

1-1 By: Madla S.B. No. 856
1-2 (In the Senate - Filed March 4, 2003; March 10, 2003, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 2, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 2, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 856 By: Brimer

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to compliance schedules for small community water systems
1-11 in accordance with public drinking water standards for certain
1-12 naturally occurring materials.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter C, Chapter 341, Health and Safety
1-15 Code, is amended by adding Section 341.0316 to read as follows:

1-16 Sec. 341.0316. COMPLIANCE WITH DRINKING WATER STANDARDS BY
1-17 SMALL COMMUNITY WATER SYSTEMS. (a) In this section:

1-18 (1) "Demonstrable public health benefit" means a
1-19 material health benefit affecting an entire community water system
1-20 as evidenced by natural disease rates highly distinguishable from
1-21 disease rates enhanced by levels of naturally occurring materials
1-22 in drinking water as represented by maximum contaminant levels
1-23 established by federal mandate.

1-24 (2) "Reasonably available alternate water supply"
1-25 means another water source, the cost of access to which is not equal
1-26 to or greater than 1.3 times the amount of the user's cost for the
1-27 user's existing water supply.

1-28 (3) "Small community water system" means an entity
1-29 that serves 10,000 customers or fewer.

1-30 (b) In adopting a rule to implement a federal drinking water
1-31 standard for the maximum contaminant level of such naturally
1-32 occurring materials as radionuclides and arsenic, the commission,
1-33 after consultation with the Texas Water Development Board and the
1-34 United States Environmental Protection Agency, shall issue
1-35 compliance schedules for small community water systems affected by
1-36 the federal standards, consistent with the demonstrable public
1-37 health benefit.

1-38 (c) The commission shall issue alternate compliance
1-39 schedules for small community water systems that cannot achieve
1-40 compliance in accordance with a schedule established under
1-41 Subsection (b) because they face exceptional physical or financial
1-42 circumstances. In adopting alternate compliance schedules, the
1-43 commission shall give special consideration to:

1-44 (1) the size, density, and median income of the
1-45 populations served by the system;

1-46 (2) the existence of, and costs associated with,
1-47 properly licensed facilities that treat, store, or dispose of waste
1-48 materials generated by water treatment systems and that are capable
1-49 of removing the naturally occurring materials; and

1-50 (3) the absence of any reasonably available alternate
1-51 water supply to the system to ensure the protection of public
1-52 health.

1-53 (d) The commission, in conjunction with the Texas Water
1-54 Development Board, the Department of Agriculture, and state
1-55 agencies with expertise in the protection of public health, shall
1-56 evaluate the following:

1-57 (1) the costs and benefits to the state of
1-58 implementing the federal drinking water standards as the
1-59 implementation directly relates to the estimated public health
1-60 benefit at a potentially affected small community water system;

1-61 (2) whether the federal standard reflects:
1-62 (A) the best available, peer-reviewed science
1-63 that establishes a direct cause-and-effect relationship between

2-1 long-term exposure of persons located within the small community
2-2 water system and comparable micro-levels of naturally occurring
2-3 materials being investigated; and

2-4 (B) proper oral ingestion studies to ensure that
2-5 the standard provides a demonstrable public health benefit;

2-6 (3) the approximate costs of implementing the
2-7 standards to the state and to all community water systems in the
2-8 state that are affected by the federal standards, taking into
2-9 account capital costs of water treatment, annual operating and
2-10 maintenance costs of water treatment, and costs associated with the
2-11 proper and safe disposal of hazardous and low-level radioactive
2-12 wastes; and

2-13 (4) whether the employment of point-of-use technology
2-14 provides an economically reasonable and viable alternative for
2-15 small community water systems as a method of treatment for removal
2-16 or minimization of naturally occurring materials in groundwater
2-17 that exceeds the federal standards.

2-18 (e) The requirement for granting alternate compliance
2-19 schedules because of the exceptional physical or financial
2-20 circumstances does not apply:

2-21 (1) if the federal government pays all costs for
2-22 complying with the standards, including costs of the state, the
2-23 drinking water supplier, and the end-point drinking water user; or

2-24 (2) to a small community water system that has entered
2-25 into a prior agreement or is under obligation to abandon completely
2-26 the use of groundwater by converting to surface water for its
2-27 drinking water supply.

2-28 (f) The commission and other agencies shall complete the
2-29 evaluations required by Subsection (d) not later than November 1,
2-30 2004. The commission shall report to the legislature not later than
2-31 January 1, 2005, the commission's findings regarding the reasonably
2-32 available means for treating or removing naturally occurring
2-33 materials at the potentially affected small community water
2-34 systems. This subsection and Subsection (d) expire January 2,
2-35 2005.

2-36 SECTION 2. This Act takes effect immediately if it receives
2-37 a vote of two-thirds of all the members elected to each house, as
2-38 provided by Section 39, Article III, Texas Constitution. If this
2-39 Act does not receive the vote necessary for immediate effect, this
2-40 Act takes effect September 1, 2003.

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