

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: HB3544 by Lucio III (Relating to electronic notices by the Texas Commission on Environmental Quality, electronically stored information provided by a governmental body, and confidentiality of e-mail addresses provided to a governmental body.), **Committee Report 2nd House, Substituted**

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.

SECTION 1 of the bill would authorize the Texas Commission on Environmental Quality (TCEQ) to utilize electronic means of transmission for information issued or sent by the agency and would update an obsolete reference to the agency's name. The bill would also provide an additional exemption from non-disclosure of email addresses under the Public Information Act for email addresses provided for the purpose of providing public comment, or receiving notices, orders, or decisions from a governmental body. The bill would also delete a reference to paper copies of public information provided by a governmental body so as to encourage requests for electronic copies in lieu of paper.

SECTION 2 of the bill would authorize the TCEQ to issue notices, orders and decisions by electronic means in lieu of hardcopy. As a result, the agency could experience a savings with respect to the cost of paper and postage. This estimate does not assume that the resulting savings would be significant relative to the TCEQ's budget.

SECTION 3 of 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." 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.

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.

The bill would require a governmental entity with public information stored electronically to provide the information electronically only if the governmental entity has the technological capabilities, and would not have to purchase software or hardware. A governmental entity that does not have the technological capabilities to comply with a request in the format requested, must provide the information in a format acceptable to the requestor. The costs to local governmental entities associated with implementing these provisions of the bill are not anticipated to be significant.

Source Agencies: 313 Department of Information Resources, 582 Commission on Environmental Quality
LBB Staff: JOB, KJG, TL, HC, TP