By: Hancock S.B. No. 1385

A BILL TO BE ENTITLED

AN ACT

relating to notification procedures regarding the Texas Commission on Environmental Quality.

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

SECTION 1. Subdivision (1), Section 7.001, Water Code, is amended to read as follows:

(1) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

SECTION 2. Section 7.003, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall publish each report required under Subsection (a) on the commission's Internet website not later than the 15th day before the date of any meeting of the commission for which public notice is given.

SECTION 3. Section 7.056, Water Code, is amended to read as follows:

Sec. 7.056. CONSENT. Not later than the 30th [~~20th~~] day after the date on which notice is received, the person charged may give to the commission written or electronic consent to the executive director's report, including the recommended penalty, or make a written or electronic request for a hearing.

SECTION 4. Section 7.060, Water Code, is amended to read as follows:

Sec. 7.060. NOTICE OF PENALTY. If the commission is

required to give notice of a penalty under Section 7.057 or 7.059, the commission shall publish notice of its decision in the Texas Register and on the commission's Internet website not later than the 10th day after the date on which the decision is adopted.

SECTION 5. Subsection (a), Section 7.075, Water Code, is amended to read as follows:

(a) Before the commission approves an administrative order or proposed agreement to settle an administrative enforcement action initiated under this subchapter to which the commission is a party, the commission shall allow the public to comment in writing on the proposed order or agreement. Notice of the opportunity to comment shall be published in the Texas Register and on the commission's Internet website not later than the 30th day before the date on which the public comment period closes.

SECTION 6. Subsection (b), Section 7.110, Water Code, is amended to read as follows:

(b) Notice of the opportunity to comment shall be published in the Texas Register and on the commission's Internet website not later than the 30th day before the date on which the public comment period closes.

SECTION 7. Section 7.305, Water Code, is amended to read as follows:

Sec. 7.305. PROCEDURES. The commission by rule shall establish procedures for public notice and any public hearing under this subchapter. The procedures shall:

(1) provide for notice to a county that issued a license, certificate, or registration that is the subject of the

hearing; and

(2) require notice to be posted on the commission's Internet website.

SECTION 8. Section 7.355, Water Code, is amended to read as follows:

Sec. 7.355. COMPLAINTS. In the case of a violation of Chapter 401, Health and Safety Code, a local government or person affected may file with the commission a written or electronic complaint and may request an investigation of an alleged violation by a person who holds a permit subject to the commission's jurisdiction.

SECTION 9. Section 7.357, Water Code, is amended to read as follows:

Sec. 7.357. PROSECUTION. A local government or, in the case of a violation of Chapter 401, Health and Safety Code, a person affected as defined in that chapter may bring suit in the county in which the alleged violation occurred or is about to occur, if the commission does not have a suit filed before the 121st day after the date on which the written or electronic complaint is filed under Section 7.355.

SECTION 10. Subdivision (2), Section 26.001, Water Code, is amended to read as follows:

(2) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

SECTION 11. Subsection (b), Section 26.022, Water Code, is amended to read as follows:

(b) Notice of the hearing shall be published on the

commission's Internet website and at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the commission has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the publication shall be not less than 20 days before the date set for the hearing.

SECTION 12. Subsection (a), Section 26.025, Water Code, is amended to read as follows:

(a) The commission shall provide notice of a hearing under Section 26.024 of this code by publishing the notice in the Texas Register and on the commission's Internet website.

SECTION 13. Section 26.026, Water Code, is amended to read as follows:

Sec. 26.026. STANDARDS TO BE PUBLISHED. The commission shall publish on its Internet website its water quality standards and amendments and shall make copies available to the public on written request.

SECTION 14. Section 26.3465, Water Code, is amended to read as follows:

Sec. 26.3465. FAILURE OR REFUSAL TO PROVIDE PROOF OF REGISTRATION OR CERTIFICATION OF COMPLIANCE. An owner or operator of an underground storage tank who fails or refuses to provide, before the 21st day after [~~on~~] request of the commission, proof of registration of or certification of compliance for an underground storage tank is liable for a civil penalty under Subchapter D, Chapter 7.

SECTION 15. Subsection (k), Section 26.3512, Water Code, is amended to read as follows:

(k) An owner or operator of a site for which a closure letter has been issued under Section 26.3572 shall pay under Subsection (b)(1) not more than the first $50,000 of expenses for corrective action for each occurrence.

SECTION 16. Subsection (f), Section 26.352, Water Code, is amended to read as follows:

(f) The commission shall enforce this section and may impose administrative and civil penalties on the owners or operators of underground storage tanks if acceptable evidence of financial responsibility is not maintained. The amount of an administrative or civil penalty imposed under this subsection may not be less than the annual cost, as estimated by the commission, of maintaining the minimum insurance coverage required in the State of Texas for the tank as determined under Subsection (c).

SECTION 17. Section 26.3572, Water Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The commission shall give notice of its decision to approve or disapprove a site assessment under this section not later than the 10th day after the date on which the decision is adopted.

(f) The commission may not issue a closure letter under Subsection (b) until the owner or operator submits a signed statement certifying that the requirements of the corrective action plan have been accomplished.

(g) If an owner or operator of a site submits to the

commission a signed certification under Subsection (f), the commission shall notify the state senator and state representative in whose district the site lies of that certification.

SECTION 18. Section 26.362, Water Code, is amended to read as follows:

Sec. 26.362. SUIT TO TEST VALIDITY OF CLOSURE LETTER. The commission is immune from liability in any action against the commission to test the validity of a closure letter issued under Section 26.3572 if the letter is issued in accordance with that section and commission rules.

SECTION 19. Subsection (b), Section 26.408, Water Code, is amended to read as follows:

(b) Not later than the 30th day after the date the commission receives notice under Subsection (a) or obtains independent knowledge of groundwater contamination, the commission shall post the notice on its Internet website and shall make every effort to give notice of the contamination by first class mail to each owner of a private drinking water well that may be affected by the contamination and to each applicable groundwater conservation district.

SECTION 20. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.