

## **BILL ANALYSIS**

C.S.H.B. 2942  
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Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the mining and processing of sand for certain oil and gas purposes and for concrete construction. It has been suggested that the removal of sand without providing for reclamation of the remaining soil can have an adverse effect on the surrounding agriculture and wildlife. C.S.H.B. 2942 seeks to address this issue by providing to incentivize the adoption of standards governing reclamation for certain sand mining operations.

### **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 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2942 amends the Tax Code to require the Texas Commission on Environmental Quality (TCEQ) by rule to adopt standard best practices for reclamation of land used for sand mining operations, as defined by the bill among other terms, that overlies the Carrizo Aquifer and is located within 30 miles of the boundary of a municipality with a population of more than 500,000 or within one mile of a building in use as a single-family or multifamily residence. The bill sets out the actions required by the adopted standards.

C.S.H.B. 2942 requires the measurement of the applicable distance with respect to a municipality or residence to be taken from the point on the sand mining operation that is nearest to the municipal boundary or residence toward the point on the municipal boundary or residence that is nearest to the sand mining operation. The bill establishes that the eligibility of land for appraisal under the Property Tax Code does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

- the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed;
- the land is used for a sand mining operation; and
- the land is reclaimed according to the standard best practices adopted under the bill's provisions not later than the first anniversary of the date sand mining operations began on the land.

C.S.H.B. 2942 requires the owner of such land to notify the appraisal office in writing not later than the 30th day after the date sand mining operations begin on the land that the owner intends to ensure that the foregoing requirements are met. The bill requires TCEQ to establish a process to allow an owner of land who submits such a notice to obtain from the executive director of

TCEQ a letter determining whether the land that is the subject of the notice was reclaimed according to the standard best practices adopted in the required time frame. The bill requires the owner to apply to the executive director for the determination not later than the 90th day after the first anniversary of the date sand mining operations began on the land. The bill requires the executive director to do the following:

- send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located that the owner has applied for a determination letter for the land;
- issue a letter to the owner stating the executive director's determination of whether the land has been reclaimed according to the standard best practices in the required time frame; and
- send a copy of the determination letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the land is located.

C.S.H.B. 2942 authorizes the owner seeking the determination or the chief appraiser, not later than the 20th day after the date of receipt of the letter issued by the executive director, to appeal the executive director's determination to TCEQ. The bill sets out the appeals process and establishes that such a proceeding is not a contested case for purposes of the Administrative Procedure Act.

C.S.H.B. 2942 requires the executive director to issue a determination letter to the owner seeking the determination, and requires TCEQ to take final action on the initial appeal if an appeal is made, not later than the first anniversary of the date the executive director receives the request from the owner for the determination. The bill authorizes TCEQ to charge the owner a fee not to exceed its administrative costs for making the determination and issuing the letter. The bill requires the chief appraiser to accept a final determination by the executive director as conclusive evidence that land was reclaimed according to the standard best practices in the required time frame.

C.S.H.B. 2942 establishes that the eligibility of land on which a sand mining operation began before the bill's effective date for appraisal as agricultural land does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if the owner of the land provides the requisite notice not later than the 90th day after the bill's effective date and the chief appraiser of the appraisal district in which the land is located has not, as of the bill's effective date, made a determination under the applicable Tax Code provisions that a change in use of the land has occurred.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2942 may differ from the original 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 relating to:

- the definition of a "sand mining operation";
- adoption by TCEQ of standard best practices for reclamation of land used for a sand mining operation;
- a determination of whether land subject of a notice was reclaimed according to the standard best practices;
- notice and letter requirements for the executive director of TCEQ regarding the determination;

- appeal by the landowner or chief appraiser of the determination;
- the deadline for a determination by the executive director and final action by TCEQ;
- charging of certain fees to an owner seeking a determination letter; and
- acceptance by the chief appraiser of a final determination as conclusive evidence that land was reclaimed according to the standard best practices and by the specified deadline.

The substitute does not include provisions:

- requiring the Railroad Commission of Texas (RRC) to establish a permit for reclamation activities at a sand mining operation;
- requiring the RRC to adopt reclamation standards;
- authorizing the RRC to adopt alternative standards; and
- authorizing the local enforcement of permit standards.

The substitute changes bill provisions relating to:

- the definition of "marketable material" and "unmarketable material"; and
- the contents of the required adopted standards.