

House Bill 3544
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 1. Section 5.128, Water Code, is amended to read as follows:

Sec. 5.128. ELECTRONIC REPORTING TO COMMISSION; ELECTRONIC TRANSMISSION OF INFORMATION BY COMMISSION; REDUCTION OF DUPLICATE REPORTING. (a) The commission shall encourage the use of electronic reporting through the Internet, to the extent practicable, for reports required by the commission. Notwithstanding any other law, the commission may:

(1) adjust fees as necessary to encourage electronic reporting and the use of the commission's electronic document receiving system. An electronic report must be submitted in a format prescribed by the commission. The commission may consult with the Department of Information Resources on developing a simple format for use in implementing this subsection; and

(2) utilize electronic means of transmission of information, including notices, orders, and decisions issued or sent by the commission.

(b) The commission shall strive to reduce duplication in reporting requirements throughout the agency.

Same as House version.

SECTION 2. Sections 11.31(c), (d), (e), and (i), Tax Code, are amended to read as follows:

(c) In applying for an exemption under this section, a person seeking the exemption shall present in a permit application or permit exemption request to the executive director of the Texas ~~[Natural Resource Conservation]~~

Same as House version.

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Commission on Environmental Quality information detailing:

- (1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;
- (2) the estimated cost of the pollution control facility, device, or method; and
- (3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is pollution control property.

If the installation includes property that is not used wholly for the control of air, water, or land pollution, the person seeking the exemption shall also present such financial or other data as the executive director requires by rule for the determination of the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality shall determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. As soon as practicable, the executive director shall send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a determination under this subsection. The executive director shall issue a letter to the person stating the executive director's determination of whether the facility, device, or method is used wholly or partly to

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control pollution and, if applicable, the proportion of the property that is pollution control property. The executive director shall send a copy of the letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located.

(e) Not later than the 20th day after the date of receipt of the letter issued by the executive director, the person seeking the exemption or the chief appraiser may appeal the executive director's determination to the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality. The commission shall consider the appeal at the next regularly scheduled meeting of the commission for which adequate notice may be given. The person seeking the determination and the chief appraiser may testify at the meeting. The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's determination. On issuance of a new determination, the executive director shall issue a letter to the person seeking the determination and provide a copy to the chief appraiser as provided by Subsection (d). A new determination of the executive director may be appealed to the commission in the manner provided by this subsection. A proceeding under this subsection is not a contested case for purposes of Chapter 2001, Government Code.

(i) A person seeking an exemption under this section shall provide to the chief appraiser a copy of the letter issued by the executive director of the Texas [~~Natural~~

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~~Resource Conservation]~~ Commission on Environmental Quality under Subsection (d) determining that the facility, device, or method is used wholly or partly as pollution control property. The chief appraiser shall accept a final determination by the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property.

No equivalent provision.

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SECTION 3. Section 11.31, Tax Code, is amended by adding Subsections (g-1) and (n) to read as follows:

(g-1) The standards and methods for making a determination under this section that are established in the rules adopted under Subsection (g) apply uniformly to all applications for determinations under this section, including applications relating to facilities, devices, or methods for the control of air, water, or land pollution included on a list adopted by the Texas Commission on Environmental Quality under Subsection (k).

(n) The Texas Commission on Environmental Quality shall establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups, as well as members who are not representatives of any of those entities but have substantial technical expertise in pollution control technology and environmental engineering, to advise the commission regarding the implementation of this section. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

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No equivalent provision.

SECTION 4. As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall appoint the initial members of the advisory committee under Section 11.31(n), Tax Code, as added by this Act.

No equivalent provision.

SECTION 5. (a) The change in law made by Sections 11.31 (g-1) and (n), Tax Code, applies only to a determination that is not final on the effective date of the Act on an application that was filed on or after January 1, 2009.

(b) A determination that is not final on the effective date of the Act on an application that was filed before January 1, 2009 is governed by law in effect before the effective date of this act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 6. The change in law made by Section 11.31 (g-1) and (n), Tax Code, applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 3. Section 552.137, Government Code, is amended to read as follows:

Sec. 552.137. CONFIDENTIALITY OF CERTAIN E-

SECTION 7. Section 552.137, Government Code, is amended to read as follows:

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MAIL ADDRESSES. (a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; [Ø]

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body by a person for the purpose of providing public comment, or receiving notices,

orders, or decisions from a governmental body.

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MAIL ADDRESSES. (a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

(2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

(3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract; [Ø]

(4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or

(5) provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003(2) of this Code, or receiving

orders or decisions from a governmental body.

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(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

SECTION 4. Section 552.228, Government Code, is amended to read as follows:

Sec. 552.228. PROVIDING SUITABLE COPY OF PUBLIC INFORMATION WITHIN REASONABLE TIME. (a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

(b) If public information exists in an electronic or magnetic medium, the requestor may request a copy [~~either on paper or~~] in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:

(1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;

(2) the governmental body is not required to purchase any software or hardware to accommodate the request; and

(3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

(c) If a governmental body is unable to comply with a request to produce a copy of information in a requested

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(d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

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medium for any of the reasons described by this section, the governmental body shall provide ~~[a paper copy of the requested information or]~~ a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

SECTION 5. The changes in law made to Section 552.228, Government Code, by this Act apply only to requests received by the agency on or after September 1, 2009. Requests received by the agency before the effective date of this Act are governed by the former law, and that law is continued in effect for that purpose.

SECTION 6. Except as otherwise provided by the Act, this Act takes effect September 1, 2009.

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SECTION 9. Same as House version.

SECTION 10. Same as House version.

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