LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

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

IN RE: **HB469** by King, Phil (relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester in geological formations carbon dioxide that would otherwise be emitted into the atmosphere.), **Committee Report 1st House, Substituted**

Depending on the size of the franchise tax credit and the number of power plants constructed in accordance with provisions of the bill, the state could forego an indeterminate amount of franchise tax revenue. Depending on the location of carbon sequestration, the state could experience a revenue loss to the Permanent University Fund. Depending on the number of producers participating in qualified EOR projects, the state could experience an indeterminate loss of severance tax revenue.

The bill would provide tax incentives to organizations that participate in research and development activities related to a "clean energy project". Specifically, a "clean energy project" is defined as the construction of a carbon-fueled electric generating facility that: (1) has a capacity of at least 200 megawatts; (2) uses Integrated Gasification Combined Cycle or other pre-combustion technology; (3) will capture at least 70 percent of the carbon dioxide produced by the facility; (4) is capable of permanently sequestering the captured carbon dioxide in a geological formation; and (5) is capable of supplying the carbon dioxide for use in an Enhanced Oil Recovery (EOR) project.

The bill provides for a franchise tax credit, that would equal the lesser of 10 percent of the total capital cost of the project or $100 million, for an entity implementing a clean energy project, with a maximum of three projects receiving the credit. The Comptroller would issue the tax credit to an entity only after: (1) the Railroad Commission has issued a certificate of compliance for the project; (2) the facility is completed and fully operational; and (3) the Bureau of Economic Geology of the University of Texas at Austin verifies the facility is sequestering at least 70 percent of the carbon dioxide resulting from the generation of electricity by the facility.

The bill would require the Railroad Commission to issue a certificate of compliance verifying a project met the requirements for a clean energy project. The Railroad Commission would be authorized to charge a fee to cover the cost of processing an application for certification.

The bill would require the Bureau of Economic Geology of the University of Texas at Austin (BEG) to monitor, measure, and verify the status of the sequestered carbon dioxide generated by clean energy projects. The bill would allow the BEG to charge a varying annual fee, that would total $8.1 million over eight years, to cover the cost of these services.

The University Lands Office of the UT System estimates that approximately ten thousand acres of land will be needed, per clean energy project, to sequester the necessary amount of carbon dioxide. According to the office, if land owned by the Permanent University Fund was used for this purpose, there would be an approximate loss of $33.5 million to the PUF over 5 years, since the land would no longer be available for oil and gas exploration.

The bill would amend the Tax Code to reduce the oil production tax rate from 4.6% to 1.15% for certain oil producers. To qualify, the oil produced must be recovered through an Enhanced Oil

Recovery Project (EOR) that uses carbon dioxide generated by a clean energy project. Also, the producer must receive certification from either the Railroad Commission or the Texas Commission on Environmental Quality, depending on where the carbon dioxide is sequestered. The tax rate reduction will last for 30 years.

Currently, a producer is eligible for the rate reduction for 7 years if at least 99% of the carbon dioxide sequestered will remain so for at least 1000 years. Since the bill would extend the length of the rate reduction the state could experience a revenue loss that would depend on the number of producers participating in an EOR project.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 455 Railroad Commission, 720 The University of Texas System Administration, 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 301 Office of the Governor

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