

BILL ANALYSIS

C.S.H.B. 1792
By: Chisum
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

House Bill 2912, 77th Texas Legislature, called for the appointment of the Joint Committee on the Office of Natural Resource Public Interest Counsel and charged them to study the recommendations issued by the Sunset Advisory Commission to strengthen the Office of Public Interest Counsel at the Texas Commission on Environmental Quality (TCEQ).

In their report to the 78th legislature, the joint committee made the following recommendations:

“Allow the Public Interest Counsel to appeal rules packages, if it appears that they were adopted without proper legal procedure or exceed the authority of the TCEQ.

Allow the Public Interest Counsel to appeal when the Commission has substantially amended a proposal for decision from the State Office of Administrative Hearings (SOAH), and appeal is necessary to serve the broad public interest.”

The purpose of C.S.H.B. 1792 is to provide the required statutory changes to implement these recommendations.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1792 amends Section 5.275 of the Water Code to authorize the Public Interest Counsel to contest the validity of rules adopted by TCEQ on the basis that the rules were adopted without the proper legal procedure or the rules exceed the commission’s authority.

EFFECTIVE DATE

September 1, 2003. The Act applies only to a proposal for decision amended by the TCEQ on or after the effective date, and to rates set or a package of rules finally adopted by the TCEQ on or after that date.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1792 removes the provision in the original which allowed the Public Interest Counsel to appeal a substantial amendment by the TCEQ to a proposal for decision from SOAH if the appeal is necessary to serve broad public interest.