

SUBJECT: Using full-time employees to expedite certain air permit applications

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 8 ayes — Lozano, E. Thompson, Blanco, Kacal, Kuempel, Morrison, J. Turner, Zwiener

0 nays

1 absent — Reynolds

SENATE VOTE: On final passage, March 26 — 31-0

WITNESSES: *On House companion bill, HB 1708:*

For — Sam Gammage, Texas Chemical Council; (*Registered, but did not testify*: Lindsey Miller, Anadarko Petroleum Corporation; Scott Hutchinson, Association of Electric Companies of Texas; Mike Meroney, BASF Corporation; Price Ashley, Cheniere Energy; Martin Hubert, CITGO; Daniel Womack, Dow Chemical; Caleb Troxclair, EOG Resources, Texas Alliance of Energy Producers; Samantha Omev, ExxonMobil; Buddy Garcia, Jupiter MLP; Bill Oswald, Koch Companies; Mindy Ellmer, Lyondellbasell; Randy Cubriel, Nucor; James Mathis, Occidental Petroleum; Michael Lozano, Permian Basin Petroleum Association; Beth Cubriel, Plains All American Pipeline; Stephen Minick, Republic Services; Mark Vickery, Texas Association of Manufacturers; Ryan Paylor, Texas Independent Producers and Royalty Owners Association; Shana Joyce, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association; Jay Brown, Valero; Mance Zachary, Vistra Energy; Paula Kothmann)

Against — Michael Zimmerman

On — Tonya Baer, Emily Lindley, Michael Wilson, and Mike Wilson, Texas Commission on Environmental Quality; (*Registered, but did not testify*: Elizabeth Sifuentes-Koch, Texas Commission on Environmental Quality)

BACKGROUND: Health and Safety Code ch. 382, the Clean Air Act, authorizes the Texas Commission on Environmental Quality (TCEQ) to issue permits to construct a new facility or modify an existing facility that may emit air contaminants, among other permits related to air quality.

Under sec. 382.05155, a permit applicant may request the expedited processing of an application that will benefit the economy of the state or an area of the state. TCEQ may use overtime or contract labor to process expedited air permit applications, and the commission may add a surcharge to the application fee for an expedited application in an amount sufficient to cover expenses incurred by the expedited process, including overtime, contract labor, and other costs.

DIGEST: SB 698 would allow the Texas Commission on Environmental Quality (TCEQ) to use full-time equivalent employees to support the expedited processing of air permit applications under the Clean Air Act. The expedited application surcharge could cover the costs of those employees, and money from the surcharge could be used to support expedited permit processing.

TCEQ could set the overtime compensation rate for employees supporting the expedited processing of air permit applications. Full-time equivalent employees authorized by this bill would not be included in the calculation of full-time equivalent TCEQ employees allotted under other law.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: SB 698 would improve the air permitting process at the Texas Commission on Environmental Quality (TCEQ) by allowing the agency to use additional labor to process expedited permit applications for certain facilities that may emit air contaminants.

Currently, applicants for certain air quality permits may pay a surcharge to TCEQ to expedite the processing of their application, and TCEQ uses these surcharges to cover overtime or contract labor costs incurred for the

expedited processing. However, the commission is not allowed to use full-time employees to process expedited air permits during the work week, and this has led to delays in the issuance of expedited permits. SB 698 would specify that the surcharge also could cover full-time employee salaries, allowing TCEQ to hire additional employees to deal with the increasing demand for expedited permits.

The bill would not reduce the rigor of the technical review of each permit applicant, but simply would allow TCEQ to hire additional staff to appropriately process expedited permit applications. There is no evidence to suggest that the expedited process gives less consideration to environmental or health standards.

**OPPONENTS
SAY:**

SB 698 would expand the ability of TCEQ to issue expedited air permit applications, which do not adequately consider facilities' potential effects on the environment or human health and safety. The Legislature instead should repeal this expedited process and better regulate air polluting industries.