

## **BILL ANALYSIS**

Senate Research Center

H.B. 2726  
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Natural Resources & Economic Development  
5/13/2019  
Engrossed

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

The current language in Section 382.004, Health and Safety Code, provides that, consistent with federal law, a person who submits a permit application to modify an existing facility may do so at the person's own risk, after the application has been submitted but before the Texas Commission on Environmental Quality has issued the permit. The phrase "consistent with federal law" means that this provision only applies to minor new source review construction permit amendments, issued under the Texas Clean Air Act.

The proposed revision to Section 382.004 continues to apply to only minor source permit amendment applications submitted under the Texas Clean Air Act, but because permit amendment applications typically include both the installation of new facilities and changes to existing facilities, the revision corrects the phrase "permit for a modification or lesser change to an existing facility" to "application for a permit amendment" to recognize that it is the project for which the minor NSR permit amendment is being applied for that can be the subject of "at risk" construction. Since only projects being authorized under minor permit amendment are eligible to use Section 382.004, this provision can only be used for projects at an existing plant site. A permit application for a new permit would not qualify.

H.B. 2726 amends current law relating to the commencement of construction of a project following the issuance of a draft permit for a permit amendment to an air quality permit.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 382.004, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 382.004, Health and Safety Code, as follows:

Sec. 382.004. CONSTRUCTION WHILE PERMIT AMENDMENT APPLICATION PENDING. (a) Authorizes a person who submits an application for a permit amendment, to the extent permissible under federal law, notwithstanding Section 382.0518 (Preconstruction Permit), and except as provided by Subsection (c), to, at the person's own risk, begin construction related to the application after the executive director has issued a draft permit including the permit amendment, rather than authorizing a person who submits an application for a permit for a modification of or a lesser change to an existing facility under this subtitle (Air Quality), to the extent permissible under federal law and notwithstanding Section 382.0518, to, at the person's own risk, begin construction related to the application after the application is submitted and before the Texas Commission on Environmental Quality (TCEQ) has issued the permit.

(b) Prohibits TCEQ from considering construction begun under this section in determining whether to grant the permit amendment, rather than the permit, sought in the application.

(c) Prohibits a person from beginning construction under this section if the facility that is the subject of the permit amendment is a concrete batch plant located within 880 yards of a property that is used as a residence.

(d) Requires TCEQ to adopt rules to implement this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.