

BILL ANALYSIS

Senate Research Center

C.S.H.B. 3544
By: Lucio III (Fraser)
State Affairs
5/19/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislation calls on the Texas Commission on Environmental Quality (TCEQ) to utilize electronic mail (e-mail) to send out information, including notices, orders, and decisions issued or sent by TCEQ. This bill also provides that an e-mail address from a member of the public that is provided for receiving notices, orders, or decisions from a governmental body is not considered confidential and nondisclosable. Finally this legislation provides that if public information exists in electronic or magnetic medium, then the requestor may request a copy. This bill also provides that if the governmental body cannot provide the information in a requested medium, the governmental body will provide a copy in another medium that is acceptable to the requestor.

C.S.H.B. 3544 amends current law relating to electronic notices by TCEQ, electronically stored information provided by a governmental body, and confidentiality of e-mail addresses provided to a governmental body.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.128, Water Code, as follows:

Sec. 5.128. New heading: ELECTRONIC REPORTING TO COMMISSION; ELECTRONIC TRANSMISSION OF INFORMATION BY COMMISSION; REDUCTION OF DUPLICATE REPORTING. (a) Requires the Texas Commission on Environmental Quality (TCEQ) to encourage the use of electronic reporting through the Internet, to the extent practicable, for reports required by TCEQ. Authorizes TCEQ, notwithstanding any other law, to utilize electronic means of transmission of information, including notices, orders, and decisions issued or sent by TCEQ.

(b) Makes no changes to this subsection.

SECTION 2. Amends Section 11.31(c)-(e), and (i), Tax Code, as follows:

(c) Requires a person seeking the exemption, in applying for an exemption under this section, to present in a permit application or permit exemption request to the executive director of TCEQ (executive director), rather than the executive director of the Texas Natural Resource Conservation Commission, information detailing certain data.

(d) Requires the executive director, as soon as practicable, to send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a determination under this subsection. Makes conforming changes.

(e) and (i) Makes conforming changes.

SECTION 3. Amends Section 11.31, Tax Code, by adding Subsections (g-1) and (n), as follows:

(g-1) Provides that the standards and methods for making a determination under this section that are established in the rules adopted under Subsection (g) apply uniformly to all applications for determinations under this section, including applications relating to facilities, devices, or methods for the control of air, water, or land pollution included on a list adopted by TCEQ under Subsection (k) (relating to adoption of certain rules by TCEQ).

(n) Requires TCEQ to establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups, as well as members who are not representatives of any of those entities but have substantial technical expertise in pollution control technology and environmental engineering, to advise TCEQ regarding the implementation of this section. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the size, composition, or duration of the advisory committee.

SECTION 4. Requires TCEQ, as soon as practicable after the effective date of this Act, to appoint the initial members of the advisory committee under Section 11.31(n), Tax Code, as added by this Act.

SECTION 5. (a) Provides that the change in law made by Sections 11.31(g-1) and (n), Tax Code, applies only to a determination that is not final on the effective date of the Act on an application that was filed on or after January 1, 2009.

(b) Provides that a determination that is not final on the effective date of the Act on an application that was filed before January 1, 2009, is governed by law in effect before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. Provides that the change in law made by Sections 11.31(g-1) and (n), Tax Code, applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 7. Amends Section 552.137, Government Code, as follows:

Sec. 552.137. CONFIDENTIALITY OF CERTAIN E-MAIL ADDRESSES. (a)-(b) Makes no changes to these subsections.

(c) Provides that Subsection (a) does not apply to an e-mail address provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) (relating to the definition of "license") of this Code, or receiving orders or decisions from a governmental body. Makes nonsubstantive changes.

(d) Makes no changes to this subsection.

SECTION 8. Amends Section 552.228, Government Code, as follows:

Sec. 552.228. PROVIDING SUITABLE COPY OF PUBLIC INFORMATION WITHIN REASONABLE TIME. (a) Makes no changes to this subsection.

(b) Authorizes the requestor, if public information exists in an electronic or magnetic medium, to request a copy in an electronic medium, rather than request a copy either on paper or in an electronic medium, such as on diskette or on magnetic tape.

(c) Requires the governmental body, if a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, to provide a copy in another medium that is acceptable to the requestor, rather than provide a paper copy of the requested information or a copy in another medium that is acceptable to the requestor.

SECTION 9. Makes application of Section 552.228, Government Code, as amended by this Act, prospective.

SECTION 10. Effective date, except as otherwise provided by the Act: September 1, 2009.