LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 12, 2011

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

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

IN RE: **SB1584** by Ogden (Relating to state fiscal matters related to natural resources and the environment.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1584, As Engrossed: a positive impact of $55,866,616 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	$27,866,308
2013	$28,000,308
2014	$28,003,278
2015	$28,006,278
2016	$27,984,278

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Petro Sto Tank Remed Acct* 655	Probable Revenue Gain/(Loss) from *State Parks Acct* 64
2012	$5,391,255	$22,475,053	$25,833,000	$1,600,000
2013	$5,444,255	$22,556,053	$28,396,000	$1,600,000
2014	$5,447,225	$22,556,053	$28,569,000	$1,600,000
2015	$5,450,225	$22,556,053	$28,724,000	$1,600,000
2016	$5,454,225	$22,530,053	$28,896,000	$1,600,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Oil-field Cleanup Acct* 145	Probable Savings/ (Cost) from *Oil-field Cleanup Acct* 145	Probable Revenue Gain/(Loss) from *New General Rev-Dedicated - Oil & Gas Regulation & Cleanup Acct*	Probable Savings/ (Cost) from *New General Rev-Dedicated - Oil & Gas Regulation & Cleanup Acct*
2012	($55,201,000)	$27,500,000	$79,097,500	($50,300,000)
2013	($25,111,000)	$27,500,000	$48,897,500	($50,300,000)
2014	($25,268,000)	$27,500,000	$48,897,500	($50,300,000)
2015	($25,483,000)	$27,500,000	$48,897,500	($50,300,000)
2016	($25,696,000)	$27,500,000	$48,897,500	($50,300,000)

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 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 2 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 3 and 4 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, which 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, historic sites, and natural areas.

Article 5 would create the Oil and Gas Regulation and Cleanup (OGRC) Fund as an account in the General Revenue Fund. The OGRC would replace the existing General Revenue-Dedicated Oil Field Cleanup (OFCU) Account No. 145, with all balances in that account transferring to the OGRC Fund, and all current revenue streams to the OFCU Account No. 145, except penalties, accruing to the OGRC Fund. Penalties would be deposited to the credit of the General Revenue Fund. The bill would authorize surcharges on the agency's existing fees to provide that the OGRC Fund cover all of the Railroad Commission's (RRC) costs related to the regulation of oil and gas development. The bill would provide a specific methodology for the RRC to determine the amount of such surcharges. The amount of such surcharges shall not exceed an amount equal to 185 percent of the fee on which they are imposed. In addition, the bill would require that the Comptroller notify the RRC when the OGRC Fund has an unexpended balance of $20.0 million or greater, at which point the agency would cease collecting oil field cleanup regulatory fees, until the unexpended balance of the OGRC Fund falls to $10.0 million.

Article 5 would also require the RRC to establish specific performance goals for oil and gas regulation through the appropriations process for: the number of orphaned wells plugged with the use of state funds; the number of abandoned sites to be investigated, assessed, or cleaned up; and the number of surface locations to be remediated. The RRC would also be required to submit quarterly reports to the Legislative Budget Board on OGRC Fund revenues and expenditures and progress towards the performance goals. Annually, the RRC would be required to report to the Legislature a review of the effectiveness of money provided in the OGRC Fund at enabling the agency to better protect the environment.

Article 5 would also would also expand the applicability of the pipeline safety fee to include gas utility regulatory functions at the RRC.

The bill would take effect September 1, 2011.

Methodology

Article 1: 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 piroplasmosis, 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 2: 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 205; and $590,000 to General Revenue and $28,896,000 to PSTR Account No. 655 in 2016).

Article 3: 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 4: 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 5: Regarding the creation of the OGRC Fund, this estimate assumes that all balances in the OFCU Account No. 145 as of August 31, 2011 as reported in the Comptroller's Biennial Revenue Estimate (BRE) for 2012-13 of $30.2 million would transfer to the new OGRC Fund (a General Revenue-Dedicated Account), with the General Revenue Fund experiencing an equal loss. Current revenues to the OFCU Account No. 145, estimated at approximately $25 million per year based on the Comptroller's BRE, less an estimated $2.5 million in penalties, or $22.5 million per year, would begin to accrue to the new OGRC Fund, and is shown in the table above as a revenue gain, while a loss of $25.0 million per fiscal year is shown to the OFCU Account No. 145. The $2.5 million per year in penalty revenues is shown in the table above as a gain to the General Revenue Fund.

Article 5 would also require the RRC to cover all costs of oil and gas-related activities. Currently in the 2010-11 biennium, $18.9 million in annual expenditures for oil- and gas-related strategies are being paid out of the General Revenue Fund, along with an estimated $3.9 million in associated employee benefits, for a total of $22.8 million. This amount is shown as a savings to the General Revenue Fund in the table above. Based on the agency's 2012-13 Legislative Appropriations Request, the Railroad Commission's costs in 2010-11 out of the OFCU No. 145 of $27.5 million exceed revenues by $2.5 million, including benefits costs. Upon passage of the bill, $2.5 million in penalties would no longer be available, increasing that deficit to $5.0 million per year. This estimate assumes that the agency would have to set fees sufficient to cover that deficit, along with the $22.8 million amount to replace current General Revenue appropriations. It is therefore estimated that the RRC would have to set surcharges sufficient to raise $27.8 million in new revenue per fiscal year. Because the agency would spend all of the new revenue stream plus amounts covered by revenues to the OFCU Account No. 145 ($22.5 million per fiscal year that would transfer to the new OGRC Fund), the OGRC would have total annual estimated costs of $50.3 million. As shown in the table above, this estimate assumes that revenue to the new OGRC Fund would be equal to total costs out of the Fund. The bill's provision relating to the 185 percent on surcharges is expected to reduce the revenue estimate for the new OGRC Fund by approximately $1.4 million per fiscal year and is included in the above table. For purposes of this analysis, it is assumed that available balances in the new OGRC fund would support costs in excess of the new Fund's annual revenue stream through the forecast period.

Article 5 would also expand the applicability of the pipeline safety fee to include gas utility regulatory functions. This estimate assumes that the bill's expansion of the pipeline safety fee to include gas utility regulatory functions would enable the agency to recover costs associated with the agency's gas utility regulation activities in Strategy A.2.1, Gas Utility Compliance, which currently receives approximately $1.5 million in General Revenue that is not fee supported, plus related benefits costs. This estimate assumes that the agency would raise the pipeline safety fee to the maximum rate under current law of $1 per line, as compared to $0.70 currently in place by agency rule. Raising the fee to the maximum rate would generate a total of $1.4 million per year to the General Revenue Fund, which is reflected in the table above.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 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, SD, TL, RN, MM, TB, PM