

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 27, 2015

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1247 by Smith (Relating to presumptions in contested case hearings regarding certain environmental permit applications.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would provide that in a contested case hearing regarding a permit application, the filing with the State Office of Administrative Hearings (SOAH) of the draft permit and preliminary decision prepared by the Texas Commission on Environmental Quality (TCEQ) executive director, and other supporting documentation in the administrative records, establish a prima facie presumption that: the permit application meets all state and federal legal and technical requirements; and a permit, if issued, that is consistent with the draft permit would protect human health and safety and the environment. The bill would also provide that a party may rebut a presumption under a preponderance of the evidence standard. The bill applies to hearings set by SOAH on or after September 1, 2015. The law in effect before September 1, 2015 would apply to hearings set before that date, including any decisions or appeals from those hearings.

Both TCEQ and SOAH report that passage of the bill could result in shorter contested case hearings, which could result in some savings to the TCEQ, which reimburses SOAH for cases. This estimate assumes that any savings would not be significant.

Local Government Impact

For local and other governmental entities that are permit applicants, the bill could possibly result in shorter hearings, according to the TCEQ. For those entities who are protesting a permit, the prima facie demonstration by the applicant's filing of materials with the administrative law judge will likely require these entities to expend more resources for a hearing.

Source Agencies: 360 State Office of Administrative Hearings, 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL, ER