness is a commission employee testifying for the sole purpose of providing information to complete the administrative record.
- (e) Prohibits the executive director or the executive director's designated representative from assisting a permit applicant in meeting its burden of proof in a hearing before the commission or the State Office of Administrative Hearings unless the permit applicant fits a category of permit applicant that the commission by rule has designated as eligible to receive assistance. Requires the commission to adopt rules establishing categories of permit applicants eligible to receive assistance.
- (f) Provides that the fact that the executive director is not named as a party in a hearing before the commission is not grounds for appealing a commission decision.

SECTION 1.18. Amends Chapter 5F, Water Code, by adding Section 5.2291, as follows:

Sec. 5.2291. SCIENTIFIC AND TECHNICAL SERVICES. (a) Defines "scientific and technical environmental services."

- (b) Requires the procurement of a contract for scientific and technical environmental services to be conducted under the procedures for professional services selection provided in Chapter 2254A, Government Code.

SECTION 1.19. Amends Section 5.234(b), Water Code, to require the executive director, if, in the course of reviewing an application and preparing a draft permit, the executive director has required changes to be made to the applicant's proposal, to prepare a summary of the changes that were made to increase protection of public health and the environment.

SECTION 1.20. Amends Sections 5.273 and 5.274, Water Code, as follows:

Sec. 5.273. Requires the public interest counsel to recommend needed legislative and regulatory changes.

Sec. 5.274. New heading: STAFF; OUTSIDE TECHNICAL SUPPORT. Authorizes the public interest counsel to obtain and use outside technical support to carry out its functions under this code.

SECTION 1.21. Amends Chapter 7A, Water Code, by adding Section 7.0025, as follows:

Sec. 7.0025. INITIATION OF ENFORCEMENT ACTION USING INFORMATION PROVIDED BY PRIVATE INDIVIDUAL. (a) Authorizes the commission to initiate an enforcement action on a matter under its jurisdiction under this code or the Health and Safety Code based on information it receives from a private individual if that information, in the commission's judgment, is of sufficient value and credibility to warrant the initiation of an enforcement action.

(b) Authorizes the executive director or the executive director's designated representative to evaluate the value and credibility of information received from a private individual and the merits of any proposed enforcement action based on that information.

(c) Authorizes the commission by rule to adopt criteria for the executive director to use in evaluating the value and credibility of information received from a private individual and for use of that information in an enforcement action.

(d) Authorizes a private individual who submits information on which the commission relies for all or part of an enforcement case to be called to testify in the enforcement proceedings and provides that such an individual is subject to all sanctions under law for falsifying evidence. Provides that if the commission relies on the information submitted by a private individual to prove an enforcement case, any physical or sampling data is required to have been collected or gathered in accordance with commission protocols.

## ARTICLE 2. FEES AND RATES

SECTION 2.01. Amends Chapter 5, Water Code, by adding a heading for Subchapter P to read as follows:

### SUBCHAPTER P. FEES

SECTION 2.02. Transfers Section 5.235, Water Code, to new Chapter 5P, Water Code, redesignates it as Section 5.701, and amends it, as follows:

(e) Authorizes the commission by rule to establish, rather than set, the application fee for the creation or addition of certain powers in an amount sufficient to cover, rather than not to exceed, the costs of reviewing and processing the application, plus the cost of required notice. Authorizes the commission also to use the application fee to cover other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in

Subsection (p).

(p) Authorizes fees collected for deposit to the water resource management account under certain statutes, notwithstanding any other law, to be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under certain statutes.

(q) Authorizes fees collected for deposit to the water resource management account under certain statutes, notwithstanding any other law, to be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under certain statutes.

SECTION 2.03. Amends Chapter 5P, Water Code, by adding Sections 5.702-5.707, as follows:

Sec. 5.702. PAYMENT OF FEES REQUIRED WHEN DUE. (a) Requires a fee due the commission under this code or the Health and Safety Code to be paid on the date the fee is due, regardless of whether the fee is billed by the commission to the person required to pay the fee or is calculated and paid to the commission by the person required to pay the fee.

(b) Prohibits a person required to pay a fee to the commission from disputing the assessment of or amount of a fee before the fee has been paid in full.

Sec. 5.703. FEE ADJUSTMENTS. (a) Prohibits the commission from considering adjusting the amount of a fee due the commission under this code or the Health and Safety Code under certain conditions.

(b) Authorizes a person who pays an amount that exceeds the amount of the fee due because the commission incorrectly calculated the fee or the person made a duplicate payment to request a refund of the excess amount paid before the fourth anniversary of the date on which the excess amount was paid.

(c) Requires a request for a refund or credit in an amount that exceeds \$5,000 to be forwarded for approval to the commission fee audit staff, together with an explanation of the grounds for the requested refund or credit. Provides that approval of a refund or credit does not prevent the fee audit staff from conducting a subsequent audit of the person for whom the refund or credit was approved.

Sec. 5.704. NOTICE OF CHANGE IN PAYMENT PROCEDURE. Requires the commission to promptly notify each person required to pay a commission fee under this code or the Health and Safety Code of any change in fee payment procedures.

Sec. 5.705. NOTICE OF VIOLATION. (a) Authorizes the commission to issue a notice of violation to a person required to pay a commission fee under this code or the Health and Safety Code for knowingly violating reporting requirements or knowingly calculating the fee in an amount less than the amount actually due.

(b) Authorizes the executive director to modify audit findings reported by a commission fee auditor only if the executive director provides a written explanation showing good cause for the modification.

Sec. 5.706. PENALTIES AND INTEREST ON DELINQUENT FEES. (a) Authorizes the commission, except as otherwise provided by law, to collect certain penalties for a delinquent fee due the commission under this code or the Health and Safety Code.

(b) Provides that interest accrues, unless otherwise required by law, beginning on the



61st day after the date on which the fee was due, on the total amount of fee and penalties that have not been paid on or before the 61st day after the date on which the fee was due. Provides that the yearly interest rate is the rate of interest established for delinquent taxes under Section 111.060 (Interest on Delinquent Tax), Tax Code.

(c) Authorizes the executive director to modify a penalty or interest on a fee and penalties authorized by this section if the executive director provides a written explanation showing good cause for the modification.

(d) Requires penalties and interest collected by the commission under this section or under other law, unless that law otherwise provides, to be deposited to the credit of the fund or account to which the fee is required to be deposited.

Sec. 5.707. TRANSFERABILITY OF APPROPRIATIONS AND FUNDS DERIVED FROM FEES. Authorizes the commission, notwithstanding any law that provides specific purposes for which a fund, account, or revenue source may be used and expended by the commission and that restricts the use of revenues and balances by the commission, to transfer a percentage of appropriations from one appropriation item to another appropriation item consistent with the General Appropriations Act for any biennium authorizing the commission to transfer a percentage of appropriations from one appropriation item to another appropriation item. Prohibits the use of funds in dedicated accounts under this section for purposes in addition to those provided by statutes restricting their use from exceeding seven percent or \$20 million, whichever is less, of appropriations to the commission in the General Appropriations Act for any biennium. Requires a transfer of \$500,000 or more from one appropriation item to another appropriation item under this section to be approved by the commission at an open meeting subject to Chapter 551 (Open Meetings), Government Code.

SECTION 2.04. Amends Section 26.0291, Water Code, as follows:

Sec. 26.0291. New heading: WATER QUALITY FEE. (a) Provides that an annual water quality fee, rather than waste water treatment inspection fee, is imposed on:

(1) each wastewater discharge permit holder for each wastewater discharge permit held; and

(2) each user of water in proportion to the user's water right, through permit or contract, as reflected in the commission's records, provided that the commission by rule shall ensure that no fee shall be assessed for the portion of a municipal or industrial water right directly associated with a facility or operation for which a fee is assessed under Subdivision (1) of this subsection.

(b) Provides that the fee is to supplement any other funds available to pay expenses of the commission related to certain facilities.

(c) Provides that the fee for each year is imposed on each permit or water right in effect during any part of the year. Authorizes the commission to establish reduced fees for inactive permits.

(d) Provides that the irrigation water rights are not subject to a fee under this section.

(e) Prohibits the amount of the fee from exceeding \$75,000, rather than \$25,000, for each permit or contract. Deletes text regarding waste discharge and a permittee. Prohibits the maximum annual fee under this section for a wastewater discharge or waste treatment facility that holds a water right for the use of water by the facility from exceeding \$75,000. Authorizes the commission, in determining the amount of a fee

under this section, to consider certain criteria. Deletes text prohibiting the commission from adopting a rule designed for certain purposes.

SECTION 2.05. Amends Section 26.0135(h), Water Code, to delete text regarding users of water and wastewater permit holders. Deletes text regarding program funds. Deletes text regarding rules concerning the apportionment and assessment of costs. Makes conforming changes.

SECTION 2.06. Repealer: Section 26.0135(j) (Effect on Other Laws), Water Code.

SECTION 2.07. Amends Section 341.041(a), Health and Safety Code, to require the amount of the fees to be sufficient to cover, rather than prohibiting them from exceeding, the reasonable costs of administering the programs and services in this subchapter or the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.). Requires the commission to consider, among other factors, equity among persons required to pay the fees as a factor in determining the amount of the fees. Authorizes the commission also to use the fees to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Section 5.701(q), Water Code. Deletes text regarding costs of public drinking water supply system.

SECTION 2.08. Amends Section 366.058(a), Health and Safety Code, to authorize the commission to also use the fee to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Section 5.701(q), Water Code.

SECTION 2.09. Amends Section 366.059, Health and Safety Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Authorizes the commission to assess a reasonable and appropriate charge-back fee, not to exceed \$500, to a local governmental entity for which the commission issues permits for administrative costs relating to the permitting function that are not covered by the permit fees collected. Authorizes the commission also to use the fee to cover other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under the statutes listed in Section 5.701(g), Water Code. Requires the commission to base the amount of a charge-back fee under this subsection on the actual cost of issuing a permit under this section. Authorizes the commission to assess a charge-back fee to a local governmental entity under this subsection if the local governmental entity is an authorized agent that meets certain criteria.

(d) Prohibits the commission from assessing a charge-back fee to a local governmental entity if the local governmental entity has repealed the order, ordinance, or resolution that established the entity as an authorized agent or has lost its designation as an authorized agent due to material change in the commission's rules under this chapter.

SECTION 2.10. Amends Section 13.187(a), Water Code, to modify a statutory reference.

### ARTICLE 3. PERFORMANCE-BASED REGULATION

SECTION 3.01. Amends Chapter 5, Water Code, by adding Subchapter Q, as follows:

#### SUBCHAPTER Q. PERFORMANCE-BASED REGULATION

Sec. 5.751. APPLICABILITY. Provides that this subchapter applies to programs under the jurisdiction of the commission under Chapters 26 and 27 of this code and Chapters 361, 382, and 401, Health and Safety Code. Provides that it does not apply to occupational licensing programs under the jurisdiction of the commission.

Sec. 5.752. DEFINITIONS. Defines “applicable legal requirement, “innovative program,” “permit,” “region,” and “strategically directed regulatory structure.”

Sec. 5.753. STANDARD FOR EVALUATING COMPLIANCE HISTORY. (a) Requires the commission by rule to develop a uniform standard for evaluating compliance history, consistent with other law and requirements necessary to maintain federal program authorization.

(b) Sets forth the required components of compliance history.

(c) Requires the set of components also to include any information required by other law or any requirement necessary to maintain federal program authorization.

(d) Authorizes the set of components to include substantiated notices of violations.

(e) Requires the commission by rule, except as required by other law or any requirement necessary to maintain federal program authorization, to establish a period for compliance history.

Sec. 5.754. CLASSIFICATION AND USE OF COMPLIANCE HISTORY. (a) Requires the commission by rule to establish a set of standards for the classification of a person’s compliance history.

(b) Requires rules adopted under this section, at a minimum, to provide for three classifications of compliance history in a manner adequate to distinguish among poor performers, average performers, and high performers.

(c) Requires the commission to perform certain duties in classifying a person’s compliance history.

(d) Requires the commission by rule to establish methods of assessing the compliance history of regulated entities for which it does not have adequate compliance information. Authorizes the methods to include requiring a compliance inspection to determine an entity’s eligibility for participation in a program that requires a high level of compliance.

(e) Requires the commission by rule to provide for the use of compliance history classifications in commission decisions regarding certain matters.

(f) Requires the assessment methods to specify the circumstances in which the commission may revoke the permit of a repeat violator and to establish enhanced administrative penalties for repeat violators.

(g) Requires rules adopted under Subsection (e) for the use of compliance history to provide for additional oversight of, and review of applications regarding, facilities owned or operated by a person whose compliance performance is in the lowest classification developed under this section.

(h) Requires the commission by rule, at a minimum, to prohibit a person whose compliance history is classified in the poor performer classification developed under this section from receiving an announced inspection and participating in the flexible permit program administered by the commission under Chapter 382, Health and Safety Code, and the regulatory flexibility program administered by the commission under Section 5.758.

(i) Requires the commission to consider the compliance history of a regulated entity when determining whether to grant the regulated entity’s application for a permit or

permit amendment for any activity under the commission's jurisdiction. Requires the commission, notwithstanding any provision of this code or the Health and Safety Code relating to the granting of permits or permit amendments by the commission, after a hearing, to deny a regulated entity's application for a permit or permit amendment if the regulated entity's compliance history is unacceptable under the method for evaluating compliance history developed by the commission under Section 5.753 and this section. Defines "permit."

Sec. 5.755. STRATEGICALLY DIRECTED REGULATORY STRUCTURE. (a) Requires the commission by rule to develop a strategically directed regulatory structure to provide incentives for enhanced environmental performance.

(b) Requires the strategically directed regulatory structure to offer incentives based on certain factors.

(c) Requires an innovative program offered as part of the strategically directed regulatory structure to be consistent with other law and any requirement necessary to maintain federal program authorization.

Sec. 5.756. COLLECTION AND ANALYSIS OF COMPLIANCE PERFORMANCE INFORMATION. (a) Requires the commission to collect certain data.

(b) Requires the commission to collect certain data and make it available to the public on the Internet.

(c) Requires the commission annually to prepare a comparative analysis of data evaluating the performance, over time, of the commission and of entities regulated by the commission.

(d) Requires the commission to include in the annual enforcement report required by Section 5.123, as added by Chapters 304 and 1082, Acts of the 75th Legislature, Regular Session, 1997, the comparative performance analysis required by Subsection (c), organized by region and regulated medium.

Sec. 5.757. COORDINATION OF INNOVATIVE PROGRAMS. (a) Requires the commission to designate a single point of contact within the agency to coordinate all innovative programs.

(b) Requires the designated coordinator to perform certain duties.

SECTION 3.02. Transfers Section 5.123, Water Code, to new Chapter 5Q, Water Code, redesignates it as Section 5.758, and amends it, as follows:

Sec. 5.758. (a) Authorizes the commission by order to exempt an applicant from a requirement of a statute or commission rule regarding pollution control or abatement if the applicant proposes to control or abate pollution by an alternative method or by applying an alternative standard that is more, rather than at least as, protective of the environment and the public health than the method or standard prescribed by the statute or commission rule that would otherwise apply, and not inconsistent with federal law.

(b) Prohibits the commission from exempting an applicant under this section unless the applicant can present to the commission documented evidence of benefits to environmental quality that will result from the project the applicant proposes.

Makes nonsubstantive changes.

SECTION 3.03. Amends Section 7.067(a), Water Code, to prohibit the commission from approving a project that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.

SECTION 3.04. Amends Section 361.0215, Health and Safety Code, as follows:

Sec. 361.0215. New heading: POLLUTION PREVENTION ADVISORY COMMITTEE.

(a) Provides that the pollution prevention, rather than waste reduction, advisory committee is composed of certain members or groups.

(c) Requires the committee to advise the commission on the creation and implementation of the strategically directed regulatory structure developed under Section 5.755, Water Code.

(d) Requires the committee to report quarterly to the commission on its activities, including suggestions or proposals for future activities and other matters the committee considers important.

SECTION 3.05. Amends Section 361.088, Health and Safety Code, by adding Subsection (g), as follows:

(g) Requires the commission to review a permit issued under this chapter every five to seven years to assess the permit holder's compliance history.

#### ARTICLE 4. REGULATION OF AIR POLLUTION

SECTION 4.01. Amends Section 382.019(a), Health and Safety Code, to add an exception.

SECTION 4.02. Amends Chapter 382B, Health and Safety Code, by adding Sections 382.0215 and 382.0216, as follows:

Sec. 382.0215. ASSESSMENT OF EMISSIONS DUE TO EMISSIONS EVENTS. (a) Defines "emissions event."

(b) Requires the commission to require the owner or operator of a facility that experiences emissions events to meet certain criteria.

(c) Requires the commission to centrally track emissions events and collect certain information.

(d) Requires the commission to develop the capacity for electronic reporting and to incorporate reportable emissions events into a permanent centralized database for emissions events. Requires the database to be accessible to the public.

(e) Requires the commission annually to assess the information received under this section, including actions taken by the commission in response to the report required by Section 5.123, Water Code, as added by Chapters 304 and 1082, Acts of the 75th Legislature, Regular Session, 1997.

Sec. 382.0216. REGULATION OF EMISSIONS EVENTS. (a) Defines "emissions event."

(b) Requires the commission to establish criteria for determining when emissions events are excessive. Requires the criteria to include certain considerations.

(c) Authorizes the executive director to require a facility to take action to reduce

emissions from excessive emissions events. Requires a facility required to take action under this subsection, consistent with commission rules, to either file a corrective action plan to reduce emissions from emissions events or apply for a permit from the commission.

(d) Requires a corrective action plan filed under Subsection (c) to contain certain information. Requires a corrective action plan to be approved by the commission. Requires an approved corrective action plan to be made available to the public except to the extent information in the plan is confidential information protected under Chapter 552, Government Code. Requires the commission to establish reasonable schedules for the implementation of corrective action plans and procedures for revision of a corrective action plan if the commission finds the plan, after implementation begins, to be inadequate to meet the goal of preventing or minimizing emissions and emissions events.

(e) Authorizes the commission by rule to establish an affirmative defense to a commission enforcement action if the emissions event meets criteria defined by commission rule. Requires the commission, in establishing rules under this subsection, at a minimum, to require consideration of certain factors.

(f) Provides that the burden of proof in any claim of a defense to commission enforcement action for an emissions event is on the person claiming the defense.

(g) Prohibits a person from claiming a defense to a commission enforcement action under Subsection (e) if the person failed to take corrective action under a corrective action plan approved by the commission within the time prescribed by the commission and an emissions event recurs because of that failure.

SECTION 4.03. (a) Amends Section 382.037, Health and Safety Code, by amending Subsection (g) and adding Subsections (h) and (i), as follows:

(g) Prohibits the commission from establishing, before January 1, 2004, vehicle fuel content standards to provide for vehicle fuel content for clean motor vehicle fuels for any area of the state that are more stringent or restrictive than those standards promulgated by the United States Environmental Protection Agency applicable to that area except for a fuel described in Subsection (h) unless the fuel is specifically authorized by the legislature. Deletes text regarding federal air quality standards.

(h) Prohibits the commission from requiring the distribution of Texas low-emission diesel as described in revisions to the State Implementation Plan for the control of ozone air pollution before February 1, 2005.

(i) Authorizes the commission to consider, as an alternative method of compliance with Subsection (h), fuels to achieve equivalent emissions reductions.

(b) Amends Section 382.039(a), Health and Safety Code, to add an exception.

(c) Provides that the changes in law made by this section do not apply to fuel standards adopted by the commission before September 1, 2001.

SECTION 4.04. Amends Sections 382.051(a) and (b), Health and Safety Code, as follows:

(a) Authorizes the commission to issue a permit under certain conditions.

(b) Authorizes the commission, to assist in fulfilling its authorization provided by

Subsection (a), to issue certain permits.

SECTION 4.05. Amends Section 382.0518(h), Health and Safety Code, as follows:

(h) Provides that Section 382.056 does not apply to an applicant for a permit amendment under this section if the total emissions increase from all facilities authorized under the amended permit will meet the minimum criteria defined by commission rule and will not change in character. Provides that for a facility affected by Section 382.020, Section 382.056 does not apply to an applicant for a permit amendment under this section if the total emissions increase from all facilities authorized under the permit amendment is not significant and will not change in character. Provides that in this subsection, a finding that a total emissions increase is not significant is required to be made as provided under section 382.05196 for a finding under that section. Deletes text specifying that a reference to a permit in this section includes an amendment to a permit.

SECTION 4.06. Amends Chapter 382C, Health and Safety Code, by adding Sections 382.05181-382.05186, as follows:

Sec. 382.05181. PERMIT REQUIRED. (a) Prohibits any facility described by Section 382.0518(g) that does not have an application pending for a permit or other authorization under this chapter, other than a permit required under Section 382.054, and that has not submitted a notice of shutdown under Section 382.05182, from emitting air contaminants on or after a certain date.

(b) Prohibits any facility described by Section 382.0518(g) that does not have a permit or other authorization under this chapter, other than a permit required under Section 382.054, from emitting air contaminants on or after a certain date.

(c) Provides that facilities eligible for a permit under Section 382.05184 are not subject to this section.

Sec. 382.05182. NOTICE OF SHUTDOWN. (a) Requires any notice submitted in compliance with this section to be filed with the commission by the dates in Section 382.05181(a).

(b) Requires a notice under this section to include certain information.

Sec. 382.05183. EXISTING FACILITY PERMIT. (a) Authorizes the owner or operator of a facility described by Section 382.0518(g) to apply for a permit to operate the facility under this section.

(b) Requires the commission to grant a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that the application demonstrates compliance with certain provisions.

(c) Authorizes the commission to issue an existing facility flexible permit for some or all of the facilities at a site described by Section 382.0518(g) and facilities permitted under Section 382.0519 in order to implement the requirements of this section. Requires permits issued under this subsection to follow the same permit issuance, modification, and renewal procedures as existing facility permits.

(d) Prohibits the commission, if the commission finds that the emissions from the facility will contravene the standards under Subsection (b) or the intent of this chapter, including protection of the public's health and physical property, from granting the permit under this section.

(e) Requires a person planning the modification of a facility previously permitted under this section to comply with Section 382.0518 before modifying.

(f) Authorizes the commission to adopt rules as necessary to implement and administer this section.

(g) Provides that a permit application under this section is subject to notice and hearing requirements as provided by Section 382.05191.

(h) Requires an applicant, if the applicant omits any relevant facts or submits incorrect information in an application, to submit the relevant facts or correct the information no later than 60 days after discovering the error. Authorizes the commission, if while processing the application, it determines that additional information is necessary to evaluate or to take final action on the application, to request the information and set a reasonable deadline for a response. Provides that failure to comply with the deadline for the response will result in the application being returned to the applicant.

Sec. 382.05184. SMALL BUSINESS STATIONARY SOURCE PERMIT. (a) Authorizes facilities described by Section 382.0518(g) that are located at a small business stationary source, as defined by Section 382.0365(h)(2), and are not required by commission rule to report to the commission under Section 382.014 to apply for a permit under this section before September 1, 2005.

(b) Prohibits facilities described by Section 382.0518(g) that are located at a small business stationary source that does not have an application pending for a permit or other authorization under this chapter, other than a permit required under Section 382.054, and that has not submitted a notice of shutdown under Section 382.05182, from emitting air contaminants on or after September 1, 2007.

(c) Requires the commission to grant a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that there is no indication that the emissions from the facility will contravene the intent of this chapter, including protection of the public's health and physical property.

(d) Prohibits the commission, if it finds that the emissions from the facility will not comply with Subsection (c), from granting the permit under this section.

(e) Requires a person planning the modification of a facility previously permitted under this section must comply with Section 382.0518 before modifying.

(f) Authorizes the commission to adopt rules as necessary to implement and administer this section.

(g) Requires an applicant, if the applicant omits any relevant facts or submits incorrect information in an application, to submit the relevant facts or correct the information no later than 60 days after discovering the error. Authorizes the commission, if while processing the application, the commission determines that additional information is necessary to evaluate or to take final action on the application, to request the information and set a reasonable deadline for a response. Provides that failure to comply with the deadline for the response will result in the application being returned to the applicant.

Sec. 382.05185. ELECTRIC GENERATING FACILITY PERMIT. (a) Provides that an electric generating facility is considered permitted under this section with respect to all air



contaminants if the facility meets certain criteria.

(b) Provides that electric generating facilities, including coal-fired electric generating facilities, that are required to obtain a permit under Section 39.264 (Emissions Reductions of "Grandfathered Facilities"), Utilities Code, are not described by Subsection (a) will be considered in a certain manner.

(c) Requires the commission to issue a permit for a facility subject to Subsection (b) for criteria pollutants not covered by Subsection (b)(1) if the commission finds that the emissions from the facility will not contravene the intent of this chapter, including protection of the public's health and physical property. Requires the commission, upon request by the applicant, to include a permit application under this subsection with the applicant's pending permit application under Section 39.264, Utilities Code.

(d) Authorizes the owner or operator of an electric generating facility with a permit or an application pending under Section 39.264, Utilities Code, to apply for a permit under this section before September 1, 2002, for a facility located at the same site if the facility not permitted or without a pending application under Section 39.264, Utilities Code, meets certain criteria.

(e) Requires nitrogen oxide emissions from facilities permitted under Subsection (d) to be included in the emission allowance trading program established under Section 39.264, Utilities Code. Prohibits the commission from issuing new allowances based on a permit issued under this section.

(f) Requires a person planning the modification of a facility previously permitted under this section to comply with Section 382.0518 before modifying.

(g) Authorizes the commission to adopt rules as necessary to implement and administer this section.

(h) Provides that a permit application under this section is subject to notice and hearing requirements as provided by Section 382.05191.

(i) Defines "natural-gas-fired electric generating facility." Authorizes a natural-gas-fired electric generating facility to burn fuel oil, provided that the emissions that occur from the facility when it is burning fuel oil will not exceed any applicable emissions limit in state or federal law.

Sec. 382.05186. AUTHORIZATION FOR PIPELINE FACILITIES. (a) Requires the commission by rule to establish the procedures for applications for existing processing, treating, compression, or pumping facilities described by Section 382.0518(g) connected to or part of a gathering or transmission pipeline.

(b) Authorizes the commission, based on a prioritization by the commission as necessary to meet local, regional, and statewide air quality needs related directly or indirectly to federal air quality standards, to require up to a 30 percent reduction of the hourly emission rate, in terms of grams per brake horsepower-hour, of nitrogen oxide and also to require up to a 30 percent reduction of the hourly emission rate, in terms of grams per brake horsepower-hour, of volatile organic compounds from reciprocating internal combustion engines subject to this section. Authorizes the commission to consider requiring up to a 30 percent reduction of the hourly emission rate of nitrogen oxide and also to consider requiring up to a 20 percent reduction of the hourly emission rate of volatile organic compounds from facilities other than reciprocating internal combustion engines that are connected to or part of a gathering or transmission pipeline.

Authorizes the commission by rule to designate counties or regions of the state where greater reductions in the hourly emission rate will be required than in other areas, but no more than 30 percent emissions reductions to be required in any area.

(c) Requires the commission to perform certain procedures.

(d) Requires facilities authorized by this section to be considered permitted under this chapter.

(e) Requires the commission to issue a permit under this section if the requirements of this section are met.

(f) Requires a person planning the modification of a facility previously permitted under this section to comply with Section 382.0518 before modifying.

(g) Authorizes the commission to adopt rules as necessary to implement and administer this section.

(h) Provides that a permit application under this section is subject to notice and hearing requirements as provided by Section 382.05191.

(i) Requires an applicant, if the applicant omits any relevant facts or submits incorrect information in an application, to submit the relevant facts or correct the information no later than 60 days after discovering the error. Authorizes the commission, if while processing the application it determines that additional information is necessary to evaluate or to take final action on the application, to request the information and set a reasonable deadline for a response. Provides that failure to comply with the deadline for the response will result in the application being returned to the applicant.

SECTION 4.07. Amends Section 382.05191, Health and Safety Code, as follows:

Sec. 382.05191. New heading: EMISSIONS REDUCTION PERMITS: NOTICE AND HEARING. (a) Requires an applicant for a permit or other authorization under Section 382.05183, Section 382.05185(c) or (d), Section 382.05186, or Section 382.0519 to publish notice of intent to obtain the permit in accordance with Section 386.056.

(b) Amends a statutory reference.

(c) Makes conforming changes.

(d) Authorizes a person affected by a decision of the commission to issue or deny an, rather than voluntary, emissions reduction permit to move for rehearing and entitles the person to judicial review under Section 382.032.

SECTION 4.08. Amends Section 382.05192, Health and Safety Code, as follows:

Sec. 382.05192. New heading: REVIEW AND RENEWAL OF EMISSIONS REDUCTION PERMITS. Makes conforming changes.

SECTION 4.09. (a) Amends Section 382.056, Health and Safety Code, by amending Subsections (a) and (g) and adding Subsections (q) and (r), as follows:

(a) Adds an exception. Makes conforming changes.

(g) Makes a conforming change.

(q) Requires the Texas Department of Health (department) to establish rules to ensure that a permit applicant complies with the notice requirement under Subsection (a).

(r) Sets forth situations to which this section does not apply.

(b) Provides that the changes in law relating to permit amendments made by Section 382.056, Health and Safety Code, as amended by this section, apply to an application for an amendment to a permit issued by the commission for a facility that may emit air contaminants that is pending before the commission on September 1, 2001, or filed with the commission on or after September 1, 2001.

SECTION 4.10. Amends Section 382.0621(d), Health and Safety Code, to provide that the fees under this subsection do not apply to a facility with a permit or a permit application pending under Section 382.05185(c). Provides that the fees under this subsection do not apply to a facility for which a letter expressing intent to authorize that facility is filed on or before September 1, 2002, or a permit application is timely filed. Requires, in the event that a letter of intent is not filed, or if a letter of intent is filed but a permit application is not subsequently timely filed, the fees due and owing for such facility to be deemed to have accrued since September 1, 2001, in the amounts set forth in this subsection. Requires the commission, on and after September 1, 2001, for a facility that is not subject to the requirement to obtain a permit under Section 382.0518(g) that does not have a permit application pending, to perform certain procedures.

SECTION 4.11. (a) Amends Chapter 5L, Water Code, by adding Section 5.5145, as follows:

Sec. 5.5145. EMERGENCY ORDER CONCERNING OPERATION OF ROCK CRUSHER OR CONCRETE PLANT WITHOUT PERMIT. Requires the commission to issue an emergency order under this subchapter, suspending operations of a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing and is required to obtain a permit under Section 382.0518, Health and Safety Code, and is operating without the necessary permit.

(b) Amends Section 7.052, Water Code, by adding Subsection (b), to establish the amount of the penalty for operating a rock crusher or a concrete plant that performs wet batching, dry batching, or central mixing, that is required to obtain a permit under Section 38.0518, Health and Safety Code, and that is operating without the required permit, as \$10,000. Provides that each day that a continuing violation occurs is a separate violation.

(d) Adds an exception.

(c) Makes application of the changes in law made to Sections 5.5145 and 7.052, Water Code, by this Act, prospective.

#### ARTICLE 5. ACCREDITATION OF ENVIRONMENTAL TESTING LABORATORIES

SECTION 5.01. Transfers Chapter 421, Health and Safety Code, as added by Chapter 447, Acts of the 76th Legislature, Regular Session, 1999, to Chapter 5, Water Code, and redesignates it as Subchapter R, to read as follows:

#### SUBCHAPTER R. ACCREDITATION OF ENVIRONMENTAL TESTING LABORATORIES

Sec. 5.801. New heading: DEFINITION. Defines “environmental testing laboratory.”

Sec. 5.802. New heading: ADMINISTRATION BY COMMISSION. Requires the commission, rather than the department, to adopt rules for the administration of the voluntary environmental testing laboratory accreditation program established by this chapter. Requires the program to be consistent with national accreditation standards approved by the National

Environmental Laboratory Accreditation Program.

Sec. 5.803. (a) Requires an environmental testing laboratory, in order to be accredited under the accreditation program adopted under this subchapter, rather than chapter, to submit an application to the commission on a form prescribed by the commission, accompanied by the accreditation fee. Requires the application to contain the information that the commission requires. Makes conforming changes.

(b) Requires the commission by rule to establish a schedule of reasonable accreditation fees designed to recover the costs of the accreditation program, including certain costs.

Sec. 5.804. (a) Makes conforming changes.

(b) Authorizes the commission by rule to provide for the accreditation of an environmental testing laboratory that is accredited or license in another state by an authority that is approved by the National Environmental Laboratory Accreditation Program. Makes conforming changes.

Sec. 5.805. Makes conforming changes.

Sec. 5.806. Makes conforming changes.

Sec. 5.807. ENVIRONMENTAL TESTING LABORATORY ACCREDITATION ACCOUNT. (a) Requires all fees collected under this subchapter to be deposited to the credit of the environmental testing laboratory accreditation account and authorizes the fees to be appropriated to the commission only for paying the costs of the accreditation program.

#### ARTICLE 6. CERTIFICATION OF WATER TREATMENT SPECIALISTS

SECTION 6.01. Amends Section 3A, The Plumbing License Law (Article 6243-101, V.T.C.S.), as follows:

Sec. 3A. (a) Requires the commission, rather than the commissioner of health or his designee, to certify persons as being qualified for certain work. Requires the commission, rather than the Board of Health, to set certain standards.

(b) Makes conforming changes.

(c) Makes a conforming change.

#### ARTICLE 7. REGISTRATION OF IRRIGATORS AND ON-SITE SEWAGE DISPOSAL SYSTEM INSTALLERS.

SECTION 7.01. Amends Section 34.008(a), Water Code, as follows:

(a) Authorizes the commission to waive any prerequisite, rather than certify, for obtaining registration for an applicant who is registered as a licensed irrigator or licensed installer by another jurisdiction with which this state has a reciprocity agreement. Authorizes the commission to make an agreement, subject to the approval of the governor, with another state to allow to allow for registration by reciprocity. Deletes text regarding requirements for registration.

SECTION 7.02. Amends Section 34.009(f), Water Code, to require the commission, for the year in which the expiration date is changed, to prorate registration, rather than renewal, fees on a monthly basis so that each registrant pays only that portion of the registration fee that is allocable to the number

of months during which the registration is valid. Provides that on renewal of the registration on the new expiration date, the total registration renewal fee is due. Deletes text regarding fees payable on August 31.

SECTION 7.03. Amends section 366.076, Health and Safety Code, as follows:

Sec. 366.076. REGISTRATION RENEWAL. Authorizes the commission by rule to adopt a system under which registrations expire on various dates during the year. Requires the commission, for each year in which the registration expiration date is changed, to prorate registration fees on a monthly basis so that each registrant pays only that portion of the registration fee that is allocable to the number of months during which the registration is valid. Provides that on renewal of the registration on the new expiration date, the total registration renewal fee is payable. Deletes text regarding renewal of registrations.

#### ARTICLE 8. REGULATION OF SOLID WASTE

SECTION 8.01. Amends Chapter 361C, Health and Safety Code, by adding Section 361.1125, as follows:

Sec. 361.1125. IMMEDIATE REMEDIATION OR REMOVAL OF HAZARDOUS SUBSTANCE AT SCRAP TIRE SITE. (a) Defines “scrap tire” and “scrap tire site.”

(b) Authorizes the commission, if the executive director finds after investigation that there exists a release or threat of release of a hazardous substance at a scrap tire site and immediate action is appropriate to protect human health and the environment, with money available from money appropriated to the commission, to undertake immediate remedial or removal action at the scrap tire site to achieve the necessary protection.

(c) Provides that the reasonable expenses of immediate remedial or removal action by the commission under this section are recoverable from the persons described in Section 361.271, and authorizes the state to bring an action to recover the commission’s reasonable expenses.

SECTION 8.02. Amends Chapter 361C, Health and Safety Code, by adding Section 361.119, as follows:

Sec. 361.119. REGULATION OF CERTAIN FACILITIES AS SOLID WASTE FACILITIES. (a) Requires the commission by rule to ensure that a solid waste processing facility is regulated as a solid waste facility under this chapter and is not allowed to operate unregulated as a recycling facility.

(b) Provides that a facility and the operations conducted and materials handled at the facility are not subject to regulation under rules adopted under this section if the owner or operator of the facility demonstrates that certain conditions are met.

SECTION 8.03. Amends Chapter 361C, Health and Safety Code, by adding Section 361.120, as follows:

Sec. 361.120. NOTICE OF HEARING AND REQUIREMENTS FOR REOPENING OF CLOSED OR INACTIVE LANDFILLS. (a) Provides that this section applies to any municipal solid waste landfill facility permitted by the commission or any of its predecessor or successor agencies that have either stopped accepting waste, or only accepted waste under an emergency authorization, for a period of five years or longer. Provides that this section does not apply to any solid waste landfill facility that has received a permit but never received waste.

(b) Requires the commission or its successor agencies to allow any municipal solid waste landfill facility covered by this section to be reopened and to accept waste again only if the permittee demonstrates compliance with all current state, federal, and local requirements, including but not limited to the requirements of Subtitle D of the federal Resource Conservation and Recovery Act and implementing Texas state regulations.

(c) Requires the reopening of any such facility, except as provided in Subsection (d), to be considered a major amendment as such is defined by commission rules and to subject the permittee to all of the procedural and substantive obligations imposed by the rules applicable to major amendments.

(d) Provides that this section does not apply to any municipal solid waste landfill facility that has received an approved modification to its permit as of the effective date of this section.

SECTION 8.04. Amends Chapter 361F, Health and Safety Code, by adding Section 361.1875, as follows:

Sec. 361.1875. EXCLUSION OF CERTAIN POTENTIALLY RESPONSIBLE PARTIES. Prohibits the commission from naming a person as a responsible party for an enforcement action or requiring a person to reimburse remediation costs for a site if the commission has conducted an investigation of a site owned or operated by a person and made certain determinations as a result of the investigation.

SECTION 8.05. (a) Amends Chapter 361C, Health and Safety Code, by adding Section 361.121, as follows:

Sec. 361.121. LAND APPLICATION OF CERTAIN SLUDGE; PERMIT REQUIRED. (a) Defines “Class B sludge” and “land application unit.”

(b) Prohibits a person from applying Class B sludge on a land application unit without a permit issued by the commission under this section.

(c) Requires the commission to provide for notice and the opportunity for a public hearing on an application or renewal for a permit under this section in accordance with Chapter 5M, Water Code.

(d) Requires the commission to prescribe the conditions under which it issued each permit in each permit, including certain information.

(e) Provides that a permit does not become a vested right in the permit holder.

(f) Authorizes a permit to be issued under this section for a term set by the board not to exceed six years from the date of issuance.

(g) Requires the commission to charge a fee for the issuance of a permit under this section in an amount not less than \$1,000 and not more than \$5,000. Requires the commission, in determining the fee under this subsection, to consider the amount of sludge to be applied.

(h) Requires the commission by rule to require an applicant for a permit under this section to submit with the application, at a minimum, certain information.

(i) Authorizes the commission to expand the definition of Class B sludge only by expanding the definition to include sludge that meets more stringent pathogen

reduction requirements.

(b) Provides that Subsection (a) of this section takes effect on September 1, 2001, and applies only to Class B sludge, as defined by that section, applied to or disposed of on a land application unit, as defined by that section, on or after that date. Provides that Class B sludge applied or disposed of before the effective date of this Act is covered by the law in effect on the date the sludge was applied, and the former law is continued in effect for that purpose.

SECTION 8.06. Amends Chapter 361N, Health and Safety Code, by adding Section 361.431, as follows:

Sec. 361.431. PRIORITIZATION OF NEW TECHNOLOGY. (a) Requires a political subdivision or solid waste producer to give preference in contracting for the disposal of solid waste to license or permit holders who uses processes and technologies that reduce the volume of sludge and hazardous waste that is being disposed of through beneficial use land application, landfill disposal, and other methods.

(b) Provides that technology that reduces the volume of solid waste, destroys the solid waste, or renders the solid waste inert is preferred to methods referred to under Subsection (a), in order to minimize the possibility of hazardous materials entering the state's air, waterways, and water sources.

SECTION 8.07. Amends Chapter 801H, Occupations Code, by adding Section 801.361, as follows:

Sec. 801.361. DISPOSAL OF ANIMAL REMAINS. (a) Sets forth conditions under which a veterinarian is authorized to dispose of the remains of an animal by burial or burning.

(b) Prohibits the commission, notwithstanding any other law, from adopting a rule that prohibits conduct authorized by this section.

(c) Provides that this section applies only in a county with a population of less than 10,000.

## ARTICLE 9. EDWARDS AQUIFER

SECTION 9.01. Defines "Edwards Aquifer."

SECTION 9.02. Amends Chapter 26B, Water Code, by adding Section 26.050, as follows:

Sec. 26.050. Requires the commission to make available to the public digital copies of the Recharge, Transition, and Contributing Zone boundary lines, when they become available.

SECTION 9.03. Amends Chapter 26B, Water Code, by adding Section 26.051, as follows:

Sec. 26.051. Requires the commission to report annually on the Edwards Aquifer Program expenses and allocation of fees.

SECTION 9.04. Amends Chapter 26D, Water Code, by adding Section 26.137, as follows:

Sec. 26.137. Requires the commission to provide for a 30-day comment period in the review process for Edwards Aquifer Protection Plans in the Contributing Zone of the Edwards Aquifer as provided in 30 T.A.C. Section 213.4(a)(2).

## ARTICLE 10. REGULATION OF CERTAIN ANIMAL FEEDING OPERATIONS

SECTION 10.01. Amends Section 26.001, Water Code, to redefine “agricultural waste” and “pollutant.”

SECTION 10.02. Amends Chapter 26, Water Code, by adding Subchapter L, as follows:

#### SUBCHAPTER L. PROTECTION OF CERTAIN WATERSHEDS

Sec. 26.501. DEFINITIONS. Defines “concentrated animal feeding operation,” “new concentrated animal feeding operation,” and “historical waste application field.”

Sec. 26.502. APPLICABILITY. Provides that this subchapter applies only in a major sole source impairment zone. Defines “major sole source impairment zone.”

Sec. 26.503. REGULATION OF CERTAIN CONCENTRATED ANIMAL FEEDING OPERATION WASTES. (a) Authorizes the commission to authorize the construction or operation of a new concentrated animal feeding operation, or an increase in the number of animals confined under an existing operation, only by a new or amended individual permit.

(b) Requires the individual permit issued or amended under Subsection (a) to meet certain criteria.

(c) Authorizes the commission to approve a detailed nutrient utilization plan approved by the commission that is developed by a professional agronomist or soil scientist certified by the American Society of Agronomy only if the commission finds that another person listed by Subsection (b)(2)(E)(ii) cannot develop a plan in a timely manner.

(d) Prohibits the commission from issuing a general permit to authorize the discharge of agricultural waste into or adjacent to waters in this state from an animal feeding operation if such waters are within a major sole source impairment zone.

(e) Authorizes the commission and employees or agents of the commission to enter public or private property at any reasonable time for activities related to the purposes of this subchapter. Authorizes the commission to enforce this authority as provided by Section 7.032, 7.051, 7.052, or 7.105.

(f) Provides that this section does not limit the commission's authority to include in an individual or general permit under this chapter provisions necessary to protect a water resource in this state.

Sec. 26.504. WASTE APPLICATION FIELD SOIL SAMPLING AND TESTING. (a) Requires the operator of a concentrated animal feeding operation to contract with a person described by Section 26.503(b)(2)(E)(ii) selected by the executive director to collect one or more representative composite soil samples from each waste application field. Requires the operator to have sampling performed under this subsection not less often than once every 12 months.

(b) Requires each sample collected under this section to be tested for phosphorus and any other nutrient designated by the executive director. Requires the test results to be made available to the executive director and the operator of the concentrated animal feeding operation. Provides that the test results are public records of the commission.

(c) Requires the operator, if the samples tested under Subsection (b) show a phosphorus level in the soil of more than 500 parts per million, to file with the commission a new or amended nutrient utilization plan with a phosphorus reduction



component that is certified as acceptable by a person listed by Section 26.503(b)(2)(E)(ii).

(d) Requires the operator, if the samples tested under Subsection (b) show a phosphorus level in the soil of more than 200 parts per million but not more than 500 parts per million, to perform certain procedures.

(e) Provides that the owner or operator of a waste application field required by this section to have a nutrient utilization plan with a phosphorus reduction component for which the results of tests performed on composite soil samples collected 12 months or more after the plan is filed do not show a reduction in phosphorus is subject to enforcement for a violation of this subchapter at the discretion of the executive director. Requires the executive director, in determining whether to take an enforcement action under this subsection, to consider any explanation presented by the owner or operator regarding the situation.

(f) Requires the commission to adopt rules to implement this section. Requires the rules to provide for the scheduling and manner of the required soil testing and the form, content, and deadlines for plans required under this section.

#### ARTICLE 11. CONTAINMENT SYSTEMS REQUIRED FOR CERTAIN UNDERGROUND STORAGE TANKS

SECTION 11.01. Amends Chapter 26I, Water Code, by adding Section 26.3476, as follows:

Sec. 26.3476. SECONDARY CONTAINMENT REQUIRED FOR TANKS LOCATED OVER CERTAIN AQUIFERS. (a) Defines "secondary containment."

(b) Requires an underground storage tank system, at a minimum, to incorporate a method for secondary containment if the system is located in certain areas.

(c) Provides that Section 26.3475(e) applies to an underground storage tank system that is subject to this section as if a violation of this section were a violation of Section 26.3475.

#### ARTICLE 12. REGULATION AND REMEDIATION OF UNDERGROUND AND ABOVEGROUND STORAGE TANKS

SECTION 12.01. Amends Section 26.342, Water Code, to define "owner."

SECTION 12.02. Amends Sections 26.346(a) and (c), Water Code, as follows:

(a) Requires the commission to require that an owner or operator of an underground storage tank used for storing motor fuels (as defined in commission rule) complete an annual underground storage tank compliance certification form.

(c) Requires the commission to issue to each person who owns or operates a petroleum storage tank that is registered under this section a registration and compliance confirmation certificate that includes a brief description of certain responsibilities.

SECTION 12.03. Amends Section 26.351, Water Code, by adding Subsections (f), (g), and (h), as follows:

(f) Requires the person performing corrective action under this section, if the release

was reported to the commission on or before December 22, 1998, to meet certain deadlines.

(g) Provides that for persons regulated under Subsection (f), their failure to comply with any deadline listed in Subsection (f) is a violation of this section, and the executive director is authorized to enforce such a violation under Chapter 7 of this code.

Requires a missed deadline that is the fault of the person, his agent, or contractor to also eliminate reimbursement eligibility as described by Section 26.3571(b). Provides that if it can be established to the executive director's satisfaction that the deadline was not missed at the fault of the person, his agent, or contractor, then reimbursement eligibility is not affected under this subsection.

(h) Provides that a person's liability to perform corrective action under this chapter is unrelated to any possible reimbursements the person to be eligible for under Section 26.3571.

SECTION 12.04. Amends Section 26.3512(b), Water Code, to prohibit funds from the petroleum storage tank remediation account from being used to pay, and provides that the owner or operator of a petroleum storage tank ordered by the commission to take corrective action is responsible for payment of certain expenses.

SECTION 12.05. Amends Section 26.355(d), Water Code, to provide that this limitation is not applicable to cost recovery actions initiated by the executive director at sites where the executive director has determined that the owner or operator is in violation of Section 26.351(f).

SECTION 12.06. Amends Section 26.3571, Water Code, by amending Subsection (b) and adding Subsections (g) and (h), as follows:

(b) Requires a person, in order to be an eligible owner or operator for purposes of this subchapter, to not have missed any of the deadlines described in Section 26.351(f) and to meet certain conditions.

(g) Provides that an otherwise eligible owner or operator who misses a deadline referenced in Subsection (b) is considered ineligible for reimbursement under this subchapter.

(h) Provides that nothing in this section reduces the liability to perform corrective action created under Section 26.351 and other parts of this subchapter.

SECTION 12.07. Amends Section 26.3572(b), Water Code, to require the commission to perform certain procedures.

SECTION 12.08. Amends Section 26.3573, Water Code, by amending Subsection (d) and adding Subsections (r) and (s), as follows:

(d) Authorizes the commission to use the money in the petroleum storage tank remediation account to pay certain expenses.

(r) Prohibits the petroleum storage tank remediation account from being used to reimburse any person for corrective action performed after September 1, 2005.

(s) Prohibits the petroleum storage tank remediation account from being used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2006.

SECTION 12.09. Amends Sections 26.3574(b), (x), (y), (z), and (aa), Water Code, as follows:

(b) Requires each operator of a bulk facility on withdrawal from bulk of a petroleum product to collect from the person who orders the withdrawal a fee in a certain amount.

(x) Requires the commission to report to the Legislative Budget Board at the end of each fiscal quarter on the financial status of the petroleum storage tank remediation account. Deletes text regarding deposits made to the general revenue fund.

(y) Deletes subsection regarding unobligated balance in the petroleum storage tank remediation account.

(z) Deletes subsection regarding unobligated balance.

(aa) Redesignates text to Subsection (x) and deletes subsection.

SECTION 12.10. Amends Sections 26.359 and 26.361, Water Code, as follows:

Sec. 26.359. Defines “local government.”

(b) Provides that a regulation or ordinance adopted by a local government that imposes standards for certain criteria of underground storage tanks is not valid. Deletes text regarding unified statewide program. Deletes text regarding a regulation or ordinance. Makes a nonsubstantive change.

(c) Provides that this section does not apply to a regulation or ordinance in effect as of January 1, 2001.

Sec. 26.361. Provides that notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2006, rather than 2003. Prohibits the commission, on or after September 1, 2006, rather than 2003, from using money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action. Deletes text regarding the commission collecting a fee.

## ARTICLE 13. WATER RIGHTS

SECTION 13.01. Amends Section 11.142, Water Code, to provide that a person who temporarily stores more than 200 acre-feet of water in a dam or reservoir described by this subsection is not required to obtain a permit for the dam or reservoir if the person can demonstrate that the person has not stored in the dam or reservoir more than 200 acre-feet of water on average in any 12-month period. Authorizes a person, without obtaining a permit, to construct on the person’s property in an unincorporated area a dam or reservoir with normal storage of not more than 200 acre-feet of water for fish and wildlife purposes. Modifies a statutory reference.

SECTION 13.02. Amends Section 11.173(b), Water Code, to modify the circumstances under which a permit, certified filing, or certificate of adjudication or a portion of a permit, certified filing, or certification of adjudication is exempt from cancellation under this section.

## ARTICLE 14. ENVIRONMENTAL HEALTH

SECTION 14.01. Amends Title 5, Health and Safety Code, by adding Subtitle G, as follows:

### SUBTITLE G. ENVIRONMENTAL HEALTH

#### CHAPTER 427. TEXAS ENVIRONMENTAL HEALTH INSTITUTE

Sec. 427.001. Defines “board,” “commission,” “department,” “federal superfund site,” “immediately surrounding area,” and “institute.”

Sec. 427.002. TEXAS ENVIRONMENTAL HEALTH INSTITUTE. Requires the commission to enter into an agreement with the department to jointly establish the Texas Environmental Health Institute (institute) in order to examine ways to identify, treat, manage, prevent, and reduce health problems associated with environmental contamination.

Sec. 427.003. PURPOSES. Sets forth the purposes of the institute.

Sec. 427.004. PROGRAMS. Authorizes the commission and the department to establish at the institute any programs necessary to carry out the institute’s established purposes under this chapter. Authorizes the commission and the board to contract with public or private entities to carry out the institute’s purposes.

Sec. 427.005. GIFTS AND GRANTS. Authorizes the commission and the department to accept and administer gifts and grants to fund the institute from any individual, corporation, trust, or foundation or the United States, subject to limitations or conditions imposed by law.

Sec. 427.006. PILOT PROJECT. (a) Requires the institute to conduct a pilot project at the RSR West Dallas site and at the Cadillac Heights site. Authorizes the project to include health screenings and assessments.

(b) Authorizes the institute to enter into a memorandum of understanding with the commission and the department for toxic screening, pollutant assessment, toxicologist services, or any other appropriate service to be provided by the agencies, as necessary.

(c) Requires the institute to use information gathered through the pilot project to assist in developing its plan for implementing the institute’s purposes under this chapter.

(d) Requires the pilot project to be conducted for two years beginning on September 1, 2001. Requires the institute to submit to the 78th Legislature a report on the results of the pilot project and the development and implementation of the statewide plan and the further organization of the institute.

## ARTICLE 15. OTHER REGULATORY PROVISIONS

SECTION 15.01. Amends Chapter 13K, Water Code, by adding Section 13.4115, as follows:

Sec. 13.4115. ACTION TO REQUIRE ADJUSTMENT TO CONSUMER CHARGE; PENALTY. Authorizes the commission, in regard to a customer complaint arising out of a charge made by a retail public utility, if the executive director finds that the utility has failed to make the proper adjustment to the customer’s bill after the conclusion of the complaint process established by the commission, to issue an order requiring the utility to make the adjustment. Provides that failure to comply with the order within 15 days of receiving the order is a violation for which the commission may impose an administrative penalty under Section 13.4151.

SECTION 15.02. Amends Section 26.028, Water Code, by adding Subsection (h), to require a public hearing on an application for a permit for a domestic wastewater treatment operation proposing secondary or greater treatment and no discharge of pollutants in water of the state to be held in the same manner as provided by Section 382.0561, Health and Safety Code, for an application under that section.

SECTION 15.03. Amends Section 51.149, Water Code, to provide that, notwithstanding Section

49.108(e), no approval other than that specified in Subsection (c) need be obtained in order for a contract between a district and a municipality to be valid, binding, and enforceable against all parties to the contract. Authorizes a district, after approval by a majority of the electors voting at an election conducted in the manner of a bond election, to make payments under a contract from taxes for debt that does not exceed 30 years.

SECTION 15.04. Amends Chapter 366D, Health and Safety Code, by adding Section 366.0512, as follows:

Sec. 366.0512. MULTIPLE TREATMENT SYSTEMS. Authorizes a multiple system of treatment devices and disposal facilities to be permitted as an on-site disposal system under this chapter if the system meets certain criteria.

#### ARTICLE 16. CONFORMING AMENDMENTS

SECTION 16.01. Amends Section 5.174(a), Water Code, to make a conforming change.

SECTION 16.02. Amends Section 11.323(a), Water Code, to make a conforming change.

SECTION 16.03. Amends Section 26.028(d), Water Code, to make a conforming change.

SECTION 16.04. Amends Section 26.0281, Water Code, as follows:

Sec. 26.0281. New heading: CONSIDERATION OF COMPLIANCE HISTORY. Requires the commission, in considering the issuance, amendment, or renewal of a permit to discharge effluent comprised primarily of sewage or municipal waste, to consider the compliance history of the applicant and its operator under the method for evaluating compliance history developed by the commission under Section 5.754. Deletes text regarding adjudication decision and proceeding. Deletes text regarding laws governing waste discharge.

SECTION 16.05. Amends Section 26.040(h), Water Code, to make conforming changes.

SECTION 16.06. Amends Section 27.051, Water Code, by amending Subsections (d) and (e), and adding Subsection (h), as follows:

(d) Requires the commission, in determining if the use or installation of an injection well for the disposal of hazardous waste is in the public interest under Subsection (a)(1) rather than of this section, to consider, but to not be limited to the consideration of certain criteria.

(e) Requires the commission to establish a procedure for preparing summaries of the applicant's compliance history consistent with Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. Deletes text regarding preparation of compliance summaries. Provides that in accordance with this subsection, Sections 5.753 and 5.754, and rules adopted and procedures developed under those sections, evidence of the compliance performance of an applicant for an injection well may be offered by the executive director at a hearing on the application and may be admitted into evidence, subject to the rules of evidence.

(h) Requires the commission, in determining whether the use or installation of an injection well is in the public interest under Subsection (a)(1), to consider the compliance performance of the applicant in accordance with Subsection (e) and Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections.

SECTION 16.07. Amends Section 361.020(d), Health and Safety Code, to require the commission in developing a comprehensive statewide strategic plan to consult with certain persons or committees.

SECTION 16.08. Amends Sections 361.084(a) and (c), Health and Safety Code, as follows:

- (a) Requires the commission by rule to establish a procedure to prepare compliance summaries relating to the applicant's solid waste management activities in accordance with the method for evaluating compliance history developed by the commission under Section 5.754, Water Code.
- (c) Deletes a time designation of the preceding five years in regard to noncompliance with statutes for a solid waste management facility permit.

SECTION 16.09. Amends Section 361.088(f), Health and Safety Code, to require the commission, notwithstanding Subsection (e), if it determines that an applicant's compliance history under the method for evaluating compliance history developed by the commission under Section 5.754, Water Code, raises an issue regarding the applicant's ability to comply with a material term of its permit, to provide an opportunity to request a contested case hearing.

SECTION 16.10. Amends Sections 361.089(a), (e), and (f), Health and Safety Code, as follows:

- (a) Authorizes the commission, for good cause, to deny or amend a permit it issues or has authority to issue for certain reasons. Deletes text regarding a violation of this chapter.
- (e) Authorizes the commission to deny an original or renewal permit if certain findings are made.
- (f) Requires the commission, before denying a permit under this section, to make certain findings regarding the applicant's history.

SECTION 16.11. Amends Section 382.0518(c), Health and Safety Code, to make conforming changes.

SECTION 16.12. Amends Section 382.055(d), Health and Safety Code, to amend the factors required to be considered by the commission in determining whether and under which conditions a preconstruction permit should be renewed.

SECTION 16.13. Amends Section 382.056(o), Health and Safety Code, to make conforming changes.

#### ARTICLE 17. TRANSITIONS; EFFECTIVE DATE

SECTION 17.01. CHANGE OF AGENCY NAME. Sets forth provisions regarding the commission's name change to the Texas Department of Environmental Quality.

SECTION 17.02. TRANSFER OF SAFE DRINKING WATER LABORATORY CERTIFICATION PROGRAM. Sets forth provisions for the transfer of the safe drinking water laboratory certification program from the department to the commission.

SECTION 17.03. TRANSFER OF ENVIRONMENTAL TESTING LABORATORY CERTIFICATION PROGRAM. Sets forth provisions for the transfer of the environmental testing laboratory certification program from the department to the commission.

SECTION 17.04. CERTIFICATION OF WATER TREATMENT SPECIALISTS. Sets forth provisions for the transfer of the certification of water treatment specialists from the department to the commission.

SECTION 17.05. PERFORMANCE-BASED REGULATION. Sets forth provisions regarding performance-based regulation by the commission.

SECTION 17.06. FEES. Sets forth provisions regarding commission fees.

SECTION 17.07. REGULATORY FLEXIBILITY. Sets forth provisions regarding regulatory flexibility.

SECTION 17.08. COMMISSIONER TRAINING. Sets forth provisions regarding commissioner training requirements.

SECTION 17.09. EXECUTIVE DIRECTOR. Sets forth guidelines pertaining to the executive director.

SECTION 17.10. INITIATION OF ACTION ON CITIZEN INFORMATION. Sets forth provisions regarding initiation of enforcement action by the commission.

SECTION 17.11. ADOPTION OF RULES REGARDING REGULATION OF CERTAIN FACILITIES AS SOLID WASTE FACILITIES. Requires the commission to adopt rules to implement Section 361.119, Health and Safety Code.

SECTION 17.12. EMISSIONS EVENTS. Sets forth the purpose of Sections 382.0215 and 382.0216, Health and Safety Code, as added by this Act.

SECTION 17.13. CONTAINMENT SYSTEMS REQUIRED FOR CERTAIN UNDERGROUND STORAGE TANKS. Makes application of the change in law made in Section 26.3476, Water Code, prospective.

SECTION 17.14. Requires the commission to review the permitting process relating to air source contaminants from concrete batch plant facilities and make recommendations to certain entities as to its findings. Requires the commission to consider certain matters in the review. Authorizes the commission to utilize or contract with outside sources in order to meet the requirements of this section.

SECTION 17.15. EFFECTIVE DATE. Effective date: September 1, 2001, except as otherwise provided by this Act.