

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: SB456 by Gallegos (Relating to the regulation of toxic hotspots under the Texas Clean Air Act.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to establish air toxic standards and create a toxic hotspot program to designate certain geographic areas of the state as toxic hotspots based on monitored and modeled data. When designating hotspots, the TCEQ would be required to consider where people are likely to be exposed, the locations of dense and susceptible populations, the locations of emissions sources, meteorology, geography and topography.

The priority toxic air contaminants to be considered first would include benzene, 1,3-butadiene, hydrogen sulfide, and nickel, with hotspots for these designated not later than December 31, 2009. The standards would be required to ensure a no greater than 1 in 100,000 carcinogenic risk for a person most exposed, and no appreciable risks of non-cancer adverse health effects. In areas with multiple contaminants, cumulative impacts must would need to be considered, and lower standards could be required.

The ambient air toxic standards would need to be achieved for the priority contaminants in each hotspot area before December 31, 2012. The TCEQ would be required to submit a report on progress in the toxic hotspot pilot program to the Legislature as part of its annual enforcement report each year through 2012. This report would include a list of hotspots, steps taken in each area to attain the standards, and progress made.

Not later than December 31, 2012 the toxic hotspot pilot program would be expanded by rule to include procedures and the public process for listing new contaminants including at least chromium VI, ethylene dibromide, acrylonitrile, acrolein, chlorine, and hexamethylene diisocyanate.

Costs to the TCEQ to implement the bill are expected to be handled using existing resources. The TCEQ reports that there could be some increase in fee revenues if permit holders would be assessed a permit amendment fee for those cases when the agency would reopen a permit with no pending permit action (renewal or amendment). The TCEQ reports that such amendment fees are 0.3 percent of the cost of the capital expense of the project, with a minimum fee of \$900 and a maximum fee of \$75,000. Because these projects would not be expected to include large industrial expansions, it is expected that these projects would be assessed a fee on the lower end of the scale. Therefore, this estimate does not assume that any revenue gain would be significant.

Local Government Impact

Local governments who operate facilities which emit these air contaminants could be subject to reporting requirements and/or enforcement-associated costs upon passage of the bill. In addition, those governments could be subject to costs associated with achieving compliance with the established air quality standards and costs to reduce emissions.

If the TCEQ would reopen a permit for a local or other governmental entity and a permit amendment

fee is assessed, the entity could be assessed a fee equal to 0.3 percent of the cost of the capital expense of the project, with a minimum fee of \$900 and a maximum fee of \$75,000. Because affected projects would not be expected to include large industrial expansions, it is expected that these projects would be assessed a fee on the lower end of the scale. In most cases, the costs to local governments are therefore not expected to be significant.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SD, TL