

BILL ANALYSIS

Senate Research Center

S.B. 912
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Agriculture, Water & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 26.039, Water Code, establishes the reporting requirements associated with accidental discharges or spills by wastewater utilities. Current law requires that any accidental discharge or spill in any amount which causes or may cause pollution must be reported to the Texas Commission on Environmental Quality (TCEQ) and to local government officials and local media within 24 hours of the discharge or spill.

The existing reporting requirements on wastewater discharges are unduly burdensome on wastewater utilities. The smallest accidental discharges or spills still require significant paperwork and expenditure of resources. The creation of a distinction between what is considered an accidental "spill" versus an "unauthorized discharge" is vital in establishing an effective regulatory framework for wastewater utilities.

S.B. 912 seeks to establish a distinction between the reporting requirements related to discharges versus spills and to alleviate the overly burdensome reporting requirements of TCEQ on certain utilities.

S.B. 912 amends current law relating to a volume-based exemption from reporting requirements for certain accidental discharges or spills from wastewater facilities.

[**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.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.039, Water Code, by amending Subsections (b) and (e) and adding Subsections (g), (h), (i), and (j), as follows:

(b) Requires the individual operating, in charge of, or responsible for the activity or facility, except as provided by Subsection (g), 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. Makes a nonsubstantive change.

(e) Requires the individual, except as provided by Subsection (g), 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, to also notify appropriate local government officials and local media. Makes a nonsubstantive change.

(g) Provides that the individual is not required to notify TNRCC 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) has a volume of 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 enters water in the state or adversely affects a public or private source of drinking water; and
- (5) will not endanger human health or safety or the environment; and
- (6) is not otherwise subject to local regulatory control and reporting requirements.

(h) Requires TNRCC by rule to establish standard methods for calculating the volume of an accidental discharge or spill to be used for the purposes of this section.

(i) Requires the individual to calculate the volume of an accidental discharge or spill using an established standard method to determine whether the discharge or spill is exempted under Subsection (g) from the notification requirements of this section.

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

- (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) Requires the Texas Commission on Environmental Quality (TCEQ), not later than June 1, 2016, 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) Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.