

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 7, 2005

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

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

**IN RE: SB699** by Hinojosa (Relating to the relationship between the amount of an administrative penalty imposed by the Texas Commission on Environmental Quality and the economic benefit of the violation to the alleged violator.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB699, As Introduced: a positive impact of \$529,216 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	\$264,608
2007	\$264,608
2008	\$264,608
2009	\$264,608
2010	\$264,608

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1
2006	\$264,608
2007	\$264,608
2008	\$264,608
2009	\$264,608
2010	\$264,608

Fiscal Analysis

The bill would require that when determining the amount of an administrative penalty, the Texas Commission on Environmental Quality (TCEQ) set the penalty at least equal to the value of any economic benefit gained by the alleged violator through the violation. The TCEQ would also be required to determine the violation could have been avoided through reasonable and prudent action before setting such penalty amounts.

The bill would take effect on September 1, 2005.

Methodology

In a December 2003 report, the State Auditor's Office found that of 80 test cases over three fiscal years, violators had avoided \$8.6 million in costs to comply but paid only \$1.7 million in penalties. This translates into approximately \$2.3 million per fiscal year in costs avoided by violators not recovered through penalty amounts. Upon passage of the bill, the TCEQ would set penalty fees equal to the entire compliance costs. Assuming 80 percent of violators would comply with TCEQ rules rather than pay the higher penalty amounts, this estimate assumes that the TCEQ would assess an additional \$464,225 each fiscal year in administrative penalties upon passage of the bill. Based on an average collection rate of 57 percent of penalties assessed by the TCEQ, the bill's passage would result in an estimated \$264,608 per year. All penalty amounts collected by the TCEQ are deposited to the credit of the General Revenue Fund.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated. However, a local government assessed an administrative penalty by the TCEQ could be required to pay a higher amount than under current law upon passage of the bill.

**Source Agencies:** 582 Commission on Environmental Quality

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