LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 23, 2005

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

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

IN RE: **HB2481** by Bonnen (Relating to air contaminant emissions reductions, including the continuation and provisions of the Texas emissions reduction plan and the use of money currently dedicated to the Texas emissions reduction plan fund.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2481, As Passed 2nd House: an impact of $0 through the biennium ending August 31, 2007.

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
2006	$0
2007	$0
2008	$0
2009	$0
2010	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *TEXAS MOBILITY FUND* 365	Probable Revenue Gain/(Loss) from *TEXAS EMISSIONS REDUCTION PLAN* 5071	Probable (Cost) from *TEXAS EMISSIONS REDUCTION PLAN* 5071
2006	($141,204,000)	$154,041,000	($12,837,000)	$0
2007	($160,380,000)	$160,380,000	$0	$0
2008	($166,652,000)	$166,652,000	$0	
2009	($169,787,000)	$77,675,000	$169,787,000	($169,787,000)
2010	($176,380,000)	$82,352,000	$176,380,000	($176,380,000)

Fiscal Year	Probable Savings/ (Cost) from *CLEAN AIR ACCOUNT* 151
2006	($800,000)
2007	$0
2008	$0
2009	$0
2010	$0

Fiscal Analysis

The bill would extend the Texas Emissions Reduction Plan (TERP) until August 31, 2013, rather than August 31, 2008. The bill would provide that the $75,000 offset fee paid by owners and operators of sites generating emissions be deposited to the Texas Mobility Fund, rather than the TERP Account No. 5071, as provided under current law. The Texas Commission on Environmental Quality (TCEQ) would be required to ensure that these funds ultimately be used in the same non-attainment area in which they were collected.

The bill would provide that various other fees currently deposited to the TERP Account No. 5071 also be deposited to the Texas Mobility Fund. The bill would maintain the $33 fee for certificate of title for applicants residing in a nonattainment area as defined in the Federal Clean Air Act, which is scheduled to be reduced to $28 on September 1, 2008 under current law. The bill would direct that the portion of the certificate of title fees deposited to the credit of the TERP Account No. 5071 ($20 in a nonattainment area and $15 in other areas) also be deposited instead to the Texas Mobility Fund No. 365.

The bill also would provide that the Texas Department of Transportation (TxDOT) remit to the Comptroller for deposit in the TERP Account No. 5071 an amount from the State Highway Fund No. 6 equal to the amount of funds deposited to the Texas Mobility Fund No. 365 from TERP-related fees. This analysis does not address the potential legal issues associated with the transfer of funds from State Highway Fund No. 6 to TERP Account No. 5071.

The bill would eliminate the Texas Council on Environmental Technology. The bill increases the maximum amount of funds the Texas Commission on Environmental Quality (TCEQ) can spend from the Texas Emissions Reduction Plan (TERP) Account No. 5071 for administrative costs associated with the New Technology Research and Development (NTRD) program from $250,000 to $350,000. It also would modify the allocation schedule for funds in the TERP Account No. 5071. Between September 1, 2005 and September 1, 2008, all funds currently being spent by the TCEQ for the NTRD program would be allocated to a nonprofit in Houston to implement the TNRD program.

Effective September 1, 2008, instead of 87.5 percent of funds being designated for the diesel emissions reduction incentive program, only 64 percent would go to that program. The NTRD program would receive 33 percent of funds, as opposed to only 9.5 percent prior to September 1, 2008. At that time, the amount of NTRD funds that must be allocated for research at a nonprofit based in Houston would decrease from 20 percent to 10 percent, and at least 25.5 percent of TNRD funds would be required to be allocated to a Houston nonprofit to administer and implement the NTRD program. Remaining balances would be allocated to the TCEQ to fund new technologies to obtain emissions reductions credits.

The bill would require the Texas Transportation Commission to make accommodations for utilities when establishing the boundaries of a controlled access highway .

The bill would establish a clean school bus program for which up to 1.5 percent of diesel emissoins reductions grants could be used as grants to reduce diesel exhaust from school buses. The funding could only be used for the clean school bus program if all other SIP commitments were met.

The bill would provide that grants from the TERP program for locomotives or marine vessels could not be made in an amount disproportionate to the amount that the owner of such a vechile contributes to the TERP Account No. 5071.

The bill would require the TCEQ to adopt by reference the Clean Air Act Interstate Rule and the Clean Air Mercury rule of the Federal Clean Air Act and to adopt a State Implementation Plan (SIP) in accordance with those rules. In addition, the TCEQ would have to conduct a study on the availability of mercury control technology by September 1, 2006.

The bill would be effective on September 1, 2005.

Methodology

This estimate assumes that the revenue stream currently deposited to the TERP Account No. 5071 would instead be deposited to the Texas Mobility Fund beginning on September 1, 2005, and that an equal amount would transfer from the State Highway Fund No. 6 to the TERP Account No. 5071. However, there would be a one-month lag in the collections, which would reduce the effective amount available in the TERP Account No. 5071 in fiscal year 2006.

This fiscal note assumes there would be no net gain to the TERP Account No. 5071 during 2006-08 years, but there would be a loss to the State Highway Fund No. 6 and a corresponding gain to the Texas Mobility Fund during fiscal years 2006-08. In fiscal years 2009 and 2010, the TERP Account would experience a revenue increase equal to the entire TERP revenue stream, since no fees would be deposited to that account after September 1, 2008 under current law. Since the funds would transfer from the State Highway Fund No. 6, the fund would experience a corresponding loss. With respect to the Texas Mobility Fund, the gain to the fund would be limited to the revenue collected from all fees except the amount of the certificate of title fee that already would have gone to the Texas Mobility Fund ($15 from all certificates of title). The additional $5 fee paid in nonattainment would result in a gain to the Texas Mobility Fund.

Costs to the TERP Account No. 5071 are shown in fiscal years 2009 and 2010 because TERP funded programs would continue in those years upon passage of the bill. Under current law, those programs sunset on August 31, 2008. Changes to the allocations of funding in the TERP account would have an impact on programs operated by the TCEQ and the amount designated for specific purposes. However the number of FTEs and the overall appropriations to the TCEQ would not be affected by the allocation changes.

The Texas Department of Transportation (TxDOT) indicates that requiring the Texas Transportation Commission to make accommodations for utilities when establishing the boundaries of a controlled access highway could require the agency to purchase additional right-of-way in places where there is no right-of-way for utilities to locate. TxDOT estimates this could increase right-of-way acquisition costs by as much as $15 million per year. Based on TxDOT’s estimated budget of $605 million in fiscal year 2006 and $451 million in fiscal year 2007 for right-of-way acquisition, it is assumed any costs associated with implementing this provision of the bill could be absorbed within existing resources.

No significant fiscal implications are expected to result from the establishment of a clean school bus program, since funding for the program would come from a portion of an existing program and only available if SIP requirements were met with existing funding.

No significant fiscal implications are expected as a result of the bill's requirement that locomotives and marine vessels not receive grant funding in excess of the proportion of the amount recipients contribute to the TERP Account No. 5071.

The bill's provisions requiring the TCEQ to adopt the Clean Air Interstate Rule and the Clean Air Mercury rule would result in a one-time cost of $300,000 in professional services fees for associated air quality modeling in fiscal year 2006. The required study on the availability of mercury control technology would also result in an additional one-time cost of $500,000 in fiscal year 2006.

Local Government Impact

Local school districts, regional planning commissions, and councils of government could expect increased revenues if a district would apply for and receive a Texas Clean School Bus program grant. Based on expected TERP Account No. 5071 in fiscal year 2006, up to approximately $1.7 million each fiscal year could go to school districts throughout the state for projects aimed at reducing emissions from school bus engines, assuming the needs of the state implementation plan are met using remaining TERP Account No. 5071 funds.

Source Agencies: 582 Commission on Environmental Quality, 601 Department of Transportation, 304 Comptroller of Public Accounts

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