

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 18, 2025

TO: Honorable Cody Harris, Chair, House Committee on Natural Resources

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1163 by Cunningham (Relating to planning and financial responsibility requirements for certain aggregate production operations; providing for the imposition of an administrative penalty.), **As Introduced**

The fiscal implications of the bill cannot be determined because any penalties, enforcement action earnings, and gifts or grants that would be deposited to the General Revenue-Dedicated Aggregate Production Operation Reclamation and Restoration Fund Account are unknown at this time.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would amend the Water Code by adding a new subchapter to establish planning and financial responsibilities for aggregate production operators located within 1,500 feet from the San Jacinto River or a tributary of the river. The bill would also create the Aggregate Production Operation Reclamation and Restoration Fund Account (Account) within the General Revenue Fund to collect penalty revenues and enforcement action earnings related to requirements in the new subchapter. The account would consist of penalties, gifts, and grants received by the Texas Commission on Environmental Quality (TCEQ) and would be used exclusively for the reclamation and restoration of water bodies affected by unauthorized discharges.

The bill would require the operators to file restoration and reclamation plans that meet the prescribed requirements with the TCEQ, and that are certified by a licensed Engineer or Geoscientist. Operators would be required to submit the plans with their initial registration applications and update the plans with each renewal of registration.

TCEQ by rule must require responsible parties to establish and maintain evidence of financial responsibility for: (1) restoration of a water body affected by an unauthorized discharge from the operation; and (2) reclamation of the area disturbed by the operation. The Executive Director of TCEQ would determine if the amount of financial assurance assessed is sufficient to meet the requirements of the operator's restoration and reclamation plans.

TCEQ may assess administrative penalties between a minimum of \$25,000 and a maximum of \$40,000 for each year an operator does not demonstrate financial responsibility. The total penalty assessed for operators demonstrating continued noncompliance for three years or more may not exceed \$80,000. Responsible parties would also be liable for all reasonable costs incurred related to corrective or enforcement actions related to an unauthorized discharge from an aggregate production operation.

All penalties and enforcement action earnings resulting from this subchapter would be deposited to the Account. Additionally, any interest and other income earned on money in the Account would be credited to the Account. Appropriations made from the Account to TCEQ may only be used for the reclamation and restoration of the beds, bottoms, and banks of water bodies affected by the unauthorized discharges subject to the subchapter. Before spending money from the Account, TCEQ must propose a spending plan and provide appropriate time for public notice, comment, and hearings as required by the bill.

Based on information provided by the Comptroller of Public Accounts, the fiscal implications of the bill cannot be determined because any penalties, enforcement action earnings, and gifts or grants that would be deposited to the Account are unknown.

Based on information provided by TCEQ, it is assumed that any costs associated with updating documents, online reporting, and webpages to reflect new requirements could be absorbed using existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time. Any local entity operating an aggregate production operation within the geographic bounds outlined in the bill would be responsible for costs associated with meeting the requirements of developing restoration and reclamation plans as outlined in the bill.

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

LBB Staff: JMc, MW, AJL, CMA