

BILL ANALYSIS

C.S.H.B. 2996
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Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Reports indicate that in recent years, Texas Commission on Environmental Quality rules, current law, and policy regarding land application and the beneficial use of certain liquid wastes have been under increased scrutiny and debate. Interested parties note that the regulatory uncertainty of these wastes is resulting in valuable soil amendment products being landfilled. C.S.H.B. 2996 seeks to make changes and clarifications to the applicable law regulating the land application of Class B sludge.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2996 amends the Health and Safety Code to require a registration certificate rather than a permit for the application of Class B sludge on a land application unit. The bill makes certain statutory notice and hearing provisions relating to environmental permitting procedures inapplicable to an application for such a registration or for an amendment or renewal of registration, rather than the provisions applying to an application for such a permit, permit amendment, or permit renewal, and removes language regarding certain notice requirements applicable to such a permit, permit amendment, or permit renewal. The bill repeals a provision authorizing certain persons to apply Class B sludge during the pendency of a permit application made on or before a certain date. The bill exempts an applicant that is a small business from certain insurance requirements relating to a commercial liability insurance policy and an environmental impairment insurance policy.

C.S.H.B. 2996 redefines "Class B sludge" to mean domestic sewage sludge and expands the definition to include, in addition to pathogen reduction requirements set out in rule, domestic sewage sludge that, if combined and processed with grease trap waste, grit trap waste, or septage within the boundaries of a wastewater treatment facility, meets one of the pathogen reduction requirements set out in rule and one of the vector attraction reduction requirements set out in rule.

C.S.H.B. 2996 applies to an application to apply Class B sludge to a land application unit that is filed with the Texas Commission on Environmental Quality (TCEQ) on or after the bill's effective date or that is filed with TCEQ before such date but not found to be administratively complete before that date. The bill authorizes a person who holds a permit for the application of Class B sludge approved by TCEQ before the bill's effective date to apply Class B sludge in accordance with the terms of the permit.

C.S.H.B. 2996 repeals Section 361.121(m), Health and Safety Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2996 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The heading to Section 361.121, Health and Safety Code, is amended.

SECTION 2. Section 361.121(a)(1), Health and Safety Code, is amended to read as follows:

(1) "Class B sludge" is sewage sludge, including sludge combined and processed with grease trap waste, grit trap waste, or septage within the boundaries of a wastewater treatment facility, ~~that~~ meets one of the pathogen reduction requirements of 30 T.A.C. 312.82(b).

SECTION 3. Sections 361.121(b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (n), and (o), Health and Safety Code, are amended to read as follows:

(b) ~~A~~ [Except as provided by Subsection (m), a] responsible person may not apply Class B sludge on a land application unit unless the responsible person has obtained a registration certificate ~~[permit]~~ for that land application unit issued by the commission under this section ~~[on or after September 1, 2003]~~.

(c) The notice and hearing provisions of Subchapter M, Chapter 5, Water Code, do not ~~[as added by Chapter 1350, Acts of the 76th Legislature, Regular Session, 1999,]~~ apply to an application under this section for registration or for an ~~[a permit, a permit]~~ amendment~~[,]~~ or ~~[a permit]~~ renewal of

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 361.121(a)(1), Health and Safety Code, is amended to read as follows:

(1) "Class B sludge" is domestic sewage sludge ~~that:~~

(A) meets one of the pathogen reduction requirements of 30 T.A.C. Section 312.82(b); or

(B) if combined and processed with grease trap waste, grit trap waste, or septage within the boundaries of a wastewater treatment facility, meets one of the pathogen reduction requirements of 30 T.A.C. Section 312.82(b) and one of the vector attraction reduction requirements of 30 T.A.C. Section 312.83.

SECTION 3. Sections 361.121(b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (n), and (o), Health and Safety Code, are amended to read as follows:

(b) Same as introduced version.

(c) Same as introduced version.

~~registration. [In addition, at the time published notice of intent to obtain a permit is required under Section 5.552, Water Code, an applicant for a permit, permit amendment, or permit renewal under this section must notify by registered or certified mail each owner of land located within one-quarter mile of the proposed land application unit who lives on that land of the intent to obtain the permit, amendment, or renewal. Notice to landowners must include the information required by Section 5.552(e), Water Code, and information regarding the anticipated date of the first application of the sludge to the proposed land application unit. An owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person for purposes of Section 5.115, Water Code.]~~

(d) In each registration certificate ~~[permit]~~, the commission shall prescribe the conditions under which it is issued, including:

- (1) the duration of the registration ~~[permit]~~;
- (2) the location of the land application unit;
- (3) the maximum quantity of Class B sludge that may be applied or disposed of under the registration ~~[permit]~~;
- (4) a requirement that the registration certificate ~~[permit]~~ holder submit quarterly to the commission a computer-generated report that includes, at a minimum, information regarding:
 - (A) the source, quality, and quantity of sludge applied to the land application unit;
 - (B) the location of the land application unit, either in terms of longitude and latitude or by physical address, including the county;
 - (C) the date of delivery of Class B sludge;
 - (D) the date of application of Class B sludge;
 - (E) the cumulative amount of metals applied to the land application unit through the application of Class B sludge;
 - (F) crops grown at the land application unit site; and
 - (G) the suggested agronomic application rate for the Class B sludge;
- (5) a requirement that the registration certificate ~~[permit]~~ holder submit annually to the commission evidence that the ~~[permit]~~ holder is complying with the nutrient management plan and the practice standards

(d) Same as introduced version.

described by Subsection (h)(4);

(6) a requirement that the registration certificate [~~permit~~] holder post a sign that is visible from a road or sidewalk that is adjacent to the premises on which the land application unit is located stating that a beneficial application site is located on the premises;

(7) any other monitoring and reporting requirements prescribed by the commission for the registration certificate [~~permit~~] holder; and

(8) a requirement that the registration certificate [~~permit~~] holder must report to the commission any noncompliance by the [~~permit~~] holder with the registration [~~permit~~] conditions or applicable commission rules.

(e) A registration [~~permit~~] does not become a vested right in the registration certificate [~~permit~~] holder.

(e) Same as introduced version.

(f) A registration certificate [~~permit~~] may be issued under this section for a term set by the board not to exceed six years from the date of issuance.

(f) Same as introduced version.

(g) The commission shall charge a fee for the issuance of a registration certificate [~~permit~~] under this section in an amount not less than \$1,000 and not more than \$5,000. In determining the fee under this subsection, the commission shall consider the amount of sludge to be applied under the registration [~~permit~~].

(g) Same as introduced version.

(h) The commission by rule shall require an applicant for registration [~~a permit~~] under this section to submit with the application, at a minimum:

(h) Same as introduced version.

(1) information regarding:

(A) the applicant;

(B) the source, quality, and quantity of sludge to be applied; and

(C) the hydrologic characteristics of the surface water and groundwater at and within one-quarter of a mile of the land application unit;

(2) proof evidencing that the applicant has a commercial liability insurance policy that:

(A) is issued by an insurance company authorized to do business in this state that has a rating by the A. M. Best Company of A- or better;

(B) designates the commission as an

additional insured; and

(C) is in an amount of not less than \$3 million;

(3) proof evidencing that the applicant has an environmental impairment insurance policy or similar insurance policy that:

(A) is issued by an insurance company authorized to do business in this state that has a rating by the A. M. Best Company of A- or better;

(B) designates the commission as an additional insured; and

(C) is in an amount of not less than \$3 million; and

(4) proof that the applicant has minimized the risk of water quality impairment caused by nitrogen applied to the land application unit through the application of Class B sludge by having had a nutrient management plan prepared by a certified nutrient management specialist in accordance with the practice standards of the Natural Resources Conservation Service of the United States Department of Agriculture.

(j) A registration certificate [~~permit~~] holder must maintain an insurance policy required by Subsection (h) in effect for the duration of the registration [~~permit~~].

(j) Same as introduced version.

(k) The commission shall create and operate a tracking system for the land application of Class B sludge. The commission shall require a registration certificate [~~permit~~] holder to report deliveries and applications of Class B sludge using the tracking system and shall post the reported information on its website. The tracking system must allow a registration certificate [~~permit~~] holder to report electronically:

(k) Same as introduced version.

(1) the date of delivery of Class B sludge to a land application unit; and

(2) for each application of Class B sludge to a land application unit:

(A) the date of the application; and

(B) the source, quality, and quantity of the sludge applied.

(l) A registration certificate [~~permit~~] holder may not accept Class B sludge unless the sludge has been transported to the land application unit in a covered container with the covering firmly secured at the front and

(l) Same as introduced version.

back.

(n) The insurance requirements under Subsections (h)(2) and (3) do not apply to an applicant that is:

- (1) a political subdivision; or
- (2) a small business, as defined by Section 2006.001, Government Code, that owns the land application unit.

(o) The commission may not issue a registration certificate [~~permit~~] under this section for a land application unit that is located both:

- (1) in a county that borders the Gulf of Mexico; and
- (2) 500 feet or less from any water well or surface water.

SECTION 4. Section 361.121(m), Health and Safety Code, is repealed.

SECTION 5. (a) The changes in law made by this Act apply only to an application to apply Class B sludge to a land application unit that is:

- (1) filed with the Texas Commission on Environmental Quality on or after the effective date of this Act; or
 - (2) filed with the Texas Commission on Environmental Quality before the effective date of this Act but not found to be administratively complete before that date.
- (b) A person who holds a permit for the application of Class B sludge approved by the Texas Commission on Environmental Quality before the effective date of this Act may apply Class B sludge in accordance with the terms of the permit.

SECTION 6. This Act takes effect September 1, 2013.

(n) The insurance requirements under Subsections (h)(2) and (3) do not apply to an applicant that is:

- (1) a political subdivision; or
- (2) a small business, as defined by Section 2006.001, Government Code.

(o) Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.