

- SUBJECT:** Allowing administrative costs for supplemental environmental projects
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Harless, Márquez, Lewis, Reynolds, E. Thompson, C. Turner, Villalba
- 0 nays
- 2 absent — Isaac, Kacal
- WITNESSES:** For — Ken Awtrey, Resource Conservation and Development Council; David Rosse, Rio Bravo Resource Conservation and Development Council and Kleberg County; (*Registered, but did not testify:* Smith Covey, Resource Conservation and Development Council; Bill Oswald, Koch Companies)
- Against — None
- On — (*Registered, but did not testify:* Kathleen Decker, Texas Commission on Environmental Quality)
- BACKGROUND:** The Texas Commission on Environmental Quality (TCEQ) administers a Supplemental Environmental Projects (SEPs) program. SEPs are environmentally beneficial projects that a respondent agrees to undertake in settlement of an enforcement action but is not otherwise legally required to perform. Often respondents support environmental projects performed by third parties, such as cities or environmental nonprofit organizations, by providing funding, with TCEQ approval, directly to the third party.
- DIGEST:** CSHB 2290 would allow TCEQ, in agreeing to a SEP proposal, to permit a local government or a 501(c)(3) nonprofit organization to use up to 10 percent of the direct cost of an SEP project for administrative costs, including overhead, personnel salary and fringe benefits, and travel and per diem expenses.
- CSHB 2290 would allow the bill's provisions to be applied to SEP funds received by a third party implementing a SEP on, before, or after the

effective date of the act.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 2290 would provide much-needed assistance to organizations trying to improve and enhance the environment but who may lack the funds to pay for administrative overhead. TCEQ's SEP program generally disallows all costs except direct costs associated with an environmentally beneficial project. For example, an organization that is undertaking an air quality monitoring project could get costs approved for actual equipment but the agency may not approve costs associated with salaries and fringe benefits and would not approve payment of administrative expenses and overhead. Similarly, an organization that is planning and implementing the restoration of a wetland could have costs approved for wetland plants, but not the cost of staff needed to perform the restoration or the overhead supporting the restoration effort. Organizations often have a hard time raising the funds for overhead costs from individual donations and private foundations.

TCEQ audits third-party administrators of SEP funding, requiring quarterly financial and progress reports. TCEQ's SEP oversight is adequate to oversee the use of SEP funds for overhead and administrative expenses.

**OPPONENTS  
SAY:**

Funds for SEP projects are paid to third parties in lieu of paying environmental fines, and therefore are comprised of funds that would otherwise go into general revenue. The TCEQ must carefully monitor the funds' use.

CSHB 2290 would not clearly define what was allowable in those cost categories. Overhead and administrative costs can be defined as many things, and attributing overhead costs to any project is often hard for auditors to track. Institutions calculate overhead and administrative costs in widely different ways, resulting in some organizations claiming overhead costs of less 10 percent of a project's costs, while some organizations have overhead costs of more than 40 percent.

CSHB 2290 should link terms such as administrative costs and overhead costs to those already provided in state law under the state's Uniform

Grant Management Standards or some other well-known accounting standard, such as federal auditing circulars. Doing so would provide guidance to TCEQ and to SEP third-party recipients, plus provide auditors a standard to hold third parties accountable when they received funds for administrative or overhead purposes.

**NOTES:**

The committee substitute differs from the introduced version by adding 501 (c) (3) nonprofit organizations to the bill. The committee substitute removes references to the Texas Association of Resource and Conservation and Development Areas Inc.