

## **BILL ANALYSIS**

C.S.H.B. 2546  
By: Bonnen  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Land application of Class B sludge has been of concern to several citizens in the state of Texas. C.S.H.B. 2546 provides for more restrictions and requirements to companies involved in the practice of applying Class B sludge to help ensure more safety for citizens, land and water. These new requirements include a more vigorous tracking system, identification of crops grown at the site of application, suggested agronomic application rate, proof of certain types of insurance, proper licensing of supervisors, date, source, quality and quantity of sludge applied and transportation requirements.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill modifies rulemaking authority to the Texas Commission on Environmental Quality in SECTION 1 (Section 361.121, Health and Safety Code).

### **ANALYSIS**

#### **SECTION 1**

Committee Substitute House Bill 2546 amends Section 361.121, Health and Safety Code by amending Subsections (b), (c), (d) and (h) and adding Subsection (j), (k), (l), (m), (n) and (o) to read as follows:

Amends Section 361.121(b), Health and Safety Code to allow for an exception under Subsection (m) in applying Class B sludge.

Amends Section 361.121(c), Health and Safety Code to require that each owner of land within one-quarter mile of a proposed land application site be notified by registered or certified mail of any proposed application for a permit, amendment, or renewal.

Amends Section 361.121(d), Health and Safety Code to provide that a computer generated report which includes information regarding, the source, quality, and quantity of sludge applied to the land application unit; the location of the land application unit, either in terms of longitude and latitude or by physical address, including the county; the date of delivery of Class B sludge; the date of application of Class B sludge; the cumulative amount of metals applied to the land application unit through the application of Class B sludge; crops grown at the land application unit site; and the suggested agronomic application rate for the Class B sludge be submitted to the Commission on Environmental Quality quarterly by the permit holder. The permit holder will be required to file annually with the commission a record showing that they are in compliance with a nutrient management plan. They must also post a sign visible from the a road or sidewalk that is adjacent to the premises on which the land application unit is located that states a beneficial application site is located on the premises.

Section 361.121(h), Health and Safety Code, is amended by providing the Commission on Environmental Quality (TCEQ) the ability to require an applicant for a permit to provide information that the applicant has commercial liability insurance policy and the application provides environmental impairment insurance or similar insurance policy that is issued by an insurance company, and that the insurance company be

authorized to do business in this state with a rating by the A.M. Best Company of A- or better; that it designates the commission as an additional insured and that is in an amount of not less than \$3 million; and that it provides proof that the applicant has minimized the risk of water quality impairment caused by nitrogen and phosphorous applied to land application unit through application of Class B sludge by having a nutrient management plan prepared by certified nutrient management specialist. These standards are to be in accordance with the practice standards of the Natural Resources Conservation Service of the United States Department of Agriculture.

Section 361.121(j), Health and Safety Code, is added to require a permit holder to maintain an insurance policy required by Subsection (h) of this bill in effect for the duration of the permit.

Adds Section 361.121(k), Health and Safety Code, to give TCEQ the ability to create and operate a tracking system for the land application of Class B sludge, ability to require a permit holder to report deliveries and applications of Class B sludge using the tracking system and shall post the reported information on its website. This tracking system must allow a permit holder to report electronically. When reporting electronically the tracking system will include the date of delivery of Class B sludge to a land application unit; and for each application of Class B sludge to a land application unit: the date of the application; and the source, quality, and quantity of the sludge applied.

A permit holder may not accept Class B sludge unless the sludge has been transported to the land application unit in a covered container with the covering firmly secured at the front and back.

Adds Section 361.121(m), Health and Safety Code, to allow only persons who hold a registration for application of Class B sludge approved by the commission and submitted an application on or before September 1, 2002, to apply Class B sludge in terms of the registration until the commission issues a final decision on the permit application.

The insurance requirements under Subsections (h)(2) and (3) do not apply to applicants that are political subdivisions.

Section 361.121(o), Health and Safety Code is added to not allow the commission to issue a permit if the land application unit is both in a county that borders the Gulf of Mexico and is within 500 feet of any groundwater or surface water.

## SECTION 2

(a) Effective Date

(b) The changes in this bill apply only to an application received by TCEQ on or after the effective date of this Act. The former law applies if an application is received before the effective date of this act.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2546 adds a requirement that the applicant for a permit notify each property owner within one-quarter mile of the proposed site of their intent to obtain a permit, renewal, or permit amendment.

C.S.H.B. 2546 removes the provision that would have required any individual supervising the application of Class B sludge from meeting qualifications established by the commission under Chapter 37, Water Code, for a Class B or Class III wastewater operator license prescribed by Section 26.0301 of that code.

C.S.H.B. 2546 adds a provision to require a nutrient management plan prepared by a nutrient management specialist.

The amount of environmental impairment and commercial liability insurance policies were reduced in the substitute from \$5 million to \$3 million and designates the commission as an additional insured instead of certificate holder.

The substitute added a provision to require a sign on the premises of a land application site that states that the site is a beneficial land application site. The sign must be visible from a road or sidewalk that is adjacent to the premises. Also added by the substitute is a requirement that the permit holder submit an annual report that shows evidence that they are complying with the nutrient management plan and practice standards described by Subsection (h) (4).

Other provisions that were added in C.S.H.B. 2546 include a requirement that permit holder not accept Class B sludge unless it is transported in a covered container secured firmly in the front and the back; allows only persons who hold a registration for the application of Class B sludge approved by the commission on or before September 1, 2002 and who has submitted an administratively complete application for a permit may apply Class B sludge in accordance with the terms of the registration; not require political subdivisions to obtain the insurance policies required under this bill; and not allow the commission to issue a permit if the land application unit is located both in a county that borders the Gulf of Mexico and is within 500 feet of any groundwater or surface water.