LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 14, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3732** by Hardcastle (Relating to the implementation of advanced clean energy projects and other environmentally protective projects in this state.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3732, Committee Report 2nd House, Substituted: a negative impact of ($30,000,000) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	($30,000,000)
2009	$0
2010	($30,000,000)
2011	$0
2012	($30,000,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated--Ultraclean Energy Project*	Probable Savings/ (Cost) from *New General Revenue Dedicated--Ultraclean Energy Project*	Change in Number of State Employees from FY 2007
2008	($30,000,000)	$30,127,500	($10,127,500)	2.0
2009	$0	$127,500	($10,127,500)	2.0
2010	($30,000,000)	$30,127,500	($10,127,500)	2.0
2011	$0	$127,500	($10,127,500)	2.0
2012	($30,000,000)	$30,127,500	($10,127,500)	2.0

Fiscal Analysis

The bill would create the Ultraclean Energy Project Grant and Loan Program to encourage the development of ultraclean energy projects that produce reliable and affordable electric power in an environmentally protective manner. The program would be administered by the State Energy Conservation Office (SECO) located within the Office of the Comptroller. The bill would create the new General Revenue-Dedicated Ultraclean Energy Project (UCEP) Account within the General Revenue Fund. Money in the account could only be appropriated to the SECO to award grants or make or guarantee loans under the program.

The UCEP Account would consist of bonds issued by the Texas Public Finance Authority; the first $30 million in revenues from gross receipt taxes from utilities collected in any biennium; appropriations by the Legislature to the account; gifts grants and donations; and interest earned on the investment of money in the account. From the proceeds of the gross receipt tax, the SECO would be authorized to award up to $20 million in grants from the UCEP account each fiscal biennium and up to $10 million to make or guarantee loans.

The Texas Public Finance Authority (TPFA) would be directed to issue general obligation bonds. Loans made or guaranteed from the proceeds of such bonds would have to satisfy conditions in the Texas Constitution, Article III, Section 49-p.

The Texas Commission on Environmental Quality would be required to establish a permitting procedure for ultraclean energy projects. The TCEQ would also be required to establish a nonexclusive list of facilities, devices or methods for the control of air, water or land pollution. The bill would provide various forms of tax relief, abatement, exemptions, and property appraisal limitations for ultraclean energy projects, including a tax exemption from the oil production tax for the enhanced recovery of anthropogenic carbon dioxide. The Railroad Commission and the TCEQ would be responsible for approving the enhanced recovery tax exemption applications.

The bill would require the SECO to establish the ultraclean energy grant and loan program by January 1, 2008. The SECO could provide for the recovery of fees and administrative expenses relating to the UCEP. The bill would require the TCEQ to adopt rules relating to the ultraclean energy project and rollback relief by January 1, 2008. The provision relating to the issuance of general obligation bonds by the TPFA would take effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy were approved by the voters.

The bill would require the TCEQ and the SECO to issue a joint report to the Legislature by September 1, 2010 and again by September 1, 2016 providing an update on the status of implementation of the UCEP program.

Methodology

This estimate assumes that the transfers from gross receipt taxes to the newly created General Revenue-Dedicated UCEP Account would occur in the first year of each future biennium.

For the TPFA to issue the general obligation bonds required by the bill, a constitutional amendment would have to be passed and approved by voters to authorize the bonds. House Joint Resolution 93 proposes $250 million in bonds for projects encouraging the use of carbon-free energy project loans. This estimate assumes that if the resolution were approved, such bond proceeds would only be used to guarantee loans to business entities; no General Revenue is expected to be needed for debt service because loan repayments would be used to repay the debt. The total debt service on such bonds is estimated at $24.6 million for the 2008-09 biennium. If a portion of loans would default, the state could be liable for a portion of that debt service.

The above estimate includes salary and related costs for 2 FTE positions for the SECO to implement the ultraclean energy grant and loan programs. This estimate assumes such costs would be paid through fees assessed on applicants to cover the cost of administering the program (estimated to be $127,500 per fiscal year), and that those fees would be deposited to the newly-created UCEP Account. This estimate assumes that the SECO would make $10 million in grant awards out of the UCEP Account per year, or 50 percent of the biennial amount designated for such purposes. This estimate assumes that the $10 million biennial allocation of UCEP Account funds for loans would not be spent; rather it would remain in the account to guarantee the loans.

The bill's exemption on the sale of electricity generated by an ultraclean energy project from gross receipts taxes would likely result in a loss in tax revenue to the state. The loss would depend on the number of ultraclean energy facilities that would become operational and the electricity sales associated with such facilities. The bill's expansion of the oil production tax exemption for anthropogenic carbon dioxide recovery also could result in a loss of tax revenue to the state. The loss would depend on the number of producers choosing to capture oil using carbon dioxide from an anthropogenic source.

No significant administrative costs to the TCEQ, the Railroad Commission, or to the TPFA is expected as a result of the bill's passage.

Local Government Impact

Because of the bill's proposed tax abatements, local governments may see a reduction in tax revenue if existing coal energy projects located within their jurisdictions meet the qualifications of an ultraclean energy project. The reduction would depend upon the value of such an entity's property and the tax rate of the jurisdiction.

Source Agencies: 582 Commission on Environmental Quality, 304 Comptroller of Public Accounts

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