

BILL ANALYSIS

Senate Research Center

S.B. 2328
By: Hegar
Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law recognizes the importance of maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries to the public's economic health and general well-being. The Texas Water Code requires the Texas Commission on Environmental Quality (TCEQ), while balancing all other interests, to consider and provide for the freshwater inflows necessary to maintain the viability of the state's bay and estuary systems in TCEQ's regular granting of permits for the use of state waters.

S.B. 3, 80th Legislature, Regular Session, 2007, created a basin-by-basin process for developing recommendations to meet instream needs as well as freshwater inflows to affected bays and estuaries and requires TCEQ to adopt recommendations in the form of environmental flow standards. Such standards would be utilized in the decision-making process for new water right applications and in establishing an amount of unappropriated water, if applicable, to be set aside for the environment.

S.B. 3 also created the Environmental Flows Advisory Group (advisory group) to oversee the process. The advisory group is required to conduct hearings and study public policy implications for balancing the demands on water resources of the state resulting from a growing population with the requirements of the state's rivers and bay systems.

As proposed, S.B. 2328 establishes timelines for each basin and bay area for the appointment of the basin and bay area stakeholders committees; the establishment of a basin and bay expert science team; the finalizing of environmental flow regime recommendations and submission to the basin and bay area stakeholders committee, the advisory group, and TCEQ; the submission to the advisory group and TCEQ of the basin and bay area stakeholders committee comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime; the submission to TCEQ of the advisory group's comments on and recommendations regarding the basin and bay expert science team's recommended environmental flow regime; and finally, the adoption of the environmental flow standards by TCEQ.

[**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

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 11.02362(c) and (d), Water Code, and adds Section 11.02362(d-1), as follows:

Sec. 11.02362. DEVELOPMENT OF ENVIRONMENTAL FLOW REGIME RECOMMENDATIONS. (c) Provides that for the river basin and bay systems listed in Subsection (b)(1) (relating to the river basin and bay systems consisting of the Trinity River, San Jacinto River, and Galveston Bay and the Sabine River, Neches River, and Sabine Lake Bay):

(1)-(2) Makes no changes to these subdivisions.

(3) the basin and bay expert science team is required to finalize environmental flow regime recommendations and submit them to the basin and bay area stakeholders committee (committee), the environmental flows advisory group (advisory group), and the Texas Natural Resources Conservation Commission (TNRCC) not later than March 1, 2010, rather than 2009, except that at the request of the basin and bay area stakeholders committee for good cause shown, the advisory group is authorized to extend the deadline provided by this subdivision;

(4) the committee is required to submit to the advisory group and TNRCC its comments on any recommendations regarding the basin and bay expert science team's (science team) recommended environmental flow regime not later than September 1, 2010, rather than 2009;

(5) the advisory group is required to submit to TNRCC its comments on and recommendations regarding the science team's recommended environmental flow regime not later than December 31, 2010; and

(6) TNRCC is required to adopt the environmental flow standards as provided by Section 11.1471 (Environmental Flow Standards and Set-Asides) not later than September 1, 2011, rather than 2010. Makes nonsubstantive changes.

(d) Provides that for the river basin and bay systems listed in Subsection (b)(2):

(1) the advisory group is required to appoint certain committees not later than November 1, 2009, rather than September 1, 2008. Deletes existing text that requires the advisory group to appoint certain committees by a certain date and establish a schedule for the performance of certain tasks. Deletes existing text that requires certain committees and science teams to make certain recommendations to the advisory group. Deletes existing text that requires the advisory group to consider the recommendations of the committee with, and give appropriate consideration to the recommendations of certain entities;

(2) the committee is required to establish a basin and bay expert science team not later than March 1, 2010;

(3) the science team is required to finalize environmental flow regime recommendations and submit them to the committee, the advisory group, and TNRCC not later than March 1, 2012, except that at the request of the committee for good cause shown, the advisory committee is authorized to extend the deadline provided by this subdivision;

(4) the committee is required to submit to the advisory group and TNRCC its comments on recommendations regarding the science team's recommended environmental flow regime not later than September 1, 2012;

(5) the advisory group is required to submit to TNRCC its comments on and recommendations regarding the science team's recommended environmental flow regime not later than December 31, 2012; and

(6) TNRCC is required to adopt the environmental flow standards as provided by Section 11.1471 not later than September 1, 2013.

(d-1) Provides that for the river basin and bay systems listed in Subsection (b)(3) (relating to certain river basins and bay systems):

- (1) the advisory group is required to appoint the committees for the river basin and bay systems not later than November 1, 2010;
- (2) the committee is required to establish a basin and bay expert science team not later than March 1, 2011;
- (3) the science team is required to finalize environmental flow regime recommendations and submit them to the committee, the advisory group, and TNRCC not later than March 1, 2013, except that at the request of the committee for good cause shown, the advisory group is authorized to extend the deadline provided by this subdivision,
- (4) the committee is required to submit to the advisory group and TNRCC its comments on and recommendations regarding the science team's recommended environmental flow regime not later than September 1, 2013;
- (5) the advisory group is required to submit to TNRCC its comments on and recommendations regarding the science team's recommended environmental flow regime not later than December 13, 2013; and
- (6) TNRCC is required to adopt the environmental flow standards as provided by Section 11.1471 not later than September 31, 2014.

SECTION 2. Effective date: upon passage or September 1, 2009.