

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 29, 2009**

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

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

**IN RE: HB4081** by Farrar (Relating to the issuance of flexible permits by the Texas Commission on Environmental Quality.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB4081, 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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from <i>Clean Air Account</i> 151</b>
2010	\$7,500,000
2011	\$7,500,000
2012	\$7,500,000
2013	\$7,500,000
2014	\$7,500,000

**Fiscal Analysis**

The bill would direct the Texas Commission on Environmental Quality (TCEQ) to not issue a flexible permit that does not comply with the applicable standards or requirements of the Federal Clean Air Act.

**Methodology**

Assuming that the bill would affect various permits that the TCEQ issues that are not required by nor conform to federal law, such as standard permits and permits by rule (PBRs), various standard permits and PBRs would have to be reissued as construction permits or permit amendments. Some such permits are currently issued in conjunction with flexible permits for smaller projects and do not require an application or contain an abbreviated process when compared to a full permit review. This

could result in additional revisions to the State Implementation Plan and submission to U.S. Environmental Protection Agency. Any cost to the TCEQ in implementing the change is expected to be absorbed using existing agency resources.

This estimate assumes that once flexible permits are removed from the possible air permit authorization mechanisms, various entities would be required to obtain traditional construction permits or construction permit amendment to construct or modify a facility. Because flexible permit fees are based on a dollar per ton of pollutant emitted, and because construction permit fees are based on a percentage of the estimated capital cost of the project with a maximum fee of \$75,000, the bill would likely result in a change in revenues to the General Revenue-Dedicated Clean Air Account No. 151. The TCEQ reports that if the ability to issue flexible permits were eliminated as a result of the bill's passage, approximately 100 permittees would have to pay the maximum \$ 75,000 permit fee each. This would result in a revenue gain to the Clean Air Account No. 151 of \$7.5 million per year as shown in the table above.

### **Local Government Impact**

Passage of the bill could result in an added fiscal and technical burden on governmental entities that require air permit authorization, especially at existing major emissions sources. Some examples of the types of affected facilities that may be operated by these entities include electric generating facilities and boilers. For equipment currently located at a major source, using PBRs or allowing changes at qualified facilities might no longer be an option upon passage of the bill, thereby requiring the more detailed permit amendment process in order for an entity to conduct small changes to their existing facilities located at an existing major source.

In addition, if flexible permits are removed from the possible air permit authorization mechanisms, entities could be required to obtain traditional construction permit or construction permit amendments. Fees would be based on the estimated capital cost of project, rather than on the level of emissions from a facility as under current law, with a maximum fee of \$ 75,000. The cost of an additional permit fee would depend on the capital cost of a facility and the fee currently being paid based on emissions.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, ZS, TL