

BILL ANALYSIS

Senate Research Center
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S.B. 456
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, several regions in Texas have elevated levels of air toxics, which can cause deleterious health effects.

As proposed, S.B. 456 seeks to lower the emissions of those dangerous air toxics by requiring the Texas Commission on Environmental Quality (TCEQ) to establish a toxic hotspots pilot program in which specific geographic areas are targeted to lower emissions. S.B. 456 requires TCEQ to set ambient air standards for four priority air toxics: benzene, 1,3-butadiene, hydrogen sulfide, and nickel, based on the health effects of those toxics. TCEQ must then designate geographic areas as "toxic hotspots" if monitoring or modeling indicates that the area exceeds an ambient air standard and ensure that the ambient air standards for priority toxic air contaminants are achieved by December 31, 2012. The bill also includes provisions for public notice and meetings, as well as reports to the legislature, and has a provision for expanding the toxic hotspot pilot program to include several other air toxics by December 31, 2012.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 382.459, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 382, Health and Safety Code, by adding Subchapter J, as follows:

SUBCHAPTER J. TOXIC HOTSPOT PILOT PROGRAM

Sec. 382.451. DEFINITIONS. Defines "ambient air toxic standard" (standard), "priority toxic air contaminant" (contaminant), and "toxic hotspot" (hotspot).

Sec. 382.452. DESIGNATION OF TOXIC HOTSPOTS. (a) Requires the Texas Natural Resource Conservation Commission (TNRCC) to designate certain geographic areas in this state as hotspots.

(b) Requires TNRCC to designate an area as a hotspot if monitoring or modeling data indicate the area likely exceeds a standard.

(c) Provides that in establishing the geographic boundaries of a hotspot, TNRCC is required to consider certain information.

Sec. 382.453. PRIORITY TOXIC AIR CONTAMINANTS. Requires TNRCC to, not later than December 31, 2009, designate hotspots for the contaminants benzene, 1,3-butadiene, hydrogen sulfide, and nickel.

Sec. 382.454. AMBIENT AIR TOXIC STANDARDS. (a) Requires TNRCC to establish standards for each contaminant at a level to ensure that for carcinogens, the allowed average concentration of the contaminant results in an increase in the lifetime

risk of cancer that is no greater than one in 100,000 for a person most exposed to the contaminant and that there are no appreciable risks of non-cancer, deleterious health effects.

(b) Provides that in hotspots where the public is exposed to multiple contaminants, TNRCC is required to consider cumulative impacts and to lower the standards applicable in such hotspots as necessary to protect public health.

Sec. 382.455. ACHIEVEMENT OF AMBIENT AIR TOXIC STANDARDS. Requires TNRCC to take actions necessary to ensure that the ambient air concentrations of contaminants in hotspots are below the standards. Authorizes such actions to include requiring the owner or operator of the facility to take certain measures.

Sec. 382.456. SCHEDULE FOR ACHIEVING AMBIENT AIR TOXIC STANDARDS. Requires TNRCC to ensure that the standards for contaminants are achieved in each hotspot before December 31, 2012.

Sec. 382.457. PUBLIC ACCESS AND COMMENT. (a) Requires TNRCC to maintain on the TNRCC website a list of contaminants and their associated standards and a list of all hotspots in this state.

(b) Requires TNRCC to establish procedures for members of the public to receive notice of and an opportunity to comment on an action taken by TNRCC concerning the designation of hotspots for each contaminant, the removal of an area's designation as a hotspot, and the establishment or amendment of standards for contaminants.

(c) Requires TNRCC to provide a public comment period of at least 30 days before TNRCC establishes or amends a standard, and when TNRCC publishes notice of a proposed amendment to a standard, justification for the amendment is required to be included.

(d) Requires that TNRCC's Internet website describe the procedures that a member of the public is authorized to follow to receive notice, provide comments, petition for designation of an area as a hotspot, or otherwise participate in the hotspot pilot program under this subchapter.

Sec. 382.458. REPORTS TO THE LEGISLATURE. Requires TNRCC to include in its annual enforcement reports each year through 2012 information regarding its progress under the hotspot pilot program. Requires that the report include a list of the hotspots designated for each contaminant, the steps taken to attain the standards in each hotspot, and the progress made in attaining the standards.

Sec. 382.459. EXPANDED TOXIC HOTSPOT PROGRAM. (a) Requires TNRCC, not later than December 31, 2012, to adopt rules expanding the hotspot pilot program.

(b) Requires that rules under this section include procedures and a public process for listing certain contaminants and for setting standards for contaminants.

(c) Provides that for each contaminant that is a carcinogen, TNRCC is required to establish a standard that ensures the allowed concentration of the contaminant results in an increase in the lifetime cancer risk that is not greater than one in 100,000 for a person most exposed to the contaminant.

(d) Provides that in hotspots where the public is exposed to multiple contaminants, TNRCC is required to consider cumulative impacts and to lower the standards applicable in such hotspots as necessary to protect public health.

(e) Requires that the rules under this section also include procedures and a public participation process for designating as hotspots areas that exceed one or more of the standards and procedures and public process for developing plans, source-

specific requirements, and deadlines for bringing all hotspots into compliance with applicable standards, including plans, requirements, and certain deadlines.

(f) Requires that the deadlines developed under Subsection (e)(2) ensure that standards are met in each hotspot as soon as possible, and in all cases within three years of designation as a hotspot.

SECTION 2. Effective date: September 1, 2009.