

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

TO: Honorable Jim Keffer, Chair, House Committee on Ways & Means

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

IN RE: HB3108 by Burnam (Relating to the imposition of an energy efficiency tax and to the use of the proceeds to fund education; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3108, As Introduced: a positive impact of \$258,566,000 through the biennium ending August 31, 2007.
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General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$107,035,000
2007	\$151,531,000
2008	\$143,158,000
2009	\$135,104,000
2010	\$127,035,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>FOUNDATION SCHOOL FUND</i> 193
2006	\$107,035,000
2007	\$151,531,000
2008	\$143,158,000
2009	\$135,104,000
2010	\$127,035,000

Fiscal Analysis

The bill would add a new chapter to Subtitle E, Title 2 of the Tax Code, relating to the imposition of an energy efficiency tax.

The bill would impose a tax on each electric generator, as defined in the bill, at a rate of 60 cents per pound of nitrogen oxides emitted in generating a megawatt hour of electricity. The tax rate would be multiplied by the total megawatt hours of electricity generated by the electric generator during the reporting period and remitted, along with a tax report, to the Comptroller of Public Account's office on the 25th day of each succeeding month. The bill would require each electric generator to file its monthly tax report stating the number of pounds of nitrogen oxides emitted during the preceding month, the total number of megawatt hours generated, and any other information required by the Comptroller.

The bill would establish penalties that would apply if an electric generator failed to file a report or pay the tax within 30 days of the monthly due date. The penalty would be 12 percent of the amount of

delinquent tax, but not less than \$1. A delinquent payment would accrue interest.

All revenue collected under this bill, including penalties and interest, would be deposited to the credit of the Foundation School Fund.

The bill would take effect September 1, 2005.

Methodology

The Comptroller of Public Accounts estimated the fiscal impact based on data from the Texas Commission on Environmental Quality (TCEQ) relating to annual nitrogen oxide emission tonnage and associated with firms in the electric generation industry. The Comptroller reported that it is not possible to project with any certainty the events that would lead to penalties or interest under this bill; as a result, no estimate is provided for penalties or interest.

The estimated fiscal implications provided by the Comptroller reflect estimated dynamic tax feedback effects created by the increase in industry and individual tax burdens. For fiscal year 2006 the gain to the Foundation School Fund would be \$107,035,000 (estimated revenue for eight of the twelve months in fiscal year 2006 due to implementation) and for fiscal year 2007 the gain to the Foundation School Fund would be \$151,531,000. The revenue gain would be \$143,158,000 for fiscal year 2008; \$135,104,000 for fiscal year 2009; and \$127,035,000 for fiscal year 2010. Revenue gains decline over time as TCEQ expects nitrogen oxides emissions to decline each year.

Local Government Impact

Units of local government that use a process to generate electricity resulting in emission of nitrogen oxides would be affected. The specific impact will vary by entity and depend upon the megawatt hours of electricity generated by the electric generator.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality

LBB Staff: JOB, SD, WP, EB