

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

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

IN RE: **HB3550** by King, Tracy O. (Relating to penalty payment plans, Concho River Watermaster Program, utility and district applications at the TCEQ, and the recovery of costs associated with the Clean Rivers program.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3550, As Introduced: a negative impact of (\$2,562,750) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$1,708,500)
2011	(\$854,250)
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1
2010	(\$1,708,500)
2011	(\$854,250)
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would require the Texas Commission on Environmental Quality (TCEQ) to allow any entity in violation of law within the TCEQ's jurisdiction to pay monetary civil or administrative penalties in periodic installments.

The bill would also remove language that provides for the discontinuation of the Concho River Watermaster Program (CRWM) based on a majority referendum vote of current water right holders in the CRWM area. In addition, bill would provide additional authority to the executive director of the TCEQ for specific water district actions that currently only apply to the the commissioners of the TCEQ or of another regulatory authority. The bill would give the TCEQ's executive director the authority to establish interim water and/or sewer rates or to suspend rates during the pendency of a rate proceeding if the rates are being established by an entity under the original jurisdiction of the TCEQ.

Methodology

The bill's provisions allowing for entity's to request to make penalty payments in installments could result in a loss in revenues to the state. Under current law, only small business must be provided with an installment payment option for penalties assessed by the TCEQ. The agency reports that of the penalty amounts it receives, approximately one-third are from orders assessed against large corporations and paid in one-lump sum. The agency also reports that it received a total of \$8.5 million in penalties in fiscal year 2008, and that the vast majority of the penalties are deposited to the General Revenue Fund. In addition, the agency reports that installment payments are made over a 36-month period.

Assuming the large entities paying one-third of penalties collected, or \$2,550,000 per fiscal year, would opt to move to an installment plan upon passage of the bill, it is estimated that two-thirds of the annual amount from large corporations, or \$1.7 million would be received over three fiscal years rather than in one fiscal year. Therefore, it is estimated that there would be a loss of revenues in fiscal year 2010 of \$1.7 million. In fiscal year 2011, one-third of penalties assessed in 2011 would be repaid, so the loss would only be \$0.9 million. Beginning in fiscal year 2012, it is expected that penalty revenues would return to current law levels because there would be two prior fiscal years' worth of installment payments being received. This estimate assumes that the loss would be to the General Revenue Fund.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, WK, ZS, TL, SD, DB