

## **BILL ANALYSIS**

S.B. 876  
By: Averitt  
Environmental Regulation  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, concentrated animal feeding operations (CAFOs) governed by Chapter 26 (Water Quality Control), Subchapter L (Protection of Certain Watersheds), Texas Water Code, are required to submit on an annual basis third-party contractor conducted soil tests associated with permitted waste application fields to the Texas Commission on Environmental Quality (TCEQ). Soil testing is an imperfect science with many variables. The goal of this bill is to control as many variables as possible associated with soil testing in an environmentally sensitive area of the state.

C.S.S.B. 876 amends Sections 26.504(a) and (b), Water Code, to require TCEQ to conduct annual soil tests.

[**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 26.504, Water Code) of this bill.

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is rescinded in SECTION 2 (Section 26.504, Water Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Sections 26.504(a) and (b), Water Code, as follows:

(a) Requires the Texas Natural Resource Conservation Commission (TNRCC) to collect one or more representative composite soil samples from each permitted waste application field associated with a concentrated animal feeding operation. Requires TNRCC to perform the sampling under this subsection not less often than once every 12 months. Requires that sampling results obtained by TNRCC be used by the permitted concentrated animal feeding operator to satisfy any annual sampling of waste application fields required by TNRCC rule or individual permit. Deletes existing text requiring the operator of a concentrated animal feeding operation to contract with a person described by Section 26.503(b)(2)(E)(ii) (regarding the qualifications of individuals authorized to regulate certain concentrated animal feeding operation wastes) selected by the executive director of TNRCC (executive director) to collect one or more representative soil samples from each waste application field, and requiring the operator to have sampling performed under this subsection not less often than once every 12 months.

(b) Requires that each sample collected under this section be tested for phosphorus and any other nutrient designated by TNRCC, rather than the executive director. Authorizes TNRCC to have the sampling required by this section performed under contract. Requires that the sampling be performed by a person described by Section 26.503(b)(2)(E)(ii) (regarding the qualifications of individuals authorized to regulate certain concentrated animal feeding operation wastes). Requires that the test results be made available to the operator of the concentrated animal feeding operation, rather than

the executive director and the operator of the concentrated animal feeding operation.  
Provides that the test results are public records of TNRCC.

SECTION 2. Repealer: Section 26.504(f) (regarding the requirement that TNRCC adopt rules to implement the requirement of waste application field soil sampling and testing), Water Code.

SECTION 3. Effective date: June 1, 2010.

**EFFECTIVE DATE**

June 1, 2010