

BILL ANALYSIS

C.S.H.B. 3060
By: Thompson, Ed
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

H.B. 1953, 86th Legislature, Regular Session, 2019, clarified that certain chemical recycling facilities are not solid waste facilities and made sure that those recycling facilities were treated as manufacturing facilities, outside of the regulatory and fee environment of solid waste facilities. Currently, when post-use polymers and recoverable feedstocks are converted using pyrolysis or gasification into valuable products, they are considered recyclable materials. While pyrolysis and gasification facilities are exempt from regulation as solid waste facilities under the Solid Waste Disposal Act, new processes such as solvolysis and depolymerization are not exempt as such. In order to develop these new processes and the ensuing economic benefits, these processes will need to be treated like the preexisting advanced recycling processes. C.S.H.B. 3060 seeks to address these issues by updating and modernizing a number of definitions under the act in order to help create better uniformity for recycling statewide.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 6 of this bill.

ANALYSIS

C.S.H.B. 3060 amends the Health and Safety Code to define the following terms under the Solid Waste Disposal Act:

- "advanced recycling facility" as a manufacturing facility that receives, stores, and converts post-use polymers and recoverable feedstocks using advanced recycling technologies and processes including pyrolysis, gasification, solvolysis, and depolymerization, but that for purposes of the act and rules adopted by the Texas Commission on Environmental Quality (TCEQ) under the act is not a solid waste facility, final disposal facility, waste-to-energy facility, or incinerator;
- "depolymerization" as a manufacturing process through which post-use polymers are broken down into the following:
 - smaller molecules, including monomers and oligomers; or
 - raw materials or intermediate or final products, including plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, or coatings; and
- "Solvolysis" as a manufacturing process through which post-use polymers are purified with the aid of solvents while heated at low temperatures, pressurized, or both heated at low temperatures and pressurized, to remove additives and contaminants and make useful products, including monomers, intermediates, valuable chemicals, plastic and

chemical feedstocks, and raw materials, with the specification that the process includes hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

C.S.H.B. 3060 revises the following definitions under the act:

- "gasification," by replacing the conversion into a valuable raw product with the conversion into a valuable raw material and revising specific inclusions of the converted valuable products;
- "post-use polymers" by doing the following:
 - removing the definition that post-use polymers are plastic polymers that derive from any household, industrial, community, commercial, or other sources of operations or activities that might otherwise become waste if not converted into a valuable raw, intermediate, or final product, and that post-use polymers include used polymers that contain incidental contaminants or impurities such as paper labels or metal rings but do not include used polymers mixed with solid waste, medical waste, hazardous waste, electronic waste, tires, or construction or demolition debris; and
 - replacing that definition with plastics that:
 - are derived from any industrial, commercial, agricultural, or domestic activity, including preconsumer recovered materials and postconsumer materials;
 - are sorted from solid waste and other regulated waste and may contain residual amounts of organic material and incidental contaminants or impurities such as paper labels or metal rings;
 - are not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility;
 - are used or intended for use as a feedstock or for the production of feedstocks, raw materials, or other intermediate or final products using advanced recycling; and
 - are processed or held prior to processing at an advanced recycling facility;
- "processing," by excluding from the term solvolysis and depolymerization;
- "pyrolysis," by doing the following:
 - removing the specification that the process involves the melting, thermally decomposing, cooling, and condensing of post-use polymers;
 - replacing the conversion into a valuable raw product with the conversion into a valuable raw material; and
 - revising specific inclusions of the converted valuable items;
- "recoverable feedstock," by doing the following:
 - replacing as applicable materials materials that have been processed so that they may be used as feedstock in a gasification facility with materials that have been processed so that they may be used as feedstock in an advanced recycling facility or through gasification;
 - replacing as an applicable material material, including municipal solid waste containing post-use polymers and other post-industrial waste containing post-use polymers, that has been processed into a fuel or feedstock for which the TCEQ or EPA has made a certain non-waste determination with material, including municipal solid waste and other post-industrial waste, for which the TCEQ or EPA has made such a determination; and
 - including as an applicable material material, including municipal solid waste and other post-industrial waste that the TCEQ or EPA has otherwise determined are feedstocks and not solid waste;
- "recycling," by replacing its meaning as the legitimate use, reuse, or reclamation of solid waste with its meaning under provisions relating to waste reduction programs and disposal fees, as amended by the bill;

- "solid waste" by excluding from the term post-use polymers or recoverable feedstocks processed through solvolysis or depolymerization that do not qualify as hazardous waste under the federal Resource Conservation and Recovery Act of 1976; and
- "solid waste facility" by replacing the exclusion from the term of a pyrolysis or gasification facility with the exclusion of an advanced recycling facility.

C.S.H.B. 3060 repeals the following definitions under the act:

- "gasification facility"; and
- "pyrolysis facility."

C.S.H.B. 3060 requires the TCEQ or a political subdivision of the state that establishes goals or requirements for recycling or the use of recycled material to base those goals or requirements on the definitions and principles established by provisions relating to waste reduction programs and disposal fees. This requirement expressly does not apply to a program described by the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act or the television equipment recycling program.

C.S.H.B. 3060, in a provision prohibiting the TCEQ from considering post-use polymers or recoverable feedstock to be solid waste if they are converted using pyrolysis or gasification into certain valuable items, replaces as such an item a valuable raw product with a valuable raw material and expands the types of conversion processes to include solvolysis and depolymerization. The bill revises specific inclusions of the valuable items.

C.S.H.B. 3060, with regard to a facility that reuses or converts recyclable materials through pyrolysis or gasification that is not subject to regulation as a solid waste facility, expands the reuse and conversion processes to include solvolysis and depolymerization and replaces the facility's primary function from the conversion of materials that have a resale value greater than the cost of converting the materials for subsequent beneficial use to the conversion of materials into products for subsequent beneficial use.

C.S.H.B. 3060 revises the following definitions that are applicable to provisions relating to waste reduction programs and disposal fees under the Solid Waste Disposal Act:

- "recyclable material," by doing the following:
 - expanding the waste stream from which applicable material must be recovered or diverted from the solid waste stream to any waste stream;
 - including as recyclable material applicable material that can be recovered or diverted from the waste stream; and
 - in a provision specifying that the term includes post-use polymers and recoverable feedstocks that are converted through pyrolysis or gasification into certain valuable items, replacing as such an item a valuable raw product with a valuable raw material and expanding the conversion processes to include solvolysis and depolymerization;
- "recycled material," by doing the following:
 - specifying that the recyclable material of which applicable materials, goods, or products consist is recovered recyclable material;
 - providing for applicable materials, goods, and products to consist of materials derived from recoverable feedstocks and post-use polymers;
 - including as recycled material materials, goods, or products that are certified under a third-party certification system for mass balance attribution identified by the TCEQ; and
 - removing the explicit specification that the term includes post-use polymers and recoverable feedstocks used in pyrolysis or gasification and instead specifying that the term includes recycled plastics;
- "recycled product," by replacing its definition as a product which meets the requirements for recycled material content as prescribed by applicable TCEQ rules with a definition

as a product that is eligible to be considered a recycled product under such rules and specifying that the term does not include a product sold as fuel; and

- "recycling," by doing the following:
 - replacing the specification that applicable materials be returned to use in the form of raw materials in the production of new products with the specification that such materials be returned as such in the manufacture of new products and including as an alternative form to raw materials the form of feedstocks;
 - excluding from the term incineration of plastics and waste-to-energy processes; and
 - including as recycling the conversion of post-use polymers and recoverable feedstocks through solvolysis or depolymerization.

The bill defines "recycled plastics" as products that are produced from the following:

- mechanical recycling of post-use polymers; or
- nonmechanical recycling of recoverable feedstocks or post-use polymers that are certified under a third-party certification system for mass balance attribution identified by the TCEQ.

The bill requires the TCEQ by rule to identify third-party certification systems for mass balance attribution that may be used for the purposes of recycled material and recycled plastics.

C.S.H.B. 3060 replaces the provision requiring the TCEQ, in consultation with the comptroller of public accounts, to promulgate rules to establish guidelines which specify the percent of the total content of a product which must consist of recycled material for the product to be a "recycled product." The bill instead requires the promulgated rules to establish guidelines by which a product is eligible to be considered a recycled product based on the following:

- the percent of the total content of a product that consists of recycled material; or
- the portion of the total content of a product that is determined to consist of recycled material according to a third-party certification system for mass balance attribution identified by the TCEQ.

The bill, in a provision requiring the guidelines to specify a minimum percent of the recycled material in a product which must be postconsumer waste, includes post-use polymers as an alternative to postconsumer waste.

C.S.H.B. 3060 requires the TCEQ, as soon as practicable after the bill's effective date, to adopt rules necessary to implement the bill's provisions.

C.S.H.B. 3060 repeals Sections 361.003(10-b) and (25-b), Health and Safety Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3060 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes provisions not included in the introduced defining the following terms under the Solid Waste Disposal Act:

- "advanced recycling facility";
- "depolymerization"; and
- "solvolysis."

The substitute includes provisions not included in the introduced revising the definitions of the following terms under the act:

- "post-use polymers";
- "processing";

- "recoverable feedstock";
- "solid waste"; and
- "solid waste facility."

While both the introduced and the substitute revise the definitions of the following terms under the act, they do so in different ways:

- "gasification"; and
- "pyrolysis."

Whereas the introduced revised the definitions of the following terms under the act, the substitute instead repeals those definitions:

- "gasification facility"; and
- "pyrolysis facility."

While both the introduced and the substitute revise provisions relating to the following, they do so in different ways:

- the treatment of post-use polymers and recoverable feedstocks as solid waste;
- the regulation of certain facilities as solid waste facilities; and
- specifications for recycled products.

While both the introduced and the substitute revise the definitions of the following terms that are applicable to provisions relating to waste reduction programs and disposal fees under the Solid Waste Disposal Act, they do so in different ways:

- "recyclable material";
- "recycled material";
- "recycled product"; and
- "recycling."

While both the introduced and the substitute define "recycled plastics" for such provisions, they do so in different ways.

With regard to the bill's requirement that the TCEQ by rule identify third-party certification systems for mass balance attribution that may be used for the purposes of recycled material and recycled plastics, the substitute does not include language included in the introduced that provides the International Sustainability and Carbon Certification system as an example of such a system.