LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 27, 2005

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

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

IN RE: **HB2376** by Elkins (relating to the environmental regulation and remediation of dry cleaning facilities; imposing a penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2376, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2007.

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
2006	$0
2007	$0
2008	$0
2009	$0
2010	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *Dry Cleaning Facility Release Acct* 5093
2006	($1,298,000)
2007	($1,745,000)
2008	($1,761,000)
2009	($1,778,000)
2010	($1,796,000)

Fiscal Analysis

The bill would remove the definition of "carbon dioxide facility," with respect to dry cleaning facilities, and amend the definitions of "dry cleaning drop station" and "dry cleaning facility" to make the terms as established by the North American Industry Classification System.

The bill would require businesses operating on or before January 1, 2004, with gross annual receipts of $150,000 or less, to implement performance standards in Health and Safety Code, Section 374.053, by January 1, 2015. The bill would remove language that currently allows the Texas Commission on Environmental Quality (TCEQ) to exempt businesses with gross annual receipts of $200,000 or less from performance requirements on the basis of financial hardship.

The bill would limit the application of rules established by TCEQ regarding performance standards of dry cleaning facilities to only those facilities that use chlorinated dry cleaning solvents, not petroleum based dry cleaning solvents. However, secondary containment for all new or replaced dry cleaning units, regardless of the solvent used, would be required.

The bill would allow the TCEQ to spend, for administrative and start-up expenses, no more than 15 percent of the amount of money credited to the Dry Cleaning Facility Release (DCFR) Account No. 5093 in the same fiscal year as the expenditures, instead of a 10 percent limitation that would begin on September 1, 2005 under current law.

The bill would make a carbon dioxide facility subject to annual registration with TCEQ and to the accompanying fee. If gross annual receipts were greater than $150,000, the annual registration fee would be $750 for a drop station and $2,500 for a dry cleaning facility. If gross annual receipts were less than $150,000, the annual registration fee would be $250 for a drop station and a dry cleaning facility. A drop station or dry cleaning facility designated as "nonparticipating" by TCEQ would pay an annual registration fee of $250. The bill provides for penalties if registration fees are not paid.

The bill would require a person who distributes a dry cleaning solvent to register with TCEQ as a distributor, and it would allow a distributor to withhold 2 percent of the amount of the per gallon dry cleaning solvent fee, with the remaining amount going to the TCEQ. Any owner of a dry cleaning facility, including an owner of a carbon dioxide facility, would be subject to the per gallon solvent fee, except an owner of a nonparticipating facility.

The bill would allow a drop station to opt out of participation in the Dry Cleaning Facilities Release Program, thereby making such entities ineligible for benefits from the DCFR Account No. 5093 benefits. The deadline to opt out of participation would be extended from January 1, 2004 to September 1, 2005, except for owners who were eligible to file on or before January 1, 2004, and inadvertently failed to do so. Such owners would have until December 31, 2005.

Methodology

Currently, there is a subgroup of dry cleaning facilities categorized as "non-perchoethylene" as well as "participating." Under current law, such facilities are able to benefit from the DCFR Account No. 5093 without paying a solvent fee. The bill would eliminate that subgroup, so that such facilities would either have to file as "nonparticipating" with TCEQ via an extended filing deadline, or they would have to remain participants and begin paying the solvent fee. Based on information provided by TCEQ, it would be expected that all facilities in the subgroup would use the deadline extension to file as "nonparticipating." Therefore, this provision is not expected to result in a significant fiscal impact.

The bill would require carbon dioxide facilities to pay the solvent fee, but because carbon dioxide facilities do not use solvents, this provision is not expected to result in a significant fiscal impact.

Facilities known as "non-perchoethylene," and thus eligible for nonparticipation and a reduced annual registration fee, which have not yet filed in compliance with the law and TCEQ rules, currently pay the solvent fee and a higher registration fee. If these facilities took advantage of the extended filing deadline, they would no longer pay solvent fees, and they would pay only the $250 annual registration fee. This estimate assumes that these facilities would file for "nonparticipation."

The bill's provisions exempting certain facilities from participation and providing for a reduced annual registration payment based on gross receipts are expected to result in a revenue loss to the DCFR Account No. 5093. The estimated revenue losses shown in the table above were provided by the Comptroller's Office and are based on data and trend projections for the expansion of dry cleaning facilities as provided by the TCEQ. The loss in fiscal year 2006 is lower than future years because registration fees and solvent fees are paid on a quarterly basis, and the changes made by this bill would only apply to three reporting periods in fiscal year 2006.

The potential revenue gain from changes to penalty provisions is not expected to be significant.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

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