

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

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

**March 17, 2009**

**TO:** Honorable Jim Keffer, Chair, House Committee on Energy Resources

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

**IN RE: HB1535** by Burnam (Relating to the requirement that gas corporations obtain a permit from the Railroad Commission of Texas before condemning property to construct certain gas pipelines.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1535, As Introduced: a negative impact of (\$647,804) 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	(\$327,917)
2011	(\$319,887)
2012	(\$319,887)
2013	(\$319,887)
2014	(\$319,887)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2010	(\$335,917)	\$8,000
2011	(\$327,887)	\$8,000
2012	(\$327,887)	\$8,000
2013	(\$327,887)	\$8,000
2014	(\$327,887)	\$8,000

Fiscal Year	Change in Number of State Employees from FY 2009
2010	4.0
2011	4.0
2012	4.0
2013	4.0
2014	4.0

**Fiscal Analysis**

The bill would apply only to a pipeline in a county that has a population of more than 1.4 million and that lies wholly or partly above a hydrocarbon-producing geological formation in which during the preceding year the Commission issued more than 2,000 drilling permits for gas well completions. Currently, this would only apply to Tarrant County.

The bill would define an “interested person” as one who owns property that may be condemned or that is adjacent to property that may be condemned, or as one who may be adversely affected by a condemnation. It would also require that before a gas corporation exercises eminent domain authority under Utilities Code, Section 181.004, for the purpose of constructing a gas pipeline, the gas corporation would be required to apply for and receive a permit from the Railroad Commission (RRC) authorizing the pipeline and its route. The bill would prescribe the contents of the required permit application, and requires the RRC to conduct a contested case hearing on the written application of any interested person. In addition, the bill would impose a fee on new applicants in an amount to be set by the RRC based on the length of the pipeline.

The bill would prescribe criteria for the RRC to use in determining whether to grant a permit and sets out the findings that the Commission must make before granting a permit. Factors for consideration would include the adequacy of existing pipeline service, the need for additional pipeline service, and the effect of granting the permit on the recipient of the permit and any gas corporation serving the proximate area. In addition, other factors to be considered would include: community values, recreational and park areas, historical and aesthetic values, environmental integrity, and various other considerations.

The bill also would set a one-year time line for the Commission to process these permit applications. If the Commission failed to act on the application on or before that date, a party could seek a writ of mandamus in a district court of Travis County to compel the Commission to decide on the application. The bill also would authorize the RRC to revoke or amend a permit, after notice and hearing, if the Commission finds that a permit holder has never provided or is no longer providing service in all or any part of the service area.

The bill would take effect on September 1, 2009 and require the RRC to adopt rules to implement the provisions of the bill by December 1, 2009.

## **Methodology**

The Railroad Commission would require additional resources to analyze the routes of gas lines proposed in permit applications and consider the various factors for granting permits as set forth by the bill. Since the bill would increase the number of "interested parties" for contested case hearings relating to gas pipeline eminent domain applications, this estimate assumes that an additional three to four requests for hearings per year would be handled by the RRC. An estimated 4.0 additional FTEs and costs of \$335,917 in fiscal year 2010 and \$327,887 in fiscal year 2011 are expected for the Railroad Commission as a result of the bill's passage. This estimate assumes that the costs would be paid out of the General Revenue Fund.

Although the bill provides for a fee to be imposed on each permit application based on the number of feet of pipeline, it is estimated that the fee revenue, which would be deposited to the General Revenue Fund, would not be significant relative to the administrative costs to the Railroad Commission in implementing the bill. RRC staff estimate that an average fee for a permit would be \$2,000, and that three to four permits per year would yield \$6,000 to \$8,000 in additional revenue.

## **Local Government Impact**

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

**Source Agencies:** 455 Railroad Commission

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