

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

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**April 7, 2015**

**TO:** Honorable Geanie Morrison, Chair, House Committee on Environmental Regulation

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

**IN RE: HB942** by Kacal (Relating to the storage of certain hazardous chemicals; transferring enforcement of certain reporting requirements, including the imposition of criminal, civil, and administrative penalties, from the Department of State Health Services to the Texas Commission on Environmental Quality.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB942, As Introduced: an impact of \$0 through the biennium ending August 31, 2017.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2016	\$0
2017	\$0
2018	\$0
2019	\$0
2020	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from Workplace Chemicals List 5020</b>	<b>Change in Number of State Employees from FY 2015</b>
2016	(\$604,916)	2.0
2017	(\$859,416)	2.0
2018	(\$629,416)	2.0
2019	(\$554,416)	2.0
2020	(\$529,416)	2.0

## **Fiscal Analysis**

The bill would provide guidelines and procedures for fire prevention at ammonium nitrate storage facilities. Fire marshals would be authorized to enter and examine such facilities, and marshals would be authorized to order owners and operators to correct any hazardous situations.

The bill would change references to the Standard Industrial Codes 20 through 39 to the North American Industrial Classification System (NAICS) Codes 31 through 33.

The bill would transfer the Tier II Chemical Reporting Program under Health and Safety Code Chapters 505, 506, and 507 from the Department of State Health Services (DSHS) to the Texas Commission on Environmental Quality (TCEQ). All powers, duties, obligations, liabilities of DSHS and all unobligated and unexpended balances for the Tier II program would transfer from DSHS to TCEQ, and all equipment, property, files, and other records related to the program would transfer as well. The bill would also transfer authority to collect annual fees for filing Tier II forms for manufacturing, public employer, and non-manufacturing entities from DSHS to TCEQ.

The bill would establish specific reporting requirements for ammonium nitrate storage, providing that no later than 72 hours after TCEQ would receive a Tier II reporting form that the agency provide a copy of that form to the State Fire Marshall and the Texas Division of Emergency Management.

The bill would provide that up to 20 percent of fees collected for the Tier II program could be used to provide grants to local emergency planning committees to assist them in fulfilling responsibilities related to chemical storage. TCEQ would be authorized to use up to 15 percent of fees collected for the Tier II program for DSHS administrative costs under Health and Safety Code, Chapter 502.

The bill would take effect on September 1, 2016 or immediately if it receives a two-thirds vote of both houses. However, the bill's provisions relating to the transfer of the Tier II program from DSHS to TCEQ would take effect on January 1, 2016.

## **Methodology**

According to the Comptroller's Biennial Revenue Estimate for 2016-17, the projected revenue for this program (General Revenue-Dedicated Workplace Chemicals List Account No. 5020), is \$1,050,000 per year. This estimate assumes that TCEQ will be required to transfer 15% of this revenue (estimated to be \$157,500 per year) to DSHS to administer Health and Safety Code Chapter 502. This amount is not included in the table above because it represents costs already being incurred at DSHS.

This estimate assumes that DSHS will transfer 10.5 FTEs and \$454,489 in annual administrative costs to TCEQ to implement the bill in FY 2016. These amounts are not included in the table above. The transfer would be required to take place by January 1, 2016. Because the transfer would only occur for eight months of fiscal year 2016, only \$302,993 would transfer from DSHS to TCEQ in that year. The appropriations for these costs would come from the General Revenue-Dedicated Workplace Chemicals List Account No. 5020.

According to TCEQ, 2.0 FTEs would be necessary in addition to the 10.5 that would transfer from DSHS to fully implement the proposed legislation. These FTEs would be needed to implement the grant program for local emergency planning committees authorized by the bill. The FTEs would be needed for grants and database management, and reflect additional costs of \$214,916 in fiscal

year 2016, including startup costs, and \$162,122 in future years. In addition, the agency would need an appropriation of \$210,000, or 20 percent of the annual revenue stream for the grant program. These amounts are included in the table above as costs out of the Workplace Chemicals List Account No. 5020.

Since the proposed legislation transfers current DSHS FTE resources to the TCEQ to implement the Tier II Program, it is anticipated that no additional investigator resources would be required to maintain the current level of inspection activity. Similarly, it is anticipated that current DSHS FTE resources would be available to provide quality assurance reviews of Tier II reports and provide customer support upon transfer to TCEQ. TCEQ also expects that outreach programs could be handled as a part of normal business process by the TCEQ's Small Business and Environmental Assistance Division and the Agency Communications Division. This estimate also assumes that additional costs relating to enforcement could be absorbed using existing agency resources.

The TCEQ Information Resources Division anticipates needing professional services costs to set up the Tier II database, e-payment system and enhance the existing databases to work with the new Tier II requirements and to provide ongoing Information Technology (IT) support. These costs are estimated to be \$180,000 in FY 2016, \$487,000 FY17, \$257,000 in FY18, \$182,000 in FY 19, and \$157,000 in FY 2020. These costs are included in the table above out of the Workplace Chemicals List Account No. 5020.

This analysis assumes the provisions of the bill would not result in a significant impact on state correctional agencies.

### **Technology**

The TCEQ Information Resources Division anticipates needing professional services costs to set up the Tier II database, e-payment system and enhance the existing databases to work with the new Tier II requirements and to provide ongoing IT support. These costs would be incurred to acquire necessary server storage and database infrastructure; programming for online submittal and reporting ability; connect and retrieve data from other applications/databases; enhancements to allow the agency's consolidated enforcement and compliance history databases to evaluate and process enforcement cases; data migration planning; moving DSHS data into the TCEQ database; and providing ongoing support for meeting reporting requirements and ensuring data integrity. Total IT costs are estimated to be \$180,000 in FY 2016, \$487,000 FY17, \$257,000 in FY18, \$182,000 in FY 19, and \$157,000 in FY 2020.

### **Local Government Impact**

This estimate assumes TCEQ would create a grant program to provide grants to local emergency planning committees. Local governments statewide would thus be eligible for \$210,000 in annual grant funding.

**Source Agencies:** 301 Office of the Governor, 304 Comptroller of Public Accounts, 454 Department of Insurance, 455 Railroad Commission, 537 State Health Services, Department of, 582 Commission on Environmental Quality

**LBB Staff:** UP, SZ, MW, TL, SD, ESi, KVe