

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 7, 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.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1414, Committee Report 1st House, Substituted: 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:

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

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>Water Resource Management</i> 153	Probable Savings/(Cost) from <i>Water Resource Management</i> 153	Change in Number of State Employees from FY 2009
2010	\$308,147	(\$308,147)	4.0
2011	\$245,147	(\$245,147)	4.0
2012	\$245,147	(\$245,147)	4.0
2013	\$245,147	(\$245,147)	4.0
2014	\$245,147	(\$245,147)	4.0

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 Texas Commission on Environmental Quality (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 active 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 active sites at least once every three years with one or more inspectors. The bill would require the TCEQ to submit a report relating to aggregate production operations in agency's the annual enforcement report submitted to the Legislature.

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 to the General Revenue-Dedicated Water Resource Management Account No. and would be used only to implement the new chapter.

This bill would take effect September 1, 2009.

Methodology

The bill would require the TCEQ to survey the state to identify all active 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 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.

The TCEQ estimates that there are approximately 600 active aggregate production operations in the state. Until the survey required by the bill would be completed, it is not known how many sites would be required to register with the commission.

To meet the inspection requirements of the bill based upon 600 active sites, it is estimated that the TCEQ would need an additional 4.0 FTEs. It is assumed that the agency would set the registration fee at a level sufficient to recover its costs. Therefore, the revenues to the Water Resource Management Account No. 153 shown in the table above are equal to the costs included in this estimate.

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, ZS, HC, SD, TL