

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

**TO:** Honorable Rob Eissler, Chair, House Committee on Public Education

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

**IN RE: HB1839** by Howard, Donna (Relating to a requirement that a school district develop and adopt a site selection policy before selecting a site for construction of a new school; providing a penalty.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would require school districts to establish a site selection policy for construction of new schools and to file the policy with the Texas Commission on Environmental Quality (TCEQ) at least 30 days before initiating the site selection process. The requirement would not apply if a district would not anticipate constructing a new school. Site selection policies would include: procedures for gaining public input on proposed sites; a list of criteria for determining suitable sites that consider safety, accessibility, soil condition, air quality, and cost; a list of factors that would disqualify a site from further consideration; procedures for conducting a Phase I environmental site assessment (ESA); procedures for determining whether a Phase II ESA must be conducted; procedures for informing the public of the results of a Phase II ESA and obtaining public input prior to final selection of a site; and procedures for developing and submitting a site remediation plan to the TCEQ for approval, if a site is selected with one or more known environmental hazards. Requirements for Phase I and Phase II ESAs are also included in the bill.

In addition, the bill would authorize the TCEQ to impose an administrative penalty on any school district that selects or attempts to select a site for construction of a new school without having filed a policy. Penalties could not exceed a sum of \$5,000 and \$100 a day beginning the day after the date the district begins the site selection process and ending the day the district files a policy with the TCEQ or certifies in writing that a site is no longer being considered for a new school. The bill would only apply to a school district that begins a site selection process on or after the effective date of the bill.

The bill does not specify that TCEQ would be required to approve site selection policies filed by school districts, nor does the bill specify if the TCEQ is required to determine that school districts are in compliance with those policies. Assuming the TCEQ would not be required to ensure school districts are complying with the policies adopted by school districts, and assuming the TCEQ would not be required to ensure that sites on which problems have been found have been remediated, it is estimated that the administrative costs of the bill on the TCEQ could be absorbed using existing agency resources.

This estimate does not assume that any revenues from penalties established by the bill would be significant.

#### Local Government Impact

The bill could have a significant impact on affected school districts. The procedures included in the site selection policy established by the bill could require substantial expenditures, especially in districts that are growing rapidly due to population changes. According to the TCEQ, costs to complete a Phase I ESA, Phase II ESA, and a site remediation plan could potentially reach \$100,000 or more, depending on identified environmental hazards.

**Source Agencies:** 582 Commission on Environmental Quality, 701 Central Education Agency

**LBB Staff:** JOB, JSp, TL