

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 15, 2007

TO: Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

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

IN RE: HB2876 by Smith, Wayne (Relating to violations relating to hazardous waste.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would remove the language "with respect to the person's conduct" from language establishing an offense for violations relating to hazardous waste.

The Texas Commission on Environmental Quality reports that the words "with respect to the person's conduct" have specific meaning in case law and the penal code regarding the burden of proof and the intent to violate law. The TCEQ reports that the proposed change could significantly affect the state's ability to enforce its criminal statute regarding the handling of hazardous waste. The change would require the state to prove that a person knew waste was hazardous waste, which in many cases could be a difficult burden of proof for the state to meet. If the state would become unable to successfully enforce required hazardous waste statutes and prosecute criminal offenses, the Environmental Protection Agency (EPA) could refuse to delegate authorization to manage the Resource Conservation and Recovery Act (RCRA) to Texas. If the EPA would reverse its delegation of RCRA authority, the TCEQ reports that \$7.5 million in Federal Funds per year could be lost.

If the EPA would allow Texas to maintain its RCRA delegation, no significant fiscal impact to the state is expected. This estimate assumes that the TCEQ would maintain its RCRA delegation.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality

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