

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

March 18, 2013

TO: Honorable Patricia Harless, Chair, House Committee On Environmental Regulation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB788 by Smith (Relating to regulation of greenhouse gas emissions by the Texas Commission on Environmental Quality.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB788, As Introduced: an impact of \$0 through the biennium ending August 31, 2015.

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 |
|-------------|--|
| 2014 | \$0 |
| 2015 | \$0 |
| 2016 | \$0 |
| 2017 | \$0 |
| 2018 | \$0 |

All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from Operating Permit Fees Account 5094 | Probable Revenue Gain/(Loss) from Operating Permit Fees Account 5094 |
|-------------|---|--|
| 2014 | (\$76,460) | \$76,460 |
| 2015 | (\$886,772) | \$886,772 |
| 2016 | (\$1,558,008) | \$1,558,008 |
| 2017 | (\$2,313,661) | \$2,313,661 |
| 2018 | (\$3,049,989) | \$3,049,989 |

| Fiscal Year | Change in Number of State Employees from FY 2013 |
|-------------|--|
| 2014 | 1.0 |
| 2015 | 10.0 |
| 2016 | 19.0 |
| 2017 | 29.0 |
| 2018 | 39.0 |

Fiscal Analysis

The bill would require the Texas Commission on Environmental Quality (TCEQ) to establish a permitting program by adopting rules and issuing permits to regulate greenhouse gas (GHG) emissions in accordance with federal law. Permits regulating GHG emissions would include preconstruction and federal operating permits. The bill would require the TCEQ to develop a streamlined permitting program using general and standard permits; requiring use of best available control technology; and other measures that the agency would determine are necessary for each GHG emission source category. The bill would provide that if it was determined those GHGs were no longer required to be regulated under federal law, the TCEQ would be required to immediately cease issuing and requiring permits that regulate GHG emissions.

The bill would require the TCEQ to adopt the permitting program for GHG emissions as soon as possible after the effective date of the act (immediately upon receiving two-thirds vote of both houses or September 1, 2013 if the votes are not received). The adoption of a GHG emissions program would not affect the validity of a GHG emissions permit issued by EPA.

Methodology

The TCEQ reports that Texas does not currently have the authority to regulate GHG emissions for preconstruction or Title V activities. Instead, EPA is directly responsible for pre-construction, or New Source Review (NSR), permitting for major sources of GHG emissions in Texas. The TCEQ reports that implementing the bill would affect the agency's NSR and Title V permitting programs and affect Statewide Implementation Plan (SIP) development. The agency also reports that it would be required to seek permitting authority from the U.S. Environmental Protection Agency (EPA). The agency estimates that the process of rulemaking, SIP revision, SIP approval by EPA, removal of the current federal implementation plan for GHG emissions, and implementing any requirements for Title V permits could take up to three years to complete. However, the TCEQ reports that once the agency would establish the permitting program for GHGs, regulated entities would be subject to a more streamlined process than the existing federal permitting process.

The agency estimates that there could be as many as 1,800 existing sites throughout the state with GHG emissions that could trigger the Title V GHG emissions threshold. The agency reports that this would result in the need for additional resources to establish a permitting program and perform associated monitoring, compliance, and enforcement duties for these additional Title V sites. This estimate assumes that the GHG emissions permitting requirements would only apply to major emissions sources and not minor sources.

The TCEQ reports that it would need to add a significant number of FTEs to implement the GHG permitting program, starting with 1.0 additional FTE in 2014 and increasing to 39.0 FTEs by fiscal

year 2018. In the first year of implementation (fiscal year 2014), the agency would 1.0 Environmental Permit Specialist to establish and begin issuing GHG Title V permits and handle other critical support tasks such as rulemaking for NSR and Title V purposes. Starting in fiscal year 2015, the TCEQ would need an additional 9.0 FTEs, including 7.0 Regional Investigators, 1.0 Environmental Specialist, and 1.0 Attorney, to perform compliance investigations for GHG Title V permits, process and issue an estimated 360 GHG Title V permit applications per year and provide legal support for the GHG permitting program. An additional 9.0 FTEs would be added in fiscal year 2016, followed by an additional 10.0 FTEs in fiscal year 2017, and another 10.0 FTEs in fiscal year 2018 for compliance investigations, enforcement cases, and other activities associated with the growing number of GHG permittees within the TCEQ's regulatory purview. Costs associated with the additional staff are shown in the table above.

Because the TCEQ is required by federal law to assess and collect fees sufficient to support a permitting program that meets federal requirements, this estimate assumes that the TCEQ would assess fees similar to existing Title V fees, and that those fees would be deposited to the General Revenue-Dedicated Operating Permit Fees Account No. 5094 in an amount sufficient to cover the estimated costs of implementing the bill’s provisions.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality
LBB Staff: UP, SZ, ZS, TL