By:  Zaffirini S.B. No. 2354

(In the Senate - Filed March 8, 2019; March 21, 2019, read first time and referred to Committee on Natural Resources & Economic Development; April 23, 2019, reported favorably by the following vote: Yeas 11, Nays 0; April 23, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Zaffirini       X

Fallon          X

Flores          X

Hancock         X

Hinojosa        X

Hughes          X

Miles           X

Paxton          X

Powell          X

Rodríguez       X

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of acts by the Texas Commission on Environmental Quality.

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

SECTION 1.  Sections 361.321(a) and (c), Health and Safety Code, are amended to read as follows:

(a)  A person affected by a ruling, order, decision, or other act of the commission may appeal the action by filing a petition in a district court of Travis County in the time required by Section 5.351, Water Code.

(c)  A [~~Except as provided by Section 361.322(a), the~~] petition described by Subsection (b) must be filed not later than the 30th day after the date of the ruling, order, decision, or other act of the governmental entity whose action is appealed. Service of citation of the petition must be accomplished not later than the 30th day after the date on which the petition is filed.

SECTION 2.  Sections 361.322(a) and (f), Health and Safety Code, are amended to read as follows:

(a)  Any person subject to an administrative order under Section 361.272 may appeal the order by filing a petition in the time required by Section 5.351, Water Code [~~before the 46th day after the date of receipt, hand delivery, or publication service of the order~~].

(f)  The administrative order is final as to a nonappealing party on the date by which the person is required to file a petition under Section 5.351, Water Code [~~46th day after the date of receipt, hand delivery, or publication service of the order by, to, or on the nonappealing party~~].

SECTION 3.  Section 382.032(b), Health and Safety Code, is amended to read as follows:

(b)  The petition must be filed in the time required by Section 5.351, Water Code, unless [~~within 30 days after the date of the commission's or executive director's action or, in the case of a ruling, order, or decision, within 30 days after the effective date of the ruling, order, or decision. If~~] the appeal relates to the commission's failure to take final action on an application for a federal operating permit, a reopening of a federal operating permit, a revision to a federal operating permit, or a permit renewal application for a federal operating permit in accordance with Section 382.0542(b), in which case the petition may be filed at any time before the commission or the executive director takes final action.

SECTION 4.  Sections 5.351(b) and (c), Water Code, are amended to read as follows:

(b)  A person affected by a ruling, order, or decision of the commission must file a [~~his~~] petition within 30 days after the effective date of the ruling, order, or decision. A person affected by an act other than a ruling, order, or decision must file a [~~his~~] petition within 30 days after the date the commission performed the act.

(c)  Notwithstanding Subsection (b) or another provision of law to the contrary, 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 5.  This Act takes effect September 1, 2019.

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