

## **BILL ANALYSIS**

Senate Research Center  
83R17004 JTS-F

H.B. 788  
By: Smith; Reynolds (Hinojosa)  
Natural Resources  
4/26/2013  
Engrossed

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

The United States Environmental Protection Agency (EPA) is currently the permit authority for greenhouse gas emissions. Interested parties contend that Texas permit applicants are experiencing long delays and that projects with significant economic impact are being stalled due to the bottleneck of greenhouse gas emissions permit applications now pending at the EPA, which is a result, in part, of specific additional federal reviews. H.B. 788 seeks to put Texas on par with other states that are issuing greenhouse gas emission permits for sources within those states and to counter possible competitive disadvantages Texas businesses are experiencing by directing the Texas Commission on Environmental Quality to adopt a regulatory program that would allow it to become the permit authority for sources of greenhouse gas emissions in Texas.

H.B. 788 amends current law relating to permitting of greenhouse gas emissions by the Texas Commission on Environmental Quality and limits the amount of a fee.

[**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 (TNRCC) is modified in SECTION 2 (Section 382.0205, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to TNRCC in SECTION 3 (Section 382.05102, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that the legislature finds that in the interest of the continued vitality and economic prosperity of this state, the Texas Commission on Environmental Quality, because of its technical expertise and experience in processing air quality permit applications, is the preferred permitting authority for emissions of greenhouse gases.

SECTION 2. Amends Section 382.0205, Health and Safety Code, as follows:

Sec. 382.0205. SPECIAL PROBLEMS RELATED TO AIR CONTAMINANT EMISSIONS. Deletes existing text authorizing the Texas Natural Resource Conservation Commission (TNRCC), consistent with applicable federal law, by rule to control air contaminants as necessary to protect against adverse effects related to:

- (1)-(2) Makes no change to these subdivisions; and
- (3) climatic changes, including global warming.

SECTION 3. Amends Subchapter C, Chapter 382, Health and Safety Code, by adding Section 382.05102, as follows:

Sec. 382.05102. PERMITTING AUTHORITY OF COMMISSION; GREENHOUSE GAS EMISSIONS. (a) Defines, in this section, "greenhouse gas emissions."

(b) Authorizes TNRCC, to the extent that greenhouse gas emissions require authorization under federal law, to authorize greenhouse gas emissions in a manner consistent with Section 382.051 (Permitting Authority of Commission; Rules).

(c) Requires TNRCC to adopt rules to implement this section, including rules specifying the procedures to transition to review by TNRCC any applications pending with the United States Environmental Protection Agency for approval under 40 C.F.R. Section 52.2305 and prepare and submit appropriate federal program revisions to the United States Environmental Protection Agency for approval.

(d) Provides that the permit processes authorized by this section are not subject to the requirements relating to a contested case hearing under this chapter, Chapter 5 (Texas Commission on Environmental Quality), Water Code, or Subchapters C-G (Contested Cases: General Rights and Procedures; Contested Cases: Evidence, Witnesses, and Discovery; Contested Cases: Testimony of Child; Contested Cases: Final Decisions and Orders; Motions for Rehearing; and Contested Cases: Judicial Review), Chapter 2001, Government Code.

(e) Requires TNRCC, if authorization to emit greenhouse gas emissions is no longer required under federal law, to repeal the rules adopted under Subsection (c) and prepare and submit appropriate federal program revisions to the United States Environmental Protection Agency for approval.

SECTION 4. Amends Section 382.0621, Health and Safety Code, by adding Subsection (f), to authorize TNRCC to impose fees for emissions of greenhouse gas only to the extent the fees are necessary to cover TNRCC's additional reasonably necessary direct costs of implementing Section 382.05102.

SECTION 5. Effective date: upon passage or September 1, 2013.