

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 18, 2013**

**TO:** Honorable Troy Fraser, Chair, Senate Committee On Natural Resources

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **SB957** by Fraser (Relating to the procedure for action by the Texas Commission on Environmental Quality on applications for certain environmental permits and administrative and judicial review of the commission's action.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would: (1) remove the opportunity for contested case hearings (CCH) currently existing for certain applications in the air quality, water quality and waste permitting programs at the Texas Commission on Environmental Quality (TCEQ); (2) add the opportunity to request a newly defined "public hearing" for certain applications; (3) remove the opportunity for appeal of TCEQ final decisions to Travis County District Court for certain types of applications; (4) add a new post-commission decision appeal opportunity with the State Office of Administrative Hearings (SOAH) which would have authority to rule on TCEQ decisions, followed by a judicial appeal to the Third Court of Appeals; and, (5) newly define "interested person," "permit," "public meeting," "public hearing," as well as "uncontested permit applications." The bill would not apply to water rights or Certificates of Convenience and Necessity (CCN) applications, or utility rate proceedings.

The bill would replace Contested Case Hearings (CCH) with public hearings, and the current standard that only an affected person may request a CCH will be replaced with the opportunity for interested persons to request a public hearing. The TCEQ estimates that under this bill, there would likely be at least as many public hearings as the number of public meeting and hearing requests historically received and the number of Response to Comments (RTCs) historically prepared. Based on historical data and a reasonable estimate for an additional number of affected applications, the agency estimates an additional 102 public hearings per year. Of those 102, it is estimated that 25 will be for Industrial Hazardous Waste and Municipal Solid Waste applications, and approximately 41 for Water Quality Division and 36 for Air Permits Division.

Passage of the bill would result in additional administrative costs to the TCEQ. However, these additional costs would be spread among the agency's various programs. Therefore, the overall fiscal impact of the bill is not expected to be significant. Passage of the bill would also result in some additional costs to the State Office of Administrative Hearings (SOAH), although these costs are not expected to be significant. Passage of the bill would also likely require the TCEQ to increase its annual contract amount with SOAH.

## **Local Government Impact**

The TCEQ reports that local governments could realize cost savings as a result of the bill's passage because they would no longer be subject to a CCH when they are permit applicants. Such entities also could experience cost savings because they would no longer be required to participate (voluntarily) as a protestant in a CCH. The savings would depend on the number of CCHs an entity would have been subject to, which is a factor of the number of permits an entity would seek, and the complexity of the case.

**Source Agencies:** 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 582 Commission on Environmental Quality

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