

SENATE AMENDMENTS

2nd Printing

By: Smith of Harris

H.B. No. 1981

A BILL TO BE ENTITLED

AN ACT

relating to measuring, monitoring, and reporting emissions.

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

SECTION 1. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0161 and 382.042 to read as follows:

Sec. 382.0161. AIR POLLUTANT WATCH LIST. (a) The commission shall establish and maintain an air pollutant watch list. The air pollutant watch list must identify:

(1) each air contaminant that the commission determines, on the basis of federal or state ambient air quality standards or effects screening levels for the contaminant, should be included on the air pollutant watch list; and

(2) each geographic area of the state for which ambient air quality monitoring data indicates that the individual or cumulative emissions of one or more air contaminants identified by the commission under Subdivision (1) may cause short-term or long-term adverse human health effects or odors in that area.

(b) The commission shall publish notice of and allow public comment on:

(1) an addition of an air contaminant to or removal of an air contaminant from the air pollutant watch list; or

(2) an addition of an area to or removal of an area from the air pollutant watch list.

1 (c) When considering the addition or removal of an area to
2 the air pollutant watch list, the commission shall provide the
3 monitoring data related to the area to the state senator and
4 representative who represent the area.

5 (d) The commission may hold a public meeting in an area
6 listed on the air pollutant watch list to provide residents of the
7 area with information regarding:

8 (1) the reasons for the area's inclusion on the air
9 pollutant watch list; and

10 (2) commission actions to reduce the emissions of air
11 contaminants contributing to the area's inclusion on the air
12 pollutant watch list.

13 (e) The air pollutant watch list and the addition or removal
14 of a pollutant or area to or from the list are not matters subject to
15 the requirements of Subchapter B, Chapter 2001, Government Code.

16 Sec. 382.042. EFFECTS SCREENING LEVELS. (a) The
17 commission shall adopt guidelines for effects screening levels for
18 air contaminants as determined by the commission. Each effects
19 screening level must:

20 (1) be set in a manner that takes into consideration
21 acute and chronic health effects on a person resulting from
22 exposure to an air contaminant;

23 (2) be based in part on the health effects of:

24 (A) the short-term exposure of a person to the
25 air contaminant from an emission source; and

26 (B) the long-term exposure of a person to the air
27 contaminant from an emission source; and

1 (3) be set at a level that does not increase the risk
2 of cancer in a person exposed to the air contaminant by greater than
3 one chance in 100,000 or another level set by the commission to
4 protect human health and welfare when compared to a person not
5 exposed to the contaminant.

6 (b) The commission shall use the adopted effects screening
7 levels in permit reviews under this chapter of all new and modified
8 facilities to establish enforceable limits in the permits.

9 (c) Revisions of the effects screening levels are not
10 subject to Subchapter B, Chapter 2001, Government Code.

11 SECTION 2. Sections 382.0215(e) and (g), Health and Safety
12 Code, are amended to read as follows:

13 (e) The commission shall develop the capacity for
14 electronic reporting and shall incorporate reported emissions
15 events into a permanent online centralized database for emissions
16 events. The commission shall develop a mechanism whereby the
17 reporting entity shall be allowed to review the information
18 relative to its reported emissions events prior to such information
19 being included in the database. The database shall be easily
20 searchable and accessible to the public. The commission shall
21 evaluate information in the database to identify persons who
22 repeatedly fail to report reportable emissions events. The
23 commission shall enforce against such persons pursuant to Section
24 382.0216(i). The commission shall describe such enforcement
25 actions in the report required in Subsection (g).

26 (g) The commission annually, or at the request of a member
27 of the legislature, shall assess the information received under

1 this section, including actions taken by the commission in response
2 to the emissions events, and shall include the assessment in the
3 report required by Section 5.126, Water Code.

4 SECTION 3. Chapter 505, Health and Safety Code, is amended
5 by adding Section 505.017 to read as follows:

6 Sec. 505.017. NOTICE ISSUED UNDER EMERGENCIES. (a) When
7 immediate notification of a release by a facility to the state
8 emergency response commission is required in accordance with EPCRA,
9 the state agency responsible for the information submitted to the
10 state emergency response commission, on receipt of the required
11 notification, shall make a determination as to whether the release
12 reported will substantially endanger human health or the
13 environment.

14 (b) If the responsible state agency determines that a
15 release will substantially endanger human health or the
16 environment, the agency shall, on request, notify the state senator
17 or representative who represents the area in which the facility is
18 located of the release within four hours of receipt of the original
19 notification.

20 SECTION 4. This Act takes effect September 1, 2011.

ADOPTED

MAY 24 2011

Atty. Gen.
Secretary of the Senate

Mano Gallego Jr.

By: _____

H.B. No. 1981

Substitute the following for ____B. No. ____:

By: *McL...*

C.S. ____B. No. ____

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(1) each air contaminant that the commission determines, on the basis of federal or state ambient air quality standards for the contaminant, should be included on the air pollutant watch list; and

(2) each geographic area of the state for which ambient air quality monitoring data indicates that the individual or cumulative emissions of one or more air contaminants identified by the commission under Subdivision (1) may cause short-term or long-term adverse human health effects or odors in that area.

(b) The commission shall publish notice of and allow public comment on:

(1) an addition of an air contaminant to or removal of an air contaminant from the air pollutant watch list; or

(2) an addition of an area to or removal of an area from the air pollutant watch list.

(c) When considering the addition or removal of an area to

Joseph A. ...

1 or from the air pollutant watch list, the commission shall provide
2 the monitoring data related to the area to the state senator and
3 representative who represent the area.

4 (d) The commission may hold a public meeting in an area
5 listed on the air pollutant watch list to provide residents of the
6 area with information regarding:

7 (1) the reasons for the area's inclusion on the air
8 pollutant watch list; and

9 (2) commission actions to reduce the emissions of air
10 contaminants contributing to the area's inclusion on the air
11 pollutant watch list.

12 (e) The air pollutant watch list and the addition or removal
13 of a pollutant or area to or from the list are not matters subject to
14 the requirements of Subchapter B, Chapter 2001, Government Code.

15 SECTION 2. Sections 382.0215(e) and (g), Health and Safety
16 Code, are amended to read as follows:

17 (e) The commission shall develop the capacity for
18 electronic reporting and shall incorporate reported emissions
19 events into a permanent online centralized database for emissions
20 events. The commission shall develop a mechanism whereby the
21 reporting entity shall be allowed to review the information
22 relative to its reported emissions events prior to such information
23 being included in the database. The database shall be easily
24 searchable and accessible to the public. The commission shall
25 evaluate information in the database to identify persons who
26 repeatedly fail to report reportable emissions events. The
27 commission shall enforce against such persons pursuant to Section

1 382.0216(i). The commission shall describe such enforcement
2 actions in the report required in Subsection (g).

3 (g) The commission annually, or at the request of a member
4 of the legislature, shall assess the information received under
5 this section, including actions taken by the commission in response
6 to the emissions events, and shall include the assessment in the
7 report required by Section 5.126, Water Code.

8 SECTION 3. Chapter 505, Health and Safety Code, is amended
9 by adding Section 505.017 to read as follows:

10 Sec. 505.017. NOTICE ISSUED UNDER EMERGENCIES. (a) When
11 immediate notification of a release by a facility to the state
12 emergency response commission is required in accordance with EPCRA,
13 the state agency responsible for the information submitted to the
14 state emergency response commission, on receipt of the required
15 notification, shall make a determination as to whether the release
16 reported will substantially endanger human health or the
17 environment.

18 (b) If the responsible state agency determines that a
19 release will substantially endanger human health or the
20 environment, the agency shall, on request, notify the state senator
21 or representative who represents the area in which the facility is
22 located of the release within four hours of receipt of the original
23 notification.

24 SECTION 4. This Act takes effect September 1, 2011.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1981 by Smith, Wayne (Relating to measuring, monitoring, and reporting emissions.), As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would modify the Texas Commission on Environmental Quality's (TCEQ) current Air Pollutant Watch List (APWL) process. The APWL would be required to identify each air contaminant to be included on the list and each geographic area of the state where ambient air monitoring indicates either individual or cumulative emissions may cause short-term or long-term health effects or odors. The proposed language includes requirements for publishing notice and allowing public comment on the addition or removal of a contaminant or area. The TCEQ would be required to provide monitoring data related to the APWL area to the state senator and representative who represent the area. The proposed language states that public meetings in APWL areas may be held to provide residents with information on the reasons for including an area on the APWL, and commission actions to reduce emissions of the specific air contaminant(s) in that APWL.

The bill would require a responsible state agency to make a determination as to whether a release reported to the state emergency response commission (SERC) in accordance with Emergency Planning and Community Right-to-Know Act (EPCRA) would endanger human health or the environment. Upon determining a release would endanger human health or the environment, the TCEQ or other responsible state agency would be required, on request, to notify the state senator or representative who represents the area in which the facility is located within four hours of receipt of the notification.

It is expected that the TCEQ, as well as any other responsible state agency, would use existing resources to implement the provisions of the bill.

Local Government Impact

The TCEQ reports that demands on local government air programs (delegated by the TCEQ) may increase, and local governments with emissions of APWL contaminants in APWL areas could incur costs in reducing emissions in such areas, as a result of the bill's passage. This estimate assumes that such costs would not be significant.

Source Agencies: 405 Department of Public Safety, 582 Commission on Environmental Quality

LBB Staff: JOB, SD, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 13, 2011

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1981 by Smith, Wayne (Relating to measuring, monitoring, and reporting emissions.),
Committee Report 2nd House, Substituted

<p>No significant fiscal implication to the State is anticipated.</p>

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The bill would require a responsible state agency to make a determination as to whether a release reported to the state emergency response commission (SERC) in accordance with Emergency Planning and Community Right-to-Know Act (EPCRA) would endanger human health or the environment. Upon determining a release would endanger human health or the environment, the TCEQ or other responsible state agency would be required, on request, to notify the state senator or representative who represents the area in which the facility is located within four hours of receipt of the notification.

It is expected that the TCEQ, as well as any other responsible state agency, would use existing resources to implement the provisions of the bill.

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Source Agencies: 405 Department of Public Safety, 582 Commission on Environmental Quality

LBB Staff: JOB, SZ, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 21, 2011

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1981 by Smith, Wayne (Relating to measuring, monitoring, and reporting emissions.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would modify the Texas Commission on Environmental Quality's (TCEQ) current Air Pollutant Watch List (APWL) process. The APWL would be required to identify each air contaminant to be included on the list and each geographic area of the state where ambient air monitoring indicates either individual or cumulative emissions may cause short-term or long-term health effects or odors. The proposed language includes requirements for publishing notice and allowing public comment on the addition or removal of a contaminant or area. The TCEQ would be required to provide monitoring data related to the APWL area to the state senator and representative who represent the area. The proposed language states that public meetings in APWL areas may be held to provide residents with information on the reasons for including an area on the APWL, and commission actions to reduce emissions of the specific air contaminant(s) in that APWL.

The bill would require the TCEQ to adopt guidelines for acute and chronic effects screening levels (ESLs) for air contaminants. The ESLs would be based on short-term and long-term exposure to a contaminant from an emission source. The ESLs would be set at levels protective of cancer risk at 1 chance in 100,000 or another level set by the TCEQ to protect human health and welfare. The TCEQ would be required to use the adopted ESLs in permit reviews for all new and modified facilities to establish enforceable limits in their permits.

The bill would require a responsible state agency to make a determination as to whether a release reported to the state emergency response commission (SERC) in accordance with Emergency Planning and Community Right-to-Know Act (EPCRA) would endanger human health or the environment. Upon determining a release would endanger human health or the environment, the TCEQ or other responsible state agency would be required, on request, to notify the state senator or representative who represents the area in which the facility is located within four hours of receipt of the notification.

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LBB Staff: JOB, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 15, 2011

TO: Honorable Wayne Smith, Chair, House Committee on Environmental Regulation

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB1981 by Smith, Wayne (Relating to measuring, monitoring, and reporting emissions.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would modify the Texas Commission on Environmental Quality's (TCEQ) current Air Pollutant Watch List (APWL) process. The APWL would be required to identify each air contaminant to be included on the list and each geographic area of the state where ambient air monitoring indicates either individual or cumulative emissions may cause short-term or long-term health effects or odors. The proposed language includes requirements for publishing notice and allowing public comment on the addition or removal of a contaminant or area. The TCEQ would be required to provide monitoring data related to the APWL area to the state senator and representative who represent the area. The proposed language states that public meetings in APWL areas may be held to provide residents with information on the reasons for including an area on the APWL, and commission actions to reduce emissions of the specific air contaminant(s) in that APWL.

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