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FISCAL IMPACT REPORT

SPONSOR Heaton DATE TYPED 1/29/04 HB 207

SHORT TITLE Eliminate De Novo Air Quality Hearings SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Department of Transportation (DOT)
 Environment Department (ED)

SUMMARY

Synopsis of Bill

House Bill 207 eliminates de novo public hearings before the Environmental Improvement Board (EIB) on applications for air quality control construction, operating permits and draft permits issued by the ED. Instead, the bill provides an opportunity for a public hearing before ED. Then, upon a petition, the EIB may conduct a review of the record compiled by the ED and allow parties to submit arguments.

In the case of permit appeals considered by a local air quality control board, that local board shall hold a de novo hearing on the petition.

The bill directs that appeals of air quality permits be taken to State District Court instead of the Court of Appeals. Appeals of regulations adopted shall be taken to the Court of Appeals.

Significant Issues

This bill eliminates duplication of public hearings. If the EIB reviews the ED's action on air quality control permits, it may no longer hold a de novo public hearing, and instead is limited to

reviewing the record compiled before the ED. Only a “party” could submit arguments to the EIB at this record review. Any de novo public hearing at which all interested persons could participate would only be held before the ED.

ED supports the streamlining of the hearing process, but would like to see an expanded notice for the initial public evidentiary hearing, since the appeal hearing will be limited to a review of the record.

HB 207 continues to allow a local air quality control board to hold de novo hearings on permitting actions, at which all interested persons, and not just parties, may participate.

ED notes that currently, all appeals of air quality permits and regulations adopted are taken to the Court of Appeals. This bill will require permit appeals to be taken to a state district court. It will increase the expenses to the ED to handle actions all over the State.

FISCAL IMPLICATIONS

HB 207 will greatly reduce the financial burden of duplicative air permitting hearings on ED. ED claims they are not provided with sufficient budget to cover the cost of the initial hearing and a second evidentiary hearing. The costs to ED for the 2000 Intel air permit appeal hearing were more than \$25,000. This does not include costs that the public and the requestor incurred to present their cases in each hearing.

ADMINISTRATIVE IMPLICATIONS

Elimination of duplicative hearings will have a positive administrative impact on ED. Duplicative hearings take staff resources from their core work assignments which are to issue and oversee air quality permits.

DW/lg