

*Permitting fees would need to increase precipitously to cover the costs of this legislation.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The bill amends the Air Quality Control Act to require that the Environmental Improvement Board add to permitting regulations a requirement that applicants supply documentation, when applying for a construction or operating permit, showing that all facilities owned by the applicant are currently in compliance with all federal and state emission standards. If an applicant is unable to produce this information, the Environment Department (Department) must inspect all of the applicant's facilities within six months of the application submission. Once inspected, the Department must notify the applicant of the results of all inspections and only when reports document that all facilities are in compliance may the Department evaluate the application. If the Department determines that other facilities are not in compliance, the permit will be denied for the new source. The bill also adds a provision for extending by six months the time to issue or deny a permit when the applicant has not furnished proof of compliance.

The bill requires construction permit fees to cover the costs of the inspection program. Applicants may not request accelerated permit processing if they have not furnished proof of compliance, and the Department has accepted that proof.

The bill adds that the Department may deny an application if it appears that construction or modification will not meet standards, rules or requirements of the Oil and Gas Act relating to venting and flaring of natural gas. Conditions for permits must additionally include requirements of the Oil and Gas Act and provide the most stringent level of performance that is most protective of health and safety.

Persons participating in a permitting action must be notified of the final action and the reasons for the final action.

The bill adds a requirement that the Department establish a joint periodic inspection program with the Energy, Minerals and Natural Resources Department, effective November 2025 requiring that inspections occur every two years at all sources holding a construction or operating permit to determine compliance with the Air Quality Control Act and the Oil and Gas Act related to venting and flaring and the federal Clean Air Act. Inspections will be conducted using the best available technology, including methaneSAT data. Funding for the program will be paid through permitting fees from owners/operators. Results of inspections will be shared with owners and operators within 30 days of completion and must include either proof of compliance or a remediation plan and a plan for follow-up inspections and an assessment of potential penalties.

The bill requires the Department to report to the legislature in 2026 and 2027 regarding the status of the program, to include the number of sources inspected, the schedule for completion of inspections, the number of sources out of compliance (specifically with the methane emission standards of the Oil and Gas Act and the federal methane emissions reduction requirements), and a summary of remediation plans and penalties assessed.

FISCAL IMPLICATIONS

As of January 2025, the Environment Department's Air Quality Program has seven inspectors for

a universe of approximately 3,800 permits, approximately 50,000 wells subject to the Environment Department’s Ozone Precursor Rule, and approximately 3,600 Notices of Intent. On average, the Air Quality Bureau receives 90 new construction permit applications per month.

To accomplish all inspections required by U.S. EPA under the Air Quality Bureau’s performance measures – without the addition of work required by HB581 – the Air Quality Bureau would need \$4,200,000 annually. In general, the U.S. EPA requires the Air Quality Bureau to inspect 76 Title V facilities and what are known as “mega facilities” and 267 other facilities annually.

To complete the work required by HB581 for the 3,800 permits, the Air Quality Bureau would need an additional \$42,000,000 in addition to the \$4,200,000 it needs now – for a total of \$46,200,000 annually. The \$46,200,000 estimate does not include the wells subject to the Ozone Precursor Rule, nor the Notices of Intent. The estimate also does not account for the number of permit application increases that are occurring over time for which the Air Quality Bureau will have to account.

HB581 does not contain an appropriation, as it requires the Department to seek a fee increase from the Environmental Improvement Board to fund the Air Quality Bureau’s efforts. The Air Quality Bureau sought a fee increase in 2024, however the Environmental Improvement Board rejected that proposal.

SIGNIFICANT ISSUES

Without a General Fund appropriation to bridge the gap between the bill’s directives and a decision by the Environmental Improvement Board to fund the Air Quality Bureau sufficient to perform directives, the Air Quality Bureau will be unable to fulfill the requirements of the bill.

PERFORMANCE IMPLICATIONS

The Air Quality Bureau under current funding conditions is unable to meet its legislative performance standards.

ADMINISTRATIVE IMPLICATIONS

See above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Environment Department will not be required to complete additional unfunded work.

AMENDMENTS

None.