

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 7, 2011

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: HB3418 by Darby (Relating to state fiscal matters related to natural resources and the environment.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3418, As Introduced: a positive impact of \$1,249,818 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	\$697,242
2013	\$552,576
2014	\$356,133
2015	\$148,800
2016	(\$95,264)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Petro Sto Tank Remed</i> <i>Acct</i> 655	Probable Revenue Gain/(Loss) from <i>State Parks Acct</i> 64
2012	(\$5,301,775)	(\$324,947)	\$25,833,000	\$1,600,000
2013	(\$5,438,108)	(\$243,947)	\$28,396,000	\$1,600,000
2014	(\$5,634,551)	(\$243,947)	\$28,569,000	\$1,600,000
2015	(\$5,841,884)	(\$243,947)	\$28,724,000	\$1,600,000
2016	(\$6,059,948)	(\$269,947)	\$28,896,000	\$1,600,000

Fiscal Year	Probable Savings/ (Cost) from <i>Sporting Good Tax- State</i> 400	Probable Revenue Gain from <i>General Revenue Dedicated-Coastal Erosion & Response Account</i>	Probable Savings/ (Cost) from <i>General Revenue Dedicated-Coastal Erosion & Response Account</i>	Probable Savings/ (Cost) from <i>Texas Emissions Reduction Plan</i> 5071
2012	\$6,323,964	\$7,488,015	(\$7,488,015)	\$4,811,036
2013	\$6,234,631	\$7,677,348	(\$7,677,348)	\$4,811,037
2014	\$6,234,631	\$7,876,791	(\$7,876,791)	\$4,811,037
2015	\$6,234,631	\$8,087,124	(\$8,087,124)	\$4,811,037
2016	\$6,234,631	\$8,309,188	(\$8,309,188)	\$4,811,037

Fiscal Year	Change in Number of State Employees from FY 2011
2012	4.0
2013	4.0
2014	4.0
2015	4.0
2016	4.0

Fiscal Analysis

Article 1 would authorize state agencies to reduce or recover expenditures by taking action to consolidate reports, extend license, permit or registration periods, enter into contracts to carry out an agency's duties, adopt additional eligibility requirements for benefits, provide for electronic communication, and adopt and collect fees or charges to recover costs incurred by an agency.

Article 2 would amend Chapter 161 of the Agriculture Code, regarding animal disease and pest control, to allow the Texas Animal Health Commission (TAHC) by rule to set and collect a fee for any service it provides that incurs a cost.

Article 3 would amend the Water Code to extend the petroleum product delivery fee. Under current law, the fee will not be collected after August 31, 2011. The bill would continue the fees with no expiration date and at the same rate as in fiscal 2011. The fee would continue to be imposed on the delivery of virtually all petroleum products withdrawn from bulk storage at various rates on each delivery, based on cargo tank capacity, and would range from \$3.75 to \$15 per delivery. According to the Comptroller, revenues collected would be subject to a 2 percent service charge that would be deposited to the General Revenue Fund, and the remaining receipts deposited to the GR-Dedicated Petroleum Storage Tank Remediation Account No. 655.

Articles 4 and 5 would implement recommendations in the reports, "Increase Private Contributions for State Parks", and "Increase Private Contributions for State Parks", in the Legislative Budget Board's Government Effectiveness and Efficiency Report submitted to the Eight-second Texas Legislature, 2011. Article 4 of the bill would authorize the Texas Parks and Wildlife Department (TPWD) to designate companies as official corporate partners, and conduct joint promotional fund-raising campaigns with these companies for the purpose of generating contributions for the operations and maintenance of state parks, historic sites and natural areas. Also, the bill would allow TPWD to contract with companies to sell park passes in their retail locations; and receive licensing fees from companies authorized by the agency to use TPWD brand. Article 5 would amend Chapter 502 of the Transportation Code, would establish a system in which motorists can voluntarily donate \$5 or more with their initial vehicle registration or renewals to TPWD. The bill would require the county assessor-collector to send the contributions to the Comptroller for credit to TPWD, for use in the operations and maintenance of state parks.

Article 6 of the bill implements recommendations in the report, "Require All Beneficiaries to Fund the Coastal Erosion Planning and Response Account," in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. The bill would amend the Natural Resources Code to authorize the Land Commissioner to use one-third, rather than one-half, of the amount appropriated to the General Land Office (GLO) for coastal erosion planning and response projects that do not require a partner to pay a portion of the project costs. The bill establishes an exception in the case of a federally declared natural disaster in which up to one-half of the amount appropriated for coastal planning and response projects could be used on projects without a partner paying a portion of the costs. The bill would remove administration of the coastal management program from allowable uses of the Coastal Erosion Response Account. The bill would establish a commercial vessel docking fee of \$2 for each foot of vessel length to be paid each time a vessel greater than 18 feet docks at a Texas port. The bill would amend the Natural Resources and Tax Codes to authorize one-sixth of revenue received under the Outer Continental Shelf Lands Act (Section 8(g), 43 U.S.C. Section 1337 (g)) and one-third of money deposited to the General Revenue Fund from unclaimed motorboat fuels tax refunds. The Comptroller would be required to adopt rules necessary for the administration, collection, reporting, and payment of the docking fee. The bill would also re-establish the General Revenue Dedicated Coastal Erosion Response Account and require that

the commercial vessel docking fee, one-sixth of Outer Continental Shelf settlement funds and one-third of the current 75 percent allocation to the General Revenue Fund of unclaimed motorboat fuels tax refunds that under current law is dedicated to TPWD be deposited into this account.

Article 7 would amend the Health and Safety Code and the Government Code relating to programs funded under the Texas Emissions Reduction Plan (TERP). The bill would amend Chapter 386 of the Health and Safety Code to create and fund the air quality research program, which would be established and administered under a contract between the Texas Commission on Environmental Quality and a nonprofit organization or institution of higher education. The bill would eliminate the allocation from General Revenue-Dedicated Texas Emissions Reduction Plan Account No. 5071 for the new technology research and development program; and provide \$2 million per year, instead of a percentage allocation share, for the new air quality research program. The bill would repeal Chapter 387 of the Health and Safety Code, regarding the new technology research and development program.

This bill would take effect September 1, 2011.

Methodology

Article 1: The extent to which an agency would use the authority granted in this section is unknown. Therefore, the impact of these changes is not included in the estimates shown above.

Article 2: This section of the bill would provide the TAHC with authority to assess fees to recover the cost of all activities and programs it provides on behalf of animal agriculture industries. Current law limits the TAHC's authority to charge fees for the following purposes: (a) inspections of animals or facilities housing animals; (b) veterinary health certificates (see Agricultural Code, Sec. 161.0601); and (c) poultry registration (see Agricultural Code, Sec. 161.0411(d)). The revenue generated by these fees is considerably less than the estimated cost of providing TAHC animal disease health services and regulation. In consultation with stake-holders including the animal agriculture industry, the TAHC is developing a broad-based fee structure that would raise \$6,057,356 per fiscal year or \$12,114,712 per biennium, for the fiscal biennium beginning September 1, 2011 to partially offset the annual costs of agency operations. All fee receipts would be deposited into the General Revenue Fund. To date, the following fee proposals have been developed: (1) laboratory testing fees for various diseases affecting cattle, dairy, deer, swine and horses (brucellosis, trichomoniasis, equine piroplasmiasis, chronic wasting disease, equine infectious anemia); and (2) fees for chronic wasting disease, quarantined animal and garbage feeder inspections. Laboratory testing fees are projected to generate \$731,500 per fiscal year. Inspection fees would generate an estimated \$232,725 per fiscal year. The total annual revenue gain from these two sources to the General Revenue Fund is estimated to be \$964,225 or \$1,928,450 for the 2012-13 biennium.

According to the TAHC, the remaining annual revenue target of \$5,093,131 per fiscal year would be generated by a yet-to-be determined broad-based, equitably-derived fee that covers all species, all segments of the livestock, poultry and exotic livestock industries, and all marketing avenues and production methods. Since a fee proposal has not been specifically identified by the TAHC to raise this revenue, the revenue gain included above only includes revenue projections for laboratory test and a limited subset of inspection fees.

The TAHC expects the new revenue collection responsibilities related to implementing the provisions of this bill would require the addition of four (4) full-time equivalent positions at an annual cost of \$223,947 (including a Clerk IV, two Accountants and a Systems Analyst); the one-time cost of acquiring billing or revenue software (\$75,000) and annual software license fee costs (\$20,000); and, last, the one-time purchase of additional computer equipment -- microcomputers, printer, and a server with a network storage system (\$26,000). The implementation costs for fiscal year 2012 total \$324,947; decline to \$243,947 per fiscal year for fiscal years 2013 to 2015; and increase to \$269,947 in fiscal year 2016 to reflect replacement costs for computer hardware.

Article 3: Continues the petroleum products delivery fee which under current law is scheduled to expire on August 31, 2011. According to the Comptroller, extending the fee would generate an estimated \$527,000 to the General Revenue Fund for a 2% service charge and \$25,833,000 to the General Revenue-Dedicated Petroleum Storage Tank Remediation Account No. 655 in fiscal year

2012; \$580,000 to the General Revenue Fund and \$28,396,000 to the General Revenue-Dedicated Petroleum Storage Tank Remediation (PSTR) Account No. 655 in fiscal year 2013; and similar amounts in subsequent fiscal years (\$583,000 to General Revenue and \$28,569,000 to PSTR Account No. 655 in 2014; \$586,000 to General Revenue and \$28,724,000 to PSTR Account No. 655 in 2015; and \$590,000 to General Revenue and \$28,896,000 to PSTR Account No. 655 in 2016).

Article 4: The amount of revenue raised by joint promotional campaigns, state park pass sales and licensing fees will depend on the outcome of these new activities. Although the overall effect of implementing the related provisions will result in additional revenue to the agency, this gain cannot be determined.

Article 5: The estimated revenue gain from motorists' donations is based on Washington State's experience with a similar state park voluntary donation system. Based on the state of Washington's experience with its first year of donations, and applying that to fiscal year 2009 vehicle registrations in Texas yields an estimated revenue gain of \$1.6 million for fiscal year 2012 and subsequent fiscal years for the General Revenue-Dedicated State Parks Account No. 64.

Article 6: Included in the table above is an estimated revenue loss to the General Revenue Fund due to the dedication of Outer Continental Shelf Settlement funds and Unclaimed Motorboat Fuel Tax Refunds to the new General Revenue-Dedicated Coastal Erosion Response Account as follows:

(1) Outer Continental Shelf Settlement funds - \$1,150,000 in fiscal year 2012; \$1,250,000 in fiscal year 2013; \$1,358,696 in fiscal year 2014; \$1,476,843 in fiscal year 2015; and \$1,605,264 in fiscal year 2016; (2) Unclaimed Motorboat Fuel Tax refunds - \$5,643,000 in fiscal year 2012; \$5,732,333 in fiscal year 2013; \$5,823,081 in fiscal year 2014; \$5,915,265 in fiscal year 2015; and \$6,008,909 in fiscal year 2016. These amounts which are shown as revenue losses to the General Revenue Fund and revenue gains to the General Revenue-Dedicated Coastal Erosion Response Account in the table above are based on estimates contained in the Comptroller's 2012-13 Biennial Revenue Estimate. Because the exact implementation of and number of vessels that would pay the commercial docking fee are currently unknown, the Comptroller was unable to provide a revenue estimate. Legislative Budget Board staff analysis of data from the United States Army Corps of Engineers of boats that are over 17 feet estimates that the commercial docking fee would generate an estimated \$1.4 million in revenue for the 2012-13 biennium or approximately \$695,015 per fiscal year. These amounts are also included as a revenue gain to the General Revenue-Dedicated Coastal Erosion Response Account in the table above.

For purposes of this analysis, it is assumed that all of the dedicated funding source for coastal erosion projects would be expended and as a result a reduction in current funding for coastal erosion projects that is appropriated to TPWD, but transferred to the General Land Office, would occur. In the 2010-11 biennium, this funding, which is General Revenue (specifically, the sporting goods sales tax allocation to the State Parks Account) is approximately \$11,966,964 million per fiscal year. This savings is shown in the table above - see the Sporting Goods Sales Tax allocation column in the table above. Further, it is also assumed for purposes of this analysis that the one-third reduction in Unclaimed Motorboat Fuel Tax refunds allocated under current law to TPWD, would be offset by an increase in General Revenue (sporting goods sales tax allocation for state parks) in subsequent fiscal years. Currently the unclaimed motorboat fuel tax refund allocation appropriated to TPWD is used to fund state park operations. This analysis assumes that the amount of funding to be replaced would total \$5,643,000 in fiscal year 2012 and \$5,732,333 in subsequent fiscal years. These amounts are based on unclaimed motorboat fuel refund estimates in the 2012-13 Biennial Revenue Estimate and reflected in the Sporting Good Sales Tax allocation column in the table above.

Article 7: This section eliminates the allocation for the new technology research development program; and changes the allocation for air quality research programs from a percentage to a flat amount (\$2.0 million). Based on 2010-11 funding levels, the elimination of the allocation for the new technology research development (NTRD) program would result in a savings of approximately \$4.8 million per fiscal year or \$9.6 million in the 2012-13 and subsequent biennia. See savings in the TERP Account No. 5071 column in the table above.

Local Government Impact

Changes regarding the percentage of funds General Land Office would be authorized to expend on

projects without a partner match could result in an increased cost to local governments for the completion of coastal erosion planning and response projects. Port authorities and navigation districts would incur costs to collect the commercial vessel docking fee the bill would create. The cost of collecting these fees would vary depending upon the number of vessels that dock at a location and the bill would allow entities to retain up to one percent of the amount of the fee to cover administrative expenses.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 554 Animal Health Commission, 580 Water Development Board, 582 Commission on Environmental Quality, 712 Texas Engineering Experiment Station, 802 Parks and Wildlife Department

LBB Staff: JOB, KK, ZS, MM, TB, PM