

BILL ANALYSIS

Senate Research Center

S.B. 1931
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Natural Resources & Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Commission on Environmental Quality (TCEQ) can conduct criminal background checks only on those persons seeking an occupational license under TCEQ's jurisdiction. Current statute also requires that TCEQ considers other such details relating to the criminal history such as frequency, severity, and relation to the field of license. This authority does not extend to TCEQ's environmental permitting.

The lack of authority for the commission to vet permit applicants properly for various environmental permits that impact public health and safety is cause for concern to some Texans. Accordingly, S.B. 1931 would authorize TCEQ to access the criminal history report from the Department of Public Safety of the State of Texas and perform business background checks of a person, other than a governmental entity, who applies to TCEQ for an occupational license or a permit issued by TCEQ under Chapters 361, 382, or 401, Health and Safety Code, or Chapters 26 or 27, Water Code.

As proposed, S.B. 1931 amends current law relating to the authority of the Texas Commission on Environmental Quality to conduct background checks.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 (Section 5.1021, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.122(d), Government Code, to remove the Texas Commission on Environmental Quality (TCEQ) from among the state agencies that are subject this section (Access to Criminal History Record Information: Licensing or Regulatory Agency). Redesignates Subdivisions (13)–(27) as Subdivisions (12)–(26) and makes no further changes.

SECTION 2. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1221, as follows:

Sec. 411.1221. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. (a) Defines "commission" as TCEQ and defines "person" for purposes of this section.

(b) Entitles TCEQ to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to a person who:

(1) is an applicant for:

(A) an occupational license from TCEQ; or

(B) a permit described by Subsection (c) from TCEQ;

(2) is the holder of:

(A) an occupational license from TCEQ; or

(B) a permit described by Subsection (c) from TCEQ; or

(3) requests a determination of eligibility for:

(A) an occupational license from TCEQ; or

(B) a permit described by Subsection (c) from TCEQ.

(c) Provides that Subsections (b)(1)(B), (b)(2)(B), and (b)(3)(B) apply to permits issued by TCEQ under:

(1) Chapters 361 (Solid Waste Disposal Act), 382 (Clean Air Act), and 401 (Radioactive Materials and Other Sources of Radiation), Health and Safety Code; and

(2) Chapters 26 (Water Quality Control) and 27 (Injection Wells), Water Code.

(d) Entitles TCEQ, if the person described by Subsection (b) is not an individual, to obtain from DPS criminal history record information maintained by DPS that relates to any individual who owns an interest in or exercises control over the person described by Subsection (b).

SECTION 3. Amends Subchapter D, Chapter 5, Water Code, by adding Section 5.1021, as follows:

Sec. 5.1021. BACKGROUND CHECKS. (a) Authorizes TCEQ, in evaluating an application for the issuance or renewal of, or a request for a determination of eligibility for, a permit described by Subsection (b), to:

(1) obtain the criminal history record information of the applicant or requestor, or of any individual who owns an interest in or exercises control over the applicant or requestor, as described by Section 411.1221, Government Code; and

(2) conduct a business background check of the applicant or requestor, or of any individual who owns an interest in or exercises control over the applicant or requestor.

(b) Except as provided by Subsection (c), Subsection (a) applies to permits issued by TCEQ under:

(1) Chapters 361, 382, and 401, Health and Safety Code; and

(2) Chapters 26 and 27 of this code.

(c) Provides that this section does not apply to applications or requests by governmental entities

(d) Prohibits this section from being construed or applied in a manner that interferes with the authority of TCEQ to carry out criminal background checks pursuant to Chapter 53 (Definitions), Texas Occupations Code, within TCEQ's occupational licensing programs as described in Chapter 37 (Definitions), Texas Water Code.

(e) Authorizes TCEQ to adopt rules to implement this section.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2019