

## **BILL ANALYSIS**

C.S.S.B. 359  
By: Williams  
Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, there is no comprehensive statute that regulates the mining of sand or other aggregates in Texas' rivers. The San Jacinto River was named one of the nation's most endangered rivers by American Rivers, a national nonprofit river conservation group. The operations conducted on the river could affect the drinking water supply for the City of Houston and surrounding communities, as well as the flow of water.

C.S.S.B. 359 expands an existing pilot program to protect parts of the San Jacinto River. The bill requires the Texas Commission on Environmental Quality, the San Jacinto River Authority, and the Texas Parks and Wildlife Department to monitor the aggregate mining operations on parts of the west and east forks of the San Jacinto River by annual visual inspections and water sampling. The bill requires reclamation and restoration of existing quarry sites located within the current pilot program area.

### **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.S.B. 359 amends Chapter 26 of the Water Code to create subchapter N "San Jacinto Water Quality Protection Area". The bill sets forth definitions, including the boundaries of the San Jacinto Water Quality Protection Area. The bill defines water quality protection area as territory located one-half mile or less from a river the water quality of which is threatened by activities at a quarry (protection area). Subchapter N applies only to sand and gravel quarries located in the San Jacinto Water Quality Protection Area from 2007 to 2027, on a pilot program basis. Subchapter N does not apply to solid waste facilities or surface coal mines.

The bill provides that a quarry, pit, or associated facility that has commenced operations after January 1, 2007, is subject to subchapter N. A quarry, pit or associated facility that commenced operations before January 1, 2007, is authorized to continue to operate under a specified storm water discharge general permit until that permit expires. A quarry, pit or associated facility that commenced operations before January 1, 2007, is also authorized to obtain a permit authorization under subchapter N. The bill sets forth legislative intent. The bill sets forth provisions regulating quarries within a water quality protection area.

The bill requires TCEQ, by rule, to require a responsible party to obtain an authorization to use a general permit for any discharges from a quarry, any part of which is located in the protection area. The bill sets forth items that must be included in the application for the general permit. The bill requires the TCEQ, by rule, to prohibit the construction or operation of a new quarry and the expansion of an existing quarry if it is to be located within 100 feet from a stream in the protection area. A quarry that is covered by a permit issued by the United State Army Corps of Engineers may operate within 100 feet of a stream if that permit authorizes it, even if it is in the protection area. The bill requires TCEQ, by rule, to establish performance criteria and requirements for a general permit required by subchapter N. The bills sets forth what these rules must address. The bill sets forth the requirements for closure of a quarry, provisions relating to financial responsibility, and provisions relating to inspections and sampling of water in the San Jacinto Water Quality Protection Area.

The bill provides for enforcement against unauthorized discharges of certain wastes within a water quality protection area. The bill authorizes the TCEQ to issue a temporary or emergency order relating to discharge of water or pollutants from a quarry in the waters of the protection area. The bill provides for recovery of costs for unauthorized discharge within the protection area. The bill sets forth provisions relating to cooperation between state agencies to implement subchapter N. The bill requires the TCEQ to issue certain reports in the implementation of subchapter N. Subchapter N expires September 1, 2027. The bill sets forth implementation deadlines.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute adjusts the boundaries of the San Jacinto Water Quality Protection Area. The substitute provides that a quarry, pit or associated facility that has commenced operations after January 1, 2007 is subject to subchapter N. The substitute provides that a quarry, pit or associated facility that commenced operations before January 1, 2007, is authorized to continue to operate under a specified storm water discharge general permit until that permit expires. The substitute also authorizes a quarry, pit or associated facility that commenced operations before January 1, 2007, to obtain a permit authorization under subchapter N. The substitute sets forth legislative intent.