

BILL ANALYSIS

C.S.H.B. 1481
By: Allen
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

§ 502(b)(3)(C)(iii) of the federal Clean Air Act (“FCAA”) requires that all Title V emissions fees that The Commission on Environmental Quality (TCEQ) collects must be used solely to cover reasonable direct and indirect costs of developing and administering the Texas Title V operating permits program. Section 382.0622(c) of the Health and Safety Code also limits the appropriation (and, thus, use) of the fees that TCEQ collects under § 382.0621(a) of the Health and Safety Code (referred to as “Title V emissions fees”) to cover costs of developing and administering the federal operating permits program under Titles IV and V of the federal Clean Air Act (referred to as the “Title V operating permits program.”)

Notwithstanding this requirement, § 382.0622(b) of the TCAA requires that Title V emissions fees be deposited in the state treasury to the credit of the clean air account, along with all other clean air act fees that the TCEQ collects. Because the Title V emissions fees are commingled with all of the other clean air act fees in the clean air act account, TCEQ cannot demonstrate and does not know whether it is spending the Title V emissions fees it collects only for costs of developing and administering the Texas Title V operating permits program.

C.S.H.B. 1481 establishes a separate, operating fees account in the state treasury to the credit of which all future Title V emissions fees would be deposited. It also clarifies that any balance remaining in the dedicated Title V emissions operating fees account at the end of a fiscal year must be left in that account and used in subsequent fiscal years solely to cover costs of developing and administering the Texas Title V operating permits program.

RULEMAKING AUTHORITY

It is the committee’s opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

SECTION 1. Amends Sec. 382.0622, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1), (b-2) and (b-3) as follows:

(b) Adds conforming language to reference new Subsection (b-1).

(b-1) States that a fee collected under Section 382.0621(a) on or after September 1, 2003, shall be deposited into a new operating fees account in the clean air account and that the fees collected under this section cannot be commingled with any other fees or money in the state treasury.

(b-2) States that money in the new operating fees account may be appropriated to TCEQ only to cover the costs of the Federal Title IV or V programs.

(b-3) States that Section 403.095, Government Code, does not apply to the new account and that funds remaining in the account at the end of a fiscal year shall be left in the account and shall be used in

future years to cover only the costs of the Federal Title IV or V programs.

SECTION 2. (a) Effective date: September 1, 2003

(b) States that any rules adopted by TCEQ required for implementation of this Act must be adopted no later than December 1, 2003.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1481 modifies the original by not amending Sec. 382.0622 (c), Health and Safety Code.

The substitute changes the separate account from a subaccount to an operating permit fees account for fees collected under Titles IV and V of the Clean Air Act.