

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 21, 2009**

**TO:** Honorable Byron Cook, Chair, House Committee on Environmental Regulation

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

**IN RE: HB721** by Howard, Donna (Relating to permitting procedures of the Texas Commission on Environmental Quality for control of air pollution.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB721, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from <i>Clean Air Account</i> 151</b>	<b>Probable Savings/(Cost) from <i>Operating Permit Fees Account</i> 5094</b>
2010	(\$230,560)	(\$345,840)
2011	(\$241,600)	(\$362,400)
2012	(\$42,560)	(\$63,840)
2013	(\$42,560)	(\$63,840)
2014	(\$42,560)	(\$63,840)

**Fiscal Analysis**

The bill would define best available control technology (BACT), criteria air pollutant, lowest achievable emission rate (LAER), and significant source. The bill would that require that the Texas Commission on Environmental Quality (TCEQ) track and post on its internet site a list of emission limitations for criteria air pollutants, mercury, and sulfuric acid mists that have been represented as being the BACT or LAER in the 10 permit applications most recently determined by the commission to be administratively complete or among permits nationwide. The bill provides specific instruction on organization and update frequency.

The bill would require the TCEQ to consider the resulting emissions limitations developed in issuing or amending a permit. The bill would require the TCEQ to conduct or obtain an ozone impacts analysis using photochemical grid modeling to determine the impact of a significant source at a

distance up to 250 kilometers (155 miles) from the source. The TCEQ would be required to provide the results to the public and respond to comments received before the commission grants a permit or permit amendment.

The bill would require that the TCEQ evaluate the impact from a facility's expected air contaminant emissions and the cumulative effects of the facility's expected emissions together with those of other existing facilities in this state, facilities what have been issued a permit by the commission but are not yet operational, and for proposed facilities for which the commission has determined that the permit application is administratively complete. The bill would require a new or modified significant source as defined by the bill located in an attainment area to meet the emissions limitations and other requirements of a nonattainment area, if the source will cause or contribute to air pollution levels in excess of any national ambient air quality standard in any air quality control region in this state.

The bill would require the TCEQ to analyze and consider the effects from expected air contaminant emissions from a significant source as defined by the bill and the cumulative effects of the facility's expected emissions considered together with those of other existing facilities in the state, facilities that have been issued a permit by the commission but are not yet operational, and proposed facilities for which the commission has determined that the permit application is administratively complete.

## **Methodology**

The bill would require an additional modeling evaluation to be completed during the permit review process that is not currently required. During the review of a permit, amendment, or renewal, non-criteria pollutant emissions from nearby off-property sites are not currently evaluated. The TCEQ reports that it does not have complete data regarding non-criteria emissions, including emissions that are permitted by rule. The bill would require emissions from the facility and from off-site facilities located at any distance from the facility being reviewed to be included in the modeling analysis to determine if there is the potential for cumulative effects. The TCEQ reports that this extra evaluation in the process will require longer review processing times, an that the emissions data would be difficult for both the agency and the applicant to obtain, as the emissions data on nearby off-site facilities may not be readily available. For purposes of this fiscal note, the agency assumes that it will be an applicant's responsibility to provide emissions data.

In addition to existing authorized facilities, and facilities which have received authorization but have not commenced operations, the bill would also require that the model include emissions from other facilities with pending administratively complete applications. Emissions from pending administratively complete applications may not have been technically finalized prior to being included in the modeling analysis. This would result in longer permit processing times, and would also require the Air Permits Division (APD) to obtain and maintain a database for storage and accessibility of information needed for the cumulative effects review and photochemical modeling.

The bill's requirement that the agency develop and maintain a database to comply with the bill's requirements regarding emissions from pending administratively complete applications, BACT and LAER control technologies, and emissions data used in photochemical models is estimated to cost \$576,400 in fiscal year 2010 (\$450,000 contract for the database, \$50,000 for Integrated Web Reporting, and \$76,400 in Data Center costs) and \$604,000 in fiscal year 2011 (\$497,600 contract to review/reconcile/and enter reported allowables for 1,800 major sources, \$30,000 for database maintenance, and \$76,400 in Data Center costs). In subsequent years \$106,400 would be needed 30,000 for database maintenance, and \$76,400 in Data Center costs. This estimate assumes that funding would come from two General Revenue-Dedicated accounts: The Clean Air Account No. 151 (40%) and the Operating Permit Fee Account No. 5094 (60%) as seen in the table above.

## **Local Government Impact**

The bill's passage could impose costs on governmental entities that require a new source review permit, amendment, or renewal. Some examples of the types of affected facilities that may be operated by these entities include electric generating facilities, landfills, and boilers. For permit, amendment, or renewal applications, emissions information would need to be submitted for all facilities within the state. This may require the applicant to obtain information on facilities owned by other entities. The

agency may not have all information needed to perform the required review, since many facilities are permitted by rule and did not require registration to be submitted. In other cases, the required emissions data pertaining to permitted facilities may not be readily available. Implementation of the bill would likely result in applicant both performing a permit file review and contacting owners of nearby entities. The bill may also impose costs on governmental entities that submit an application for a permit by rule or standard permit if they are required to submit additional emissions data to populate a database that would serve as a resource for a cumulative effects review. Further, many entities are authorized by permits by rule that do not require any registration, and the bill would require emissions data to be submitted. Furthermore, entities with minor sources could incur costs in complying with the provisions of the bill. The cost would depend on the availability of data, the number of sources within 250 kilometers of the permittee's facility, and whether the local government would have on-hand expertise and technical resources required to obtain emissions data.

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

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