

BILL ANALYSIS

Senate Research Center
77R909 JJT-D

S.B. 493
By: Bernsen
Natural Resources
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As Filed

DIGEST AND PURPOSE

Currently, certain “grandfathered” facilities are exempted from obtaining emission permits. As proposed, S.B. 493 amends Chapter 382, Health and Safety Code, to set forth provisions repealing the exemption for certain sources of air contaminant emissions from preconstruction permit requirements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 382.0518(g) and (h), Health and Safety Code, to delete the text of Subsection (g) regarding Subsections (a)-(d). Redesignates Subsection (h) as (g).

SECTION 2. Amends Sections 382.0519(a), (b), and (f), Health and Safety Code, to authorize the Texas Natural Resource Conservation Commission (commission) to grant a permit under this section only if the permit application was filed before September 1, 2001, rather than authorizing the owner or operator of an existing, unpermitted facility not subject to certain permit requirements to apply for a permit to operate that facility under this section. Requires the commission to grant a permit to operate a facility under this section within a reasonable time after the commission receives a permit application, rather than grant a permit under this section, if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission makes certain findings. Makes a conforming change.

SECTION 3. Amends Section 382.15094(a), Health and Safety Code, to delete text regarding existing unpermitted facilities not subject to the requirement to obtain a preconstruction authorization under Section 382.0518(g).

SECTION 4. Amends Section 382.05195(a), Health and Safety Code, to delete text regarding permit applications for facilities subject to Sections 383.0518(a)-(d) filed before September 1, 2001.

SECTION 5. Amends Section 382.0621(d), Health and Safety Code, to prohibit the commission, except as provided by this section, from imposing a fee for any amount of emissions of an air contaminant regulated under the federal Clean Air Act Amendments of 1990 (Pub.L. No. 101-549) in excess of 4,000 tons per year from any source. Deletes text regarding fees assessed after September 1, 2001, for a facility required to obtain a permit that does not have a permit application pending on that date.

SECTION 6. Amends Sections 39.264(b), (d), and (e), Utilities Code, to provide that this section applies only to an electric generating facility existing on January 1, 1999, that on August 31, 2001, was not subject to the requirement to obtain a permit under Sections 382.0518(a)-(d), Health and Safety Code, because the facility was exempt under Section 382.0518(g), as that subsection read on that

date. Authorizes a municipal corporation, electric cooperative, or river authority to exclude any electric generating facilities of 25 megawatts or less from the requirements prescribed by this section only if the municipal corporation, electric cooperative, or river authority informed the commission of its intent to exclude those facilities before January 2, 2000, rather than the entity being required to inform the commission not later than January 1, 2000. Authorizes the commission to issue a permit for an electric generating facility under this section only if the owner or operator of the facility applied to the conservation commission for a permit on or before September 1, 2000, rather than requiring the owner or operator of an electric generating facility to apply to the commission for a permit on or before September 1, 2000. Prohibits a facility that does not obtain a permit as required by this subsection from operating after May 1, 2003, rather than unless the conservation commission finds good cause for an extension. Makes a conforming change.

SECTION 7. Provides that the changes in law made by Section 4 of this Act do not apply to an application for a permit filed under Section 382.05195, Health and Safety Code, before September 1, 2001. Provides that such an application is required to be considered and granted or denied under the law as it existed on August 31, 2001, and the former law is continued in effect for that purpose. Authorizes an operating facility for which such an application is filed to continue to operate as authorized by the former law until the permit is granted or denied, and prohibits the owner or operator of the facility from being penalized for air contaminant emissions authorized by the former law before the permit is granted or denied.

SECTION 8. Effective date: September 1, 2001.