

BILL ANALYSIS

Senate Research Center

H.B. 1190
By: Counts (Armbrister)
Natural Resources
4-16-97
Committee Report (Amended)

DIGEST

In 1991, the legislature passed the Texas Clean Rivers Act (the Act), which requires water quality assessments to be conducted for each river basin in Texas, integrating all water quality issues within a river basin or watershed. The Texas Natural Resource Conservation Commission (commission) is directed to assess a fee on water use and wastewater discharge permit holder to fund the program. The Act also directs the commission to contract with river authorities to conduct the assessments. In 1995, the legislature amended the Act to require a biennial accounting of costs recovered and to sunset funding for the program on August 31, 1998.

In light of that pending date, a broad-based group of stakeholders was formed to define problem areas in the program. Approximately 60 interest groups representing cities, businesses, industries, agricultural interests and agencies, the river authorities, environmental interests, state agencies, and a council of government participated in the meetings. This group, known as the Clean Rivers Stakeholders Workgroup, developed a revised Clean Rivers Program.

This bill represents the consensus recommendations of the stakeholders workgroup on substantive revisions to the Act, including the continuation of the funding mechanism at its present level. In reference to the Section 26.177, Water Code, which requires any city with a population of 5,000 or greater to have a water pollution control and abatement program, the majority of stakeholders proposed that that provision be voluntary unless the population is equal to 10,000 or more, or where the Clean Rivers Regional Assessment or Water Quality or other commission assessments or studies demonstrate a water pollution impact not associated with permitted sources.

H.B. 1190 would make substantive revisions to the Texas Clean Rivers Act, as amended, and to Section 26.177, Water Code, to implement the recommendations of the Clean Rivers Stakeholders Workgroup. This bill would also restore the funding mechanism for the Clean Rivers Program beyond August 31, 1998, in response to the recommendations of the stakeholders.

PURPOSE

As proposed, H.B. 1190 amends the Water Code to implement the recommendations of the Clean Rivers Stakeholders Workgroup.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Natural Resource Conservation Commission under SECTION 1 (Section 26.0135(c), Water Code) and SECTION 2 (Section 26.0136(c), Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 26.0135, Water Code, as follows:

Sec. 26.0135. WATERSHED MONITORING AND ASSESSMENT OF WATER QUALITY. (a) Requires the Texas Natural Resource Conservation Commission (commission), in order to ensure clean water, to establish the strategic and comprehensive monitoring of water quality and the periodic assessment of water quality in each watershed and river basis of the state, rather than requiring the commission to ensure the comprehensive

assessment of water quality in each watershed and river basin of the state. Requires river authorities, in order to conserve public funds and avoid duplication of effort, subject to adequate funding under Subsection (h), to the greatest extent possible and under the supervision of the commission, to conduct water quality monitoring and assessments in their own watershed, rather than to conduct regional assessments of their own watersheds. Requires watershed monitoring and assessments, rather than regional assessments, involving agricultural or silvicultural nonpoint source pollution to be coordinated through the State Soil and Water Conservation Board with local soil and water conservation districts. Provides that the water quality monitoring and reporting duties under this section apply only to a river authority that has entered into an agreement with the commission to perform those duties. Sets forth provisions regarding the monitoring program. Deletes text regarding the monitoring and assessment. Makes conforming changes.

(b) Requires a river authority, in order to assist in the coordination and development of assessments and reports required by this section, to organize and lead a basin-wide steering committee that includes persons paying fees under Subsection (h), private citizens, the State Soil and Water Conservation Board, representatives from other appropriate state agencies, political subdivisions, and other persons, rather than other governmental bodies, with an interest in water quality matters of the watershed or river basin. Sets forth provisions regarding the steering committee. Makes nonsubstantive changes.

(c) Provides that the purpose of the monitoring and assessment required by this section is to identify significant issues affecting water quality within each watershed and river basin of the state, rather than not to mandate exhaustive and detailed water quality studies. Sets forth requirements for each river authority regarding the submission of data. Authorizes the commission to adopt rules regarding each river authority and sets forth provisions regarding the rules. Makes conforming changes.

(d) Sets forth provisions regarding the submission of a written report by each river authority. Deletes provisions regarding the reporting by each authority of any significant regulatory or enforcement issues, and on any actions taken by the authority and other local governments to improve water quality within the authority's watershed. Sets forth provisions regarding the deadline for the report to be submitted.

(e) Deletes a provision providing that nothing in this section shall be construed to limit or increase the authority of a municipality in regard to water pollution control.

(f) Makes no changes.

(g) Makes no changes.

(h) Removes an ending date for the provision that requires the commission to apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section. Requires certain rules to ensure that program funds are equitably apportioned among basins. Provides that costs recovered by the commission are to be deposited to the water quality fund and may only be used to accomplish the purposes of this section. Requires the commission, with the assistance and input of each river authority, to file a certain written report, rather than a certain final written report, on or before December 1 of each even-numbered year, rather than December 31, 1998. Deletes text providing that this subsection expires January 1, 1999. Makes conforming changes and nonsubstantive changes..

(i) Defines "quality assured data." Makes conforming changes.

(j) Sets forth provisions regarding the recovering the costs of water quality management programs under this section from waste permit holders.

SECTION 2. Amends Section 26.0136, Water Code, as follows:

Sec. 26.0136. New heading: WATER QUALITY MANAGEMENT. Requires water quality management functions to be oriented on a watershed basis in consideration of the priorities identified by river authorities and basin steering committees. Requires the commission to establish rules to make the optimum use of state and federal funding and grant programs related to water quality programs of the commission. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 26.023, Water Code, to require the commission to develop standards based on all quality assured data obtained by the commission, including the local watershed and river basis database described by Section 26.0135(c)(2). Defines "quality assured data."

SECTION 4. Amends Section 26.0285, Water Code, to require the watershed and river basin monitoring plans described by Section 26.0135(c) to include targeted monitoring to assist the permitting process.

SECTION 5. Amends Section 26.177, Water Code, by amending Subsections (a) and (e) and adding Subsections (f) and (g), to delete text regarding a city having a population of 5,000 or more. Sets forth provisions applicable if the watershed water quality assessment reports required by Section 26.0135 or other commission assessments or studies identify water pollution that is attributable to non-permitted sources in a city that has a population of 10,000 or more. Authorizes, rather than requires, the commission to adopt and assess reasonable and necessary fees adequate to recover the costs of the commission in administering this section. Authorizes a city to contract with a river authority or another political subdivision to perform any or all services and functions that are part of a water pollution control and abatement program established under this section. Authorizes the commission to assist cities in identifying and obtaining funds and technical assistance that may be available to assist a city, or a river authority or other political subdivision with whom the city has contracted, in performing any or all of the services or functions that are part of a water pollution control and abatement program established under this section.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1

Page 9, line 14, add Subsection (j), regarding the recovery of the costs of water quality management programs under this section from wastewater permit holders.