

BILL ANALYSIS

C.S.H.B. 2651
By: Krusee
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2001, the Texas Commission on Environmental Quality determined that sub-surface drip dispersal systems would not be included in the Underground Injection Code (UIC) program due to the irrigation and beneficial reuse labels. In August 2003, the Environmental Protection Agency defined any injection within a "formation" as an injection well. The TCEQ determined that the root zone was not included as part of the formation.

However, the EPA has since stated that the root zone is, in fact, part of the formation. Therefore, these systems are required to meet the Federal Underground Injection Code rules for class V injection.

Sub-surface drip dispersal systems reuse water for golf courses, park areas, neighborhood landscaping, school sports and playground facilities, and youth-league sports facilities. These commercial uses can help minimize total waste treatment costs by reducing the need for miles of interceptors or by producing income from the sale of reused water.

C.S.H.B. 2651 keeps sub-surface drip dispersal systems from being placed under Underground Injection Code requirements. C.S.H.B. 2651 requires the TCEQ to create rules separate from the underground injection category and sets up a permitting system for sub-surface drip dispersal systems.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 2651 amends the Water Code to set forth the Subsurface Area Drip Dispersal System Act. The bill sets forth the policy and purpose of the Act. The bill prohibits a person from operating a subsurface area drip dispersal system without first obtaining a permit from the Texas Commission on Environmental Quality (TCEQ). The bill sets forth provisions relating to the application for a permit. The bill requires the executive director of the TCEQ to inspect the location of the proposed dispersion area. The bill sets forth provisions relating to soliciting recommendations on permits from other persons. The bill provides for a public hearing on a permit. The bill provides for an opportunity to comment on proposed rules.

The bill sets forth provisions relating to the issuance of a permit, including terms and conditions. The bill authorizes the TCEQ to issue a permit for a subsurface area drip dispersal system if it finds that the installation of the system is in the public interest, fresh water can be protected from pollution, and the applicant has provided for the proper operation of the system. The bill requires the TCEQ to consider compliance history of the applicant, whether there is a feasible and economic alternative to a subsurface area drip dispersal system, and any other relevant factors. The bill sets forth provisions relating to the applicant's compliance history.

The bill requires the TCEQ to send a copy of each permit issued to the Department of State Health Services and the local health authority. The bill authorizes a member or employee of the TCEQ or the authorized agent or employee of a local government to enter public or private property to investigate conditions relating to a subsurface area drip dispersal system. The bill authorizes a member or employee of the TCEQ or the authorized agent or employee of a local

government to examine and copy any record of a business that is being investigated in relation to the operation of a subsurface area drip dispersal system.

EFFECTIVE DATE

If this Act does not receive the necessary for immediate effect, this Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute makes the original conform to Legislative Council drafting style.

The substitute removes provisions that added subsurface area drip dispersal systems to the definition of "injection well" in the Water Code.