

By: Watson, Harris

S.B. No. 1800

A BILL TO BE ENTITLED

AN ACT

relating to air contaminant emissions permits for coal-fired or lignite-fired electric generating facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.0518, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) This subsection applies only to an application for a permit for a proposed coal-fired or lignite-fired electric generating facility that is or was subject to an order to expedite the permit hearings process that is applicable to applications for more than one such facility by the same applicant. In making its finding under Subsection (b)(2) as to whether emissions from the facility will contravene the intent of this chapter, the commission shall consider:

(1) the cumulative effects on the public's health and physical property of the expected emissions from the proposed facility together with the expected emissions from the other proposed facilities subject to the order; and

(2) the expected positive and negative effects issuing the permit for the facility and for the other proposed facilities subject to the order may have on natural resources in this state, including effects on:

(A) game, fish, and forests;

(B) water, in terms of availability and quality;

1 (C) land from emissions and discharges; and

2 (D) the use of Texas natural gas.

3 SECTION 2. Subchapter C, Chapter 382, Health and Safety
4 Code, is amended by adding Section 382.067 to read as follows:

5 Sec. 382.067. PERMIT CONDITIONS FOR ELECTRIC GENERATING
6 FACILITIES. (a) The commission may consider as an appropriate
7 permit condition for a permit to be issued under this chapter for a
8 coal- or lignite-fired electric generating facility any
9 representation made to the public, the commission, or a hearings
10 officer regarding:

11 (1) emissions reductions from the proposed facility or
12 other facilities; or

13 (2) improvements in ambient air quality.

14 (b) In evaluating representations described by Subsection
15 (a), the commission shall assess any emissions associated with the
16 transportation of the fuel proposed for the facility.

17 (c) If the representations regarding reducing emissions
18 involve emissions reductions that may be eligible for an emissions
19 credits trading program, the commission as a permit condition shall
20 prohibit the owner or operator of the facility from earning or
21 trading credits earned for the emissions reductions or impose
22 reasonable conditions regarding the earning and trading of such
23 credits, including a condition that ensures that related emissions
24 reductions occur inside this state.

25 (d) If the permit is issued with the agreed reductions as a
26 permit condition, the commission shall include in the permit
27 reporting and monitoring requirements as necessary to enforce the

1 condition.

2 (e) The commission shall consider a failure of a permit
3 holder to achieve an emissions reduction on which the permit is
4 conditioned as provided by this section to be a violation of the
5 permit and shall initiate an appropriate enforcement action.

6 (f) In addition to the authority provided under Subsection
7 (a), if the commission notes that an applicant for a permit under
8 this subchapter publicly represents that the applicant will reduce
9 emissions from other sources owned or operated by the applicant in
10 this state, the commission may offer to enter corresponding
11 conditions into the permit and require the applicant to respond to
12 the offer.

13 SECTION 3. The Texas Commission on Environmental Quality as
14 soon as is practicable shall adopt rules to implement Section
15 382.0518(b-1) and Section 382.067, Health and Safety Code, as added
16 by this Act. The rules must be adopted not later than December 1,
17 2007.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2007.