

1-1 By: Zaffirini S.B. No. 2354
1-2 (In the Senate - Filed March 8, 2019; March 21, 2019, read
1-3 first time and referred to Committee on Natural Resources &
1-4 Economic Development; April 23, 2019, reported favorably by the
1-5 following vote: Yeas 11, Nays 0; April 23, 2019, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|----------|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | <u>X</u> | | | |
| 1-9 | <u>X</u> | | | |
| 1-10 | <u>X</u> | | | |
| 1-11 | <u>X</u> | | | |
| 1-12 | <u>X</u> | | | |
| 1-13 | <u>X</u> | | | |
| 1-14 | <u>X</u> | | | |
| 1-15 | <u>X</u> | | | |
| 1-16 | <u>X</u> | | | |
| 1-17 | <u>X</u> | | | |
| 1-18 | <u>X</u> | | | |

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to judicial review of acts by the Texas Commission on
1-22 Environmental Quality.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Sections 361.321(a) and (c), Health and Safety
1-25 Code, are amended to read as follows:

1-26 (a) A person affected by a ruling, order, decision, or other
1-27 act of the commission may appeal the action by filing a petition in
1-28 a district court of Travis County in the time required by Section
1-29 5.351, Water Code.

1-30 (c) ~~A [Except as provided by Section 361.322(a), the]~~
1-31 ~~petition described by Subsection (b) must be filed not later than~~
1-32 ~~the 30th day after the date of the ruling, order, decision, or other~~
1-33 ~~act of the governmental entity whose action is appealed. Service of~~
1-34 ~~citation of the petition must be accomplished not later than the~~
1-35 ~~30th day after the date on which the petition is filed.~~

1-36 SECTION 2. Sections 361.322(a) and (f), Health and Safety
1-37 Code, are amended to read as follows:

1-38 (a) Any person subject to an administrative order under
1-39 Section 361.272 may appeal the order by filing a petition in the
1-40 time required by Section 5.351, Water Code [before the 46th day
1-41 after the date of receipt, hand delivery, or publication service of
1-42 the order].

1-43 (f) The administrative order is final as to a nonappealing
1-44 party on the date by which the person is required to file a petition
1-45 under Section 5.351, Water Code [46th day after the date of receipt,
1-46 hand delivery, or publication service of the order by, to, or on the
1-47 nonappealing party].

1-48 SECTION 3. Section 382.032(b), Health and Safety Code, is
1-49 amended to read as follows:

1-50 (b) The petition must be filed in the time required by
1-51 Section 5.351, Water Code, unless [within 30 days after the date of
1-52 the commission's or executive director's action or, in the case of a
1-53 ruling, order, or decision, within 30 days after the effective date
1-54 of the ruling, order, or decision. If] the appeal relates to the
1-55 commission's failure to take final action on an application for a
1-56 federal operating permit, a reopening of a federal operating
1-57 permit, a revision to a federal operating permit, or a permit
1-58 renewal application for a federal operating permit in accordance
1-59 with Section 382.0542(b), in which case the petition may be filed at
1-60 any time before the commission or the executive director takes
1-61 final action.

2-1 SECTION 4. Sections 5.351(b) and (c), Water Code, are
2-2 amended to read as follows:

2-3 (b) A person affected by a ruling, order, or decision of the
2-4 commission must file a his petition within 30 days after the
2-5 effective date of the ruling, order, or decision. A person affected
2-6 by an act other than a ruling, order, or decision must file a his
2-7 petition within 30 days after the date the commission performed the
2-8 act.

2-9 (c) Notwithstanding Subsection (b) or another provision of
2-10 law to the contrary, a person affected by a ruling, order, or
2-11 decision on a matter delegated to the executive director under
2-12 Section 5.122 or other law may, after exhausting any administrative
2-13 remedies, file a petition to review, set aside, modify, or suspend
2-14 the ruling, order, or decision not later than the 30th day after:

2-15 (1) the effective date of the ruling, order, or
2-16 decision; or

2-17 (2) if the executive director's ruling, order, or
2-18 decision is appealed to the commission as authorized by Section
2-19 5.122(b) or other law, the earlier of:

2-20 (A) the date the commission denies the appeal; or

2-21 (B) the date the appeal is overruled by operation
2-22 of law in accordance with commission rules.

2-23 SECTION 5. This Act takes effect September 1, 2019.

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