

## BILL ANALYSIS

Senate Research Center

S.B. 1855  
By: Gallegos  
Natural Resources  
4/17/2007  
As Filed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Certain areas of Texas have been identified by the Air Pollution Watchlist (watchlist) of the Texas Commission on Environmental Quality (TCEQ) as having amounts of particular cancer-causing chemicals several times higher than the acceptable safety level. There are currently 22 areas across Texas identified on the watchlist, nine of which are in or near the greater Houston region.

As proposed, S.B. 1855 requires the TCEQ to implement a pilot program under which TCEQ is required to designate certain geographic areas in this state as toxic hotspots. This bill sets specific standards and timetables for requirements in the pilot program.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resources Conservation Commission (Texas Commission on Environmental Quality) in SECTION 1 (Section 382.362, Health and Safety Code) of this bill.

### SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality (TNRCC), as the successor agency to TNRCC.]

SECTION 1. Amends Chapter 382, Health and Safety Code, by adding Subchapter I, as follows:

#### SUBCHAPTER I. TOXIC HOTSPOTS PILOT PROGRAM

Sec. 382.351. DEFINITIONS. Defines "ambient air toxic standard," "priority toxic air contaminant," and "toxic hotspot."

Sec. 382.352. DESIGNATION OF TOXIC HOTSPOTS. (a) Requires the Texas Natural Resources Conservation Commission (TRNCC) to implement a pilot program under which TNRCC is required to designate certain geographic areas in this state as toxic hotspots.

(b) Requires TNRCC to designate an area as a toxic hotspot or conduct modeling or monitoring of that area to determine whether the area should be designated as a toxic hotspot under certain circumstances.

(c) Requires TNRCC to consider certain conditions in establishing the geographic boundaries of a toxic hotspot.

(d) Requires TNRCC, in setting the geographic boundaries for toxic hotspots, to make the hotspots no larger than necessary to encompass the geographic areas where the public is exposed to one or more priority toxic air contaminants at levels exceeding an ambient air toxic standard.

Sec. 382.353. PRIORITY TOXIC AIR CONTAMINANTS. Requires TNRCC to designate toxic hotspots for the certain priority toxic air contaminants by December 31, 2007.

Sec. 382.354. AMBIENT AIR TOXIC STANDARDS. (a) Requires TNRCC to establish certain ambient air toxic standards for the priority toxic air contaminants, except as provided by Subsection (b).

(b) Authorizes TNRCC to perform certain tasks, notwithstanding Subsection (a).

Sec. 382.357. ACHIEVEMENT OF AMBIENT AIR TOXIC STANDARDS. (a) Requires TNRCC to take cooperative actions necessary to ensure that the ambient air concentrations of priority toxic air contaminants in toxic hotspots are below the ambient air toxic standards. Requires TNRCC to take any additional actions necessary which may include certain requirements if cooperative actions do not produce the desired results provided by the schedules in this subchapter.

(b) Requires TNRCC to consider and give credit for reductions in emissions of priority toxic air contaminants made by a facility after the effective date of this legislation pursuant to an agreement with a local government as long as the reductions are quantifiable, enforceable, and in excess of any reductions otherwise required by state or federal law in requiring reductions from specific facilities.

Sec. 382.358. SCHEDULE FOR ACHIEVING AMBIENT AIR TOXIC STANDARDS. Requires TNRCC to categorize each toxic hotspot to which this subsection applies as high priority, medium priority, or low priority. Requires TNRCC to designate at least one-third of the toxic hotspots as high priority, and at least one-half of the remaining toxic hotspots as medium priority. Requires TNRCC to ensure that the ambient air toxic standards for the toxic hotspots are achieved according to a certain schedule.

Sec. 382.360. PUBLIC ACCESS AND COMMENT. (a) Requires TNRCC to maintain certain information on TNRCC's Internet website.

(b) Requires TNRCC to establish procedures for members of the public to receive notice of and an opportunity to comment on an action taken by TNRCC concerning certain actions.

(c) Requires TNRCC to provide a public comment period of at least 30 days before TNRCC establishes or amends an ambient air toxic standard pursuant to 382.354(b). Requires justification for an amendment to be included when TNRCC publishes notice of a proposed amendment to a standard.

(d) Requires TNRCC's Internet website to describe the procedures that a member of the public may follow to receive notice, provide comments, petition for designation of an area as a toxic hotspot, or otherwise participate in the pilot toxic hotspots program under this subchapter.

Sec. 382.361. REPORTS TO THE LEGISLATURE. (a) Requires TNRCC to include in its annual enforcement reports each year through 2014 information regarding its progress under the pilot toxic hotspots program. Requires such information to include the hotspots designated for each priority toxic air contaminant, the steps taken to attain the ambient air toxic standards in each hotspot, and the progress made in attaining such standards.

(b) Requires TNRCC to report to the legislature regarding certain information by December 2009.

#### SUBCHAPTER J. EXPANDED TOXIC HOTSPOT PROGRAM

Sec. 382.362. RULEMAKING. Requires TNRCC to adopt rules expanding the toxic hotspot pilot program by December 2011.

Sec. 382.363. PRIORITY TOXIC AIR CONTAMINANTS. Requires the rules to include procedures and a public process for listing priority toxic air contaminants in addition to those listed in Section 382.353. Requires additional priority toxic air

contaminants to include chromium VI, ethylene dibromide, acrylonitrile, acrolein, chlorine, and hexamethylene diisocyanate.

Sec. 382.364. AMBIENT AIR TOXIC STANDARDS. (a) Requires the rules to include procedures and a public process for setting ambient air toxic standards for priority toxic air contaminants at levels that do not result in appreciable risks of deleterious health effects.

(b) Requires TNRCC to establish a certain ambient air toxic standard for each priority toxic air contaminant that is a carcinogen.

(c) Authorizes TNRCC, after December 31, 2015, to continue to utilize an ambient air toxic standard as specified in Section 382.364(b)(1) as long as TNRCC demonstrates that emissions of the relevant priority toxic air contaminant from sources outside TNRCC's jurisdiction prevent attainment of a standard as specified in Section 382.364(b)(2).

Sec. 382.365. TOXIC HOTSPOTS. Requires the rules to include procedures and a public process for designating as toxic hotspots areas that exceed one or more of the ambient air toxic standards.

Sec. 382.366. ACHIEVEMENT OF AMBIENT AIR TOXIC STANDARDS.

(a) Requires the rules to include procedures and a public process for developing plans, source-specific requirements, and deadlines for bringing all toxic hotspots into compliance with applicable ambient air toxic standards.

(b) Authorizes plans to include tightening emission limits in existing permits for priority toxic air contaminants, requiring offsets for new emissions of priority toxic air contaminants at amounts greater than the amount to be emitted by the new source, and requiring specific controls or best management practices to reduce emissions of priority toxic air contaminants.

SECTION 2. Effective date: September 1, 2007.