LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 16, 2003

TO: Honorable Helen Giddings, Chair, House Committee on Business & Industry

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.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1366, Committee Report 1st House, Substituted: 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	$6,492,000	($1,037,914)	14.0
2005	$9,825,000	($15,279,086)	20.0
2006	$9,913,000	($9,913,000)	20.0
2007	$10,002,000	($10,002,000)	20.0
2008	$10,092,000	($10,092,000)	20.0

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.

The bill would require each owner of an operating dry cleaning facility to register with the commission and pay $250 per year. In addition, the bill would provide for an environmental charge on business receipts, set at a rate of 1.5 percent of the gross receipts. A fee of $5 per gallon would be added to the purchase of the dry cleaning solvent perchloroethylene by an owner of a dry cleaning facility. These fees would all be deposited to credit of 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 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 bill would also restrict payment of costs from the account for corrective action to $5 million for a single contaminated site.

The bill would provide that fee collections would cease on July 1 of a calendar year if the unobligated principal balance of the Dry Cleaning Facility Release Account exceeded $20 million on April 1 of that year. Collections would be reinstated if the balance would drop below $10 million.

Methodology

The Comptroller estimates that the annual registration fee, the 1.5 percent surcharge on gross receipts from dry cleaning facilities and the fee on solvents together would generate $6.5 million in revenues in 2004, increasing to $10.1 million by 2008, to be deposited to the credit of the Dry Cleaning Facility Release Fund. This estimate assumes that collection of fees would continue through fiscal year 2008 since the fund balance would not exceed $20 million.

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 $715,718 in 2004 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.

The Comptroller also expects additional administrative costs required for the collection of the new fees, auditing fee payers and programming changes and maintenance. It is estimated that this will require four additional FTEs and cost $322,196 in 2004, $491,250 in 2005 and $415,370 in subsequent years. This estimate assumes these costs would be paid out of the newly created Dry Cleaning Facility Release Account, since the bill provides for up to 5 percent of fee revenues to be used for such purposes.

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. The TCEQ further estimates that 65 percent of dry cleaning facilities use perchloroethylene.

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: $3.4 million in 2005; $2.2 million in 2006; $7.6 million in 2007; and $7.7 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.

The Comptroller also would incur costs for programming and computer equipment totaling $70,328 in fiscal year 2003 and $76,292 in fiscal year 2004. This estimate assumes 2003 costs would be absorbed using existing resources.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality
LBB Staff: JK, JO, JRO, MS, TL, SM