

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 16, 2003

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

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1263 by Armbrister (Relating to the permitting procedures of the Texas Commission on Environmental Quality.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would revise the public participation procedures applicable to environmental permit applications where there is an opportunity to request a contested case hearing. The Executive Director (ED) of the Texas Commission on Environmental Quality (ED) 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 ED'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 ED's preliminary decision.

New criteria would also be imposed on persons requesting a hearing with the State Office of Administrative Hearings (SOAH). 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 issue would have to be discrete and not a broad or general objection.

The bill would also 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.

The bill could result in some increased administrative costs to the TCEQ. However, such costs are not expected to be significant. There could be fewer cases referred to the SOAH as a result of the bill's passage. However, such savings are not expected to be significant.

Local Government Impact

No significant fiscal implications are anticipated for local governments.

Local governments which have equipment going through the permitting process may experience increased costs due to additional public notice criteria. However, such costs are not expected to be significant.

Source Agencies: 360 State Office of Administrative Hearings, 582 Commission on Environmental Quality

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