

## **BILL ANALYSIS**

Senate Research Center

H.B. 824  
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Natural Resources  
5/14/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

An accidental discharge or spill, such as a sanitary sewer overflow, that occurs at or from any activity or facility which causes or may cause pollution is currently required to be reported to the Texas Commission on Environmental Quality (TCEQ) and, in certain cases, to local government officials and local media. Interested parties note that an informal survey of Texas utilities indicates that a large percentage of reported spills are less than 1,500 gallons and that the majority of such spills do not reach waters of the state or cause an environmental impact. These parties contend that the requirement to report accidental discharges or spills regardless of size creates a reporting burden for public utilities as well as an information management burden for TCEQ. This level of reporting also has the potential to mislead the public into thinking that a serious public health and safety issue exists every time an unauthorized discharge or spill is reported. H.B. 824 seeks to remedy this situation by creating an exemption from the reporting requirement for certain accidental sanitary sewer overflows.

H.B. 824 amends current law relating to reporting requirements for accidental sanitary sewer overflows.

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

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 1 (Section 26.039, Water Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.039, Water Code, by amending Subsections (b) and (f) and adding Subsections (b-1) and (b-2), as follows:

(b) Requires the individual operating, in charge of, or responsible for the activity or facility, except as provided by Subsection (b-1), whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, to notify the Texas Natural Resource Conservation Commission (TNRCC) as soon as possible and not later than 24 hours after the occurrence. Requires that the individual's notice to TNRCC include the location, volume, and content of the discharge or spill.

(b-1) Provides that the individual is not required to notify TNRCC under Subsection (b) or local government officials or local media under Subsection (e) (relating to requiring the individual to also notify appropriate local government officials and local media) of a sanitary sewer overflow, as defined by Section 26.049 (Sanitary Sewer Overflows), that

is 1,000 gallons or less and controlled or removed before the overflow enters water in the state and before the overflow adversely affects a public or private source of drinking water.

(b-2) Requires the individual to report sanitary sewer overflows described by Subsection (b-1) on a monthly basis to TNRCC. Requires that the report include the information required for a notice under Subsection (b) and be made in a manner determined by TNRCC rule.

(f) Requires TNRCC by rule to specify the conditions under which an individual is required to comply with Subsections (b) and (e) and prescribe procedures for giving the required notice. Requires that the rules also state the content of the notice and the manner of giving notice. Requires TNRCC, in formulating the rules, to consider the nature and extent of the discharge or spill; the potential effect of the discharge or spill; and regional information about the susceptibility of a particular drinking water source to a specific type of pollution.

SECTION 2. (a) Requires the Texas Commission on Environmental Quality (TCEQ), not later than December 1, 2013, to adopt rules necessary to implement Section 26.039, Water Code, as amended by this Act.

(b) Provides that the change in law made by this Act applies only to an offense committed on or after the effective date of a rule adopted by TCEQ under this section. Provides that, for purposes of this section, an offense was committed before the effective date of a rule adopted by TCEQ under this section if any element of the offense occurred before that date.

(c) Provides that an offense committed before the effective date of a rule adopted by TCEQ under this section is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2013.