

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

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 5, 2011**

**TO:** Honorable Jim Keffer, Chair, House Committee on Energy Resources

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

**IN RE: HB3328** by Keffer (Relating to the disclosure of the composition of hydraulic fracturing fluids used in hydraulic fracturing treatments.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would require the Railroad Commission to adopt rules that require an operator to disclose chemicals used in hydraulic fracturing of an oil or gas well by completing the form on the Internet chemical disclosure registry developed and implemented by the Ground Water Protection Council (GWPC) and the Interstate Oil and Gas Compact Commission (IOGCC). Information would include each chemical ingredient regardless of whether it must be listed on a Material Safety Data Sheet under the federal Occupational Health and Safety Act (OSHA). An operator would be required to post the completed form on the GWPC/IOGCC website or, if the website is discontinued or permanently inoperable, post the completed form on another publicly accessible Internet site specified by the Commission. The operator would also be required to submit the completed form to the Commission with the well completion report.

The bill would require the Railroad Commission to adopt rules to prescribe a process by which an operator or a service company could designate certain information as a trade secret not subject to Texas open records law, or, if that section is repealed, as a trade secret under the federal Emergency Planning and Community Right-To-Know Act. The rules would require that a trade secret claim be filed within 2 years of filing the completion report with the Commission and limit a person who could challenge such a claim to the landowner on whose property the well is located or who owns adjacent property, or a department or agency of Texas. The rules would be required to include an efficient process for an entity for whom a trade secret claim has been claimed or approved to provide information to a health professional or an emergency responder in accordance with OSHA regulations.

The bill would require the Railroad Commission to develop a process for making the legal determination as to whether information claimed to be a trade secret actually qualified as such under the Open Records Act as modified by the bill. The agency reports that currently the majority of permitting activity concerns unconventional reservoirs in which all wells are fracture stimulated. Operators generally consider the components and composition of certain chemical components of the treatments to be trade secrets and vary them from field to field and in different areas of the same field. However, the agency expects that no additional FTEs would be necessary to review trade secret claims.

The Railroad Commission is expected to require additional staff time to review completion forms to flag those forms on which an operator would indicate a trade secret and coordinate with the public that may be affected by the passage of this legislation. This estimate assumes that such costs would not be minimal but could be absorbed using existing agency resources.

**Local Government Impact**

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

**Source Agencies:** 455 Railroad Commission

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