

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 8, 2019

TO: Honorable J. M. Lozano, Chair, House Committee on Environmental Regulation

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
 Legislative Budget Board

IN RE: HB2771 by Lozano (Relating to the authority of the Texas Commission on Environmental Quality to issue permits for the discharge into water in this state of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2771, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2021; however, there would be increases and decreases to General Revenue-Dedicated Accounts listed below.

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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Oil & Gas Regulation</i> 5155	Probable Savings/(Cost) from <i>Water Resource Management</i> 153	Probable Revenue Gain/(Loss) from <i>Oil & Gas Regulation</i> 5155	Probable Revenue Gain/(Loss) from <i>Water Resource Management</i> 153
2020	\$188,178	(\$556,796)	(\$225,000)	\$998,000
2021	\$188,178	(\$558,506)	(\$225,000)	\$336,000
2022	\$188,178	(\$560,306)	(\$225,000)	\$336,000
2023	\$188,178	(\$562,151)	(\$225,000)	\$336,000
2024	\$188,178	(\$564,041)	(\$225,000)	\$336,000

Fiscal Year	Change in Number of State Employees from FY 2019
2020	6.5
2021	6.5
2022	6.5
2023	6.5
2024	6.5

Fiscal Analysis

The bill would amend the Water Code to allow the Texas Commission on Environmental Quality (TCEQ) to issue permits for the discharge of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities into the waters of this state. The bill would transfer these responsibilities from the Railroad Commission upon TCEQ receiving delegation of National Pollutant Discharge Elimination System permit authority by the Environmental Protection Agency. In addition, the bill would transfer all

The bill would take effect September 1, 2019.

Methodology

Under current law, the Railroad Commission processes an average of 465 permit applications each year. According to the Comptroller of Public Accounts and the Railroad Commission, it is estimated that General Revenue-Dedicated Oil and Gas Regulation and Cleanup Account No. 5155 would have revenue decreases of \$225,000 each year from revenue currently collected through the processing of these applications composed of \$90,000 in annual fee revenue and \$135,000 in annual surcharge revenue. Additionally, revenue deposited to the credit of General Revenue-Dedicated Water Resources Management Account No. 153 would increase by \$998,000 in fiscal year 2020 and \$336,000 in subsequent fiscal years.

Under the provisions of the bill, this analysis assumes 529 facilities would be subject to permitting under TCEQ's current authority to collect application and water quality fees as assessed by the agency with revenues deposited to the credit of General Revenue-Dedicated Water Resource Management Account No. 153. Based on information provided by TCEQ, this analysis assumes TCEQ would apply any new fees in amounts that are similar to existing fees charged by the agency which includes facility permitting occurring on a five year cycle with an average application fee of \$1,250 for a total revenue gain in fiscal year 2020 of \$661,250 and water quality fees assessed annually ranging from \$100 for a general permit to \$8,435 for an industrial wastewater permit for a total annual revenue gain of \$336,000.

The bill would require that all funds appropriated to the Railroad Commission for these permitting responsibilities be transferred to TCEQ; however, the bill does not provide authority for agencies other than the Railroad Commission to use funds from General Revenue-Dedicated Oil and Gas Regulation and Cleanup Account No. 5155. Pursuant to Natural Resources Code, Section 81.068, only the Railroad Commission and its employees have authority to expend funds from this account. This estimate assumes that funding to meet the obligations of the bill by TCEQ would be expended from General Revenue-Dedicated Water Resources Management Account No. 153.

Based on information provided by the Railroad Commission, it is assumed that transferring the permitting responsibilities from the Railroad Commission to TCEQ would result in the Railroad

Commission needing 2.5 fewer FTEs. Decreased costs reflected in the table above from the General Revenue-Dedicated Oil and Gas Regulation and Cleanup Account No. 5155 include salaries and related benefits for 2.5 FTEs currently processing permit applications for the discharge of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities. This would include one License and Permit Specialist I FTE and 1.5 Engineering Specialist I FTEs for combined salary savings of \$150,678 and Other Operating Expenses Savings of \$37,500 each year, or a total of \$188,178 each year. The savings would total \$376,356 for the 2020-21 biennium, and \$940,890 over a five year period.

Based on information provided by TCEQ, this analysis assumes that implementing the provisions of the bill would cost \$1,115,301 for the 2020-21 biennium, and that the cost over a five year period would total \$2,801,798 in General Revenue-Dedicated Water Resources Management Account No. 153. This analysis assumes the agency would expand its current water-related permitting and inspection activities to include processing permit applications for the discharge of produced water, hydrostatic test water, and gas plant effluent resulting from certain oil and gas activities and inspections. Costs include salaries for 9.0 FTEs, other operating costs, and related employee benefits.

The bill would require TCEQ to review and process permit applications for certain wastewater produced at oil and gas facilities. TCEQ currently processes an average of 157 industrial wastewater permits annually which are assessed and reviewed by 10.0 FTEs. Based on this staff-to-permit ratio and taking into consideration the number of permits issued by the Railroad Commission, it is estimated that TCEQ would require three additional Environmental Permit Specialist III FTEs (\$42,244 plus \$14,122 in benefits, or \$56,366 each year per FTE) to meet this bill's obligations for total costs of \$169,098 each year.

The bill would also require TCEQ to conduct investigations to determine compliance with the wastewater permits within a universe of total wastewater facilities that would increase by an estimated 529 permits. This would include additional responsibilities, such as investigations, complaint response, and on site compliance checks by agency staff. This analysis assumes TCEQ would require six additional Natural Resource Specialist IIIs (\$42,244 plus \$14,122 in benefits, or \$56,366 each year per FTE) to meet these obligations for total costs of \$338,196.

This analysis also assumes an additional \$49,500 in fiscal year 2020, \$51,210 in fiscal year 2021, \$53,010 in fiscal year 2022, \$54,855 in fiscal year 2023, and \$56,745 in fiscal year 2024 for other operating and office-related expenses.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of, 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts, 455 Railroad Commission

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