

SUBJECT: Landfill requirements no stricter than federal requirements

COMMITTEE: Environmental Regulation — favorable, with amendment

VOTE: 7 ayes — Chisum, Jackson, Dukes, Howard, Kuempel, Talton, Yost
0 nays
2 absent — Saunders, Stiles

WITNESSES: For — Gary Walker, Sandy Land Water Conservation District; Jack C. Carmichael, Texas Chapter of the Solid Waste Management Association; Charles Button, National Solid Waste Management Association
Against — None

DIGEST: HB 2349, as amended, would provide that the TNRCC could not impose a standard or requirement on a sanitary landfill more stringent than a standard or requirement of the Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act.

When developing sanitary landfill standards or requirements, the commission would be required to allow the maximum flexibility permissible under EPA regulations for alternative landfill designs.

The owner of a sanitary landfill who, in good faith, believed that a commission requirement or standard was more stringent than EPA requirements could submit a written request to the executive director of the TNRCC for a review of the relevant state and federal standards or requirements. The request would have to summarize the owner's interpretation of the federal standard or requirement that the owner believes is less stringent than those imposed by the commission. The executive director of the commission would review the requests and have to issue an opinion within 30 days.

The bill would also direct the solid waste advisory council, created under Health and Safety Code, sec. 363.041, to conduct a continuing review of TNRCC standards and requirements for sanitary landfills to ensure that

TNRCC did not impose a standard or requirement more stringent than required under federal law. The board would report its findings to the board on or before September 1 of each year.

The TNRCC's biennial report, submitted to the presiding officers of the Legislature and the governor, would include a statement confirming that the commission was issuing the opinions required by HB 2349, a digest of the requests received that identified the requirements and standards reviewed, and a summary of the director's opinion for each request.

HB 2349 as amended, would also provide that the owner/operator of a solid waste management facility would not be required to obtain a permit from an agency other than the TNRCC to store, process, treat, dispose of, or destroy solid waste, unless the permit was required by the Railroad Commission under Chapter 27 of the Water Code, concerning injection wells, or a permit was required by federal Clean Air Act requirements.

**SUPPORTERS
SAY:**

HB 2349 would clarify that the TNRCC could not impose sanitary landfill standards or requirements more stringent than those required by the federal government. It is important that landfill operators have one set of regulations that could serve as guidelines for long-range planning rather than separate, conflicting state and federal regulations. As long as TNRCC refrained from issuing rules more stringent than federal law, it would not be expensive and time-consuming for the TNRCC to review petitions permitted by the bill since there would be very few submitted.

There is no need for state landfill requirements to be more stringent than federal requirements. The federal rules regarding solid waste disposal are strict about protecting the health and welfare of the public.

Even when state statutes are not more stringent than federal law, TNRCC may interpret those statutes and issue rules that end up being stricter. The petition review and reporting requirements in HB 2349 would provide for a mechanism to ensure that the TNRCC does not exceed federal standards.

The bill as amended, would also clarify that operators of solid waste management facilities would only have to obtain a permit from the TNRCC to operate their facility. This would ensure that other state agencies with broad statutory authority, like the General Land Office, could not arbitrarily impose a second set of permit requirements. Landfill operators should only have to obtain one permit, rather than spending time and money applying for similar permits from different agencies.

**OPPONENTS
SAY:**

It would be expensive and time-consuming for the TNRCC to review, within 30 days, petitions claiming that state rules were more stringent than a federal standards or requirements. It would be unwise to arbitrarily tie the hands of state agencies responsible for protecting the environment and public health and safety. By forbidding rules stricter than the national standards for solid waste disposal, the ability of state agencies to respond to local problems would be curtailed.

This bill is unnecessary. TNRCC has already announced that it will not issue stricter standards or rules stricter than federal standards or rules concerning sanitary landfills.

NOTES:

The committee amendment would provide that the owner/operator of a solid waste management facility would not be required to obtain a permit from an agency other than the TNRCC to store, process, treat, dispose of, or destroy solid waste, except in certain circumstances.