

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: HB3206 by Edwards (Relating to the implementation of the exemption from ad valorem taxation for pollution control property.), **As Engrossed**

Depending upon what rule changes would be adopted and how they would affect the determination of the portion of the property that is pollution control, there could be an indeterminate fiscal impact to the state.

The bill would implement part of a recommendation in the Legislative Budget Board (LBB) Government Effectiveness and Efficiency Report entitled, "Revise the Property Tax Exemption for Pollution Control Equipment."

SECTION 1 of the bill would modify the program at the Texas Commission on Environmental Quality (TCEQ) which determines property tax exemptions for certain pollution control property. The bill would require TCEQ to use its own cost analysis procedure when making a use determination for equipment listed in Section 11.31(k) of the Texas Tax Code (Tier IV). The bill would also require the creation of a permanent advisory committee, which would consist of members from industry, appraisal districts, taxing units, and environmental groups, as well as unaffiliated members with technical expertise. The size, composition, and duration of the committee are exempted from Chapter 2110 of the Texas Government Code.

SECTION 2 of the bill would require that the initial members of the advisory committee be appointed by the TCEQ as soon as practicable after the effective date of the bill.

SECTION 3 of the bill would specify that these changes in law apply to use determinations that are not final before the effective date of the bill and to applications filed after January 1, 2009. Use determinations that are final as of the effective date of the bill or were filed before January 1, 2009 are governed by the law in effect prior to this bill.

The effective date of the bill is September 1, 2009.

It is anticipated that TCEQ could implement this bill within current resources. The bill would not affect ad valorem tax rates or valuations, but would provide for rulemaking authority concerning the determination of the portion of property that is eligible for exemption as pollution control property by TCEQ. Since the rulemaking authority contained in the bill is discretionary, information is not available on what rule changes would be adopted or how they would affect the allocation of the use of properties. Therefore, the fiscal impact cannot be determined.

Because the state is constitutionally prohibited from imposing a state property tax, the bill would not have a direct fiscal impact to the state. However, Section 403.302 of the Government Code requires the Comptroller of Public Accounts (CPA) to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. The bill could reduce exemptions to property tax, which could cause a change in school district taxable values reported to the Commissioner of Education by the CPA thereby affecting future state costs.

Local Government Impact

The fiscal impact to local governments cannot be estimated at this time. The fiscal impact for local government would vary based on the formula for partial determinations. A number of the items in Tier IV were not considered prior to 2008 to be eligible for a positive use determination. Tier IV applications could contain property which is currently on the tax rolls and has been taxed for prior years. In these cases, a positive use determination would have the impact of removing a percentage of an item's value from the tax rolls and decreasing tax revenue.

Source Agencies: 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, JI, HC