

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: HB3424 by Burnam (Relating to Nitrogen Oxide emission limits for cement kilns in certain non-attainment areas for ozone.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3424, 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 Savings/(Cost) from <i>Clean Air Account</i> 151 | Probable Revenue Gain/(Loss) from <i>Operating Permit Fees Account</i> 5094 |
|-------------|---|---|
| 2010 | (\$5,000,000) | \$0 |
| 2011 | \$0 | (\$800,000) |
| 2012 | \$0 | (\$800,000) |
| 2013 | \$0 | (\$800,000) |
| 2014 | \$0 | (\$800,000) |

Fiscal Analysis

The bill would require that, after September 1, 2011, the Texas Commission on Environmental Quality (TCEQ) prohibit cement kilns in non-attainment areas for ozone under national ambient air quality standards from emitting more than 1.7 pounds of nitrogen oxides (NOx) for each ton of clinker produced by the kiln from March 1st through October 31st of each calendar year. The owner or operator of a cement kiln would be authorized to apply to the TCEQ and receive funds from the General Revenue-Dedicated Clean Air Account No. 151 in an amount not to exceed \$2,500,000 per kiln to meet the emissions ceiling.

Methodology

The TCEQ reports that at this time, no existing control technologies have demonstrated the ability to

meet the emissions specifications required by the bill for wet process kilns. If wet kilns in non-attainment areas cannot meet emission limits even if control technologies are installed, they could be required to permanently shut down, resulting in a loss of revenue to the TCEQ from permitting fees. The TCEQ reports that as many as nine kilns could request funding under the provisions of the bill. This estimate assumes that two of those nine kilns would qualify by demonstrating an ability to meet the 1.7 pounds of NOx per ton of clinker emissions limit established in the bill and receive funding out of the Clean Air Account No. 151 in the amount of \$2.5 million each. This estimate assumes those grants would be made in fiscal year 2010 only. This estimate also assumes that the seven of the nine kilns not receiving funding would shut down, resulting in an emissions fee revenue loss to the General Revenue-Dedicated Operating Permit Fee Account No. 5094 of \$800,000 per year starting in fiscal year 2011.

The closing of seven cement kilns would also likely increase the cost of concrete in nonattainment areas. This could increase the cost of state construction projects involving concrete. That cost increase would depend on the distance to the nearest cement kiln that would not be required to close as a result of the bill's passage.

Local Government Impact

Local governments in or near non-attainment areas that purchase concrete could experience a cost increase if various cement kilns would close as a result of the bill's enactment. That cost increase would depend on the distance to the nearest cement kiln that would not be required to close as a result of the bill's passage.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SD, ZS, TL