

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Office of Environmental Justice within the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 5, Water Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. OFFICE OF ENVIRONMENTAL JUSTICE

Sec. 5.291. DEFINITIONS. In this subchapter:

(1) "Environmental justice community" means a United States census block group, as determined in accordance with the most recent United States census, for which:

(A) 30 percent or more of the noninstitutionalized population consists of persons who have an income below 200 percent of the federal poverty level; or

(B) 50 percent or more of the population consists of members of racial minority or ethnic minority groups.

(2) "Office" means the Office of Environmental Justice.

(3) "Permit" has the meaning assigned by Section 5.752. The term includes an original permit, permit renewal, or permit amendment.

(4) "Permitted facility" means a facility required to obtain a permit under:

(A) Chapter 361, Health and Safety Code;

1 (B) Chapter 382, Health and Safety Code; or

2 (C) Chapter 26 or 27 of this code.

3 Sec. 5.292. CREATION AND GENERAL RESPONSIBILITY OF OFFICE
4 OF ENVIRONMENTAL JUSTICE. The Office of Environmental Justice is
5 created within the commission to protect the public health, general
6 welfare, and physical property of environmental justice
7 communities in regard to the issuance of permits.

8 Sec. 5.293. RECOMMENDATION ON PERMIT. (a) In this section,
9 "affected environmental justice community" means an environmental
10 justice community within three miles of a proposed or existing
11 permitted facility.

12 (b) This section applies only to an application for a permit
13 related to a proposed or existing permitted facility located within
14 three miles of an environmental justice community.

15 (c) The office shall provide a recommendation to the
16 commission on whether a permit should be issued. In making the
17 recommendation, the office shall consider:

18 (1) whether the cumulative effects of pollution from
19 the proposed permitted facility or change to an existing facility
20 on the affected environmental justice community exceed the
21 statewide average; and

22 (2) any existing or anticipated vulnerabilities in the
23 affected environmental justice community, including:

24 (A) existing pollution levels in the affected
25 environmental justice community and exposure of the residents of
26 that community to those pollutants;

27 (B) limited access to health care by residents of

1 the affected environmental justice community;

2 (C) health factors of the residents of the
3 affected environmental justice community, including the prevalence
4 of:

5 (i) asthma and other respiratory diseases;

6 and

7 (ii) cancer; and

8 (D) proximity of the proposed permitted facility
9 to locations where children and elderly and medically vulnerable
10 people commonly gather, including:

11 (i) single or multi-family residences;

12 (ii) schools;

13 (iii) places of worship;

14 (iv) day care centers; and

15 (v) hospitals or other medical facilities.

16 (d) The office shall provide the recommendation described
17 by this section not later than the seventh day after the last day of
18 the public comment period applicable to the permit.

19 Sec. 5.294. CONSIDERATION OF RECOMMENDATION BY COMMISSION.

20 In addition to other factors required by law, the commission shall
21 consider the recommendation of the office in making a determination
22 about whether to issue a permit to which Section 5.293 applies.

23 Sec. 5.295. STAFF; OUTSIDE TECHNICAL SUPPORT. (a) The
24 office shall be adequately staffed to carry out its functions under
25 this subchapter.

26 (b) The office may obtain and use outside technical support
27 to carry out its functions under this subchapter.

1 SECTION 2. (a) Section 5.293, Water Code, as added by this
2 Act, applies only to an application for a permit, permit renewal, or
3 permit amendment submitted to the Texas Commission on Environmental
4 Quality on or after the effective date of this Act. An application
5 for a permit, permit renewal, or permit amendment submitted to the
6 Texas Commission on Environmental Quality before the effective date
7 of this Act is governed by the law in effect at the time the
8 application was submitted, and the former law is continued in
9 effect for that purpose.

10 (b) The Office of Environmental Justice within the Texas
11 Commission on Environmental Quality, as created by this Act, is not
12 required to issue a recommendation under Section 5.293, Water Code,
13 as added by this Act, before January 1, 2024.

14 SECTION 3. This Act takes effect September 1, 2023.