

BILL ANALYSIS

Senate Research Center
80R6260 SLO-F

S.B. 1675
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Natural Resources
4/2/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Professional civil engineers have developed structural controls for land use that protect the environment. These controls have been met with certain local governmental restricts. City regulation of watershed and aquifer protection is ineffective. Previously regulation of watersheds and aquifers was administered by the Texas Commission on Environmental Quality (TCEQ). A return to TCEQ regulation would influence watershed and aquifer protection with less municipal variance.

As proposed, S.B. 1675 amends current statute relating to watershed and aquifer authorities to apply to all local governments in Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 (Section 26.177, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality (TCEQ), as the successor agency to TNRCC.]

SECTION 1. Amends the heading to Section 26.177, Water Code, to read as follows:

Sec. 26.177. WATER POLLUTION CONTROL DUTIES OF LOCAL GOVERNMENTS.

SECTION 2. Amends Section 26.177, Water Code, by amending Subsections (a), (b), (c), (d), (f), and (g) and adding Subsection (i), as follows:

(a) Authorizes a local government, rather than a city, to establish a water pollution control and abatement program for the territorial area of the local government on or after June 1, 2007, and enforce a water pollution control and abatement program adopted before June 1, 2007, only to ensure compliance with the Texas Natural Resources Conservation Commission (TNRCC) pollution and degradation standards and practices and with TNRCC rules. Provides that a local government does not have independent authority to regulate water quality, issue permits, or establish standards or practices for water quality. Authorizes TNRCC, after providing the city or other local government a reasonable time to correct the problem and after holding a public hearing, to require the city or other local government to establish a water pollution control and abatement program if the watershed water quality assessment reports required by Section 26.0135 or other TNRCC 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 or in the territorial area of any other local government. Makes conforming changes.

(b) Requires the water pollution control and abatement program of a local government to encompass the entire territorial area of the local government. Authorizes a water pollution control and abatement program adopted by a city to include only those areas within its extraterritorial jurisdiction that are not located within a county that has adopted a water pollution control and abatement program and that in the judgment of the city

should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. Requires a portion of the city's extraterritorial jurisdiction automatically to be removed from the city's program and be subject only to the county's water pollution control and abatement program if a city adopts a water pollution control and abatement program and a county later adopts a water pollution control and abatement program that includes any part of the extraterritorial jurisdiction included within the city's program. Requires a local government to include in the program the services and functions as may be reasonably required by TNRCC to ensure compliance with pollution and degradation standards and practices adopted by TNRCC including the certain services and functions. Deletes existing text requiring a city to include in the program the services and functions which, in the judgment of the city or as may be reasonably required by TNRCC will provide effective water pollution control and abatement for the city. Deletes existing text providing authorizing a city to include area in its extraterritorial jurisdiction subject to Section 26.179 of this code. Makes conforming changes.

(c) Requires the water pollution control and abatement program authorized or required by Subsections (a) and (b), rather than this section, to be submitted to TNRCC for review and approval. Provides that a water pollution control and abatement program is not effective, and may not be enforced, until TNRCC approves the program. Requires, rather than authorizes, TNRCC to adopt rules providing the criteria for the establishment of those programs and the review and approval of those programs.

(d) Authorizes any person affected by any ruling, order, decision, ordinance, program, resolution, or other act of a local government relating to water pollution control and abatement outside the jurisdictional, rather than corporate limits of such local government adopted pursuant to this section or any other statutory authorization to appeal such action to TNRCC or district court. Provides that the issue on appeal is whether the action or program is invalid, arbitrary, unreasonable, inefficient, or ineffective in its attempt to ensure compliance with the pollution and degradation standards and practices adopted by TNRCC, rather than control water quality. Makes conforming changes.

(f) Authorizes a county, as well as 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.

(g) Makes conforming changes.

(i) Requires TNRCC to adopt rules allowing the establishment of regional water pollution control and abatement programs. Authorizes a regional water pollution control and abatement program to be established in accordance with TNRCC rules by five or more contiguous counties and each city in that multi-county region that agrees to enforce the program. Authorizes local government in the region to perform the services and functions described by Subsections (b)(1) through (6) in accordance with the regional water pollution control and abatement program adopted by the region. Requires a regional water pollution control and abatement program to be approved by TNRCC to ensure that the program has been adopted in accordance with TNRCC rules and water pollution and degradation standards and practices adopted by TNRCC.

SECTION 3. Requires TNRCC to adopt rules necessary for administering Section 26.177, Water Code, as amended by this Act not later than September 1, 2008.

SECTION 4. Effective date: upon passage or September 1, 2007.