

BILL ANALYSIS

C.S.H.B. 5549
By: Kitman
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that in 2009 a toddler drowned in a septic tank by falling through an unsecured utility box cover inappropriately used as a septic tank riser and cover and that, because of this, Representative Parker, in the 82nd Regular Session, passed H.B. 240, which provided for risers and covers to be designed to prevent access to an on-site sewage disposal system by a child or anyone unauthorized by the Texas Commission on Environmental Quality (TCEQ) or the owner. The bill author has also informed the committee that this led to the creation of applicable rules and for an on-site sewage facility (OSSF) to be accessed only by a licensed or registered professional or the owner but that, unfortunately, the TCEQ excluded pumpers from being required to be licensed or registered, which leaves a section of the industry untrained and a threat to public safety. The bill author has further informed the committee that the TCEQ has demonstrated a lack of understanding of the dangers pumpers pose to the public if not properly trained on pumping and securing OSSFs. C.S.H.B. 5549 seeks to address this issue by setting out provisions relating to the regulation and planning of on-site sewage disposal systems, including a requirement that a person who pumps an on-site sewage disposal system or any part of such a system hold an applicable license or registration, in order to provide the TCEQ with more effective tools to carry out the state's mission to protect public health and safety.

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 4 of this bill.

ANALYSIS

C.S.H.B. 5549 amends the Health and Safety Code to establish as a public policy of the state and a purpose of provisions relating to on-site sewage disposal systems the elimination and prevention of health hazards by regulating and properly planning the pumping of such systems. With regard to the policy and purpose for the allowing of the individual owner of a disposal system to install and repair the system in accordance with such provisions, the bill specifies such system as a system used at the owner's primary residence. With regard to the applicable definition of "nuisance" as, in part, an overflowing tank or similar device, the bill changes such tank from a septic tank to a sewage treatment or holding tank. The bill changes the definition of "owner" from a person who owns a building or other property served by an on-site sewage disposal system to a person who owns the property served by such a system.

C.S.H.B. 5549, with regard to the general authority of the Texas Commission on Environmental Quality (TCEQ) and authorized agents over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems, the bill specifies such systems as those systems in their designated area of jurisdiction. With regard to the requirement for the TCEQ, in rules adopted under provisions relating to on-site sewage disposal systems, to include definitions and detailed descriptions of good management practices and procedures for the construction of on-site sewage disposal systems that meet certain criteria, including the promotion of the use of good management practices or procedures in the construction of such systems, the bill replaces the construction of such systems with the construction and operation of such systems.

C.S.H.B. 5549 removes nonstandard on-site sewage treatment systems from the on-site sewage treatment systems that, unless the water softener drain line to the system bypasses the treatment system and flows into the pump tank or directly into the discharge method, are exempt from provisions relating to the installation and use of water softeners and reverse osmosis systems.

C.S.H.B. 5549 replaces the authorization for the TCEQ or an authorized agent to designate a person to review permit applications, site evaluations, or planning materials or to inspect on-site sewage disposal systems with a requirement for the TCEQ or an authorized agent to designate one or more persons to complete such a review or inspection.

C.S.H.B. 5549 requires the TCEQ to maintain the authority and responsibility for permitting on-site sewage disposal systems that produce over 1,500 gallons per day unless the TCEQ specifically designates that authority and responsibility to an authorized agent. The bill authorizes the TCEQ to designate to an authorized agent the authority and responsibility to permit such systems that produce over 1,500 gallons per day only if the authorized agent satisfactorily demonstrates minimum designated representative qualification standards and licensure, as prescribed by the TCEQ. The bill expands the amendments to an authorized agent's designation order or resolution for which the agent must obtain TCEQ approval from substantive amendments to any amendments.

C.S.H.B. 5549 replaces the requirement for the TCEQ, if the TCEQ determines that an authorized agent does not consistently enforce the TCEQ's minimum requirements for on-site sewage disposal systems, to hold a hearing and determine whether to continue the designation as an authorized agent with an authorization for the TCEQ to do so. The bill authorizes the TCEQ to assess an administrative penalty against an authorized agent if the TCEQ determines that the authorized agent does not implement and enforce such requirements.

C.S.H.B. 5549 repeals the requirement for a local governmental entity that applies to the Texas Water Development Board (TWDB) for financial assistance under a program for economically distressed areas to take all actions necessary to receive and maintain a designation as an authorized agent of the TCEQ. The bill repeals provisions relating to the requirement for the commissioners court of the county in which a local governmental entity designated as an authorized agent that intends to apply to the TWDB for financial assistance under such a program is located to prepare a map of the county area outside the limits of municipalities that must show the parts of the area in which the different types of on-site sewage disposal systems may be appropriately located and the parts in which the different types of systems may not be appropriately located. The bill repeals provisions relating to the authorization for an authorized agent to issue a permit to authorize the use of a temporary on-site sewage disposal system that:

- operates in conjunction with the pumping and hauling of wastewater produced by the system; and
- serves a property that:
 - has been subdivided for residential use; and
 - is of insufficient size to accommodate on-site disposal of all wastewater in compliance with provisions relating to on-site sewage disposal systems.

C.S.H.B. 5549, with respect to the prohibition against an authorized agent or the TCEQ conditioning a permit or the approval of a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence on the system's owner contracting for the maintenance of the system, conditions the prohibition on the single-family residence being owned by an individual as the individual's primary residence. The bill removes the requirement for the owner of an on-site sewage disposal system for which a maintenance contract is required and that is located in a county with a population of more than 2.8 million to submit to the permitting authority a performance bond obtained from the person with whom the owner has contracted for maintenance of the system. The bill requires an on-site sewage disposal system that is a surface disposal system that the owner maintains directly to be equipped with an electronic monitoring and alarm system. The bill increases from \$100 to \$500 the cap on the administrative penalty to which an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly and who violates provisions relating to on-site sewage disposal systems or a rule adopted or order or permit issued under such provisions is subject.

C.S.H.B. 5549 requires a maintenance contract for a surface spray disposal system to provide for the disinfection of the system. The bill requires the maintenance provider on each routine maintenance visit or more frequently if required by the permitting authority to do the following, as applicable, in performing the disinfection:

- inspect the disinfection device for proper operation;
- inspect and maintain the disinfection device for proper operational bleach or tablet level; and
- if ultraviolet light is used for disinfection, clean the bulb sleeve and check the expiration date for each bulb to ensure that the bulb does not expire before the next scheduled routine maintenance visit.

C.S.H.B. 5549 conditions the exemption from specified provisions relating to permits, permit applications, and permit issuance for an on-site sewage disposal system of a single residence that is located on a land tract that is 10 acres or larger in which the field line or sewage disposal line is not closer than 100 feet of the property line on the single residence being located in a county with a population of less than 40,000 and owned by an individual as the individual's primary residence.

C.S.H.B. 5549 repeals the prohibition against an installer beginning construction, alteration, repair, or extension of an on-site sewage disposal system unless the installer notifies the TCEQ or authorized agent of the date on which the installer plans to begin work on the system.

C.S.H.B. 5549, with regard to the requirement for a holder of a permit issued under provisions relating to on-site sewage disposal systems to notify the TCEQ, the authorized agent, or a designated representative not later than the fifth working day before the proposed date of the operation of an installation of a system that the installation is ready for inspection, includes the permit holder's designee as an alternative to the permit holder for such purpose. The bill, with respect to the requirement that a permit and approved plan to construct, alter, repair, extend, or operate an on-site sewage disposal system be issued in the name of a certain person, changes that person from the person who owns the system to the person who owns the property.

C.S.H.B. 5549 repeals provisions that do the following:

- authorize the TCEQ to assess a reasonable and appropriate charge-back fee, capped \$500, to a local governmental entity for which the TCEQ issues permits for administrative costs relating to the permitting function that are not covered by the permit fees collected;
- require the TCEQ to base the amount of a charge-back fee on the actual cost of issuing such a permit;
- authorize the TCEQ to assess a charge-back fee to a local governmental entity if the entity is an authorized agent that:

- has repealed the order, ordinance, or resolution that established the entity as an authorized agent; or
- has had its authorization as an authorized agent revoked by the TCEQ; and
- prohibit the TCEQ from assessing a charge-back fee to a local governmental entity if the entity has repealed the order, ordinance, or resolution that established the entity as an authorized agent or has lost its designation as an authorized agent due to material change in the TCEQ's rules under provisions relating to on-site sewage disposal systems.

C.S.H.B. 5549, with respect to the requirement that a person who constructs, installs, alters, extends, services, maintains, or repairs an on-site sewage disposal system or any part of such a system to hold a license or registration issued by the TCEQ under applicable statutory provisions, removes the specification that the performance of such actions by a person be for compensation. The bill expands the requirement to include a person who pumps or accesses such a system or part of a system. The bill, with respect to the requirement that a person who conducts preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system hold a license issued by the TCEQ under applicable statutory provisions, expands the exemption from such requirement for a person licensed by the Texas Board of Professional Engineers and Land Surveyors as an engineer to also include a person licensed by the Texas Board of Professional Geoscientists as a geologist. The bill, with respect to the authorization for the TCEQ to implement a program under such statutory provisions to register persons who service or maintain on-site sewage disposal systems, removes the specification that such persons do so for compensation and includes among those individuals persons who pump such systems.

C.S.H.B. 5549 increases from \$10 to \$30 the fee that the TCEQ and each county, municipality, public health department, and river authority are required to collect for each on-site wastewater treatment permit application processed.

C.S.H.B. 5549 amends the Water Code to make a conforming change.

C.S.H.B. 5549 repeals the following provisions of the Health and Safety Code:

- Section 366.0515(c); and
- Sections 366.035, 366.036, 366.0513, 366.054, and 366.059.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5549 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 does not include the removal of provisions, as in the introduced, that require the TCEQ, for purposes of assuring the effective and efficient administration of provisions relating to on-site sewage disposal systems, to adopt rules under such provisions that, for the following counties, allow for the installation of aerobic drip emitter systems on subdivided or platted properties less than one-half acre in size serving single-family residences supplied by a public drinking water system if site-specific planning materials have been submitted by a licensed engineer or registered sanitarian and have been approved by the appropriate authorized agent:

- a county with a population of at least 350,000 and not more than 370,000 that is adjacent to the Gulf of Mexico and adjacent to a county with a population of at least 3.3 million; and

- a county with a population of more than 40,000 and less than 50,000 that borders the Red River along the Oklahoma state line and has a major interstate road running through it.

The substitute includes a provision that was not in the introduced requiring an on-site sewage disposal system that is a surface disposal system that the owner maintains directly to be equipped with an electronic monitoring and alarm system.

The substitute includes provisions that were not in the introduced requiring the following:

- a maintenance contract for a surface spray disposal system to provide for the disinfection of the system; and
- the maintenance provider on each routine maintenance visit or more frequently if required by the permitting authority to do the following, as applicable, in performing the disinfection:
 - inspect the disinfection device for proper operation;
 - inspect and maintain the disinfection device for proper operational bleach or tablet level; and
 - if ultraviolet light is used for disinfection, clean the bulb sleeve and check the expiration date for each bulb to ensure that the bulb does not expire before the next scheduled routine maintenance visit.