

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 5, 2005

TO: Honorable George "Buddy" West, Chair, House Committee on Energy Resources

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

IN RE: HB2881 by Keffer, Bill (Relating to remedies for environmental injuries caused by oil- and gas-related activities under the jurisdiction of the Railroad Commission of Texas.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2881, As Introduced: 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 <i>OIL-FIELD CLEANUP</i> <i>ACCT</i> 145	Probable Savings/(Cost) from <i>OIL-FIELD CLEANUP</i> <i>ACCT</i> 145	Change in Number of State Employees from FY 2005
2006	\$464,160	(\$1,169,987)	7.0
2007	\$461,680	(\$1,084,637)	7.0
2008	\$461,680	(\$1,084,637)	7.0
2009	\$461,680	(\$1,084,637)	7.0
2010	\$461,680	(\$1,084,637)	7.0

Fiscal Analysis

The bill would allow a person who has suffered an environmental injury (to real property) related to oil and gas operations to file a written complaint to the Railroad Commission requesting an order for a remedy. To file a complaint, a person would be required to own a fee simple or leasehold interest in the real property on which the environmental injury is alleged to have occurred and have attempted to settle a claim.

The bill would require a Railroad Commission field inspector to examine the affected real property to determine whether the Commission has jurisdiction over the complaint. If a complaint were found to

be within the jurisdiction of the Commission, staff would investigate the complaint or refer the complaint to an independent entity with which the Commission has entered into a contract for investigation.

The bill would provide for the responsibility for payment of any costs incurred: a complainant would pay if the Commission determines that an environmental injury caused by oil- and gas-related activities under the Railroad Commission's jurisdiction did not occur or remediation or another response is not required; a person determined by the Railroad Commission to be responsible for remediation or other response would pay; or the Railroad Commission would pay if it determines that remediation or other response is required and the person responsible for remediating or responding to the injury cannot be found or does not have assets with which to remediate or respond to the injury.

The bill would provide that the Railroad Commission could recover its costs incurred in issuing an order requiring a person to remediate or respond to an environmental injury in the same manner as it may recover its costs in connection with recovering costs by liens and the sale of equipment and hydrocarbons.

The bill would increase the oil field cleanup regulatory fee from 0.625 cents to 0.656 cents per barrel of crude oil and from 0.67 cents to 0.70 cents per 1,000 cubic feet of gas.

The bill would take effect on September 1, 2005.

Methodology

Based on estimates provided by the Railroad Commission, the increases in the oil field cleanup regulatory fee would result in an additional \$261,680 annually being deposited to the credit of the Oil Field Cleanup Account No. 145. All costs associated with implementation of the bill are expected to be paid out of the Oil Field Cleanup Account No. 145 as well.

The Railroad Commission expects that approximately 700 of the complaints already received by the Commission per year could be considered environmental injury complaints. It is also assumed that 10 percent, or 70, of these complaints would go through the process established in the bill and require additional staff time for testing, analysis, evaluation, reporting and compliance monitoring. Of those 70 complaints, it is anticipated that 7 to 10 complaints will become contested cases requiring hearings and associated legal staff times. An additional 7 FTEs would be needed at a cost of \$454,487, with startup costs of \$85,350 in fiscal year 2006. Contractor services would cost an estimated \$300,000, with an estimated \$200,000 being recovered from responsible parties and deposited to the credit of the Oil Field Cleanup Account No. 145.

It is also assumed that another 7 to 10 cases per year will require some form of minimal cleanup for which no operator can be ordered to pay for the costs. These cleanups are expected to cost a total of \$45,400 per year. It is estimated that one environmental injury case per year would result against an operator unwilling or unable to take action at a large site, with a cost of \$359,000 per year.

Although the Railroad Commission would be authorized to recover some expenses, since bill provides that costs be recovered in the manner they are recovered by liens and the sale of equipment and hydrocarbons, staff time would not be eligible to be recovered.

Local Government Impact

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

Source Agencies: 455 Railroad Commission

LBB Staff: JOB, WK, ZS, TL, KJG