**Texas House moves to crack down on polluters with stricter penalties and heavier oversight**

The bill would require the Texas Commission on Environmental Quality to focus enforcement and increase penalties on repeat violators and increase public outreach. Still, environmental advocates say the effort was too “modest” in its reach.

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Residential properties near refineries in the Hillcrest neighborhood of Corpus Christi in 2017. Credit: Eddie Seal for The Texas Tribune

The Texas Legislature is on the verge of increasing the penalties that the state environmental agency can impose on industrial facilities that don’t comply with regulations.

The change is part of [Senate Bill 1397](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=SB1397), proposed by Sen. [Charles Schwertner](https://www.texastribune.org/directory/charles-schwertner/), R-Georgetown, which would also ensure the Texas Commission on Environmental Quality considers a company’s compliance history for future permit authorizations and gives the public more time to weigh in on industry permits.

The measure was granted final approval by the House on Wednesday and is headed back to the Senate, which can accept the House changes or seek to iron out differences in a conference committee.

The TCEQ sunset bill emerged from [a review conducted by the Sunset Advisory Commission](https://www.texastribune.org/2022/11/10/texas-commission-environmental-quality-sunset-review/) on the agency’s effectiveness.

TCEQ is [responsible](https://www.tceq.texas.gov/agency/organization/tceqhistory.html) for permitting and monitoring the emission, discharge and disposal of hazardous chemicals and pollution in the state’s air, water and land.

Sunset Advisory Commission staffconcluded in a [review](https://www.sunset.texas.gov/public/uploads/2022-05/Texas%20Commission%20on%20Environmental%20Quality%20Staff%20Report_5-25-22.pdf) that TCEQ commissioners have become “reluctant” to regulate industry. The staff recommended more transparency from the state environmental agency, like improvements to the TCEQ's decision-making processes and additional opportunities for public input and engagement. The TCEQ sunset bill provides an opportunity for Texans to raise concerns about the agency’s operations and marks the first evaluation of the TCEQ in over a decade.

Under SB 1397, the public would get 36 hours to comment on agency matters following a TCEQ permit application. Currently, comments can be given before, during or in some cases, after a public meeting.

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The bill would also require TCEQ to provide community outreach and education on how residents can participate in the permitting process and how that process works and to post a permit on the agency’s website once the permit application is complete — in addition to the required public posting in local newspapers or other publications. The bill states that TCEQ will need to ensure that residents without internet access have the necessary resources to participate in the permit-related processes.

TCEQ will also be obligated, upon receiving a permit application, to notify state senators and state representatives who represent the area where the facility is asking for the permit. This provision ensures that elected officials are informed about permit applications in their areas, allowing them to stay informed and potentially take appropriate actions based on the interests and concerns of their constituents.

Sen. [Borris L. Miles](https://www.texastribune.org/directory/borris-miles/) and Rep. [Armando Walle](https://www.texastribune.org/directory/armando-walle/), both Houston Democrats, and Rep. [Rafael M. Anchía](https://www.texastribune.org/directory/rafael-anchia/), D-Dallas, have been asking for this change because they represent Texans who live in heavily industrial areas where many permits for concrete batch plants are considered.

On Tuesday, Rep. [Ron Reynolds](https://www.texastribune.org/directory/ron-reynolds/), D-Missouri City, asked Rep. [Keith Bell](https://www.texastribune.org/directory/keith-bell/), R-Forney, who laid out the bill on the House floor, if the TCEQ sunset bill would regulate “cumulative air quality impacts” that result from multiple industrial facilities like concrete batch plants operating in close proximity.

"In many areas of Texas, many communities are facing not only existing high levels of pollution,” Reynolds said. “Many have criticized TCEQ, including myself, for not adequately considering cumulative impacts when granting new permits.”

Bell said nothing in the bill addresses that concern but that TCEQ already has the tools and authority to consider cumulative impacts. He pointed to TCEQ’s consideration of a new standard permit for concrete batch plants that would add a protectiveness review that would consider air emissions from multiple facilities side by side.

In addition to the permit process changes, the sunset bill would also increase the penalties that the TCEQ can impose on industrial facilities that violate state regulations from $25,000 to $40,000 per day. Violations for which facilities could be penalized include the release of pollutants to the air, water or land that surpass the acceptable thresholds by the agency designed to safeguard people’s well-being or the environment.

Harris County Attorney Christian D. Menefee commended Houston lawmakers for pushing for TCEQ accountability, including ensuring the state educates communities on permitting processes, but said the Texas leaders need to do more.

 “The TCEQ’s authority must be expanded to allow it to block companies from putting multiple polluting facilities in the same neighborhoods,” Menefee said in a statement. “Government must be empowered to seek greater penalties when there are plant explosions in local communities, schools are evacuated, and families are told to shelter in place.”

Just this month, there was a [chemical fire](https://www.texastribune.org/2023/05/10/texas-shell-refinery-fire-problems-tceq/) in Harris County that sent several workers to the hospital. Another in Galveston County, also in the Houston Ship Channel, resulted in the death of an employee.

Each year, TCEQ conducts more than 100,000 investigations, issues thousands of violation notices, assesses millions of dollars in administrative penalties, and provides compliance support to thousands of small businesses and local governments, according to a March email from TCEQ spokesperson Victoria Cann.

The bill would also require TCEQ to establish criteria for classifying entities as repeat violators, taking into account a company’s compliance history or number violations. Under this process, the bill would allow the agency’s executive director to review or suspend permits to facilities.

 “Though the Legislature could have done more, the bright spots of the legislation that people in fenceline communities pushed for will now offer a little more protection to all Texans,” said Adrian Shelley, director of the Texas office of Public Citizen, a consumer-advocacy nonprofit group, in a statement Tuesday.

Environmental advocates have long criticized the TCEQ for being too industry friendly.

Texans living in and near industrial areas made their voices heard by taking buses from Houston or driving from Gunter to the Capitol multiple times during the legislative session and emphasized before lawmakers the importance of a regulatory body that holds polluters accountable. They shared personal stories of how industrial facilities negatively impacted their health and the well-being of their communities. These residents also expressed their dissatisfaction with the TCEQ, stating that it falls short of adequately safeguarding and protecting their communities.

Environmental advocacy groups echoed this sentiment, citing TCEQ’s lack of transparency, limited public involvement and inconsistent enforcement of environmental regulations as reasons for public distrust. While these groups said that the sunset staff and commissioners missed an opportunity to propose bold changes to restore public trust and enhance community protection, they supported most of the “relatively modest” recommendations put forth.

 “I think we still got a long way to get to where I believe this permitting process is one that’s at least responsive to Texans,” said [Rep. Harold V. Dutton Jr.](https://www.texastribune.org/directory/harold-dutton-jr/), a Democrat from Houston. “Particularly Texans who live in areas that are most affected by the permit application.”

Under current TCEQ rules, only residents who live within 440 yards of a facility like a concrete batch plant can request a contested case hearing, a formal procedure in which residents and company representatives go before an administrative judge who makes recommendations to the TCEQ. Environmental advocates hoped state lawmakers would have allowed for more people to request such a hearing.

Cyrus Reed, conservation director of the Lone Star Chapter of the Sierra Club, said Tuesday he supports many changes the bill would enact. But he said the bill fell short when it came to adding language that would expand the definition of who is considered a person affected by industry.

“We still feel like TCEQ is not following the law in certain aspects ... things like how [the agency] considers who’s an affected person,” he said. “We were hoping that would get addressed in this bill. It did not.”

***[Correction, May 19, 2023 at 12:16 p.m.](https://www.texastribune.org/corrections/)*:**A previous version of this story incorrectly reported that the Sunset Advisory Commission concluded that TCEQ leaders have become “reluctant” to regulate industry. Commission staff made that conclusion. The story also incorrectly quoted a staff report as saying TCEQ leaders have become “reluctant” to regulate industry; the report made that statement about TCEQ commissioners, not all agency leaders. The story also incorrectly stated that the public can make comments only during or immediately after TCEQ meetings. Public comments can also be made before TCEQ meetings.