

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1302
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Water, Agriculture and Rural Affairs
3/14/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently, dischargers have figured out a loophole within the Texas Commission on Environmental Quality (TCEQ) system that has allowed them to circumvent guardrails in the general permitting system.

For instance, Cook's Conservatory, winner of the Leopold Award for habitat management and wildlife conservation, has a sand mine that is discharging waste into their waters, which has taken a serious toll on the efforts at the conservancy. When the issue was brought to TCEQ, the agency denied the offending operators a permit. However, the operators simply "waited out the clock" and were able to reapply under the general permitting process, securing a new permit and continuing the disastrous activities without any recourse for the agency or the conservatory.

As a result, S.B. 1302 dictates that once TCEQ denies or suspends a discharger's general permit under Subsection (h) (Section 26.040, Water Code), TCEQ may not authorize the discharger to discharge under a general permit using an automated system, but instead the executive director must actively authorize the discharger to use the general permit.

Key Provisions

- As initially written, after the Texas Natural Resource Conservation Commission (TNRCC) denies or suspends a discharger's authority to discharge under a general permit under subsection (h), TNRCC may not authorize the discharger to discharge under a general permit before the fifth anniversary of the date of the denial or suspension.

Committee Substitute

- It's the intent of this legislation to make sure that no automated processes are used when determining whether to authorize a general permit after a discharger has had their permit suspended or denied by TCEQ. The issue that was the genesis of this bill occurred when a bad actor waited out the automated process at TCEQ and then was able to circumvent interacting with any employee of TNRCC before continuing their practices of issue.
- The changes made in the committee substitute narrow the focus of the bill to ensure no burdensome overregulation. Instead of a five-year timeframe in which the discharger could no longer discharge, the executive director must actively authorize the general permit, bringing the code in line with Section 5.222 of the Water Code, which allows the executive director to "delegate to the executive director's staff any authority or duty assigned to the executive director unless the statute, rule, or order assigning or delegating the authority or duty specifies otherwise."

C.S.S.B. 1302 amends current law relating to eligibility to use a general permit to discharge waste into or adjacent to waters in this state.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environment Quality (TCEQ), as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.040, Water Code, by adding Subsections (h-1) and (h-2), as follows:

(h-1) Prohibits a discharger, after the Texas Natural Resource Conservation Commission (TNRCC) denies or suspends the discharger's authority to discharge under a general permit under Subsection (h) (relating to requiring TNRCC, after a hearing, to deny or suspend a discharger's authority to discharge under a general permit if certain conditions are determined and rules adopted and procedures developed), from discharging under the general permit until the executive director of TNRCC (executive director) actively authorizes the discharger to use the general permit.

(h-2) Prohibits the executive director from using an automatic process to authorize the use of a general permit under Subsection (h-1).

SECTION 2. Makes application of Sections 26.040(h-1) and (h-2), Water Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2025.