

BILL ANALYSIS

Senate Research Center
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S.B. 1446
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1446 would require the Texas Commission on Environmental Quality (TCEQ) to develop and implement performance standards for certain types of above-ground storage tanks that contain petroleum and other hydrocarbons, including storage tanks located in areas subject to flooding, storm surges, and hurricanes.

Currently, the Texas Water Code, in Section 26.341(b), states that it is the policy of the state to protect our groundwater and surface water resources from pollution that can result from the failure of underground and above-ground storage tanks. However, recent events—including the 2015 Trinity River floods and the 2017 floods and high winds that resulted from Hurricane Harvey—revealed that current safeguards do not protect our resources, or the public, during these weather extremes. Thus, as made clear during the interim by the Senate Committee on Natural Resources and Economic Development, in particular during Harvey, some 15 major above-ground storage tanks failed, leading to air emissions, spills, and dangers to local water resources and the public.

S.B. 1446 would make it the policy of this state to also protect our resources from spills from above-ground storage tanks during these climate extremes. While it is important to note that only certain above-ground storage tanks would be covered by this legislation, the bill would require TCEQ to develop performance standards for the first time for existing and future above-ground storage tanks that contain petroleum and petroleum products that are frequently used in Texas. In particular, the bill would require that such standards be developed for such tanks located at petrochemical plants, petroleum refineries, electric generating facilities, or bulk facilities. However, tanks associated with oil and gas exploration and development, tanks associated with the storage of heating oil for the use of a particular home or building, and non-commercial tanks for residential or agricultural for holding fuel onsite are not required to make changes under the provisions of this bill.

While the legislation does not dictate those performance standards, TCEQ would be required to consider the use of anchoring of tanks and ancillary equipment, the use of geodesic roofs, and the use of floating roofs with drains. During recent storm events, it became clear that tanks with geodesic domes or with internal floating roofs and drains of a certain size did not fail, while those with external floating roofs or smaller drains did fail. Finally, the bill requires TCEQ to develop and implement these standards as soon as is practical.

With frequent floods and storms, and since Texas is subject to such weather extremes, Texas should require for the first time performance standards for above-ground storage tanks, just as it does for underground storage tanks.

As proposed, S.B. 1446 amends current law relating to performance standards for certain aboveground storage tanks.

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 Section 26.341(b), Water Code, as follows:

(b) Provides that the legislature declares that it is the policy of this state and the purpose of this subchapter to:

(1) maintain and protect the quality of groundwater and surface water resources in the state from certain substances in underground and aboveground storage tanks that may pollute groundwater and surface water resources, including during hurricanes, floods, and other extreme weather events, rather than maintain and protect the quality of groundwater and surface water resources in the state from certain substances in underground and above ground storage tanks that may pollute groundwater and surface water resources; and

(2) makes no changes to this subdivision.

SECTION 2. Amends Section 26.344(f), Water Code, as follows:

(f) Exempts an aboveground storage tank that is located at or is part of a petrochemical plant, a petroleum refinery, an electric generating facility, or a bulk facility as that term is defined by Section 26.3574(a), rather than by Section 26.3574(a) of this code, from regulation under this subchapter (Underground and Aboveground Storage Tanks) but does not exempt such a storage tank for purposes of the fee imposed under Section 26.3574 or the performance standards adopted under Sections 26.3441(c) and (d).

SECTION 3. Amends Section 26.3441, Water Code, by adding Subsections (c) and (d), as follows:

(c) Requires the Texas Commission on Environmental Quality (TCEQ) to adopt performance standards for existing aboveground storage tanks and aboveground storage tanks brought into use on or after the effective date of the standards.

(d) Requires the performance standards for aboveground storage tanks to include specific standards for tanks in areas prone to flooding, storm surges, and hurricanes, including:

(1) the need to anchor the aboveground storage tanks and ancillary piping;

(2) the use of geodesic dome roofs, where appropriate; and

(3) the use of floating roofs and associated drains, where appropriate.

SECTION 4. Amends the heading to Section 26.347, Water Code, to read as follows:

Sec. 26.347. UNDERGROUND STORAGE TANK STANDARDS.

SECTION 5. Requires TCEQ, as soon as practicable after the effective date of this Act, to adopt the standards as required by Section 26.3441, Water Code, as amended by this Act.

SECTION 6. Effective date: upon passage or September 1, 2019.