LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 18, 2005

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: **SB1863** by Ogden (Relating to certain fiscal matters affecting governmental entities.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1863, As Engrossed: a positive impact of $17,489,575 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	$3,941,172
2007	$13,548,403
2008	$7,089,042
2009	$7,342,750
2010	$7,310,008

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *AVAILABLE SCHOOL FUND* 2	Probable Revenue Gain/(Loss) from *OIL-FIELD CLEANUP ACCT* 145
2006	$3,757,000	$766,172	($582,000)	$306,000
2007	$3,726,000	$10,421,863	($599,460)	$306,000
2008	$3,586,000	$4,120,486	($617,444)	$306,000
2009	$3,726,000	$4,252,717	($635,967)	$306,000
2010	$3,586,000	$4,379,054	($655,046)	$306,000

Fiscal Year	Probable Savings/ (Cost) from *GR DEDICATED ACCOUNTS* 994	Probable Savings/ (Cost) from *FEDERAL FUNDS* 555	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Savings/ (Cost) from *STATE HIGHWAY FUND* 6
2006	$80,650	$268,832	($1,747,000)	$221,787
2007	$986,512	$288,373	($1,799,410)	$237,908
2008	$396,893	$322,978	($1,853,392)	$266,457
2009	$410,812	$369,374	($1,908,994)	$304,734
2010	$424,111	$413,703	($1,966,264)	$341,305

Fiscal Year	Probable Savings/ (Cost) from *OTHER FUNDS* 997	Probable Savings/ (Cost) from *OTHER SPECIAL STATE FUNDS* 998
2006	$0	$6,721
2007	$3,000,000	$7,209
2008	$1,000,000	$8,074
2009	$1,000,000	$9,234
2010	$1,000,000	$10,343

Fiscal Analysis

Article 2 of the bill would increase the annual lobby registration fee to $1,000 from $300 for lobbyists other than those employed by a tax-exempt organization under 501(c)(3) or 501(c)(4), Internal Revenue Code. The registration fee for lobbyists employed by these non-profit organizations would remain at $100. The article would take effect December 1, 2005.

Article 3 would authorize the Commission on Jail Standards to set and collect a fee to cover the cost of a jail reinspection 1) following a determination of noncompliance with minimum standards, 2) at the request of the jail operator, and 3) before the jail operator has taken actions to ensure compliance with jail standards. Fees would be deposited in a special account within the General Revenue Fund and could be appropriated only to pay the Commission's costs for these reinspections. The article would take effect September 1, 2005.

Article 4 would implement the Legislative Budget Board's Staff Performance Report, "Recover Certain State Agency Overpayments to Vendors." The bill would require agencies with total expenditures exceeding $100 million in a biennium to participate in recovery audits on expenditures to third parties. The CPA may exempt some agencies by rule.

Article IX, Section 8.03 of the current version of the General Appropriations Bill as passed by the House and Senate directs the Comptroller to deposit 50 percent of recovered General Revenue Funds, General Revenue-Dedicated Funds, and Other Funds in the state treasury. The remaining 50 percent is retained by the agency for the original purpose of the appropriations and to pay the recovery audit firm. The bill would require the Comptroller to report results to the legislature.

The bill's provisions in **Article 5** authorizes the legislature to appropriate money in excess of the annual interest earned in Coastal Protection Account No. 027 for erosion response projects to the General Land Office.

Article 5 would also change the fee amount assessed by the Railroad Commission for each application or materially amended application for a permit to drill, deepen, plug back, or reenter a well, or to expedite the application. The bill would increase drilling permit fees and direct the amount of fee increase to the General Revenue Fund. The bill would maintain the 100 percent allocation to the Oil Field Cleanup (OFCU) Account No. 145 for Rule 37 spacing or Rule 38 density exception review applications. The bill would redirect drilling permit fee revenues from the OFCU Account No. 145 to the General Revenue Fund.

The bill would add a new inactive well fee of $100 per inactive well, to be paid annually at the time the operator's organization report is due. The inactive well fees would be deposited to the credit of the OFCU Account No. 145.

The bill would increase application fees injection well permits from $300 from $200. The bill would increase the fee for a permit to discharge to surface water to $500 from $300. The bill would direct revenues from the fee increases to the General Revenue Fund.

The bill would provide for a transfer of revenue from the General Revenue Fund to the OFCU Account No. 145 when the General Revenue portion of fees collected from drilling permit applications and injection well permit applications would exceed $ 2.9 million in a given fiscal year.

The bill would allow the Railroad Commission to suspend an organization report of a delinquent organization until fees and penalties have been paid in full. All organization report fees and penalties would be deposited to the OFCU Account No. 145.

The bill would redirect hazardous oil and gas waste generation fee revenues from the OFCU Account No. 145 to the General Revenue Fund.

The bill would increase the application fee for an oil and gas waste disposal well permit to $300 from $100 and provide that the amount of additional revenue be deposited to the credit of the General Revenue Fund. This article would take effect September 1, 2005.

Article 6 would implement some recommendations in the LBB's Staff Performance Report, "Offer an Incentive to Employees Who Opt Out of the State Employee Health Insurance Program." This article would modify the process an employee would use to waive participation in the Employees Retirement System (ERS) health benefit plan. The bill authorizes the board to allow an incentive payment to an employee who elects to opt out of the state's health coverage. The amount of the incentive payment is to be set in the General Appropriations Act. The incentive may be used by the employee only to pay for optional coverage provided under the ERS group benefits plan. The bill authorizes a reduction in the state contribution for an employee who waives participation in the state's health plan. The state is authorized to appropriate the amount specified in the General Appropriations Act for the incentive payment instead of the amount of the state contribution for "member-only" health coverage.

Article 7 would amend Chapter 162 of the Tax Code regarding motor fuel taxes. The bill would clarify that when distributors default on tax payments to suppliers or permissive suppliers, the suppliers would not owe additional tax from accounts for which an accelerated bad debt deduction had been taken as a result of the default.

The bill would also provide that under certain circumstances, a seller of motor fuels could verify end user numbers of exempt purchasers by other means than the acceptance of a signed statement. The licensed seller would be required to use the Comptroller's web site or other materials provided or produced by the Comptroller to verify the information.

Lastly, the bill would allow a license holder to take credit for diesel fuel used in the manufacturing of tangible personal property for resale (including feedstock) or in the production of oil or gas or to increase production of oil or gas. This article would take effect September 1, 2005.

Article 8 allows the executive commissioner of the Health and Human Services Commission to provide for periods of continuous eligibility under the state Medicaid program and the children's health insurance program to provide savings to the state without imposing unreasonable demands on eligible persons. The commissioner is authorized to see a waiver or authorization if needed.

Except as noted above, the bill would take effect immediately if it receives a vote of two-thirds of each house. Otherwise, bill would take effect on the 91st day after the last day of the legislative session.

Methodology

The estimate for **Article 2** is based on information provided by the Ethics Commission. The Commission estimates that 1,400 lobbyists would register at the $1,000 level during each year in which a regular session of the Texas Legislature is held, and 1,200 lobbyists would register at the $1,000 level in nonsession years. This change would result in a General Revenue Fund gain of $1,820,000 for the 2006- 2007 biennium.

The estimate for **Article 3** is based on information from the Commission on Jail Standards. The Commission estimates fee revenue would be $5,000 per year from counties and architects for facility reinspections and occupancy inspections. This change would result in a General Revenue Fund gain of $10,000 for the 2006-2007 biennium.

For **Article 4**, it is assumed that the recovery audit firm would produce a 0.04 percent recovery rate on all expenditures. It is assumed that recoveries from fiscal years 2003 to 2005 would be collected in fiscal year 2007, but subsequent years would recover expenditures from a single prior fiscal year. As each Federal Funds program has its own rules regarding recovered expenditures, it is estimated that there would be no savings or revenue gain from Federal Funds. Per Article IX, Section 8.03 of the General Appropriations Bill passed by the House, half of recovered funds would be returned to the state treasury for each fiscal year that is audited. In fiscal year 2007, recovered funds returned to the state treasury would be for three years, thus saving $9.6 million in General Revenue, $0.9 million in GR-Dedicated Funds and $3.0 million in Other Funds. It is assumed that the CPA could absorb the cost of administering this program within current appropriations.

The bill's provisions in **Article 5** related to Coastal Protection Account No. 027 have no fiscal impact.

The oil and gas provisions in **Article 5** would result in additional revenues being generated in the General Revenue Fund and the OFCU Account No. 145. The amounts shown in the table above were provided by the Comptroller of Public Accounts, based on the 2006-07 Biennial Revenue Estimate and data and projections provided by the Railroad Commission.

The bill's provision for the transfer of revenue from the General Revenue Fund to the OFCU Account No. 145 when the General Revenue portion of fees collected from drilling permit applications and injection well permit applications would exceed $ 2.9 million in a given fiscal year is not expected to have a significant fiscal impact because such revenues are not expected to exceed $2.9 million in any single fiscal year.

The savings estimate for **Article 6** assumes: one-half of one percent of employees with member-only coverage would opt out of the state's health plan; the HealthSelect premium will increase each year; the employee population is constant; and savings would be reduced by 20 percent as a result of adverse selection.

Article IX of the current version of the General Appropriations Bill as passed the House authorizes a reduction in the state contribution for an employee or retiree who waives participation in the state's health plan. House Committee Report, C.S.S.B. 1, Article IX, Section 13.16 provides a $60 per month state contribution for each employee or retiree who opt out of the state's health coverage.

Using this incentive amount, the total anticipated 2006-07 All Funds savings is $2,786,027; including General Revenue Related savings of $1,755,197. The Committee Substitute for SB1863 removes the requirement for the Employee's Retirement System to include a TRICARE supplement as an optional coverage for employees who opt-out. This reduces the savings from this article.

Article 7 would provide a credit for diesel fuel used in manufacturing of goods for resale or in production of oil and gas. The Comptroller estimates this will result in a revenue loss of $582,000 to the Available School Fund and $1,747,000 to the State Highway Fund in fiscal year 2006. It is estimated the loss will grow by 3 percent each year thereafter.

The fiscal impact of **Article 8** cannot be determined because specific periods of eligibility are not defined.

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 327 Employees Retirement System, 356 Texas Ethics Commission, 455 Railroad Commission, 529 Health and Human Services Commission

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