

## **BILL ANALYSIS**

Senate Research Center  
81R11919 JJT-F

C.S.S.B. 1080  
By: Jackson, Mike  
Natural Resources  
3/25/2009  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The federal Occupational Safety and Health Act of 1970 (OSHA) requires, in its general duty clause, that employers provide a safe work environment free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Industrial facilities must sometimes balance OSHA's general duty clause with environmental mandates that can be in opposition to one another in certain design or operating situations. Where such regulatory conflicts exist, facility managers and their staff must choose to comply with either an environmental permit/regulation or protect worker health and safety.

C.S.S.B. 1080 offers an affirmative defense to enforcement by the Texas Commission on Environmental Quality (TCEQ) in those situations where the OSHA general duty clause conflicts with a statute within TCEQ's jurisdiction or a TCEQ rule, order, or permit.

[**Note:** 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, as the successor agency to TNRCC.]

### **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 Subchapter F, Chapter 7, Water Code, by adding Section 7.256, as follows:

Sec. 7.256. COMPLIANCE WITH FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS. Provides that if a person can establish that an act or event that otherwise would be a violation of a statute within the Texas Natural Resource Conservation Commission's (TNRCC) jurisdiction or a rule adopted or an order or permit issued by TNRCC under such a statute was caused solely by compliance with the general duty clause of the federal Occupational Safety and Health Act of 1970 (29 U.S.C. Section 654), the act or event is not a violation of that statute, rule, order, or permit.

SECTION 2. Effective date: September 1, 2009.