

By: Birdwell
(Darby)

S.B. No. 2203

A BILL TO BE ENTITLED

AN ACT

relating to the certification of discovery issues to the Texas Commission on Environmental Quality in contested cases referred to the State Office of Administrative Hearings by the commission.

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

SECTION 1. Section 2003.047, Government Code, is amended by amending Subsection (i) and adding Subsection (i-4) to read as follows:

(i) The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. Each agency shall publish the jointly adopted rules. The rules must:

(1) address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue;

(2) provide that on a motion made by a party, the administrative law judge shall promptly certify to the commission any issue relating to the scope of discovery under Subsection (g); and

(3) provide that certification of an issue expires by operation of law if the certified issue is not set for the commission's consideration within 15 days after the date the

1 administrative law judge files with the chief clerk a request for
2 the commission to answer the certified issue. [~~Each agency shall~~
3 ~~publish the jointly adopted rules.~~]

4 (i-4) Following certification to the commission of an issue
5 relating to the scope of discovery under Subsection (g), the
6 administrative law judge may abate the deadline specified by
7 Subsection (e-2) until the first business day following the earlier
8 of:

9 (1) the commission's consideration of the certified
10 issue; or

11 (2) the expiration by operation of law of the issue's
12 certification.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2025.