

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

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

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

IN RE: HB1071 by Vo (Relating to controlling the emissions of certain hazardous air contaminants in identified areas of this state under the Texas Clean Air Act.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1071, 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:

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

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Clean Air Account</i> 151
2010	\$72,000
2011	\$72,000
2012	\$72,000
2013	\$72,000
2014	\$72,000

Fiscal Analysis

The bill would authorize the Texas Commission on Environmental Quality (TCEQ) to control air contaminants to protect against the adverse effects of air pollution caused by the emission of a hazardous air pollutant. The bill would establish an Air Pollutant Watch List (APWL) and specifies that the TCEQ would be required to: determine the contaminants to appear on the list; identify the geographic areas of the state where the watch list pollutants cause health effects or odors; and publish notice and allow public comment on changes to the contaminants or areas listed.

The bill would restrict the TCEQ from issuing a permit by rule in APWL areas for facilities that emit an air contaminant which would contribute to an area's inclusion on the APWL. When a permit is reopened by a facility in the geographic area being included on the APWL, the bill would provide that all provisions of the permit are reopened including those that affect emissions of a contaminant that

would make an area be included on the list.

When determining if a preconstruction permit should be renewed, the agency would be required to impose more stringent requirements than those required by the affected permit if it is determined that new requirements are needed to address watch list contaminants.

Methodology

The TCEQ reports that in practice it uses an APWL and passage of the bill would formalize that process and give the agency jurisdictional authority and public notice responsibility. Since the current APWL is based upon the current ambient air monitoring network, community air toxics monitoring network, and mobile monitoring data, it is not anticipated that additional ambient air monitoring would be required. Some rulemaking would be required by the TCEQ and some changes to the State Implementation Plan to meet federal clean air standards would be required. These activities are not expected to result in significant additional costs to the TCEQ.

Although the bill would not change the current fee rate or structure for air permits, because the bill would reduce the number of permits by rule, some entities that would need to apply for case-by case permits or amendments upon passage of the bill could incur fee increases. Instead of paying a flat fee of \$100 or \$450 (or no fee for those permits by rule that do not require any registration), an entity would be required to pay the specific fee designated for the particular permit or amendment sought.

The TCEQ reports that approximately 5 percent of the 3,200 permits by rule claims received in 2008 were for APWL contaminants in APWL areas. Because the bill would only require sites emitting APWL chemicals within an APWL area to obtain such permits or permit amendments, it is estimated that under the provisions of the bill 160 permits by rule claims for APWL contaminants in APWL areas who would otherwise pay \$450 for a permit by rule action would instead be required to pay \$900 to amend or obtain an actual permit. This would result in an estimated \$72,000 in additional revenue to the General Revenue-Dedicated Clean Air Account No. 151.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SD, ZS, TL