

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 23, 2003

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

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2877 by Bonnen (Relating to certain permitting procedures of the Texas Commission on Environmental Quality.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2877, Committee Report 2nd House, Substituted: a negative impact of (\$30,000) 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	(\$15,000)
2005	(\$15,000)
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2003
2004	(\$15,000)	0.3
2005	(\$15,000)	0.3
2006	\$0	0.0
2007	\$0	0.0
2008	\$0	0.0

Fiscal Analysis

The bill would revise the public participation procedures applicable to environmental permit applications where there is an opportunity to request a contested case hearing at the Texas Commission on Environmental Quality (TCEQ). The executive director of the TCEQ would be required to respond only to comments received in writing, in contrast to the current process that requires a response to spoken comments received at public meetings.

The bill would impose stricter time frames for the filing of hearing requests. As opposed to the current process that allows for hearing requests to be considered timely at any point after the application is filed, a hearing request would not be timely unless it was filed during the prescribed period following transmittal of the executive director's response to comments. The bill also would revise the time frame for filing requests for reconsideration to allow for filing after the

publication of the executive director's preliminary decision.

New criteria would also be imposed on persons requesting a hearing. Only persons who submitted timely written comments could request a hearing, and their hearing request could only relate to the issues they raised during the comment period and could not relate to issues that may have been raised by others. The bill also revised the criteria for issues that must be contained in a valid hearing request. Under the bill the issues would have to be supported by competent evidence showing a reasonable basis for a factual dispute.

The bill would impose requirements for air applications. A person challenging issuance of an air permit would be required to file a "request for initiation of the public participation process" in response to the first notice of the application, rather than a request for hearing as under current law. As with the permits for other media, the person would also need to file a hearing request following transmittal of the response to comments.

The bill contains provisions relating to rock crushers with blasting operations. The TCEQ would be required to prohibit rock crushers from blasting operations if an affected municipality adopts a resolution in opposition to the facility.

The bill would create the Study Commission on Environmental Flows as a 15-member commission. The TCEQ would provide staff to the commission. The bill also would suspend the processing of instream permit applications.

Methodology

The TCEQ would be required to implement rules and procedures. These costs are not expected to be significant.

Costs to the Department of Transportation associated with the bill's provisions regarding rock crushers are not expected to be significant.

The provision relating to the TCEQ being required to provide staffing to the Study Commission on Water for Environmental Flows is expected to result in a cost of \$15,000 annually to the TCEQ and require 0.3 additional FTE.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. Local governments could experience increased public notification costs. However, these costs are not expected to be significant.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality, 601 Department of Transportation

LBB Staff: JK, CL, TL