

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 25, 2013

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1897** by Eiland (Relating to the exemption from ad valorem taxation of pollution control property.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 11.31 of the Tax Code, related to pollution control property exemption, to require the executive director of the Texas Commission on Environmental Quality (TCEQ) to issue a determination letter to the person seeking a pollution control property exemption and require TCEQ to take final action on an initial appeal of the pollution control property exemption determination not later than the first anniversary of the date the executive director of the TCEQ declares the application to be administratively complete.

The bill would amend Section 42.43 of the Tax Code related to refunds resulting from district court appeals to prohibit a property owner from receiving a refund resulting from a district court appeal of a pollution control exemption denial unless the property owner is entitled to the refund under existing law [Section 42.43(a)] or has entered into a written agreement with the chief appraiser as part of an agreement related to the taxation of the pollution control property pending a final determination by TCEQ. Not later than the 10th day after the date a property owner and the chief appraiser enter into the written agreement, the chief appraiser would be required to provide each affected taxing unit a copy of the agreement.

This bill would amend Chapter 11 of the Tax Code, related to taxable property and exemptions, to add new Section 11.311 to provide a temporary property tax exemption for real and personal property located in or in close proximity to a landfill and used to collect, compress, transport, process and deliver gas generated by the landfill into a pipeline or methane fueling station (landfill methane capture property). Landfill methane capture property used as described above would be considered to be property used as a facility, device, or method for the control of air, water, or land pollution. The exemption would apply only to property used as landfill methane capture property on January 1, 2014, and would expire on December 31, 2015. The exempted landfill methane capture property value would not be deducted in the Comptroller's property value study.

The bill's provisions related to TCEQ pollution control property exemption determinations and refunds would not affect taxable property values, tax rates, collection rates, or any other variable which might affect the revenues of units of local governments or the state.

The bill's temporary exemption of property located in or in close proximity to a landfill and used

to collect, compress, transport, process and deliver gas generated by the landfill into a pipeline or methane fueling station would cause a fiscal impact on units of local government in fiscal 2015 and 2016. Because there would be no deduction in the Comptroller's property value study that determines the taxable values used for school funding purposes, there would be no cost to the state.

Information from TCEQ indicates that one company filed an application for a pollution control property exemption determination on methane capture and associated equipment that did not qualify for the pollution control exemption under current law (Section 11.31, Tax Code). This property would be likely to qualify under the bill. The company's reported cost of this property was about \$10 million. At a typical school district tax rate the property tax revenue loss to a school district over the two-year period specified by the bill, should this amount be exempted, would be about \$260,000. The amount of other property that would qualify on January 1, 2014 for the two-year property tax exemption under the bill is unknown. Consequently, the fiscal impact to school districts or other local taxing units cannot be estimated.

Local Government Impact

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Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

LBB Staff: UP, RB, SD, SJS, KK