

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 12, 2017**

**TO:** Honorable Abel Herrero, Chair, House Committee on Land & Resource Management

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

**IN RE: HB1135** by Workman (Relating to enforcement of certain regulations by the acquisition of a conservation easement.), **As Introduced**

**Depending upon any federal regulation changes in the future that conflict with the provisions of the bill, the federal government could rescind the authority granted for the National Pollutant Discharge Elimination System (NPDES), file suit against the state, and/or penalize the state through the loss or reduction of federal funds. Therefore, there could be an indeterminate fiscal impact to the state.**

The bill would amend Texas Natural Resources Code by adding Section 183.007 to prohibit a provision, rule, policy, or ordinance adopted under Texas Natural Resources Code, Texas Government Code, Texas Local Government Code, or Texas Water Code from being enforced if it would require that more than 55 percent of the surface area of an owner's private real property, excluding areas designated by the Federal Emergency Management Agency as being in the 100-year floodplain, to remain in a natural or undeveloped state, unless the enforcing entity acquires a conservation easement. The bill would exclude certain governmental actions from the provisions of this bill. The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house, or September 1, 2017.

Section 183.001 of the Natural Resources Code requires that a governmental body must be empowered to hold an interest in real property in order for a governmental entity to be a holder of a conservation easement. The Texas Commission on Environmental Quality (TCEQ) notes that the agency currently does not have the statutory authority to hold a conservation easement, which could impact various permitting and authorization programs.

The federal agreement, which allows TCEQ to administer the National Pollutant Discharge Elimination System (NPDES), states that the agency will avoid state policies or guidance that would conflict with applicable federal regulations or limit the agency's ability to implement the program. New federal NPDES regulations must be incorporated into state regulations within one year of federal promulgation or within two years if a state statute must first be enacted. Any federal regulation changes in the future that conflict with the provisions of this bill could also threaten federal delegation of the NPDES to the State and could have an indeterminate fiscal impact to the state.

## **Local Government Impact**

According to TCEQ, the bill would have a fiscal impact on local governments that require more than 55 percent of real property to be left undeveloped.

According to the Texas Municipal League, the bill would have an indeterminate fiscal impact on municipalities, increasing costs associated with heritage property, fees and expenses, and damages.

According to the Texas Association of Counties, Hood County reported the bill would have no significant fiscal impact on the County.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** UP, SZ, MW, MSO, SD, ER, JGA