

BILL ANALYSIS

Senate Research Center
88R1172 JXC-D

S.B. 816
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Natural Resources & Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Unlike other permits approved by the Texas Commission on Environmental Quality (TCEQ), current TCEQ regulations do not allow an affected person to petition TCEQ to overturn the executive director of TCEQ's (executive director's) action approving a concrete batch plant standard permit. Currently, the only option available once a permit is approved is to file a petition for judicial review in Travis County district court.

Under current TCEQ regulations, "an applicant, public interest counsel or other person may file with the chief clerk a motion to overturn the executive director's action on an application..." (30 Texas Administrative Code (TAC), Section 50.139(a)). This section lays out the procedures for filing a motion to overturn. The same regulations, however, specifically exclude "air quality permits under Chapter 116..." (30 TAC, Section 50.131(c)(1)). Chapter 116 establishes the procedures for approving concrete batch plant standard permits.

This bill will ensure that affected persons have the opportunity to challenge the executive director's concrete batch plant standard permit authorization by filing a motion to overturn—a remedy available for a host of other permits, but not the concrete batch plant standard permit.

We expect support from community advocacy groups, environmental advocacy groups, and individuals who have been or are currently impacted by concrete batch plants. We expect opposition from applicants for concrete batch plant standard permits, such as concrete batch plants companies and associated organizations

As proposed, S.B. 816 amends current law relating to a motion to overturn an executive director decision on an authorization to use a standard permit for certain concrete plants.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 5 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 382.05199, Health and Safety Code, to read as follows:

Sec. 382.05199. STANDARD PERMIT FOR CERTAIN CONCRETE BATCH PLANTS: PROCEDURAL PROVISIONS.

SECTION 2. Amends Section 382.05199, Health and Safety Code, by adding Subsection (j), as follows:

(j) Authorizes a person to file with the Texas Commission on Environmental Quality (TCEQ) a motion to overturn as described by TCEQ rule to challenge an executive director of TCEQ's (executive director's) final decision on an authorization to use a standard permit under Section 382.05198 (Standard Permit for Certain Concrete Plants).

SECTION 3. Amends the heading to Section 382.058, Health and Safety Code, to read as follows:

Sec. 382.058. CERTAIN PROCEDURAL PROVISIONS FOR CONSTRUCTION OF CONCRETE PLANT UNDER PERMIT BY RULE, STANDARD PERMIT, OR EXEMPTION.

SECTION 4. Amends Section 382.058, Health and Safety Code, by adding Subsection (e), as follows:

(e) Authorizes a person to file with TCEQ a motion to overturn as described by TCEQ rule to challenge an executive director's final decision on an authorization to use a standard permit issued under Section 382.05195 (Standard Permit) for a concrete plant that performs wet batching, dry batching, or central mixing.

SECTION 5. Requires TCEQ to adopt rules to implement the changes in law made by this Act not later than December 31, 2023.

SECTION 6. Makes application of this Act prospective to December 31, 2023.

SECTION 7. Effective date: September 1, 2023.