

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 23, 2019

TO: Honorable Chris Paddie, Chair, House Committee on Energy Resources

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

IN RE: HB2942 by Guillen (Relating to the adoption and enforcement of reclamation standards for certain sand mining operations; authorizing a fee.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2942, As Introduced: an impact of \$0 through the biennium ending August 31, 2021.

Additionally, enactment of the bill would provide that the eligibility of land for special open space appraisal does not end because the land is used for a sand mining operation for a limited time. As a result, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas.

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 Revenue Gain from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	\$545,533	(\$545,533)	7.0
2021	\$502,021	(\$502,021)	7.0
2022	\$503,421	(\$503,421)	7.0
2023	\$504,856	(\$504,856)	7.0
2024	\$506,326	(\$506,326)	7.0

Fiscal Analysis

The bill would amend the Natural Resources Code and Tax Code related to the adoption and enforcement of reclamation standards for certain sand mining operations.

Section 1 of the bill would amend Title 4 of the Natural Resources Code, regarding mines and mining, to add new Chapter 135, regarding reclamation standards for certain sand mining operations. The bill would require the Railroad Commission (RRC) to adopt standards governing reclamation for sand mining operations that overlie the Carrizo Aquifer, and are located either within 30 miles of a municipality with a population of more than 500,000 or within one mile of a residential building.

The bill would require sand mining operations to obtain a site reclamation permit from the RRC and would require the submission of a site reclamation plan by a permit applicant. The RRC would be allowed to charge fees for the issuance of a permit.

The bill would require counties, and authorize municipalities, to adopt a program for the enforcement of the site reclamation standards. Counties and municipalities would be authorized to issue site reclamation permits and collect application fees from sand mining operations.

Section 2 of the bill would amend Subchapter D, Chapter 23 of the Tax Code, regarding appraisal of agricultural land, to add a new section that would provide that the eligibility of land for special open space appraisal does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

- the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed;
- the land is used for a sand mining operation for which a specified reclamation permit is issued; and
- the land is reclaimed in the manner required by law not later than the first anniversary of the date sand mining operations began on the land.

The land owner would be required to notify the appraisal office in writing not later than the 30th day after the date sand mining operations begin that the owner intends to ensure that the above requirements are met.

Section 3 of the bill provides that if the sand mining operation began before the bill's effective date and the land owner provides the required notice of intent to the appraisal office not later than the 90th day after the effective date, and the chief appraiser has not, as of the effective date, made a determination that the land's use has changed, the eligibility of the land for special open space appraisal does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area.

The bill would take effect immediately upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2019.

Methodology

The RRC and eligible counties and municipalities would be authorized to collect application fees for site reclamation permits. The fees would be set by each issuing authority in amounts to recover the costs of administering new Chapter 135. Because the fee amount each issuer would charge is

unknown, the state and local fiscal impact cannot be determined.

However, based on an anticipated volume of 100 permit applications and renewals each fiscal year, the RRC estimates the bill provisions would require one Manager III (1.0 FTEs), two Engineers III (2.0 FTEs), two Hydrologists III (2.0 FTEs), and two Natural Resources Specialists II (2.0 FTEs). Based on LBB analysis, the additional FTEs would have a combined fiscal year cost of \$458,600 for salaries (\$339,880) and related benefits (\$118,720). This analysis assumes the agency would set fees for permit applications and renewals in amounts necessary to recover the cost of administer the program.

Special open space appraisal of agricultural land results in an appraised value that is significantly lower than the land's market value. Consequently, the bill's provisions that would keep land used in sand mining qualified for special appraisal that would otherwise be appraised at its higher market value would create a cost to local taxing units and to the state through the school funding formulas. The value and number of acres that would qualify for continued special open space appraisal under the specific parameters of the bill are unknown. Consequently, the cost cannot be estimated.

Local Government Impact

Enactment of the bill would provide that the eligibility of land for special open space appraisal does not end because the land is used for a sand mining operation for a limited time. As a result, taxable property values and the related ad valorem tax revenue for units of local government could be reduced.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 582 Commission on Environmental Quality

LBB Staff: WP, SZ, MW, TBo, AH, AF, SJS