

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1572
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Natural Resources
3/31/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Commission on Environmental Quality (TCEQ) and local fire marshals are the only government agencies that may comment on or participate in the review of applications for Land Reclamation Projects Using Tires. TCEQ has not revised the rules that apply to these types of permits for many years.

County commissioners' courts and groundwater conservation districts cannot intervene if a threat to public health or natural resources is suspected or determined. Also, environmental impact statements are not required of applicants. Neither are long-term impact studies on water quality when these sites are found near surface and groundwater sources.

C.S.S.B. 1572 requires TCEQ to obtain approval in the form of a resolution from the governing body of a municipality, a county, or other political subdivision, including groundwater conservation districts, prior to awarding a permit for a scrap disposal site. C.S.S.B. 1572 directs TCEQ to revise the current rules governing scrap tire disposal sites that prescribe minimum standards to protect soil and water and adopt new application forms and procedures for these types of permits. C.S.S.B. 1572 also grants TCEQ the authority to revoke permits and deny applications for scrap tire disposal sites if reasons concerning public health and safety, air or water pollution, or land use are identified during the permitting process.

[**Note:** 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, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 361.1127, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.1127, as follows:

Sec. 361.1127. LAND RECLAMATION PROJECTS USING TIRES. (a) Defines "land reclamation" and "scrap tire."

(b) Prohibits a person from beginning a land reclamation project using scrap tires without a permit issued by the Texas Natural Resource Conservation Commission (TNRCC) under this chapter.

(c) Prohibits a person from using scrap tires for a land reclamation project unless the tires are shredded, split, or quartered as provided by TNRCC rule. Authorizes TNRCC to grant an exception to this requirement if TNRCC finds that circumstances warrant the exception.

(d) Prohibits TNRCC from granting a permit for a land reclamation project using scrap tires before TNRCC receives comments or suggestions from the governing body of any municipality in the corporate limits of which the proposed project is located or if the proposed project is not located in a municipality the

commissioners court of each county in which the proposed project is located and each groundwater conservation district, if any, in which the proposed project is located; or the expiration of a time period, established by TNRCC rule, in which the entities described by this subsection is authorized to offer comments.

(e) Sets forth the minimum information an application to request a permit for a land reclamation project using scrap tires is required to include.

(f) Requires TNRCC by rule to prescribe minimum standards to protect the soil and water for a land reclamation project using scrap tires and adopt application forms and procedures for the permitting process under this section.

(g) Authorizes TNRCC to amend, extend, transfer, or renew a permit issued under this section as provided by this chapter and TNRCC rule.

(h) Provides that the notice and hearing procedures provided by this subchapter apply to a permit issued, amended, extended, or renewed under this section.

(i) Authorizes TNRCC, for good cause, to deny, revoke, or amend a permit under this section for reasons concerning public health and safety, air or water pollution, land use, or a violation of this section as provided by Section 361.089 (Permit Denial or Amendment; Notice and Hearing).

SECTION 2. (a) Requires the Texas Commission on Environmental Quality, before September 1, 2010, to adopt any rules required to implement Section 361.1127, Health and Safety Code, as added by this Act.

(b) Prohibits any person responsible for an ongoing or pending land reclamation project using scrap tires that has not yet placed the tires below ground, on or after the effective date of this Act, from placing the tires below ground until the person has obtained a permit under Section 361.1127, Health and Safety Code, as added by this Act.

(c) Provides that to the extent that a land reclamation project using scrap tires has placed tires below ground before the effective date of this Act, the project is subject to the law in effect on the date the tires were placed below ground, and that law is continued in effect for that purpose.

SECTION 3. Effective date: upon passage or September 1, 2009.