

US EPA ARCHIVE DOCUMENT

76TH LEGISLATIVE SESSION - SUMMER 1999
A SUMMARY OF ACTIONS AFFECTING THE TNRCC

The 76th Legislative Session placed many demands on the TNRCC, but was a productive session for the agency. The agency tracked the progress of over 900 individual bills that had the potential to impact some aspect of the agency's operations. Of this total tracking list, approximately 265 bills passed and are being reviewed to determine how they affect the agency and what changes need to be implemented. It is estimated that perhaps as many as 55 bills were passed by the Legislature that are considered to have at least a moderate and possibly major impact. The Legislature enacted laws to implement important new programs of benefit to the agency's efforts to improve environmental quality and operate more efficiently.

SIGNIFICANT LEGISLATION

The 76th Legislature enacted several pieces of legislation that will have at least a moderate, if not major, impact on TNRCC programs and responsibilities. These include:

HB 801 by Uher

Establishes a new public participation system at the TNRCC by modifying standards and practices for contested case hearings. Requires the TNRCC to develop rules and procedures for public participation in certain permitting decisions, including requirements governing public notice and hearings.

HB 1283 by Counts

Allows the TNRCC to issue general permits for storm water discharges, eliminates the 500,000 gallon per day cap for general permits, and gives TNRCC more flexibility in newspaper notice, notices of intent and renewals. Reduces the number of permits to be processed and expands the universe of authorizations eligible for general permits. The TNRCC may deny a discharger's authorization based on compliance history.

HB 2815 and HB 2816 by Junell

These bills enact significant revisions to the petroleum storage tank program. HB 2815 establishes a compliance certification program, prohibits the delivery of fuel to non-compliant storage tanks and extends certain deadlines for tank owner/operators to avoid paying increased deductibles on reimbursements of remediation costs. HB 2816 reduces by 25% the fees assessed on bulk delivery of fuel; requires quarterly reporting to the LBB on the financial status of the Petroleum Storage Tank Remediation Fund; and extends the sunset date for the reimbursement program from 2001 to 3/1/2002. The collection of the fee was extended from 8/31/01 to 2/28/02.

HB 2954 by Gray

Abolishes the Texas Low-Level Radioactive Waste Disposal Authority and transfers its powers, duties, obligations, rights, contracts, records, personnel, property, and appropriations to the TNRCC effective September 1, 1999. The Governor vetoed the appropriations for the Authority for the second year of the biennium. The TNRCC will receive approximately \$1.2 million for FY 2000 and the authority to carry over any unexpended appropriations to FY 2001.

SB 7 by Sibley

The electric deregulation bill contains a number of provisions affecting the TNRCC, including the requirement that electric utilities apply for air quality permits by September 1, 2000, or cease operations by May 1, 2003. The bill also requires the TNRCC to establish regions within the state for allocation of air contaminants under the permitting program and sets emissions rates for the geographic regions. The bill also establishes emissions credit programs and requires a joint report by PUC and TNRCC.

SB 766 by Brown

The final version of the CARE bill establishes the procedural and control technology requirements for voluntary permits for grandfathered air emission sources. The bill establishes the criteria for de minimis sources exempt from permitting and allows the TNRCC to establish procedures for issuance of standard permits; authorizes the consolidation of numerous preconstruction authorizations into a single permit; creates a voluntary emission reduction permit for grandfathered facilities that must be applied for by September 1, 2001; allows a grandfathered facility to offset excess emissions through mitigation if a facility cannot reduce emissions sufficiently to meet the control requirements of a voluntary emission reduction permit; creates a multiple plant cap permit that would allow for a single permit across multiple plant sites that are controlled by a single person; and requires the TNRCC to impose an emissions fee for all emissions at major sources with grandfathered facilities (for which no application is pending by September 1, 2001), including emissions in excess of 4000 tons per year, and also requires the commission to treble emissions fees every year for emissions from any facility in excess of 4000 tons per year at those sources.

TNRCC INITIATIVES

The Legislature also favorably considered the legislative initiatives that had been identified by the Commissioners prior to the 76th Session. In addition to the bills related to grandfathered facilities (SB 766) and general permits (HB 1283), the following agency recommendations were passed into law:

HB 1172 by Chisum

Makes the state's definition of low-level radioactive waste compatible with the federal definition. This will help maintain Agreement State status with the U.S. Nuclear Regulatory Commission. The bill also caps fees that may be collected by the State from generators of low-level radioactive waste.

HB 3288 by Greenberg

Eliminates fees charged by TNRCC for beneficial use of Class A sludge, reducing the costs for sludge producers and processors.

HB 3561 by Luna

Revises and clarifies the authority of TNRCC to make grants. The bill will allow the TNRCC to make joint applications along with private entities for federal grant monies and to pass through grant money under federal Clean Water Act grants to fund projects by non-governmental entities.

SB 486 by Brown

This bill includes the agency recommendation that had been the subject of SB 487 (did not pass) to remove the statutory 270-day deadline for making a solid waste facility permit application administratively complete and require the deadline to be established by rule.

SB 1307 by Brown

Restores the authority for a delegated local government or authorized agent of TNRCC under the On-Site Wastewater Program to file for injunctive relief, or civil penalty against any individual who has violated Chapter 366 of the Health and Safety Code, 30 TAC Chapter 285 of the TNRCC's rules, or an order or a permit under the jurisdiction of the authorized agent.

SB 1308 by Brown

Allows the Executive Director to approve Water Quality Management Plans instead of the Commission and provides for Commission review under certain circumstances. An opportunity for public comment that meets the federal public participation requirements must be provided. The bill removes the requirement of a mandatory public hearing prior to approval and streamlines current procedure.

SB 1421 by Lucio

The omnibus colonias bill makes a number of changes to the TWDB's economically distressed areas program (EDAP), including the TNRCC recommendation to restore previous statutory language requiring the Department of Health, rather than TNRCC, to make determinations of public health nuisance conditions as a condition for TWDB financial assistance to EDAP projects. The bill also includes all of the provisions of the agency's grant authority recommendations that are in HB 3561 that also passed.

SB 1434 by Duncan

Requires the comptroller to credit the amount of any refund due to a person against any other amount the person owes the state and refund the remainder. This bill will allow the comptroller to transfer money from one fund or account to another for the purpose of more efficiently reconciling debit and credit balances in agency fee accounts. The Governor vetoed SB 1434, however, because another bill, HB 3211, accomplished much the same purpose and was also passed into law.

GOVERNOR'S VETOES

Of the more than 1,900 bills sent to the Governor for his signature, a total of 33 were vetoed. In addition to the Governor's veto of SB 1434 and the second year appropriation for the Low-level Radioactive Waste Disposal Authority, the Governor also vetoed the following:

HB 2155 by Yarbrough would have abolished the Plumbing Board and transferred some of the TNRCC's occupational licensing functions, including the landscape irrigators, to a new State Board of Mechanical Industries.

SCR 56 by Lindsay would prohibit TNRCC from reviewing Corps of Engineers wetlands permits.

HB 2977 by Hamric would encourage development of a regional flood control plan for Harris County, but also contained a provision similar to SCR 56 that would prohibit TNRCC from reviewing Corps of Engineers wetlands permits. While HB 2977 and SCR 56 were vetoed, a rider in the appropriations bill that prohibits expenditures for duplicative state review of wetlands permits was not vetoed. Staff are coordinating with Legislative offices to determine how the rider should be implemented.