

BILL ANALYSIS

Senate Research Center

S.B. 1756
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Natural Resources
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Commission on Environmental Quality (TCEQ) currently has a backlog of applications for air permits, which has the effect of slowing down the investment in the state and diverting business to competitor states like Louisiana. This ultimately slows down economic growth in Texas. TCEQ currently can and does provide limited expedited processing for some permits, but does not have the ability to impose a surcharge.

S.B. 1756 allows Texas businesses to request expedited processing of air permits and allows TCEQ to impose a surcharge on the permit application fee to cover the extra cost of expediting the review of that permit. The surcharge will be used to cover overtime and bonuses for existing employees, or to hire additional contract labor. S.B. 1756 does not change any state or federal requirement for pollution control. The bill still requires notice, opportunity for public hearing, and submission of public comment. The bill does not reduce the level of review; it just provides resources for the expedited processing.

S.B. 1756 amends current law relating to the expedited processing of certain applications for permits under the Clean Air Act, and authorizes a surcharge.

[**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 382.05155, Health and Safety Code) and SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 382, Health and Safety Code, by adding Section 382.05155, as follows:

Sec. 382.05155. EXPEDITED PROCESSING OF APPLICATION. (a) Authorizes an applicant, in a manner prescribed by the Texas Natural Resource Conservation Commission (TNRCC), to request the expedited processing of an application filed under this chapter if the applicant demonstrates that the purpose of the application will benefit the economy of this state or an area of this state.

(b) Authorizes the executive director of TNRCC to grant an expedited processing request if the executive director determines that granting the request will benefit the economy of this state or an area of this state.

(c) Provides that the expediting of an application under this section does not affect a contested case hearing or applicable federal, state, and regulatory requirements, including the notice, opportunity for a public hearing, and submission of public comment required under this chapter.

(d) Requires TNRCC by rule to add a surcharge to an application fee assessed under this chapter for an expedited application in an amount sufficient to cover the expenses incurred by the expediting, including overtime, contract labor, and other costs.

(e) Authorizes TNRCC to authorize the use of overtime or contract labor to process expedited applications. Provides that the overtime or contract labor authorized under this section is not included in the calculation of the number of full-time equivalent TNRCC employees allotted under other law.

(f) Authorizes TNRCC to pay for compensatory time, overtime, or contract labor used to implement this section.

(g) Requires that a rule adopted under this section be consistent with Chapter 2001 (Administrative Procedure), Government Code. Requires that a rule adopted under this section regarding notice include a provision to require an indication that the application is being processed in an expedited manner.

SECTION 2. Requires TCEQ, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement Section 382.05155, Health and Safety Code, as added by this Act.

SECTION 3. Effective date: upon passage or September 1, 2013.