

BILL ANALYSIS

Senate Research Center
81R23447 JAM-D

C.S.S.B. 2445
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Natural Resources
4/13/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Untreated sewage is a proven hazard to human health and the environment. The Texas Water Code currently prohibits the disposal of sewage by boats on certain inland waters of the state. C.S.S.B. 2445 would expand the areas covered by the prohibition against boat sewage disposal to include all inland waters of the state and to costal waters up to three nautical miles from shore.

Under the current Texas Water Code and Texas Parks & Wildlife Code, the discharge of boat sewage is regulated on only 25 designated inland lakes that provide fresh water to local municipalities and Clear Lake, a brackish water lake south of Houston. The discharge of "treated" boat sewage is permitted in all other inland fresh water lakes and reservoirs, all river systems, estuaries, and coastal bays.

C.S.S.B. 2445 amends current law relating to the disposal of sewage by certain boats.

[**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 previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 1 (Section 26.044, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 26.044(a)-(d), and (f), Water Code, as follows:

- (a) Redefines "boat" and defines "boat pump-out station," "shoreside, mobile, or floating installation," and "surface water in the state."
- (b) Requires the Texas Natural Resource Conservation Commission (TNRCC) to issue rules concerning the disposal of sewage from boats located or operated on surface water in the state, rather than on inland fresh waters in this state. Requires that the rules of TNRCC include provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including shoreside and mobile boat pump-out stations, rather than on-shore pump-out facilities, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each shoreside and mobile, rather than on-shore, pump-out device.
- (c) Authorizes TNRCC to delegate the administration and performance of the certification function to the executive director of TNRCC or to another, rather than any other, governmental entity that has appropriate registration and law enforcement capabilities. Requires TNRCC or the delegated authority to collect certain fees from applicants for certification, including Boat Pump-out Station (biennial), rather than Boat Certificates (annual). Requires that all certification fees be paid to TNRCC or the delegated authority, rather than entity, performing the certification function. Requires that all fees collected by any state agency be deposited to the credit of the water resource management account for use by TNRCC or the delegated authority, rather than by that agency in administering and performing the certification function.

(d) Authorizes, rather than requires, TNRCC or any person authorized by it under Section 26.021 (Delegation of Hearing Powers), on request before issuing any rules under Subsection (b), to hold hearings on those rules in Austin and in five other locations in the state in order to provide the best opportunity for all citizens of the state to appear and present evidence to TNRCC. Makes nonsubstantive changes.

(f) Requires that copies of each rule issued by TNRCC under this section be filed in the offices of TNRCC in Austin, in the office of the secretary of state (SOS) in Austin, and posted on TNRCC's Internet website, rather than the office of the county clerk in each county in the state.

SECTION 2. Amends Sections 26.045(a), (b), and (c), Water Code, as follows:

(a) Defines "boat," "boat pump-out station," "shoreside, mobile, or floating installation," and "surface water in the state." Deletes existing text defining "boat," "boat pump-out station," "shoreside installation," and "freshwater."

(b) Authorizes TNRCC, after a public hearing and after making every reasonable effort to bring about the establishment of an adequate number of boat pump-out stations on surface water in the state, rather than on fresh water, to enter an order requiring the establishment of boat pump-out stations by a local government that has any jurisdiction over at least a portion of the surface water in the state or over land immediately adjacent to the water. Makes conforming changes.

(c) Authorizes the local government, if a local government is authorized to issue authorization for the operation of shoreside, mobile, or floating installations, to require the installation and operation of boat pump-out stations where necessary.

SECTION 3. Amends the heading to Section 31.129, Parks and Wildlife Code, to read as follows:

Sec. 31.129. VIOLATION AND ENFORCEMENT OF SEWAGE DISPOSAL REGULATIONS.

SECTION 4. Amends Section 31.129, Parks and Wildlife Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that a person who violates or fails to comply with a rule of the Texas Commission on Environmental Quality (TCEQ), rather than TNRCC, concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(c) Authorizes a game warden or peace officer who is certified as a marine safety enforcement officer under Section 31.121 (Enforcement Officers) to enforce a rule of TCEQ concerning the disposal of sewage from boats.

(d) Authorizes a marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited, if the owner or operator is aboard, to board the boat for the purpose of inspecting the marine sanitation device for proper operation and testing the sanitation and holding devices, including placing a dye tablet in the holding tank.

SECTION 5. Effective date: September 1, 2009.