

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

TO: Honorable Phil King, Chair, House Committee on Regulated Industries

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

IN RE: HB553 by Turner (Relating to market power abuse in the wholesale electricity market and pricing safeguards in certain markets; providing administrative and criminal penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB553, As Introduced: a negative impact of (\$892,372) through the biennium ending August 31, 2009.

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
2008	(\$354,860)
2009	(\$537,512)
2010	(\$332,651)
2011	(\$332,651)
2012	(\$332,651)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from GENERAL REVENUE FUND 1	Change in Number of State Employees from FY 2007
2008	(\$354,860)	4.3
2009	(\$537,512)	6.4
2010	(\$332,651)	4.0
2011	(\$332,651)	4.0
2012	(\$332,651)	4.0

Fiscal Analysis

The bill would amend the Utilities Code to require the Public Utility Commission (PUC) to investigate potential market power abuses and provide the name of the entity under investigation unless releasing the name could significantly impede or jeopardize the investigation. The bill would require the PUC to name the party under investigation and terms of any penalty or enforcement action at the conclusion of the investigation and require the PUC to conclude all investigations within 60 days.

The bill would prohibit the PUC from ordering restitution above the economic benefit gained by the violator and require the PUC to adopt procedures for determining the amount of economic benefit gained by persons entitled to restitution as a result of a violation. The bill would make a violation of these provisions a second-degree felony.

The bill would require that the offer cap in ERCOT-operated markets be no higher than \$1,000 per MWh or \$1,000 per MW per hour and require the PUC to adopt methods and procedures to prevent inappropriate bidding and gaming within ERCOT, including “hockey-stick” bidding.

The provisions of this bill would only apply to any violations or offenses that occur on or after September 1, 2007.

This bill would take effect September 1, 2007.

Methodology

Based on the analysis of the Public Utility Commission (PUC), it is assumed that there would be costs associated with requiring certain investigations to be completed within 60 days and associated with additional rulemaking relating to market power abuse in the wholesale electricity market, providing pricing safeguards in certain markets, and providing certain administrative and criminal penalties. It is estimated that the PUC would realize General Revenue costs for staff of \$265,038 and 4.3 FTEs in fiscal year 2008, \$401,458 and 6.4 FTEs in fiscal year 2009, and \$248,451 and 4.0 FTEs in fiscal year 2010 through fiscal year 2012. Other operating expenses are estimated at \$14,842 in fiscal year 2008, \$22,482 in fiscal year 2009, and \$13,913 in fiscal year 2010 through fiscal year 2012. Associated benefits are estimated at \$74,980 in fiscal year 2008, \$113,572 in fiscal year 2009, and \$70,287 in fiscal year 2010 through fiscal year 2012.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JOB, JRO, MW, TGI