

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 7, 2003

TO: Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1063 by Smith, Wayne (Relating to compliance histories for and incentives to reward compliance performance by entities regulated by the Texas Commission on Environmental Quality.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1063, As Introduced: a negative impact of (\$106,667) through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|-------------|--|
| 2004 | (\$106,667) |
| 2005 | \$0 |
| 2006 | \$0 |
| 2007 | \$0 |
| 2008 | \$0 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1 | Probable (Cost) from <i>CLEAN AIR ACCOUNT</i> 151 | Probable (Cost) from <i>HAZARDOUS/WASTE FEE ACCT</i> 549 |
|-------------|--|---|--|
| 2004 | (\$106,667) | (\$106,667) | (\$106,667) |
| 2005 | \$0 | \$0 | \$0 |
| 2006 | \$0 | \$0 | \$0 |
| 2007 | \$0 | \$0 | \$0 |
| 2008 | \$0 | \$0 | \$0 |

Fiscal Analysis

The bill would expand the definition of an innovative program to include a program that provides incentives in return for benefits to the environment that are equal to benefits that would result from compliance and that also result in economic benefit to regulated entities. The bill would allow the Texas Commission on Environmental Quality (TCEQ) to develop standards for site specific compliance history that are uniform for sites that are similar in size and complexity and at which similar activities occur. The bill would also require the TCEQ to establish a three year period for site specific compliance history.

The bill would allow the TCEQ to establish a set of standards for the classification of a person's

compliance history at a particular site and would require the commission to adopt rules for three classifications of site-specific compliance history. The bill would also provide that in formulas used by the TCEQ to determine compliance history classifications, the denominator must include inspections and reports submitted to the TCEQ that allege potential violations at the site.

The bill would delete requirements that the commission post information regarding violations and enforcement orders on the Internet and further require that if information is posted on the Internet, the entity involved will be able to review the information before it is placed on the Internet.

The bill would broaden participation by allowing applicants to participate in the program if they present evidence of economic benefit with equivalent protection of environmental quality or documented evidence of benefits to environmental quality. The bill would provide that the commission fix and enforce environmental standards allowing businesses flexibility in meeting standards and enhancing environmental outcomes. The bill would also repeal provisions relating to using notices of violations in compliance history components and provisions requiring the coordination of innovative programs.

Methodology

The agency has recently adopted rules relating to compliance history and is preparing to adopt a Strategically Directed Regulatory Structure rule by the end of this fiscal year. Even though language in the bill is permissive with regard to developing standards and components for compliance history, since the rules have already been adopted, it is assumed that the current and proposed rules would need to be amended to conform to the new legislative requirements. These changes would also require programming changes to the Consolidated Compliance and Enforcement Database (CCEDS) and Central Registry systems to incorporate compliance history for sites that are similar in size and complexity and at which similar activities occur, a 3 year compliance history (current rules provide for a five year compliance history), as well as other changes.

In order to develop standards for site specific compliance history as well as other requirements in the proposed legislation, an estimated \$150,000 would be required to make programming changes to CCEDS and Central Registry. Assuming the TCEQ would continue to provide compliance history data on the internet, an additional \$170,000 would be needed to modify the reporting and authentication system which TCEQ customers use to submit environmental data electronically and assists customers in meeting certain reporting requirements. The changes will provide a secure means for reporting entities to view their data prior to placement on the TCEQ web site. These would both be one-time costs which would be expected in 2004 only.

This estimate assumes costs would be allocated evenly among permitted entities in the agency's three main media: water, paid with General Revenue funds; air quality, paid using Clean Air Account No. 151 funds; and waste, paid using the Waste Management Account No. 549.

Technology

One-time programming changes to CCEDS and Central Registry would be required at a projected cost of \$150,000. In addition, an anticipated \$170,000 would be needed to modify the reporting and authentication system which TCEQ customers use to submit environmental data electronically and assists customers in meeting certain reporting requirements. The changes will provide a secure means for reporting entities to view their data prior to placement on the TCEQ web site.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JK, JO, CL, MS, TL