

## **BILL ANALYSIS**

Senate Research Center  
88R4398 DRS-F

S.B. 2044  
By: Hancock  
Natural Resources & Economic Development  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Recent technological innovation has made hard-to-recycle plastics now able to be processed and recycled into usable materials and products through processes like pyrolysis, gasification, solvolysis, and depolymerization. These processes commonly heat the plastics in low or no oxygen environments to break them down into raw materials.

The 86th Legislature passed H.B. 1953, which established the framework for these facilities to operate in the state. S.B. 2044 updates these laws and definitions to ensure current law covers advances in this recycling technology.

As proposed, S.B. 2044 amends current law relating to the regulation of recycling and recycled products.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 6 (Section 361.4215, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 361.003(10-a), (10-b), (25-a), (25-b), and (27), Health and Safety Code, to redefine "gasification," "gasification facility," "pyrolysis," "pyrolysis facility," and "recycling."

SECTION 2. Amends Section 361.0151, Health and Safety Code, by adding Subsection (c) to require the Texas Commission on Environmental Quality (TCEQ) or another political subdivision of this state that establishes goals or requirements for recycling or the use of recycled material, notwithstanding any other law, to base those goals or requirements on the definitions and principles established by Subchapter N (Waste Reduction Programs; Disposal Fees), and to provide that this subsection does not apply to a program described by Subchapter Y (Computer Equipment Recycling Program) or Z (Television Equipment Recycling Program).

SECTION 3. Amends Section 361.041(a), Health and Safety Code, to prohibit TCEQ from considering post-use polymers or recoverable feedstock to be solid waste if they are converted using pyrolysis or gasification into valuable raw materials or valuable intermediate or final products, including plastic monomers, chemicals, waxes, lubricants, or chemical feedstocks and other basic hydrocarbons, rather than a plastic, monomer, chemical, wax, lubricant, or chemical feedstock or crude oil, diesel, gasoline, diesel and gasoline blendstock, home heating oil, ethanol, or another fuel. Makes nonsubstantive changes.

SECTION 4. Amends Section 361.119(c-1), Health and Safety Code, to provide that a facility that reuses or converts recyclable materials through pyrolysis or gasification, and the operations conducted and materials handled at the facility, are not subject to regulation under rules adopted under Section 361.119 (Regulation of Certain Facilities as Solid Waste Facilities) if the owner or operator of the facility demonstrates certain facts, including that the primary function of the facility is to convert materials into products for subsequent beneficial use that have a resale value greater than the cost of converting the materials, rather than the cost of converting materials for subsequent beneficial use.

SECTION 5. Amends Section 361.421, Health and Safety Code, by amending Subdivisions (5), (6), (7), and (8) and adding Subdivision (6-a) to redefine "recyclable material," "recycled material," "recycled product," and "recycling" and to define "recycled plastics."

SECTION 6. Amends Subchapter N, Chapter 361, Health and Safety Code, by adding Section 361.4215, as follows:

Sec. 361.4215. MASS BALANCE ATTRIBUTION. Requires TCEQ by rule to identify third-party certification systems for mass balance attribution that may be used for the purposes of Sections 361.421(6) (relating to defining "recycled material") and (6-a) (relating to defining "recycled plastics"), such as the International Sustainability and Carbon Certification system.

SECTION 7. Amends Section 361.427(b), Health and Safety Code, to require that the guidelines established under Section 361.427 (Specifications for Recycled Products) specify a minimum percent of the recycled material in a product which is required to be postconsumer waste or post-use polymer.

SECTION 8. Requires TCEQ, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 9. Effective date: upon passage or September 1, 2023.