**LEGISLATIVE BUDGET BOARD**
**Austin, Texas**

# FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

**May 15, 2003**

**TO:** Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE:** **HB1366** by Elkins (Relating to the environmental regulation and remediation of certain dry cleaning facilities; providing penalties.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1366, As Engrossed: an impact of $0 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 | $0 |
| 2005 | $0 |
| 2006 | $0 |
| 2007 | $0 |
| 2008 | $0 |

## All Funds, Five-Year Impact:

| Fiscal Year | Probable Revenue Gain from *New General Revenue Dedicated* | Probable (Cost) from *New General Revenue Dedicated* | Change in Number of State Employees from FY 2003 |
|---|---|---|---|
| 2004 | $6,115,000 | ($611,500) | 10.0 |
| 2005 | $8,714,000 | ($14,217,500) | 16.0 |
| 2006 | $8,278,000 | ($8,278,000) | 16.0 |
| 2007 | $7,864,000 | ($7,864,000) | 16.0 |
| 2008 | $7,471,000 | ($7,471,000) | 16.0 |

## Fiscal Analysis

The bill would establish a dry cleaning regulation and remediation program at the Texas Commission on Environmental Quality (TCEQ). The bill would not apply to a governmental entity or a political subdivision.

The bill would require the TCEQ to adopt rules to administer and enforce the new chapter including the development of performance standards for dry cleaning facilities and criteria for setting priorities for the expenditure of funds from the newly established Dry Cleaning Facility Release Account in the General Revenue Fund. In addition, the TCEQ would develop corrective action completion criteria for the remediation of sites.

The bill would establish an advisory committee to assist the commission in ranking contaminated sites and in the development of rules. Dry cleaning facilities operating on or before January 1, 2004 would be required to implement the commission's performance standards by January 2006. The TCEQ could exempt businesses with annual gross receipts of $200,000 or less, based on financial hardship. Carbon dioxide facilities and those facilities not using perchlorthylene would be exempt from the bill's requirement to use dikes or other containment structures.

The bill would require each owner of an operating dry cleaning facility to register annually with the commission. No registration fee would be required for carbon dioxide facilities. A registration fee of $250 per year would be required for facilities with less than $100,000 in gross annual receipts or for drop stations (locations where no cleaning occurs on site) that are not owned by a cleaning facility. The registration fee would be $1,000 per year for drop stations that are owned by a cleaning facility, and $2,500 per year for cleaning plants that have gross annual receipts in excess of $100,000.

A fee of $15 per gallon would be imposed on the purchase of perchloroethylene, and a fee of $5 per gallon is imposed on the purchase of other dry cleaning solvents. The purchase of carbon dioxide would not be subject to the fee. Owners who have never used perchloroethylene would be exempt from both of the per-gallon fees. Owners who opt out of the fund, as provided in the bill, would be exempt from the per-gallon fee on other dry cleaning solvents, but not from the per-gallon fee on perchloroethylene.  These fees would all be deposited to credit the Dry Cleaning Facility Release Account.

The bill would require the TCEQ to investigate and assess releases of dry cleaning solvents and to take corrective actions for the releases. The bill would require the agency to pay the cost of corrective actions taken by the TCEQ or other entities. The bill would require the commission to rank contaminated dry cleaning sites that do not require immediate actions.

The bill would provide for owners to opt out of participation in benefits from the proceeds of the Dry Cleaning Facility Release Account. These facilities would be subject to registration fees, but not per-gallon fees for solutions. Facilities opting out also would have to post a $500,000 with the TCEQ as financial assurance.

The bill would allow the commission to use the new account to pay for partial cleanup of a site for sites with more than one source of contamination, and hold an owner responsible for up to 100 percent of the costs of corrective action.

Disbursements from the account prior to January 1, 2005 would be limited to administrative and startup costs. The TCEQ's start-up and administration expenditures would be limited to 15 percent of funds credited to the Dry Cleaning Facility Release Account in fiscal year 2004 and limited to 10 percent in subsequent years. The bill would also restrict payment of costs from the account for corrective action to $5 million for a single contaminated site.

## Methodology

The Comptroller estimates that the fees on solvents together with registration fees would generate $6.1 million in revenues in 2004, increasing to $8.7 million by 2005, then decreasing to $7.4 million by 2008. The decrease is due to the assumption that sales of perchloroethylene would decline as operators use alternative solvents in attempts to avoid the higher fee on perchloroethylene. It also assumes a portion of the facilities would opt out of participation in the program.

This estimate assumes that the TCEQ will require 10 FTEs in 2004 and 16 FTEs in subsequent years to implement the provisions of the bill. Administrative costs to the agency are estimated at $611,500 in 2004 (the maximum 10 percent of revenues that fiscal year) and $943,321 in subsequent years to carry out the following responsibilities: rulemaking, prosecuting administrative penalties, processing and auditing reimbursements, performing investigations, processing registrations, developing priority lists, and monitoring and managing cleanups.

According to the TCEQ, there are an estimated 2,132 dry cleaning facilities in the state. This estimate assumes that number will increase by 0.55 percent each year through 2008. It is further estimated that

65 percent of dry cleaners use perchloroethylene. An estimated 10 percent of dry cleaners are expected to opt out of participation in the program.

It is projected that remediation applications would be submitted to the TCEQ by eligible entities on the following schedule: 50 percent would submit remediation applications in fiscal year 2005; 30 percent would submit in 2006; and 5 percent in each subsequent year. An estimated 697 sites will require evaluation for corrective action in 2005 at a cost to the state of $15,000 per site, or total costs of $10.4 million. Evaluation costs would decrease to $1.6 million in 2007 and 2008. This estimate assumes that remediations would begin in 2005 and costs would be limited to available revenues and balances. Since the bill would limit disbursements from the Dry Cleaning Release Account to administrative and startup costs in 2004, a balance of $5.5 million is expected to be available on September 1, 2004, thereby allowing for costs in 2005 that exceed revenues.

It is estimated that the following amounts would be available and expended on remediation activities: $2.8 million in 2005; $1.0 million in 2006; $5.9 million in 2007; and $5.5 million in 2008.

## Technology

The TCEQ would need to purchase computers for each of the 16 new FTEs. There could also be some costs incurred in setting up databases for the Dry Cleaner Environmental Response Program. These costs are not expected to be significant.

## Local Government Impact

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

**Source Agencies:** 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts

**LBB Staff:** JK, CL, JO, JRO, MS, TL, SM