

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 24, 2005

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB1609 by Chisum (Relating to the allowed wastes and exemptions applicable to certain municipal solid waste landfill units in arid areas.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Sections 361.0666, 361.0791, 361.082, and 361.534 of the Health and Safety Code relating to public meetings held by the Texas Commission on Environmental Quality (TCEQ). Under current statute, these sections require TCEQ to conduct public meetings regarding certain permit applications; the proposed change would make the public meetings optional, except for a meeting regarding a permit application for use of land over a municipal solid waste landfill, if requested to be held by a member of the legislature who represents the general area or if the TCEQ executive director determines that there is substantial public interest in the proposed development.

The bill would amend Chapter 361, Health and Safety Code, by adding Section 361.123 to allow small arid exempt municipal solid waste landfill units to, on a daily basis, dispose of less than 20 tons of construction/demolition waste in addition to the tons an arid exempt facility is normally authorized. Per federal regulations, an arid exempt facility's disposal limit is less than 20 tons of municipal solid waste.

The bill includes a provision for the TCEQ to exempt small arid exempt municipal solid waste landfill units from groundwater protection (liner), groundwater monitoring, and corrective action requirements if there is no evidence of groundwater contamination from the unit. The proposed legislation provides a definition for "construction or demolition waste" and "small municipal solid waste landfill unit," and directs TCEQ to adopt the rules necessary for implementation. The bill would apply to landfill operations on or after January 1, 2006.

TCEQ would be required to adopt rules that are necessary to implement the new statute in a manner that complies with state program authorization under Section 3006 of the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.).

According to TCEQ, there are currently 59 permitted arid exempt landfills in Texas, 42 of which are Type I landfills and 17 of which are Type IV. Type IV landfills are landfills that accept construction/demolition wastes. It is assumed that 36 of the 59 arid exempt landfills may require new permit modifications.

Federal regulations (40 CFR, Part 58) limit daily disposal quantities for arid exempt landfills to less than 20 tons per day. The types of waste included in the less than 20 tons per day limit are not specified. The bill proposes to double the daily disposal quantity limit to less than 40 tons per day, that is, 19 tons or less per day for municipal solid waste and 19 tons or less per day for construction/demolition waste. If disposal limits for these types of landfills are increased and deemed to conflict with federal regulations, TCEQ may have to submit a revised program application to EPA for approval.

TCEQ assumes there would be no significant fiscal implications as a result of implementing

provisions of the bill, but estimates that an increased permit modification workload would require a quarter time of one highly skilled full-time-equivalent position (approximate cost of \$10,000).

Local Government Impact

Small local governments could see beneficial fiscal implications if the bill were implemented, as it is anticipated that revenues earned from additional disposal of wastes would increase. Larger local governments may see revenues from waste disposal decrease if waste haulers divert waste streams to small arid exempt landfills.

Source Agencies: 582 Commission on Environmental Quality

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