

BILL ANALYSIS

C.S.S.B. 2037
By: Sparks
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that the liquefied natural gas (LNG) industry is vital to the state's energy sector, which is supported by natural gas reserves and infrastructure, and that, in response to the Biden administration's January 2024 temporary pause on new LNG export approvals to countries without a free trade agreement with the United States, the House Select Committee on Protecting Texas LNG Exports recommended streamlining state permitting and reducing delays. The bill sponsor has also informed the committee that LNG companies must navigate both federal and state permitting, including air quality permits from the Texas Commission on Environmental Quality (TCEQ), and that, as global demand for LNG grows, clear and efficient permitting timelines are essential for the state's economic growth. According to the comptroller of public accounts, in 2023 the state exported more than 1.3 billion cubic feet of LNG, accounting for 31 percent of U.S. LNG exports. The bill sponsor has informed the committee that with four LNG facilities under construction and two approved but not yet built, delays in air permitting processes have led to approval timelines of up to three years for minor amendments and that the contested case process, unique to Texas, adds 6 to 12 months compared to states like Louisiana. The bill sponsor has further informed the committee that, as the global demand for LNG continues to expand rapidly, reasonable and defined permitting timelines are necessary for the industry to continue to add to the state's economy. C.S.S.B. 2037 seeks to streamline and accelerate the permitting process by providing for an expedited permit application review process for permit applications filed with the TCEQ for a project to construct or modify an LNG export terminal.

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 SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.S.B. 2037 amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to establish an expedited permit application review process for permit applications filed with the TCEQ for a project to construct or modify a liquefied natural gas (LNG) export terminal. The bill requires the rules to require an applicant who elects the expedited permit application review process to pay an additional fee in an amount the TCEQ determines is necessary to cover the costs of the expedited review. The bill establishes that the additional fee is considered part of the application fee and requires the additional fee to be deposited and used in the manner provided for the application fee under applicable statutory fee provisions. The bill does the following with respect to such a permit application:

- in a request for a contested case hearing involving an application, requires the party requesting the hearing to specify each reason the party is an applicable affected person; and
- in a contested case involving an application, requires an administrative law judge to conduct a preliminary hearing not later than the 60th day after the date the TCEQ executive director refers the application to the State Office of Administrative Hearings (SOAH), but authorizes the judge to grant one extension of the time, not to exceed 15 days, on request of any party.

The bill requires the TCEQ to adopt rules as necessary to implement these provisions of the bill.

C.S.S.B. 2037 requires the executive director of the TCEQ, with respect to a permit application filed with the TCEQ for a project to construct or modify an LNG export terminal or a renewal of that permit, to provide a response to each relevant and material public comment on the preliminary decision filed during the public comment period not later than the 120th day after the close of the public comment period.

C.S.S.B. 2037 amends the Health and Safety Code to do the following with respect to a preconstruction permit application filed with the TCEQ for a project to construct or modify an LNG export terminal or for renewal of a preconstruction permit issued to such a terminal:

- establish that the requirements of the bill's provisions relating to procedures for the permit application review and contested cases involving a project to construct or modify an LNG export terminal apply;
- require the TCEQ to adopt rules as necessary to implement such application; and
- require the executive director to provide a response to each relevant and material public comment on the preliminary decision filed during the public comment period not later than the 120th day after the close of the public comment period.

C.S.S.B. 2037 applies only to a permit application for a project to construct or modify an LNG export terminal or a renewal of that permit that is filed with the TCEQ on or after the bill's effective date. Such an application that is pending on such date is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2037 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

With respect to a contested case involving a permit application filed with the TCEQ for a project to construct or modify an LNG export terminal, the engrossed required an administrative law judge to set a date for the preliminary hearing not later than the 30th day after the date the TCEQ refers the case to SOAH, whereas the substitute requires an administrative law judge to conduct a preliminary hearing not later than the 60th day after the date the TCEQ executive director refers the application to SOAH and authorizes the judge to grant one extension of the time, not to exceed 15 days, on request of any party.

Whereas the engrossed, with respect to a preconstruction permit application filed with the TCEQ for a project to construct or modify an LNG export terminal or a renewal review of that permit, required the executive director to provide a response to each relevant and material public comment on the preliminary decision filed during the public comment period not later than the 120th day after the close of the public comment period, the substitute, instead of applying to an application for a renewal review of the permit as in the engrossed, applies to an application for

renewal of a preconstruction permit issued to such a terminal and additionally does the following which the engrossed did not do:

- establishes that the requirements of the bill's provisions relating to procedures for the permit application review and contested cases involving a project to construct or modify an LNG export terminal apply; and
- requires the TCEQ to adopt rules as necessary to implement such application.