

BILL ANALYSIS

Senate Research Center
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S.B. 1858
By: Armbrister
Natural Resources
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1858 clarifies the relative roles of different levels of government relating to development and enforcement of water pollution control and abatement programs. It allows local governmental entities to enforce such programs adopted before June 1, 2005, only relating to compliance with the Texas Commission on Environmental Quality's rules, standards, and practices relating to pollution and degradation programs. S.B. 1858 also clarifies that local governments do not have independent authority to regulate water quality, issue permits, or establish standards or practices relating to water quality.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 2 (Section 26.177, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 26.177, Water Code, to read as follows:

Sec. 26.177. WATER POLLUTION CONTROL DUTIES OF LOCAL GOVERNMENTS.

SECTION 2. Amends Sections 26.177(a), (b), (c), (d), (f), and (g), Water Code, as follows:

(a) Authorizes a local government, notwithstanding other law, to establish a water pollution control and abatement program for the territorial area of the local government on or after June 1, 2005, and enforce a water pollution control and abatement program adopted before June 1, 2005, only to ensure compliance with the Texas Commission on Environmental Quality (TCEQ) pollution and degradation standards and practices and with TCEQ rules. Provides that a local government does not have independent authority to regulate water quality, issue permits, or establish standards or practices for water quality. Makes conforming changes.

(b) Requires the water pollution control and abatement program of a local government to encompass the entire territorial area of the local government. Authorizes a water pollution control and abatement program adopted by a city to include only those areas within its extraterritorial jurisdiction that are not located within a county that has adopted a water pollution control and abatement program and that in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction.

Provides that if a city adopts a water pollution control and abatement program and a county later adopts a water pollution control and abatement program that includes any part of the extraterritorial jurisdiction included within the city's program, requires that portion of the city's extraterritorial jurisdiction automatically to be removed from the city's program and to be subject only to the county's water pollution control and abatement program. Requires a local government to include in the program the services and functions as may be reasonably required by TCEQ to ensure compliance with pollution and degradation standards and practices adopted by TCEQ, including specific services and functions. Makes conforming changes.

(c) Provides that a water pollution control and abatement program is not effective, and is prohibited from being enforced, until TCEQ approves the program. Requires, rather than authorizes, TCEQ to adopt rules providing the criteria for the establishment of those programs and the review and approval of those programs.

(d) Makes conforming changes.

(f) Makes conforming changes.

(g) Makes conforming changes.

SECTION 3. Effective date: upon passage or September 1, 2005.