

## **BILL ANALYSIS**

Senate Research Center  
78R13952 MI-D

C.S.S.B. 856  
By: Madla  
Intergovernmental Relations  
5/1/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Current Texas law does not grant the Texas Commission on Environmental Quality (TCEQ), in the adoption of any rule implementing a federal drinking water maximum contaminant level standard for naturally occurring materials, the authority to exempt from implementing the federal standards any potentially affected small community water systems in Texas with no apparent reasonably available alternate water supply. This gap in the statute leaves small community water systems that are dependent on only one water supply for all their water needs unprotected from federal mandates that have failed to consider their circumstances. C.S.S.B. 856 protects a small community water system's use of its only available water source in relation to federal mandates that establish a drinking water maximum contaminant level standard for naturally occurring materials. This bill requires TCEQ in implementing federal drinking water standards relating to certain contaminants to issue compliance standards consistent with the demonstrable public health for certain small community water systems and alternative compliance schedules for certain small community water systems.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 341.0316, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 341, Health and Safety Code, by adding Section 341.0316, as follows:

Sec. 341.0316. COMPLIANCE WITH DRINKING WATER STANDARDS BY SMALL COMMUNITY WATER SYSTEMS. (a) Defines "demonstrable public health benefit," "reasonably available alternate water supply," and "small community water system."

(b) Requires the Texas Commission on Environmental Quality (TCEQ), in adopting a rule to implement a federal drinking water standard for the maximum contaminant level of such naturally occurring materials as radionuclides and arsenic, after consultation with the Texas Water Development Board (TWDB) and the United State Environmental Protection Agency, to issue compliance schedules for small community water systems affected by the federal standards, consistent with the demonstrable public health benefit.

(c) Requires TCEQ to issue alternate compliance schedules for small community water systems that cannot achieve compliance in accordance with a schedule established under Subsection (b) because they face exceptional physical or financial circumstances. Requires TCEQ, in adopting alternate compliance schedules, to give special consideration to certain factors.

(d) Requires TCEQ, in conjunction with TWDB, the Texas Department of Agriculture, and state agencies with expertise in the protection of public health, to evaluate certain factors.

(e) Provides that the requirement for granting alternate compliance schedules because of the exceptional physical or financial circumstances does not apply in certain circumstances or to a certain entity.

(f) Requires TCEQ and other agencies to complete the evaluations required by Subsection (d) not later than November 1, 2004. Requires TCEQ to report to the legislature not later than January 1, 2005, TCEQ's findings regarding the reasonably available means for treating or removing naturally occurring materials at the potentially affected small community water systems. Provides that this subsection and Subsection (d) expire January 2, 2005.

SECTION 2. Effective date: upon passage or September 1, 2003.