

## **BILL ANALYSIS**

C.S.H.B. 2661  
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Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The use of “graywater,” which is household wastewater from clothes washing machines, showers, bathtubs, handwashing lavatories, and sinks can produce approximately 100 gallons of excess water per day in the typical Texas household. This is water which could be used to replace potable water for irrigation purposes and presents a tremendous potential for water conservation. Facilities such as apartments, hotels, dormitories, and laundromats also generate large amounts of graywater that can be used to replace potable water for uses such as landscape and toilet flushing. However, graywater generated by commercial/industrial users may have characteristics that necessitate more stringent regulations than those that are created for domestic graywater.

While the Texas Water Code currently delegates some authority to the Texas Commission on Environmental Quality (TCEQ) for adopting rules for the regulation of graywater, the code is vague and lacks enough direction from the legislature. As a result, the TCEQ has failed to adopt adequate rules to address graywater use, and entities which wish to use graywater have no guidance.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 26.0311, Water Code), SECTION 2 (Section 341.039, Health and Safety Code), and SECTION 3 (Section 366.012 (a), Health and Safety Code) of this bill.

### **ANALYSIS**

C.S.H.B. 2661 further defines the term graywater in the Texas Water Code to specify that it does not include water that has come in contact with toilet waste, the washing of any material soiled with human excreta, or water from sinks used for food preparation or disposal. The legislation directs the TCEQ to adopt more specific minimum standards for the use of graywater including directing that the rules should be adopted for agricultural, irrigation, industrial and commercial purposes, as well as domestic use to the extent consistent with the Health and Safety Code. C.S.H.B. 2661 also clarifies that the rules adopted must assure that the use of graywater will not be a nuisance and does not damage water quality. Further, C.S.H.B. 2661 clarifies that the TCEQ will draft rules regarding graywater and not the Texas State Board of Plumbing Engineers.

C.S.H.B. 2661 also makes the above changes to the Health and Safety Code and specifies circumstances where the TCEQ may not require a permit for the use of graywater. Specifically, the TCEQ may not require a permit for the domestic use of graywater of less than 400 gallons each day if the graywater meets certain qualifications. The qualifications are that the graywater: originates from a private residence; is used by the residents for gardening, composting or landscaping at the residence; is collected using a system that overflows into a sewage collection or on-site wastewater treatment and disposal system; is stored in tanks with certain specifications; uses piping clearly identified for this purpose; is generated without the formation of ponds or pools; does not create runoff across the property lines or onto any paved surface; and is distributed by a surface or subsurface system that does not spray into the air. Builders are also encouraged to install certain graywater “friendly” systems.

C.S.H.B. 2661 requires that rules be adopted by the TCEQ no later than June 1, 2004, and the rules must address the separation of graywater in a residence served by an on-site sewage disposal system.

**EFFECTIVE DATE**

September 1, 2003

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2661 changes the original legislation by expanding the definition of what the term “graywater” does not include to specify that water from sinks used for food preparation or disposal cannot be considered graywater. Further, in specifying circumstances where the TCEQ may not require a permit for graywater, C.S.H.B. 2661 changes one of the criteria from graywater that “is distributed by drip, bubbler, or other system that does not spray into the air” to graywater that “is distributed by a surface or subsurface system that does not spray into the air.” C.S.H.B. 2661 also deletes criteria under the permit exemption list that the graywater be collected using a system that maintains a certain vertical distance between the system and the highest seasonal water table.

In addition, C.S.H.B. 2661 requires the TCEQ to adopt additional rules which address the separation of graywater in a residence served by an on-site sewage disposal system. C.S.H.B. 2661 also extends the deadline at the TCEQ for adopting rules required by the legislation from January 1, 2004, to June 1, 2004.