

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

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

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

IN RE: HB3428 by Hernandez (Relating to measuring, monitoring, and reporting emissions.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3428, 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 Savings/(Cost) from <i>Operating Permit Fees</i> <i>Account</i> 5094	Change in Number of State Employees from FY 2009
2010	(\$149,308)	(\$223,962)	1.0
2011	(\$100,784)	(\$151,177)	1.0
2012	(\$100,784)	(\$151,177)	
2013	(\$100,784)	(\$151,177)	
2014	(\$100,784)	(\$151,177)	

Fiscal Analysis

The bill would establish an Air Pollutant Watch List (APWL) to be maintained by the Texas Commission on Environmental Quality. The APWL would identify each air contaminant to be included and each geographic area of the state where ambient air monitoring indicates either individual or cumulative emissions may cause short-term or long-term health effects or odors. The proposed language includes requirements for publishing notice and allowing public comment on addition or removal of a contaminant or area. The TCEQ would be required to provide monitoring data related to the APWL area to the state senator and representative who represent the area. The proposed language states that public meetings in APWL areas could be held to provide residents with information on the reasons for including an area on the APWL, and commission actions to reduce

emissions of the specific air contaminant(s) in that APWL.

The bill would require the TCEQ to adopt guidelines for acute and chronic effects screening levels (ESLs) for air contaminants. The ESLs would be based on short-term and long-term exposure to a contaminant from an emission source. The ESLs would be set at levels protective of cancer risk at 1 chance in 100,000 or another level set by the TCEQ to protect human health and welfare. The TCEQ would be required to use the adopted ESLs in permit reviews for all new and modified facilities to establish enforceable limits in their permits. The bill would provide that the database be available on-line and be easily searchable accessible to the public.

The bill would require the TCEQ or other responsible state agency to make a determination as to whether a release reported to the state emergency response commission in accordance with EPCRA would endanger human health or the environment. Upon determining a release would endanger human health or the environment, the TCEQ or other responsible state agency would be required, on request, to notify the state senator or representative who represents the area in which the facility is located within four hours of receipt of the notification.

Methodology

The TCEQ already maintains an APWL and an ESL, which the agency uses in permitting decisions. The agency reports that it already makes reported emission events are already available in a permanent database published on the Internet. The agency also reports that notification requirements in the bill would affect a current agreement between TCEQ and industry that the agency will not upload reported maintenance, startup, and shutdown activities to the public database until the start date of the activity. The agency reports would have to assign staff in each region to assess releases and initiate notification of public officials if required. To do this, the agency would need to implement an automated system for the input of the location and extent of each release to determine the officials that need to be notified and to send the notice.

This estimate assumes that APWL areas will be limited to those areas where ambient monitoring sample collection and analysis methods exist that are capable of giving a measurement, and other chemicals that may have ESLs or federal or state standards but not approved collection or analysis methods will not be included. Therefore, no additional air quality monitored is assumed to be required for the implementation of this bill.

This estimate assumes that the TCEQ would have to assign personnel in each region to assess releases, and if notification of public officials is required, to initiate the notification. It is also assumed that the agency would implement an automated system to take as input the location and extent of the release, to determine the officials to whom notification should be sent, and to send the notice. The system would use capabilities developed from several existing systems, and would add a GIS component and a communications component to accomplish the notification. It is estimated that 1.0 additional FTE and related costs would be required to maintain the various aspects of the system, including GIS, database, application, data communications, and Internet publication components. There would also be software development costs, data center costs, and data communications costs (estimated to be \$215,000 in fiscal year 2010, \$117,000 in 2011, with similar costs in future years). In addition, one-time equipment costs of \$30,000 in 2010, with \$20,000 each year thereafter in maintenance costs. This estimate assumes that 17 BlackBerry Curves (License, Annual Maintenance, and Service with voice and text capabilities) at a cost of \$23,672 in FY 2010 and \$16,863 in each subsequent year. This estimate assumes that 40 percent of the costs associated with the bill would be paid out of the General Revenue-Dedicated Clean Air Account No. 151 and 60 percent would be paid out of the General Revenue-Dedicated Operating Permit Account No. 5094 as shown in the table above.

Technology

Technology impacts of the bill would include software development costs, data center costs, and data communications costs (estimated to be \$215,000 in fiscal year 2010, \$117,000 in 2011, with similar costs in future years). One-time equipment costs of \$30,000 in 2010, with \$20,000 each year thereafter in maintenance costs and that 17 BlackBerry Curves at a cost of \$23,672 in FY 2010 and \$16,863 in each subsequent year are also expected to be needed.

Local Government Impact

Local governments with emissions of APWL contaminants in APWL areas could be impacted by any plan to reduce emissions in these areas. The impact would vary among the local governments affected depending on their unique environmental factors and operating characteristics. However, it is not expected that the impacts would be significant.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, TL, WK, ZS