

BILL ANALYSIS

Senate Research Center

S.B. 1265
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Natural Resources
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DIGEST AND PURPOSE

Until 1997, the predecessor agency to the Texas Commission on Environmental Quality (TCEQ) and the Office of the Attorney General (OAG) were required to be involved in a decision to criminally prosecute violations of the Texas Clean Air Act. Currently, no such process is required under any state environmental crime provisions. As proposed, S.B. 1265 reestablishes a requirement that TCEQ and OAG confer and recommend criminal prosecution of Texas environmental laws and regulations before the initiation of prosecution. This bill only applies to cases in which the potential defendant holds a permit by TCEQ or employed by a person holding such a permit.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. PURPOSE. Provides that the purpose of this Act is to ensure statewide consistency in the interpretation and enforcement of environmental laws.

SECTION 2. Amends Chapter 7E, Water Code, by adding Section 7.203, as follows:

Sec. 7.203. INITIATION OF PROSECUTION. (a) Requires the Texas Commission on Environmental Quality (TCEQ) or the executive director of TCEQ to consult with the attorney general concerning possible criminal prosecution of any alleged violation under this code, the Health and Safety Code, or any other statute or permit that is within TCEQ's jurisdiction. Authorizes the attorney general to institute the procedures established by Subsection (b), in response to the specific request of TCEQ or the executive director.

(b) Authorizes the attorney general, after evaluating an alleged violation as described by Subsection (a), to take certain actions.

(c) Provides that performance of the acts described by Subsections (a) and (b) by the appropriate individuals in accordance with those subsections is a condition precedent to the filing of criminal charges by any prosecuting attorney for an alleged violation under this code, the Health and Safety Code, or any other statute or permit that is within TCEQ's jurisdiction, if the potential defendant holds a permit issued by TCEQ or is employed by a person holding such permit.

(d) Requires TCEQ and the attorney general, in making an evaluation and recommendation for initiation of prosecution under this section, to consider the factors prescribed in Section 7.053 (Factors to be Considered in Determination of Penalty) and whether available administrative or civil remedies would adequately address the alleged violation.

SECTION 3. Effective date: upon passage or September 1, 2003.