

SUBJECT: Appropriating fees generated through regulation of dry-cleaning facilities

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 20 ayes — Heflin, Luna, Berman, B. Brown, F. Brown, Crownover, J. Davis, Deshotel, Dukes, Eiland, Ellis, Gutierrez, Hope, Isett, E. Jones, Menendez, Pickett, Pitts, Stick, Truitt

0 nays

9 absent — Branch, Hamric, Hupp, Kolkhorst, McClendon, Raymond, Solis, Turner, Wohlgemuth

WITNESSES: None

BACKGROUND: The 78th Legislature during its regular session enacted HB 1366 by Elkins, the Dry Cleaner Environmental Response Act, which directs the Texas Commission on Environmental Quality (TCEQ) to adopt and administer environmental performance standards for new dry-cleaning facilities; requires owners of dry-cleaning facilities to register with the commission and pay fees to establish a cleanup fund; imposes surcharges on dry-cleaning services and the purchase of cleaning solvents; and creates an advisory committee to help TCEQ develop program rules.

Generally, when pending legislation would generate fee revenue, lawmakers adopt a contingency rider in the general appropriations act, giving direction to appropriate the funds if the bill becomes law and the fees are generated. HB 1 by Heflin, the general appropriations act for fiscal 2004-05, contains no contingency rider for HB 1366.

DIGEST: CSHB 11 would appropriate fees collected by TCEQ under the Dry Cleaner Environmental Response Act to TCEQ for the purposes of administering the regulations. Any future increases in the cost of state employee benefits connected with administration of HB 1366 would have to be paid by the fee-generated funds.

The bill would take effect September 1, 2003, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect November 1, 2003.

**SUPPORTERS
SAY:**

The changes in CSHB 11 would clarify that TCEQ has the authority to use the funds it will collect from dry cleaners under HB 1366. The omission of such direction during the regular session was an oversight and should be corrected to ensure that TCEQ can implement the legislation in a timely manner. The provision relating to relating to future increases in the cost of state employee benefits also would correct an oversight. It is a standard provision that typically is applied to self-funding programs.

The Texas dry-cleaning industry spurred HB 1366, stressing the immediate need for a solution to the environmental cleanup problem. TCEQ should be able to use the fee-generated funds to implement the new regulations and improved system that will enable cleanup of contaminated sites and prevent contamination.

There is no need for this bill to provide for additional employees. If TCEQ discovers during the interim that it cannot staff the regulatory program with existing employees, it can work with the Legislative Budget Board to adjust the agency's staffing levels.

**OPPONENTS
SAY:**

CSHB 11 would fail to correct another oversight — the lack of authority for new employees to implement the legislation. The fiscal note for HB 1366 identified the need for an additional 16 employees to perform duties assigned by the bill, including prosecuting administrative penalties, processing and auditing reimbursements, performing investigations, processing registrations, and monitoring and managing cleanups.

NOTES:

The fiscal note for CSHB 11 estimates no impact to general revenue in fiscal 2004-05, as the estimated appropriation of \$14.8 million to TCEQ would come from the Dry Cleaning Release Account.

The committee substitute added the provision relating to increases in the cost of state employee benefits due to administration of the regulations.

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CSHB 11 is substantially similar to two other bills on today's calendar: CSHB 9 by Heflin, concerning fees generated by the regulation of electricians, and CSHB 12 by Heflin, concerning fees generated by the regulation of poultry sellers, distributors, and transporters.