

## **BILL ANALYSIS**

Senate Research Center

S.B. 1740  
By: Staples  
Natural Resources  
6/28/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Current Texas law requires applicants seeking an air permit amendment to obtain a final decision on the permit from the Texas Commission on Environmental Quality (TCEQ) before beginning construction. At times, applicants need to alter or replace equipment on a deadline. Waiting for a final decision on an amendment application places companies on tight schedules and jeopardizes continued operations.

S.B. 1740 authorizes applicants seeking a permit amendment to begin construction prior to a final decision by TCEQ. It specifies that the applicant assumes responsibility by proceeding before receiving a final decision, and prohibits TCEQ from considering construction efforts when evaluating the merits of the amendment application.

### **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. Amends Subchapter A, Chapter 382, Health and Safety Code, by adding Section 382.004, as follows:

Sec. 382.004. CONSTRUCTION WHILE PERMIT APPLICATION PENDING. (a) Authorizes a person who submits an application for a permit for a modification of or a lesser change to an existing facility under this subtitle, at the person's own risk, to begin construction related to the application after the application is submitted and before the Texas Commission on Environmental Quality (TCEQ) has issued the permit, to the extent permissible under federal law and notwithstanding Section 382.0518 (Preconstruction Permit).

(b) Prohibits TCEQ from considering construction begun under this section in determining whether to grant the permit modification sought in the application.

SECTION 2. Amends Section 382.05195, Health and Safety Code, by adding Subsection (j), to require the determination of whether the distance, setback, or buffer is satisfied, if a standard permit for a facility requires a distance, setback, or buffer from other property or structures as a condition of the permit, to be made on the basis of conditions existing at the earlier of a certain dates.

SECTION 3. Makes application of Section 382.004, Health and Safety Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2005.