

BILL ANALYSIS

C.S.H.B. 2051
By: Crownover
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Certain accidental wastewater discharges or spills that cause or may cause pollution must be reported to the Texas Commission on Environmental Quality, local government officials, and local media. Interested parties contend that current reporting requirements are unduly burdensome and that reporting the smallest accidental discharge or spill requires significant paperwork and costs. The parties contend that a change in law is vital to establish an effective regulatory framework for certain wastewater utilities. C.S.H.B. 2051 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2051 amends the Water Code to exempt an individual required to notify the Texas Commission on Environmental Quality (TCEQ), local government officials, and local media, as applicable, of certain accidental discharges or spills which cause or may cause pollution from such requirement if the discharge or spill is a single accidental discharge or spill of treated or untreated domestic wastewater that occurs at a wastewater treatment or collection facility owned or operated by a local government, is 1,000 gallons or less, is not associated with another simultaneous accidental discharge or spill, is controlled or removed before the accidental discharge or spill enters water in Texas or adversely affects a public or private source of drinking water, will not endanger human health or safety or the environment, and is not otherwise subject to local regulatory control and reporting requirements. The bill requires the individual to submit to TCEQ at least once each month a summary of such accidental discharges and spills that occurred during the preceding month. The bill requires TCEQ by rule to consider the compliance history of the individual and establish procedures for formatting and submitting a summary, including requirements that a summary include the location, volume, and content of each accidental discharge or spill.

C.S.H.B. 2051 requires TCEQ, not later than June 1, 2016, to adopt rules necessary to implement the bill's provisions. The bill applies only to an offense committed on or after the effective date of such a rule adopted by TCEQ.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2051 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 26.039, Water Code, is amended by amending Subsections (b) and (e) and adding Subsections (g) and (h) to read as follows:

(b) Except as provided by Subsection (g), whenever [~~Whenever~~] an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the commission as soon as possible and not later than 24 hours after the occurrence. The individual's notice to the commission must include the location, volume, and content of the discharge or spill.

(e) Except as provided by Subsection (g), if [~~If~~] an accidental discharge or spill described by Subsection (b) from a wastewater treatment or collection facility owned or operated by a local government may adversely affect a public or private source of drinking water, the individual shall also notify appropriate local government officials and local media.

(g) The individual is not required to notify the commission under Subsection (b) or officials or media under Subsection (e) of a single accidental discharge or spill that:

(1) occurs at a wastewater treatment or collection facility owned or operated by a local government;

(2) is 1,000 gallons or less;

(3) is not associated with another simultaneous accidental discharge or spill;

(4) is controlled or removed before the accidental discharge or spill:

(A) enters water in the state; or

(B) adversely affects a public or private source of drinking water; and

(5) will not endanger human health or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 26.039, Water Code, is amended by amending Subsections (b) and (e) and adding Subsections (g) and (h) to read as follows:

(b) Except as provided by Subsection (g), whenever [~~Whenever~~] an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the commission as soon as possible and not later than 24 hours after the occurrence. The individual's notice to the commission must include the location, volume, and content of the discharge or spill.

(e) Except as provided by Subsection (g), if [~~If~~] an accidental discharge or spill described by Subsection (b) from a wastewater treatment or collection facility owned or operated by a local government may adversely affect a public or private source of drinking water, the individual shall also notify appropriate local government officials and local media.

(g) The individual is not required to notify the commission of an accidental discharge or spill of treated or untreated domestic wastewater under Subsection (b) or officials or media under Subsection (e) of a single accidental discharge or spill that:

(1) occurs at a wastewater treatment or collection facility owned or operated by a local government;

(2) is 1,000 gallons or less;

(3) is not associated with another simultaneous accidental discharge or spill;

(4) is controlled or removed before the accidental discharge or spill:

(A) enters water in the state; or

(B) adversely affects a public or private source of drinking water;

(5) will not endanger human health or

safety or the environment.

(h) The individual shall submit to the commission at least once each month a summary of accidental discharges and spills described by Subsection (g) that occurred during the preceding month. The commission by rule shall

establish procedures for formatting and submitting a summary, including requirements that a summary include the location, volume, and content of each accidental discharge or spill.

SECTION 2. (a) Not later than **December 1, 2015**, the Texas Commission on Environmental Quality shall adopt rules necessary to implement Section 26.039, Water Code, as amended by this Act.

(b) 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 the Texas Commission on Environmental Quality under this section. For purposes of this section, an offense was committed before the effective date of a rule adopted by the Texas Commission on Environmental Quality under this section if any element of the offense occurred before that date.

(c) An offense committed before the effective date of a rule adopted by the Texas Commission on Environmental Quality 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. This Act takes effect September 1, 2015.

safety or the environment; and

(6) is not otherwise subject to local regulatory control and reporting requirements.

(h) The individual shall submit to the commission at least once each month a summary of accidental discharges and spills described by Subsection (g) that occurred during the preceding month. The commission by rule shall:

(1) consider the compliance history of the individual; and

(2) establish procedures for formatting and submitting a summary, including requirements that a summary include the location, volume, and content of each accidental discharge or spill.

SECTION 2. (a) Not later than **June 1, 2016**, the Texas Commission on Environmental Quality shall adopt rules necessary to implement Section 26.039, Water Code, as amended by this Act.

(b) 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 the Texas Commission on Environmental Quality under this section. For purposes of this section, an offense was committed before the effective date of a rule adopted by the Texas Commission on Environmental Quality under this section if any element of the offense occurred before that date.

(c) An offense committed before the effective date of a rule adopted by the Texas Commission on Environmental Quality 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. Same as introduced version.