LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 28, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **SB1134** by Hegar (Relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would prohibit the Texas Commission on Environmental Quality (TCEQ) from promulgating new or amending existing authorizations [Permits by Rule (PBR) or Standard Permits (SP)] for the oil and gas industry without performing a regulatory impact analysis (RIA), extensive monitoring, and correlated modeling. The bill would limit the use of worst-case modeling inputs and require actual credible air quality monitoring data. Air quality monitoring data and the evaluation of that data would be required to be scientifically credible and could be generated by an ambient air monitoring program conducted by or on behalf of the TCEQ or by a local or federal government entity, or a private organization.

The bill would provide a definition of planned maintenance, startup, and shutdown (MSS) activities and would extend the deadline for filing an application to authorize MSS activities until the earlier of January 5, 2014 or the 120th day after the effective date of a new or amended permit under the provisions of the bill necessary to maintain certain affirmative defense criteria. The bill would also require that any PBR or SP adopted or amended by the agency that authorizes planned MSS activities must also conduct a RIA, perform monitoring, and perform correlated monitoring.

The bill would only apply to a PBR or SP adopted by the agency after the effective date of the bill, which is September 1, 2011 or upon receiving a two-thirds vote of both houses.

The bill would include limitations on aggregation, which is a process used to determine if a site is a major source (Title V) as defined under federal law. In addition, the bill would limit review for SPs and PBRs to operationally dependent sources, shorter distance limitations, sources under common control, and the same first two-digit SIC code.

The bill would prohibit the TCEQ from requiring a person who applies for a permit or authorization under the provisions of the bill to demonstrate that the activity to be permitted/authorized complies with a National Ambient Air Quality Standard (NAAQS).

The TCEQ reports that it adopted a new PBR and SP in January 2011 for counties in the Barnett Shale region, a 23-county area in the vicinity of Fort Worth. For purposes of this fiscal note, it is assumed that the bill's provisions would apply to all counties in the state except for those in the Barnett Shale and that the TCEQ would have until January 5, 2014 to adopt a PBR for the area outside the Barnett Shale.

Passage of the bill is expected to result in the TCEQ requiring additional staff hours during rulemaking projects to perform the additional research and documentation needed to meet the proposed RIA requirements, depending upon the number of additional rulemaking projects. This estimate assumes that air monitoring would be done using existing equipment and analysis resources. It is estimated that the additional costs the agency would incur upon passage of the bill could be

absorbed using existing agency resources. If additional air monitoring would be needed to meet the requirements of the bill, costs to the TCEQ could be significant but would depend on the number of monitors needed. However, because the bill would allow local, Federal, or private entities to provide monitoring, this estimate assumes that the costs to TCEQ would not be significant.

Local Government Impact

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

Source Agencies: 582 Commission on Environmental Quality, 455 Railroad Commission
LBB Staff: JOB, SZ, TL