

SENATE AMENDMENTS

2nd Printing

By: Puente

H.B. No. 3769

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the eligibility of an employee of a political
3 subdivision of this state to be a member of the governing body of
4 certain state agencies.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 5.053, Water Code, is amended by adding
7 Subsection (c) to read as follows:

8 (c) Subsection (a)(2) does not apply to an employee of a
9 political subdivision of this state.

10 SECTION 2. Section 6.053, Water Code, is amended by adding
11 Subsection (c) to read as follows:

12 (c) Subsection (b)(1) does not apply to an employee of a
13 political subdivision of this state.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2007.

Amendment to HB 3769

ADOPTED

MAY 22 2007

Atty Gen
Secretary of the Senate

Amend Section 1, as follows:

SECTION 1. Section 5.053, Water Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a)(2) does not apply to an employee of a political subdivision of this state. If the United States Environmental Protection Agency determines that there will be a negative impact on the State of Texas' National Pollution Discharge Elimination Systems delegation, this subsection does not apply.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 21, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: **HB3769** by Puente (Relating to the eligibility of an employee of a political subdivision of this state to be a member of the governing body of certain state agencies.), **Committee Report 2nd House, As Amended**

No significant fiscal implication to the State is anticipated.

The bill would allow an employee of a political subdivision to be a member of the Texas Commission on Environmental Quality (TCEQ) or the Water Development Board. Specifically, the bill would create an exception to the current law that prohibits a person from being a Commissioner or Board member if the person or the person's spouse is employed by or participates in the management of a an entity regulated by the respective agency or receiving money from the respective agency. Under current law, a person may not be a Commissioner or Board member if the person or the person's spouse is (1) employed by or participates in the management of or (2) owns or controls (directly or indirectly) more than 10% interest in a "business entity or other organization" regulated by the respective agency. The bill would exempt political subdivisions employees from this restriction, thus allowing a person to serve on the TCEQ or Water Development Board even though the person or their spouse might hold a position in a political subdivision. However, if the U.S. Environmental Protection Agency determined that there would be a negative impact on Texas' National Pollution Discharge Elimination Systems delegation, the exceptions proposed by the bill would not apply.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: JOB, WK, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB3769 by Puente (Relating to the eligibility of an employee of a political subdivision of this state to be a member of the governing body of certain state agencies.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would allow an employee of a political subdivision to be a member of the Texas Commission on Environmental Quality (TCEQ) or the Water Development Board. Specifically, the bill would create an exception to the current law that prohibits a person from being a Commissioner or Board member if the person or the person's spouse is employed by or participates in the management of a an entity regulated by the respective agency or receiving money from the respective agency. Under current law, a person may not be a Commissioner or Board member if the person or the person's spouse is (1) employed by or participates in the management of or (2) owns or controls (directly or indirectly) more than 10% interest in a "business entity or other organization" regulated by the respective agency. The bill would exempt political subdivisions employees from this restriction, thus allowing a person to serve on the TCEQ or Water Development Board even though the person or their spouse might hold a position in a political subdivision.

Although passage of the bill would not have any immediate fiscal impact, the TCEQ reports that the proposed changes could be viewed as contrary to the Federal National Pollutant Discharge Elimination System (NPDES) requirements for maintaining delegation authority from the US Environmental Protection Agency (EPA). The TCEQ reports that current state laws have been approved by the EPA and meet federal requirements concerning who may serve on a board that issues NPDES permits. If the EPA were to determine that state laws do not meet federal criteria, TCEQ's delegated authority to implement the federal Clean Water Act could be lost. Loss of delegated authority would result in losing federal grant monies currently used to administer the state's water programs. The TCEQ reports that Federal Funds for NPDES funding is expected to total \$5.0 million in fiscal year 2008 and \$3.0 million in fiscal year 2009.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: JOB, WK, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

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

IN RE: HB3769 by Puente (Relating to the definition of a business entity or other organization.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would allow an employee of a political subdivision to be a member of the Texas Commission on Environmental Quality (TCEQ) or the Water Development Board. Specifically, the bill would create an exception to the current law that prohibits a person from being a Commissioner or Board member if the person or the person's spouse is employed by or participates in the management of a an entity regulated by the respective agency or receiving money from the respective agency. Under current law, a person may not be a Commissioner or Board member if the person or the person's spouse is (1) employed by or participates in the management of or (2) owns or controls (directly or indirectly) more than 10% interest in a "business entity or other organization" regulated by the respective agency. The bill would exempt political subdivisions employees from this restriction, thus allowing a person to serve on the TCEQ or Water Development Board even though the person or their spouse might hold a position in a political subdivision.

Although passage of the bill would not have any immediate fiscal impact, the TCEQ reports that the proposed changes could be viewed as contrary to the Federal National Pollutant Discharge Elimination System (NPDES) requirements for maintaining delegation authority from the US Environmental Protection Agency (EPA). The TCEQ reports that current state laws have been approved by the EPA and meet federal requirements concerning who may serve on a board that issues NPDES permits. If the EPA were to determine that state laws do not meet federal criteria, TCEQ's delegated authority to implement the federal Clean Water Act could be lost. Loss of delegated authority would result in losing federal grant monies currently used to administer the state's water programs. The TCEQ reports that Federal Funds for NPDES funding is expected to total \$5.0 million in fiscal year 2008 and \$3.0 million in fiscal year 2009.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality, 580 Water Development Board

LBB Staff: JOB, WK, ZS, TL

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

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

IN RE: HB3769 by Puente (Relating to the definition of business entity or other organization.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would exclude political subdivisions from the term "business entity or other organization" in Water Code, Chapters 5 and 6, which relates to who can serve on the Texas Commission on Environmental Quality (TCEQ) and the Water Development Board. Under current law, a person may not be a Commissioner or Board member if the person or the person's spouse is (1) employed by or participates in the management of or (2) owns or controls (directly or indirectly) more than 10% interest in a "business entity or other organization" regulated by the TCEQ. The bill would exempt political subdivisions from being considered a "business entity or other organization" for purposes of determining eligibility, thus allowing a person to serve on the TCEQ or Water Development Board even though the person or their spouse might be in an official in a political subdivision.

Although passage of the bill would not have any immediate fiscal impact, the TCEQ reports that the proposed changes could be viewed as contrary to the Federal National Pollutant Discharge Elimination System (NPDES) requirements for maintaining delegation authority from the US Environmental Protection Agency (EPA). The TCEQ reports that current state laws have been approved by the EPA and meet federal requirements concerning who may serve on a board that issues NPDES permits. If the EPA were to determine that state laws do not meet federal criteria, TCEQ's delegated authority to implement the federal Clean Water Act could be lost. Loss of delegated authority would result in losing federal grant monies currently used to administer the state's water programs. The TCEQ reports that Federal Funds for NPDES funding is expected to total \$5.0 million in fiscal year 2008 and \$3.0 million in fiscal year 2009.

Local Government Impact

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

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, ZS, TL