SUBJECT: Defining certain converted material, excepting from solid waste regulation

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Lozano, E. Thompson, Blanco, Kacal, Kuempel, Reynolds, J. Turner, Zwiener

0 nays

1 absent — Morrison

WITNESSES: For — Richard Wagner, Chevron Phillips Chemical; Stephen Minick, Republic Services; Hector Rivero, Texas Chemical Council; (*Registered, but did not testify*: Mike Meroney, BASF Corporation; Daniel Womack, Dow Chemical; Samantha Omey, ExxonMobil; Mindy Ellmer, Lyondellbasell; Adam Burklund, National Waste and Recycling Association; James Mathis, Occidential Petroleum; Caleb Troxclair, SM Energy; Shana Joyce, Texas Oil and Gas Association; Mark Vickery, Texas Association of Manufacturers; Chris Macomb, Waste Management of Texas Inc.)

Against — Cyrus Reed, Lone Star Chapter Sierra Club; Andrew Dobbs, Texas Campaign for the Environment; (*Registered, but did not testify*: Tammy Embrey, City of Corpus Christi)

On — (*Registered, but did not testify*: Earl Lott, Texas Commission on Environmental Quality)

BACKGROUND: Health and Safety Code ch. 361, also known as the Solid Waste Disposal Act, gives the Texas Commission on Environmental Quality (TCEQ) the authority to regulate and manage municipal solid waste and solid waste facilities. "Solid waste" includes refuse from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material. The statute imposes a fee on all solid waste disposed of in the state and specifies disposal practices.

DIGEST:

CSHB 1953 would prohibit the Texas Commission on Environmental Quality (TCEQ) from considering post-use polymers or recoverable feedstocks to be solid waste if they were converted using pyrolysis or gasification into a valuable product. Processed post-use polymers and recoverable feedstocks would be considered recyclable materials.

"Post-use polymers" would be defined as plastic polymers derived from any household, industrial, community, commercial, or other source of operation that could otherwise become waste if not converted into a valuable raw, intermediate, or final product. The term would include used polymers containing incidental contaminants or impurities, but not used polymers mixed with solid, medical, hazardous, electronic waste, tires, or construction debris.

"Recoverable feedstock" would mean post-use polymers and certain other material containing post-use polymers derived from recoverable waste, other than coal refuse, that was processed so that it could be used in a gasification facility.

"Pyrolysis" and "gasification" would be defined as separate processes through which post-use polymers or recoverable feedstocks, respectively, were heated in an oxygen-deficient atmosphere and converted into a valuable raw, intermediate, or final product. Converted products could include plastic, monomer, chemical, wax, lubricant, crude oil, diesel, gasoline, home heating oil, ethanol, or another fuel.

Under the bill, post-use polymers and recoverable feedstock converted using pyrolysis or gasification into valuable products would be considered recyclable materials, and the conversion of these materials using pyrolysis or gasification would be considered recycling.

Pyrolysis and gasification facilities would be exempt from regulation as solid waste facilities under the Solid Waste Disposal Act if the facilities demonstrated that:

- their primary function was to convert materials that had a resale

value greater than the cost of conversion; and

- solid waste generated from converting the materials was disposed of in a hazardous solid waste management facility or solid waste facility, excepting small amounts of solid waste inadvertently and unintentionally disposed of in another manner.

The bill would specify that the recycling and reuse of post-use polymers and recoverable feedstocks classified as hazardous waste under federal law would be subject to federal requirements.

TCEQ would have to adopt rules necessary to implement this bill as soon as practicable after the effective date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1953 would encourage a new sustainable plastics-to-fuel market to increase recycling and reuse of traditionally non-recyclable and single-use materials. The current state of recycling is a hodgepodge among different local entities, making some plastics more recyclable than others depending on local recycling facilities. Heavier plastics that cannot be recycled in these facilities are either shipped overseas, which is expensive, or end up in landfills, which is environmentally problematic.

Pyrolysis and gasification are new practices that can break down these plastics into usable items and fuels. There is no oxygen present in the process, so this technology does not include incineration. Instead, it is an environmentally friendly recycling process that will help reduce waste.

The bill would ensure that materials recycled by pyrolysis and gasification facilities were not considered solid waste so that the facilities were not treated as landfills. This would be appropriate since the facilities would be involved in the manufacturing of new products. CSHB 1953 would encourage the conversion of everyday consumer items that are traditionally non-recyclable, such as plastic shopping bags, into fuel and

other useful materials.

Concerns that this bill would disrupt traditional recycling are unfounded. Pyrolysis and gasification facilities instead would create a market for non-recyclable materials to be sold rather than simply collected by cities. The techniques also would work for heavier plastics that would not qualify for some recycling programs and would otherwise sit in a landfill.
Several recent investments have been made in new plastics-to-fuel technology, creating millions or even billions of dollars of economic opportunity. This bill could help increase the number of these facilities, supporting local economies.

The industry would not be unregulated, as gasification and pyrolysis facilities would be regulated in a manner similar to other manufacturers in the state. The recycling of post-use polymers and recoverable feedstock would fall under applicable federal regulations as well.

OPPONENTS SAY:

CSHB 1953 would exempt a problematic industry from necessary state regulation under the Solid Waste Disposal Act. Gasification and pyrolysis processes, which are practically incineration, have economic and environmental issues and could harm the recycling industry.

Pyrolysis and gasification processes at best would reduce rather than eliminate waste. Various toxic materials and additives within plastics are processed through pyrolysis and gasification, resulting in waste and pollution. Incinerators also compete with traditional recycling markets for material, and the bill would incentivize greater consumption of plastics and other materials to keep pyrolysis and gasification plants running.

Plastics-to-fuel operations do not work on a municipal scale, and several gasification and pyrolysis incinerators have either failed to produce enough product to justify their continued operation or were cancelled due to insufficient investment. The operation of these facilities requires large amounts of energy, making them inefficient. Recycling and composting programs conserve more energy and cost less than gasification and pyrolysis.

The Legislature should not exempt gasification and pyrolysis operations from state regulation. The bill would strip regulations and standards for these practices, making pollution and waste regulation uncertain.

OTHER OPPONENTS SAY:

CSHB 1953 should be amended to limit the types of materials allowed to be converted through gasification or pyrolysis to certain thinner plastics with a known, relatively small environmental impact. The current list is too broad for the full impact of processing the items through gasification or pyrolysis to be determined.