

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 26
By: Metcalf et al. (Nichols)
Water & Rural Affairs
5/14/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law there is no requirement to provide warning when a river authority, or any other entity that operates a dam, is about to release water during a natural disaster, which usually means an exacerbation of flood conditions downstream. Texas needs a more effective warning system to give individuals who live downstream from a dam a better chance to save lives and property and mitigate flood damage.

The committee substitute to H.B. 26 would require that all gate controlled dam owners/operators maintain a notice requirement in their emergency action plans under Texas Commission on Environmental Quality oversight. Dam owners/operators would be required to notify local offices of emergency management in communities downstream when a release is made from the dam. The local offices of emergency management, when it is determined that flooding may result, will then be required to send notice out by all available means to the public. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 26 amends current law relating to the notification of affected persons of certain releases of water from certain dams.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Environmental Quality is modified in SECTION 1 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.052, Water Code, by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (a-4), as follows:

(a) Requires the Texas Commission on Environmental Quality (TCEQ) to make and enforce rules and orders and to perform all other acts necessary to provide for the safe construction, operation, maintenance, repair, removal, and emergency management of dams located in this state, rather than for the safe construction, maintenance, repair, and removal of dams located in this state.

(a-1) Requires TCEQ to require the owner or operator of a state-regulated dam that has a spillway with gates used to regulate flood waters to notify local emergency operation centers in downstream communities when spillway releases are made to regulate flood waters, according to TCEQ's emergency action plan guidelines.

(a-2) Requires emergency operation centers notified under Subsection (a-1) to provide notice to the public when a release may contribute to flooding that may result in damage to life and property through all available means and to include, at a minimum, the following information, if available:

(1) the names of the dam and reservoir;

(2) the communities downstream that may be impacted and estimated time of impact;

(3) the names of affected river basins and tributaries;

(4) the expected duration of the release;

(5) the level of potential flooding according to the National Weather Service River Forecast Center; and

(6) the roads or bridges that are expected to be affected.

(a-3) Requires a notice provided under Subsection (a-2) to include a certain specified disclaimer: "Actual flood conditions may vary significantly from the alert based on new or changed conditions; advanced alerts of changed conditions may not be possible."

(a-4) Provides that, notwithstanding any other defense or immunity that may apply, a notice provided under Subsection (a-1) or (a-2) is prohibited from being considered an admission of liability and from used as evidence in any suit related to the releases that are the subject of the notice.

SECTION 2. (a) Requires TCEQ, not later than January 1, 2020, to provide guidance for developing a notification plan through a dam owner's emergency action plan for state-regulated dams that have a spillway with gates used to regulate flood waters.

(b) Requires a dam owner or operator, not later than June 1, 2020, to deliver the notifications plan described by Subsection (a) of this section for each dam to TECQ.

SECTION 3. Effective date: September 1, 2019.