

- SUBJECT:** Creating a new account for certain air-quality permit fees
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 4 ayes — Bonnen, Kuempel, Chisum, W. Smith
0 nays
3 absent — Crownover, Flores, West
- WITNESSES:** For — Greg Felling, Alcoa; Gary Gibbs, Association of Electric Companies of Texas; Mary Miksa, Texas Association of Business
Against — None
On — Glenn Shankle, Texas Commission on Environmental Quality
- BACKGROUND:** Titles IV and V of the federal Clean Air Act and 1990 amendments require permitting of major emissions sources, such as refineries, chemical plants, or gas-processing facilities. Title IV addresses acid rain, including requiring permits of certain industrial facilities. Title V establishes an operating permit program for major sources. Under an agreement with the U.S. Environmental Protection Agency, the Texas Commission on Environmental Quality (TCEQ) administers and collect fees for the operating permit program.

Health and Safety Code, sec. 386.0621(a) requires TCEQ to collect annual operating permit fees for a source that is subject to Titles IV or V of the Clean Air Act or for a source that would be subject to federal permit requirements based on the rate of emissions at the time the fee was due. These and other fees must be deposited into the Clean Air Account. Money from that account is used for purposes in addition to administering the federal operating permit program, such as for inspections, enforcement, and developing the State Implementation Plan to comply with federal air-quality rules.
- DIGEST:** CSHB 1481 would require fees collected under Health and Safety Code, sec. 386.0621(a) after September 1, 2003, to be deposited into the operating permit fees account in the state treasury. These fees could not be commingled

with fees in the Clean Air Account or with other money in the treasury. Funds in the operating permit fees account could be appropriated only to administer the federal permits program under Title IV or V of the Clean Air Act.

A current-law requirement that unappropriated dedicated revenue becomes available for general government purposes on August 31, 2003, would not apply to the operating permit fees account. Any balance in the account at the end of a fiscal year would remain in the account.

The bill would take effect September 1, 2003. TCEQ would have to adopt rules necessary to implement the bill's provisions by December 1, 2003.

**SUPPORTERS
SAY:**

CSHB 1481 would ensure that operating permit fees paid by industry were used as intended, to implement the Title IV and V federal permit programs. The federal Clean Air Act requires that Title IV and V fee revenue be used only to cover the reasonable costs of developing and administering the permit programs. Under current Texas law, however, these fees are commingled with others in the Clean Air Account.

When TCEQ increased the federal permit fees in 2002, the agency could not demonstrate satisfactorily that the fee revenue was being used only to run the federal operating permit program. In particular, some members of the regulated community expressed concern about the agency's accounting for indirect costs paid for by the fund. By establishing an independent account for the fees, the bill would make it clear exactly how much the agency collected and spent for the Title IV and V permitting programs.

**OPPONENTS
SAY:**

CSHB 1481 is unnecessary. TCEQ's accounting procedures already ensure that operating permit fee revenue is used only to implement the programs for which it is intended. In fact, the agency has created a separate account at TCEQ to account specifically for the operating permit fee revenue.

NOTES:

The committee substitute would modify the original bill by restoring a provision regarding appropriation of Title IV and V permit fees that the original bill would have eliminated and by establishing the operating permit

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fees account as a separate account in the treasury instead of as a subaccount in the Clean Air Account.