



LEGISLATIVE UPDATE

TxSWANA

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Overview of Current 84th Regular Session

- **Tax Relief** – Franchise / Sales / Property Taxes
- Open Carry / Campus Carry
- Border Security
- Public School Finance
- Transportation

- **Senate** = 9 Freshmen / 5 Sophomores
- **House** = 25 Freshmen / 19 Sophomores

House Bill 87 (Gonzalez) – Television and Computer Equipment Recycling

- HB 87 creates new administrative requirements for retailers related to the recycling of TV and computer equipment.
- Retailers must accept, without charge, this equipment at the retailer's location for proper recycling, refurbishing, or disposal according to the Health and Safety Code.
- Heard on March 24th, remains pending in HERC
- Position - Neutral

House Bill 281 (Simmons) – Limiting Expansion of Landfills

- The TCEQ may not approve an application for the issuance, amendment, or renewal of a permit to expand the area or capacity of a landfill without the prior approval of the governing body of the municipality involved.
- Only applies to landfill in a county of a population of more than 600,000 and not more than 500 feet from another municipality in the same county.
- The bill was heard and reported favorably as substituted from HERC on April 14th.
- Position – **Opposed**
- Companions – HB 3412 (Parker); SB 878 (Nelson)

House Bill 994 (Anchia) – Tax Exemption for Certain Property

- This bill would exempt property used to collect, process, and deliver landfill-generated gas from ad valorem taxation.
- Specifically, the bill repeals Sections 11.311(a) and (d) and effectively turns what was a temporary exemption for such properties into a permanent one.
- The bill was voted favorably out of Ways & Means, and on April 14th the Committee Report was sent to House Calendars
- Position – Neutral
- Companions – SB 1069 (West)

House Bill 1058 (Farias) – Notice Requirements for Certain Facilities

- This bill require owner/operators of a “solid waste facility” to post signage encouraging customers to recycle TV equipment
- Additionally, commercial transporters of solid waste are to provide similar information about such recycling programs
- Bill explicitly states that no owner/operator nor transporter will be held liable if any such equipment is disposed of at their facility.
- Position – **Opposed**
- Committee Substitute voted favorably from HERC on April 7th -
Changes in the Committee Substitute;
 - Word “commercial” inserted in front of every mention of “transporter” for uniformity
 - Phrase “municipal solid waste landfill or incinerator” changed to “solid waste facility”

House Bill 1113 (Clardy) – Standing in Contested Case Hearings

- This bill allows TCEQ to make a determination on standing in a CCH without holding an evidentiary hearing.
- Reviewing court could only reverse such a determination if TCEQ;
 - (i) failed to consider a factor required by law;
 - (ii) considered an irrelevant factor, or;
 - (iii) reached a “completely unreasonable” result
- Position – Neutral
- Bill was heard on March 31st, and remains pending in HERC
- Companions – SB 941 (Creighton)

House Bill 1247 (Smith, W) – Presumptions in a Contested Case Hearing

- For TCEQ permits in a CCH at SOAH, the filing of a draft permit prepared by the ED, along with the preliminary decision of the ED, creates a rebuttable presumption of federal and state legal and technical compliance in addition to adequate protection of human health and safety and the environment
- Presumption is rebutted if moving party shows;
 - A violation of a state or federal legal or technical requirement in the application, or;
 - The applicant intentionally withheld/misrepresented information in the application
- Position – Neutral
- Bill was heard on March 31st, and remains pending in HERC

House Bill 1284 (Simmons) – Review of Solid Waste Facility Permits

- This bill would require the TCEQ to notify the mayor and health authority of each municipality in whose territory (or ETJ) the facility is located, and also of every municipality with a boundary that is one more or less from the facility
- When making its decision on the permit, TCEQ must consider any comments received from those mayors/health authorities, and the bill also gives TCEQ the authority to deny a permit based on those comments
- Position – **Opposed**
- Heard on March 17th and remains pending in HERC
- Companions – HB 3411 (Parker); SB 879 (Nelson)

House Bill 1865 (Morrison) – Presumptions and “Affected Person” Status in CCH

- Similar to other bills, the filing of a draft permit prepared by the ED of the TCEQ, along with the preliminary decision of the ED and other supporting documents, creates a prima facie presumption of compliance with state and federal requirements
- The bill also requires the TCEQ to develop rules specifying factors for the determination of “affected person” status in a CCH
- Position – Neutral
- CSHB 1865 was voted out of HERC on April 7th, differences;
 - The primary change is the moving of substantive revisions to different sections of the Gov’t Code and Water Code
 - The same substantive changes discussed above are included, and largely the same form, just reworded and/or moved to different parts of statute
- Companions – SB 709 (Fraser)

House Bill 1939 (Rinaldi) – Bag Bans

- The bill would amend the Business and Commerce Code to prevent local municipalities from adopting “bag ban” ordinances
- The bill also adds conforming language to the Health and Safety Code to effectuate the prohibition of these ordinances
- Position – **Opposed**
- Bill has not been heard, and is pending in House Urban Affairs
- Companion – SB 1550 (Hall)

House Bill 2244 (Zerwas) – Medical Waste Regulation

- The bill mandates that the TCEQ must require a permit to regulate the handling, storage, disposal, and transportation of “medical waste”
- “Medical Waste” – has the meaning assigned to the term "special waste from health care-related facilities" by Department of State Health Services rule and includes “animal waste, bulk blood, bulk human blood products, bulk human body fluids, microbiological waste, pathological waste, and sharps.”
- Bill includes specific requirements on the operation and location of facilities that handle medical waste
- Position – Neutral
- Bill was voted favorably from HERC as substituted on April 7th

House Bill 2532 (Bell, C) – Study on Landfills Over Aquifers

- The bill requires TCEQ to conduct a study to determine the effectiveness of the regulations governing the design and construction of landfills located over aquifers in this state.
- The study must;
 - Determine whether landfills over aquifers are leaking and whether the aquifer has been contaminated;
 - Include any recommendations for improving regulations on design/construction standards for such landfills, including recommendations to prevent/reduce leakage and protect aquifers underneath landfills
 - Be submitted for independent peer review
- Position – **Opposed**
- Bill voted favorably as substituted from HERC on April 7th, differences;
 - Almost identical, definition of “Landfill” slightly altered/expanded

House Bill 2598 (Kuempel) – Steel Slag as Solid Waste

- The bill would amend an expired section of the Health and Safety Code as it relates to the definition of solid waste
- The bill would remove steel slag from the definition if the slag is;
 - An intended output or result of the use of an electric arc furnace to make steel;
 - Sold/distributed for consumption, use, or further processing, and;
 - Managed as an item of commercial value in a controlled manner and not discarded material or in a manner constituting disposal
- Bill (and Committee Substitute) was heard in HERC on April 14th and it remains pending

House Bill 2763 (Thompson, E.) – TCEQ Study on Recycled Materials

- This bill requires TCEQ to convene an advisory committee to conduct a study;
 - Quantifying the amount of materials currently being recycled;
 - Assessing economic impacts including lost state and local revenues from the materials that are not being recycled, and;
 - Identifying ways to develop new markets to increase recycling.
- Position – Neutral
- Companions – SB 1067 (Rodriguez)
- Bill was reported favorably as substituted from HERC on April 14th

House Bill 2871 (Allen) – Permit Application Requirements for Solid Waste Facilities

- The bill inserts a new subsection in the Health and Safety Code that would require an applicant to certify it has mailed out an explanation of the site's proposed operations and a questionnaire seeking comments from the community
- The application must include the comments received
- Explanation/Questionnaire must be sent to;
 - Each resident living one mile or less from the proposed site
 - Each community organization, nonprofit organization, or civic club located two miles or less from the site
- Position – **Opposed**
- Bill has not been heard and remains pending in HERC

House Bill 3088 (Alvarado) – Environmental Justice Reports for Permit Applications

- The bill would require a new or expanding facility, applying for a permit under the Water Code or the Health and Safety Code, to submit to the TCEQ an Environmental Justice report stating whether or not the facility is located in an “environmental justice community”
- “Environmental Justice Community” – Community for which 30% or more of the noninstitutionalized population's income is below 200% of the federal poverty level
- If in an EJ Community, applicant must file a “public participation plan” with TCEQ
- Position - **Opposed**
- Companions – SB 253 (Ellis)
- Bill has not been heard and remains pending in HERC

House Bill 3795 (Raymond) – Sale, Storage, Transportation, and Disposal of Tires

- The bill would place limits on the retention, transportation, and storage of used and scrap tires
- The bill has provisions applicable to tire dealers, junkyards, fleet operators, consumers/customers, and retail tire sellers
- Retail sellers are allowed to contract with transporters for the purpose of removal to a scrap tire processor, end use, or disposal facility
 - Those transporters must annually register with TCEQ and maintain/submit records
- Places storing tires will be required to lock up those tires during non-business hours
- Position – Neutral
- Bill has not been heard and remains pending in HERC
- Companions – SB 1242 (Rodriguez)

Senate Bill 1288 (Estes) – Ordinances on Solid Waste Management Facilities

- The bill adds a section to the Health and Safety Code stating that a local government or other political subdivision may not adopt a rule or ordinance that conflicts/is inconsistent with the requirements for solid waste management facilities as specified by TCEQ rules or permits
- Bill has not been heard and remains pending in SNRC

Questions?

- Any questions?
- Thank you.