

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 19, 2011

TO: Honorable Wayne Smith, Chair, House Committee on Environmental Regulation

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

IN RE: HB1558 by Reynolds (Relating to applications for permits issued by the Texas Commission on Environmental Quality for certain new or expanded facilities in certain low-income and minority communities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1558, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

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
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>Clean Air Account</i> 151	Probable Savings/ (Cost) from <i>Water Resource Management</i> 153	Probable Savings/ (Cost) from <i>Waste Management Acct</i> 549	Probable Savings/ (Cost) from <i>Operating Permit Fees Account</i> 5094
2012	(\$328,250)	(\$848,089)	(\$150,227)	(\$65,650)
2013	(\$308,250)	(\$690,289)	(\$142,227)	(\$61,650)
2014	(\$308,250)	(\$690,549)	(\$142,227)	(\$61,650)
2015	(\$308,250)	(\$690,629)	(\$142,227)	(\$61,650)
2016	(\$308,250)	(\$690,789)	(\$142,227)	(\$61,650)

Fiscal Year	Change in Number of State Employees from FY 2011
2012	19.0
2013	19.0
2014	19.0
2015	19.0
2016	19.0

Fiscal Analysis

The bill would require all entities applying for an environmental permit for a new or expanding facility under Chapters 361 and 382 of the Texas Health & Safety Code or Chapters 26 and 27 of the Texas Water Code to submit an environmental justice report. The Texas Commission on Environmental Quality (TCEQ) would be required to review the report to determine if the facility will be located in an environmental justice community (EJC) and publish its findings in writing. An EJC would be defined by the bill as either having 30 percent or more of the non-institutionalized population consisting of persons who have an income below 200 percent of the federal poverty level; or having 50 percent or more of the population consisting of members of racial minority or ethnic minority groups.

If located in an environmental justice community, an applicant would be required to prepare a public participation plan, obtain agency approval of the plan, coordinate with local elected officials, and participate in a public hearing conducted by the agency to address issues of environmental justice posed by the facility. The agency would not be able to take action on an application until the 60th day after the date of the environmental justice hearing.

Methodology

A large number of facilities regulated by the Texas Commission on Environmental Quality (TCEQ) are authorized under general permits, standard permits, and permits by rule (PBR). Passage of the bill would require the agency to review environmental justice reports and public participation plans as well as participate in public hearings on permits in environmental justice communities for which there is currently very little agency workload required. For instance, the TCEQ reports that 50 percent of the storm water general permit authorizations it handles are issued through an automated permit system. Thus, passage of the bill is expected to add significant responsibilities to the Air Permits, Water Quality, and Waste Permits Divisions when processing permit applications for facilities found to be in an environmental justice community. TCEQ staff estimates that individual reviews required by the bill may be more than 12,000 Water Quality authorizations per year, as many as 4,700 Air Permit authorizations per year, and as many as 47 Waste permit authorizations per year.

Upon passage of the bill, the TCEQ would be required to develop rules and procedures to implement the bill as well as provide training for staff to ensure standardized reviews of EJC reports and public participation plans. Implementing the bill would require the agency to develop a geographic information system (GIS) to confirm whether a facility is in an environmental justice community. One of the agency's permitting databases would have to be modified to include dates related to the waiting period before agency action can be taken on permits and to integrate with geospatial data to determine if a facility is located within an EJC. In addition, additional storage at the statewide data center would have to be purchased for the increased number of records needed to track public notice and hearing information associated with facilities in environmental justice communities.

This estimate assumes that the TCEQ would need a total of 19.0 FTEs to handle the increased workload required by the bill including to review reports, participate in public hearings, evaluate the impact of environmental justice reviews, determine whether a facility or facility expansion is located in an EJC, review and approve public participation plans, and conduct public hearings to provide information to the public. In addition, the agency would experience a one-time cost increase to modify the ePermits database (\$80,000) and develop a GIS to provide EJC data (\$30,000). In addition, the agency would see a one-time cost increase to purchase two additional sound systems (\$4,000) to conduct additional public hearings.

Because the TCEQ expects that the requirements of the bill would affect various types of permits that the agency issues (air, water, and waste) costs associated with the bill are shown in the table above as being split among various General Revenue-Dedicated accounts, with the Water Resource Management Account No. 153 handling the largest share, reflecting the proportion of permits the agency issues that relate to water quality, while the Waste Management Account No. 549 would handle a significantly lower proportion of costs resulting from the bill. For purposes of this fiscal note, one-time technology costs in 2012 are assumed to be paid out of the Water Resource Management Account No. 153.

Technology

Passage of the bill is expected to result in one-time costs to the TCEQ to modify the ePermits database (\$80,000) and develop a GIS to provide EJC data (\$30,000). In addition, the agency would see a one-time cost increase to purchase two additional sound systems (\$4,000) to conduct additional public hearings.

Local Government Impact

This bill would require applicants for certain facilities to complete additional requirements if the facility is located in an area where there are certain percentages of minorities that are below the federal poverty level.

Texas Municipal League reports in that costs for applying for permits could be increased; however costs cannot be estimated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SZ, ZS, TL, KKR