SENATE AMENDMENTS

2nd Printing

By: Lozano H.B. No. 3224

A BILL TO BE ENTITLED

AN ACT

relating to a study on the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) In this section:

(1) "Commission" means the Texas Commission on Environmental Quality.

(2) "Recyclable material" has the meaning assigned by 42 U.S.C. Section 9627(b).

(b) The commission, in consultation with industry stakeholders, shall:

(1) conduct a study on the potential impacts of creating a defense to liability under Section 361.271(a)(3) or (4), Health and Safety Code, for persons who arrange for recycling of recyclable material who would not be liable for the recyclable material under 42 U.S.C. Section 9607(a)(3) or (4) based on the person meeting the applicable criteria established under 42 U.S.C. Section 9627; and

(2) propose legislative recommendations based on the study.

(c) The commission shall establish a workgroup composed of members determined by the commission and industry stakeholders for the purpose of assisting the commission in proposing legislative

recommendations under Subsection (b)(2) of this section.

(d) Not later than November 1, 2020, the commission shall submit to the legislature a report on the findings of the study and legislative recommendations based on the study.

(e) This Act expires January 1, 2021.

SECTION 2. This Act takes effect September 1, 2019.

ADOPTED

MAY 2 2 2019

Secretary of the Senate

By: Zaffirini H.B. No. 3224

Substitute the following for __.B. No. _____:

By: Zaffirini C.S.__.B. No. _____

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(b) The commission, in consultation with industry stakeholders, shall:

(1) conduct a study on the potential impacts of creating a defense to liability under Section 361.271(a)(3) or (4), Health and Safety Code, for persons who arrange for recycling of recyclable material who would not be liable for the recyclable material under 42 U.S.C. Section 9607(a)(3) or (4) based on the person meeting the applicable criteria established under 42 U.S.C. Section 9627; and

(2) propose legislative recommendations based on the study.

(c) The commission shall establish a workgroup that includes industry stakeholders for the purpose of assisting the commission in proposing legislative recommendations under

Subsection (b)(2) of this section.

(d) Not later than January 15, 2021, the commission shall submit to the legislature a report on the findings of the study and legislative recommendations based on the study.

(e) This Act expires August 31, 2021.

SECTION 2. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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

IN RE: **HB3224** by Lozano (Relating to a study on the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to conduct a study in consultation with industry stakeholders on the potential impacts of creating a defense to liability for persons who arrange for recycling of recyclable materials under circumstances defined in the bill. The bill would also require TCEQ to establish a workgroup composed of industry stakeholders for proposing legislative recommendations to TCEQ on this issue. TCEQ would be required to submit a report to the legislature on the findings of the study and legislative recommendations no later than November 1, 2020. Based on the analysis of TCEQ, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be absorbed with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 455 Railroad Commission

LBB Staff: WP, SD, SZ, GDz, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 16, 2019

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

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

IN RE: **HB3224** by Lozano (Relating to a study on the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to conduct a study in consultation with industry stakeholders on the potential impacts of creating a defense to liability for persons who arrange for recycling of recyclable materials under circumstances defined in the bill. The bill would also require TCEQ to establish a workgroup composed of industry stakeholders for proposing legislative recommendations to TCEQ on this issue. TCEQ would be required to submit a report to the legislature on the findings of the study and legislative recommendations no later than November 1, 2020. Based on the analysis of TCEQ, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be absorbed with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 455 Railroad Commission

LBB Staff: WP, SZ, GDz, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

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

IN RE: **HB3224** by Lozano (Relating to a study on the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to conduct a study in consultation with industry stakeholders on the potential impacts of creating a defense to liability for persons who arrange for recycling of recyclable materials under circumstances defined in the bill. The bill would also require TCEQ to establish a workgroup composed of members determined by the commission and industry stakeholders for proposing legislative recommendations to TCEQ on this issue. TCEQ would be required to submit a report to the legislature on the findings of the study and legislative recommendations no later than November 1, 2020. Based on the analysis of TCEQ, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be absorbed with existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 455 Railroad Commission

LBB Staff: WP, SZ, GDz, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 15, 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: **HB3224** by Lozano (Relating to the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3224, Committee Report 1st House, Substituted: an impact of $0 through the biennium ending August 31, 2021; however, there are costs associated with General Revenue-Dedicated Hazardous and Solid Waste Remediation Account No. 550 as 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 (Cost) from *Hazardous/Waste Remed Acc* 550
2020	($510,000)
2021	($510,000)
2022	($510,000)
2023	($510,000)
2024	($510,000)

Fiscal Analysis

The bill would amend the Health and Safety Code to add a recyclable material defense from liability provided that the person meets criteria established under 42 U.S.C. Section 9627 for certain transactions involving recyclable materials, including scrap paper, glass, textiles, plastics, metal, rubber (excluding whole tires) and spent batteries.

The bill would take effect September 1, 2017.

Methodology

The Texas Commission on Environmental Quality (TCEQ) recovers costs incurred by the state to remediate former recycling sites under the state Superfund program. These sites include sites proposed or listed on the state Superfund registry and sites at which immediate response actions are conducted. The bill would provide a defense to liability for entities that TCEQ labels as responsible parties, exempting some entities from being required to conduct or fund these cleanup activities.

TCEQ estimates that current cleanup activities at a former battery recycling site would be impacted by the bill. The potentially responsible parties that could fund or perform the cleanup, or are currently funding or performing the cleanup, would likely be exempted from liability under this bill. TCEQ has indicated that the cost of cleaning up the battery recycling site could range from $2,200,000 to $2,900,000. This estimate is based on an assessment of the site performed by TCEQ in fiscal year 2018 and uses a midpoint cost of $2,550,000 for the cleanup activities. TCEQ estimates that these activities will take 5 years to complete.

This estimate assumes an average annual cost of $510,000 for the former battery recycling site. These costs, borne by potentially responsible parties under current law, would be borne by the state under the bill's provisions. This estimate does not include future cleanup activities that, under the provisions of this bill, would be funded by the state instead of by a potentially responsible party.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission, 582 Commission on Environmental Quality

LBB Staff: WP, SZ, GDz, MW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 1, 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: **HB3224** by Lozano (Relating to the creation of a defense under the Solid Waste Disposal Act for persons engaged in certain recycling transactions.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3224, As Introduced: an impact of $0 through the biennium ending August 31, 2021; however, there are costs associated with General Revenue-Dedicated Hazardous and Solid Waste Remediation Account No. 550 as 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 (Cost) from *Hazardous/Waste Remed Acc* 550
2020	($910,000)
2021	($910,000)
2022	($910,000)
2023	($910,000)
2024	($910,000)

Fiscal Analysis

The bill would amend the Health and Safety Code to add a recyclable material defense from liability provided that the person meets criteria established under 42 U.S.C. Section 9627 for certain transactions involving recyclable materials, including scrap paper, glass, textiles, plastics, metal, rubber (excluding whole tires) and spent batteries.

The bill would take effect September 1, 2017.

Methodology

The Texas Commission on Environmental Quality (TCEQ) recovers costs incurred by the state to remediate former recycling sites under the state Superfund program. These sites include sites proposed or listed on the state Superfund registry and sites at which immediate response actions are conducted. The bill would provide a defense to liability for entities that TCEQ labels as responsible parties, exempting some entities from being required to conduct or fund these cleanup activities.

TCEQ estimates that two current cleanup activities at a former metals recycling site and a former battery recycling site would be impacted by the bill. The potentially responsible parties that could fund or perform the cleanup, or are currently funding or performing the cleanup, would likely be exempted from liability under this bill. The former metals recycling site would require an estimated $2,000,000 to complete the cleanup activities. TCEQ has indicated that the cost of cleaning up the battery recycling site could range from $2,200,000 to $2,900,000. This estimate is based on an assessment of the site performed by TCEQ in fiscal year 2018 and uses a midpoint cost of $2,550,000 for the cleanup activities. TCEQ estimates that these two activities will take 5 years to complete.

This estimate assumes an average annual cost of $400,000 for the former metals recycling site and $510,000 for the former battery recycling site for a total annual cost of $910,000. These costs, borne by potentially responsible parties under current law, would be borne by the state under the bill's provisions. This estimate does not include future cleanup activities that, under the provisions of this bill, would be funded by the state instead of by a potentially responsible party.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission, 582 Commission on Environmental Quality

LBB Staff: WP, SZ, GDz, MW