

By: Smith

H.B. No. 1247

A BILL TO BE ENTITLED

AN ACT

relating to presumptions in contested case hearings regarding certain environmental permit applications.

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

SECTION 1. Section 2003.047, Government Code, is amended by adding Subsections (i-1), (i-2), and (i-3) to read as follows:

(i-1) In a contested case regarding a permit application, the filing with the office of the draft permit prepared by the executive director of the commission, the preliminary decision issued by the executive director, and other supporting documentation in the administrative record of the permit application establishes a prima facie presumption that:

(1) the permit application meets all state and federal legal and technical requirements; and

(2) a permit, if issued consistent with the draft permit, would protect human health and safety and the environment.

(i-2) A party may rebut a presumption established under Subsection (i-1) by establishing by a preponderance of the evidence that:

(1) the draft permit violates a specific state or federal legal or technical requirement; or

(2) the applicant, before the issuance of the draft permit, intentionally withheld or misrepresented information relevant to the permit application that, if known, would likely

1 have resulted in the denial of the application.

2 (i-3) If in accordance with Subsection (i-2) a party rebuts
3 a presumption established under Subsection (i-1), the applicant may
4 present additional evidence to support the draft permit.

5 SECTION 2. The changes in law made by this Act apply only to
6 an administrative hearing that is set by the State Office of
7 Administrative Hearings on or after the effective date of this Act.
8 A hearing set before the effective date of this Act, or any decision
9 issued or appeal from the hearing, is governed by the law in effect
10 when the hearing was set, and the former law is continued in effect
11 for that purpose.

12 SECTION 3. This Act takes effect September 1, 2015.