

House Bill 3177
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 5.122(a), Water Code, is amended to read as follows:

(a) The commission by rule or order may delegate to the executive director the commission's authority to act on an application or other request to issue, renew, reopen, transfer, amend, extend, withdraw, revoke, terminate, or modify a permit, license, certificate, registration, or other authorization or approval if:

(1) required notice of the application or request for the authorization or approval has been given;

(2) the holder of or applicant for the authorization or approval agrees in writing to the action to be taken by the executive director; and

(3) the application or request:

(A) is uncontested and does not require an evidentiary hearing; ~~or~~

(B) has become uncontested before parties are named because each person who requested a contested case hearing within the time allowed by law has:

(i) withdrawn the request for a contested case hearing without condition;

(ii) withdrawn the request for a contested case hearing conditioned only on the withdrawal of all other hearing requests; or

(iii) agreed in writing to the action to be taken by the executive director; or

(C) has become uncontested because all parties have agreed in writing to the action to be taken by the executive director.

SECTION 2. Section 5.351, Water Code, is amended by adding Subsection (c) to read as follows:

SENATE VERSION (CS)

SECTION 1. Section 5.122(a), Water Code, is amended to read as follows:

(a) The commission by rule or order may delegate to the executive director the commission's authority to act on an application or other request to issue, renew, reopen, transfer, amend, extend, withdraw, revoke, terminate, or modify a permit, license, certificate, registration, or other authorization or approval if:

(1) required notice of the application or request for the authorization or approval has been given;

(2) the holder of or applicant for the authorization or approval agrees in writing to the action to be taken by the executive director; and

(3) the application or request:

(A) is uncontested and does not require an evidentiary hearing; ~~or~~

(B) has become uncontested before parties are named because each person who requested a contested case hearing within the time allowed by law has:

(i) withdrawn the request for a contested case hearing without condition;

(ii) withdrawn the request for a contested case hearing conditioned only on the withdrawal of all other hearing requests; or

(iii) agreed in writing to allow the executive director to make a final decision on the matter; or

(C) has become uncontested because all parties have agreed in writing to the action to be taken by the executive director.

SECTION 2. Section 5.351, Water Code, is amended by adding Subsection (c) to read as follows:

CONFERENCE

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HOUSE VERSION

(c) Notwithstanding Subsection (b), a person affected by a ruling, order, or decision on a matter delegated to the executive director under Section 5.122 or other law may file a petition to review, set aside, modify, or suspend the ruling, order, or decision not later than the 30th day after:

- (1) the effective date of the ruling, order, or decision; or
- (2) if the executive director's ruling, order, or decision is appealed to the commission as authorized by Section 5.122(b) or other law, the earlier of:
 - (A) the date the commission denies the appeal; or
 - (B) the date the appeal is overruled by operation of law in accordance with commission rules.

SECTION 3. The changes in law made by this Act apply only to a matter delegated to the executive director of the Texas Commission on Environmental Quality under Section 5.122, Water Code, as amended by this Act, on or after the effective date of this Act. A matter delegated before the effective date of this Act is governed by the law in effect at the time the matter was delegated, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.

SENATE VERSION (CS)

(c) Notwithstanding Subsection (b), a person affected by a ruling, order, or decision on a matter delegated to the executive director under Section 5.122 or other law may, after exhausting any administrative remedies, file a petition to review, set aside, modify, or suspend the ruling, order, or decision not later than the 30th day after:

- (1) the effective date of the ruling, order, or decision; or
- (2) if the executive director's ruling, order, or decision is appealed to the commission as authorized by Section 5.122(b) or other law, the earlier of:
 - (A) the date the commission denies the appeal; or
 - (B) the date the appeal is overruled by operation of law in accordance with commission rules.

SECTION 3. The changes in law made by this Act apply only to a final decision made by the executive director of the Texas Commission on Environmental Quality under Section 5.122, Water Code, as amended by this Act, on or after the effective date of this Act. A final decision made by the executive director before the effective date of this Act is governed by the law in effect at the time the final decision was made, and the former law is continued in effect for that purpose.

SECTION 4. Same as House version.

CONFERENCE