

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

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

**March 31, 2009**

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

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

**IN RE: SB1414** by Williams (Relating to the regulation of certain aggregate production operations by the Texas Commission on Environmental Quality; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1414, As Introduced: a negative impact of (\$1,915,892) 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	(\$1,102,946)
2011	(\$812,946)
2012	(\$812,946)
2013	(\$812,946)
2014	(\$812,946)

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$1,452,946)	\$350,000	19.0
2011	(\$1,162,946)	\$350,000	19.0
2012	(\$1,162,946)	\$350,000	19.0
2013	(\$1,162,946)	\$350,000	19.0
2014	(\$1,162,946)	\$350,000	19.0

**Fiscal Analysis**

The bill would add new Chapter 135 to the Natural Resources Code, which would provide for the registration and inspection of certain aggregate production operations. The bill would require the responsible party for an aggregate production operation to register the operation with TCEQ, and requires that this registration be renewed annually. The bill would require such operations to pay a fee set by the agency in an amount necessary to maintain a registry of these operations and to implement this chapter. The fee could not exceed \$1,000. Active operations would have until September 1, 2010 for their initial registration.

The bill would require TCEQ to conduct a physical survey of the state to identify all aggregate production operations in the state, and to ensure that all of them are registered. The bill would require

TCEQ to conduct compliance inspections at all such sites at least once every three years with one or more inspectors. The bill would require TCEQ to provide specific information related to this Chapter in the annual enforcement report submitted to the legislature under Section 5.126, Water Code.

The bill would allow TCEQ to assess a penalty ranging from \$5,000 to \$10,000 on an aggregate production operation that operates in this state without proper registration. The bill would limit the total penalty to \$25,000 for a facility operating without proper registration for three or more years. The bill would provide that when an operation submits a notice of intent to conduct an audit for compliance with all applicable rules with its initial registration, the TCEQ would not begin the three-year period for the agency to conduct an inspection of the operation until September 1, 2013.

Registration fees collected under this chapter would be deposited into General Revenue Fund 0001 and would be used only to implement this chapter.

This bill would take effect September 1, 2009.

### **Methodology**

The bill would require the TCEQ to survey the state to identify all aggregate production operations and to track registration, location, contacts, and termination of operations. The bill would require the TCEQ to conduct investigations for all applicable operations, and to track the status and number of investigations, and train staff. The bill would require the Water Quality Division of the TCEQ to establish a new registration program to issue an operating authorization to aggregate production operations, which would require development of a new tracking system and new registration application forms. The bill would furthermore require the TCEQ to provide this information in the annual Enforcement Report.

The bill would require development of rules to require registration and to authorize collection of fees from aggregate production operations. The bill would also require the agency to modify its current risk-based investigation strategy and to revise its current penalty procedures.

TCEQ estimates that there are approximately 2,700 active and inactive aggregate production operations in the state. According to the Texas Aggregate and Concrete Association, there are currently 350 active sites. Until the survey is completed, it is not known how many sites would be required to register with the commission. The agency estimates that approximately 900 inspections per year would be necessary to evaluate compliance with all applicable air and water rules and regulations.

Assuming that these 350 sites would be subject to the registration requirements of the bill and that the agency would apply the maximum registration fee amount of \$1,000, annual revenue is estimated to be \$350,000, which would be deposited to the General Revenue Fund. Based upon the 2,700 sites, TCEQ estimates that it would need an additional 18 FTEs to meet the inspection requirements of the bill. The agency further estimates that it would require 1 additional FTE for permitting. The estimate for all costs related to passage of this legislation is \$1,452,946 in fiscal year 2010 and \$1,162,946 in each fiscal year thereafter. The cost difference between fiscal year 2010 and subsequent fiscal years has to do with first year capital costs, i.e., vehicles, computers, furniture and equipment for 19 additional FTEs.

### **Local Government Impact**

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

**Source Agencies:** 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, ZS, TL, HC