

BILL ANALYSIS

C.S.H.B. 2895
By: Hancock
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The federal Occupational Safety and Health Act (OSHA) requires in its general duty clause that employers must provide a safe work environment free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. Industrial facilities must sometimes balance requirements of the OSHA general duty clause with environmental mandates that can be in conflict with one another in certain design or operating situations. Where such regulatory conflicts exist, facility managers and their staff must choose between compliance with a state environmental permit or regulation or compliance with federal requirements to protect worker health and safety.

C.S.H.B. 2895 provides an affirmative defense to enforcement by the Texas Commission on Environmental Quality (TCEQ) in those situations where it can be established that compliance with the OSHA general duty clause conflicts with a statute within the jurisdiction of TCEQ or with a TCEQ rule, order or permit.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 7, Water Code, by adding Section 7.256, COMPLIANCE WITH FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS, to provide an affirmative defense to enforcement action by TCEQ in those situations where a person can establish that an act or occurrence that would otherwise be a violation of a statute within the jurisdiction of TCEQ or of a TCEQ rule, order or permit was caused solely by compliance with the OSHA general duty clause.

SECTION 2. Effective date.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. C.S.H.B. 2895 differs from the original by inserting "the general duty clause of" immediately before "the federal Occupational Safety and Health Act of 1970" to more specifically reference the applicable provision of OSHA. The substitute also differs from the original by amending the citation of the federal code to read "(29 U.S.C. Section 654)". The original bill does not make these provisions.