LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 14, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB1365** by Bonnen (Relating to the Texas emissions reduction plan.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1365, As Engrossed: a negative impact of ($1,151,000) through the biennium ending August 31, 2005.

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
2004	$13,000
2005	($1,164,000)
2006	($2,139,000)
2007	($4,126,000)
2008	($6,315,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain from *TEXAS EMISSIONS REDUCTION PLAN* 5071	Probable Savings from *TEXAS EMISSIONS REDUCTION PLAN* 5071	Probable (Cost) from *TEXAS EMISSIONS REDUCTION PLAN* 5071
2004	$13,000	$96,221,000	$160,515	($94,605,618)
2005	($1,164,000)	$120,156,000	$163,710	($117,862,842)
2006	($2,139,000)	$124,125,000	$163,710	($121,712,772)
2007	($4,126,000)	$129,257,000	$163,710	($126,690,812)
2008	($6,315,000)	$134,169,000	$163,710	($131,481,642)

Fiscal Year	Probable (Cost) from *STATE HIGHWAY FUND* 6	Change in Number of State Employees from FY 2003
2004	($8,122,500)	19.0
2005	($7,550,500)	19.0
2006	($7,550,500)	19.0
2007	($7,550,500)	19.0
2008	($7,550,500)	19.0

This estimate assumes the bill would take effect on September 1, 2003.

Fiscal Analysis

The bill would create a temporary fee on the delivery of undyed diesel fuel ranging from $75 per cargo tank less than 2,500 gallons up to $300 per cargo tank with a capacity between 8,000 and 10,000 gallons. Ninety-eight percent of such fees would be deposited to the credit of the Texas Emissions Reduction Plan (TERP) Account No. 5071, while the remaining 2 percent would be credited to the General Revenue Fund to cover the collection expenses of the Comptroller.

The bill would change the surcharge on heavy-duty diesel equipment from 1 percent under current law to 2 percent. In addition, the bill would extend the surcharge to include leased and rental equipment on which the Comptroller currently does not assess the surcharge.

The bill would change the percentage allocations regarding the use of TERP funds. The Comptroller of Public Accounts and the Public Utility Commission, which currently receive 10 percent and 7.5 percent, respectively, of TERP Account No. 5071 funds for grant and incentive programs, would no longer receive financial assistance payments. These two agencies would, however, still be eligible for a portion of the 3 percent of TERP funds for administrative costs. The Texas Council on Environmental Technology (TCET) would receive 9.5 percent of TERP funds, as compared to the 7.5 percent under current law. The percentage allocation for the Texas Commission on Environmental Quality (TCEQ), would be 87.5 percent. Five percent of the TCEQ amount would be designated for local governments.

The bill would prohibit the TCEQ from setting speed limits for environmental purposes.

The bill would allow the General Land Office to develop a Green Building accreditation program for buildings that exceed the building energy performance standards of Health and Safety Code, Section 388.003, by 15 percent or more.

Methodology

The Comptroller of Public Accounts estimates that the temporary fee on the delivery of undyed diesel fuel would generate and the increase in the surcharge on the sale of heavy-duty diesel equipment and the extension of the tax to include uses such as leases and rentals would generate an additional $96.2 million to the TERP Account No. 5071 in 2004, increasing to $134.2 million by 2008, as shown in the table above.

Two percent of the fees would be deposited to the General Revenue Fund. However, the Comptroller estimates that the net effect on General Revenue Funds resulting from the bill's passage would be negative, based on an estimated dynamic tax feedback effects created by the increase in industry and/or individual tax burdens. The net loss to General Revenue is shown in the table above.

The Texas Department of Transportation (TxDOT) is expected to experience increased costs for projects involving vehicles and equipment powered by diesel fuel. Based on an estimated 8.7 million gallons of diesel fuel used by TxDOT, one-half of which is undyed diesel, and an average increase of $.03 per gallon, increased fuel cost are expected to total $130,500 per year at the agency. TxDOT also estimates that an additional 140 million gallons of diesel are used by contractors for the agency, and that one-half of this gasoline is of the undyed variety. This is expected to result in an increase of $2.1 million per year in agency expenses. The increase of one percent in the surcharge on heavy-duty equipment is estimated to add an additional $5.3 million in costs to TxDOT, based on increases contractors would pass along to the agency.

In 2004, TxDOT also would require an estimated $572,000 to change speed limit signs currently set for environmental purposes. This estimate assumes all costs to TxDOT would be paid out of the State Highway Fund No. 006.

TCEQ's 87.5 percent of new TERP Account No. 5071 revenues, plus an additional 15.5 percent of the current revenue stream, is anticipated to result in an additional $87.5 million in fiscal year 2004 for diesel emissions reductions grants, rising to $120.8 million by fiscal year 2005. The TCET would receive additional TERP funds ranging from $9.6 million in 2004 to $13.2 million in 2005. This would result in approximately $1.9 million to $2.6 million to be used each year for air quality research.

Of the three percent allocated for administrative costs, it is estimated that the TCEQ would require an additional $549,590 in fiscal year 2004 and $491,090 in future years and require an additional 9 FTEs to handle the significant increase in the amount of grant funds available.

The Comptroller of Public Accounts would be expected to experience a savings in TERP expenditures. Based the current TERP Account No. 5071 revenue stream and anticipated costs for 2004-08, is estimated to result in a savings of $160,515 in fiscal year 2004 and $163,710 in future years.

This estimate assumes that all revenues received in the TERP Account No. 5071 would be needed by the TCEQ and the TCET, so that no funds would be available for the energy efficiency grant program. Although the Public Utility Commission would no longer receive a designated allocation for grants from the TERP Account No. 5071 funds, the agency still would continue to administer other TERP responsibilities, including the newly created Green Building program. No significant impact to the agency's administrative costs or FTEs is expected.

This estimate assumes the Texas Engineering Experiment Station's (TEES) Energy System's Laboratory does not receive sufficient TERP funds from the current revenue stream to carry out its statutory requirements in Health and Safety Code, Chapter 388. Accordingly, it is estimated that the TEES would receive an additional $721,657 each fiscal year, or one-fourth of the allocation for administration designated at 3 percent of TERP funds in Health and Safety Code, Section 386.252(a)(5). This would also provide for an increase of 10 FTEs at the TEES.

Since the TCEQ and the TEES are the only agencies expected to require addititional administrative costs upon passage of the bill, only $1.3 million out of $2.9 million to $4.0 million in additional TERP funds for administration (3 percent of total collections) would be expected to be appropriated by the Legislature. The TCET's administrative responsibilities would increase, but the TCET does not share in the 3 percent allocated to the other agencies for administrative costs, and Health and Safety Code, Section 386.052, limits the agency's administrative expenditures to no more than $250,000 per year.

Technology

No significant impacts to technology are expected as a result of the bill's passage.

Local Government Impact

Local governmental entities would benefit from new fees charged to help increase the amount in the TERP Fund. Since TERP grants administered by the TCEQ would increase from a current level of approximately $21 million per year to an estimated $86.7 million in 2004, rising to $120.8 million by 2008, the share designated for political subdivisions is estimated to be $5.4 million in fiscal year 2004 rising to $7.1 million by fiscal year 2005 (five percent of 87.5 percent of total TERP funds).

Some of the changes required by the bill would allow easier cooperation between the Texas Emissions Reduction Program and incentives provided at the local government level. Local governments could also benefit from a more effective program as recipients of grant funds.

Local governments could experience increased fuel costs resulting from the diesel fuel delivery fee created by the bill. Additional costs would depend on the number of gallons of fuel a political subdivision uses each year and the number of contract costs that would be increased as a result of the new diesel fee.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 369 Council on Environmental Technology, 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas Engineering Experiment Station

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