

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 8, 2013

TO: Honorable René Oliveira, Chair, House Committee on Business & Industry

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3547 by Oliveira (Relating to standards and procedures for determining whether a person who owns, operates, or manages a pipeline is a common carrier; authorizing a fee.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Natural Resources Code, Chapter 111, to provide for common carrier determination hearings for pipeline companies. The bill would require the State Office of Administrative Hearings (SOAH) to determine that the person is a common carrier before the person could construct a pipeline and exercise the power of eminent domain. To obtain that determination, a person would first request such a determination from the Railroad Commission (RRC), which would then refer the request to SOAH.

According to the RRC, common carriers, gas utilities, and private lines must have a T-4 Permit to operate a pipeline. SOAH reports that the bill would not apply to natural gas pipelines because those pipelines do not meet the definition of common carrier found in the Natural Resources Code, Section 111.002.

The bill would provide that the RRC would charge a fee to the person seeking the common carrier determination. The fee would be an amount sufficient to cover the costs incurred by both the RRC and SOAH in making the determination. SOAH could not conduct the contested case hearing until the fee was paid by the person requesting the determination. SOAH and the RRC would enter into an interagency contract to provide for SOAH to recover its costs.

In making a common carrier determination, SOAH would conduct a contested case hearing on the issue of whether the person met the definition of a common carrier found in Natural Resources Code, Section 111.002. SOAH would hold at least one public hearing in a county where the pipeline would be located. SOAH could hold additional hearings in additional counties if warranted by the length of the proposed pipeline.

It is estimated that the fiscal implications to SOAH and to the RRC in implementing the bill's provisions would not be significant. However, it is assumed that any costs to SOAH would be reimbursed by the RRC through an Interagency Contract. Because the bill would require the applicants to reimburse the RRC for RRC and SOAH's costs, an appropriation of the fee revenues authorized by the bill would have to be made to the Railroad Commission in order for the agencies to receive the funds. SOAH estimates contract costs of approximately \$70,000 per fiscal year, while RRC estimates its costs above the SOAH contract would be approximately \$77,000 per fiscal year.

Local Government Impact

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

Source Agencies: 360 State Office of Administrative Hearings, 455 Railroad Commission

LBB Staff: UP, RB, ZS, TL