

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

IN RE: HB3431 by Strama (Relating to the use of anthropogenic carbon dioxide in the recovery of oil.), As Engrossed

Passage of the bill would create an additional property tax and severance tax exemption for certain property used in connection with the capture of carbon dioxide from an anthropogenic source used in an enhanced oil recovery project. A reduction in taxable property values could result in an increased cost to the Foundation School Fund. However, passage of the bill could also result in an undetermined amount of revenue to the state resulting from the future installation of the property.

The bill would amend Section 11.31 of the Tax Code to expand the definition of "facility, device, or method for control of air, water, or land pollution" to include property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source that is used in an enhanced oil recovery (EOR) project for which a producer of oil receives a severance tax exemption, or that is geologically sequestered.

The bill would provide an expanded definition under which the Texas Commission on Environmental Quality (TCEQ) could approve property as pollution control property.

Under current law, a determination by TCEQ that property is pollution control property is provided to the chief appraiser and results in the described property becoming exempt from property taxation.

In addition, the bill would amend Chapter 202 of the Tax Code by adding Section 202.0545 concerning an additional severance tax exemption of 50 percent for enhanced oil recovery (EOR) projects using anthropogenic carbon dioxide. In the event that only a portion of the carbon dioxide used in the EOR project was anthropogenic, the exemption would be proportionately reduced.

The taxpayer would have to apply to the Comptroller for the tax exemption with the required information and certification, from a responsible agency, that 99 percent of the anthropogenic carbon dioxide would be sequestered for at least 1,000 years. The taxpayer would also have to apply to the Comptroller for a tax credit against overpaid taxes prior to the Comptroller's approval of the exemption within the first anniversary date of the first production.

The Comptroller, the Railroad Commission of Texas, and Texas Commission on Environmental Quality could enact rules and establish procedures to implement and administer the anthropogenic carbon dioxide sequestration program.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state; however, Section 403.302 of the Government Code requires the Comptroller to conduct a property value study to determine the total taxable value for each school district. Total taxable value is an element in the state's school funding formula. Passage of this bill could cause a change in school district taxable values reported to the Commissioner of Education by the Comptroller.

Passage of the bill could result in an undetermined amount of revenue to the state and units of local

government depending on the unknown future installation of certain property and the unknown future administrative decisions by TCEQ.

The bill is estimated to have an impact on the state aid districts receive based on the enrichment tier as tied to the yield of the Austin Independent School District (ISD). To the extent that the bill has the effect of lessening Austin ISD's revenue per weighted student per penny of tax effort, as determined by the Commissioner of Education, the equalized yield on those enrichment pennies would decrease, resulting in a decrease in state aid.

According to the Bureau of Economic Geology, there are as many as 500 potential EOR projects in East Texas and the Gulf Coast areas, with as much as 3.8 billion barrels of oil to be recovered using anthropogenic carbon dioxide. The production increase from these projects would be largely dependent on the supply of carbon dioxide within reasonable costs.

It is anticipated that it would take several years of planning, negotiations, permitting, building, and constructing sequestration facilities, as well as the acquisition, permitting, and preparation of oil fields before the first delivery and injection of the anthropogenic carbon dioxide would likely take place. In addition, the first production response since the first injection could take many months or longer, depending on each field's reservoir characteristic. As such, any production increase attributable to enactment of this bill likely would not occur until beyond 2010 and cannot be estimated at this stage.

TCEQ and the Railroad Commission indicate their would be minor costs associated with implementing the provisions of the bill.

The bill would take effect September 1, 2007. The expanded definition would take effect January 1, 2008.

Local Government Impact

Passage of this bill would create an additional property tax and severance tax exemption for certain property used in connection with the capture of carbon dioxide from an anthropogenic source used in an enhanced oil recovery project. A reduction in taxable property values could result in a loss of ad valorem tax revenue for units of local government. However, passage of this bill could also result in an undetermined amount of revenue to units of local government resulting from the future installation of the property.

Source Agencies: 304 Comptroller of Public Accounts, 455 Railroad Commission, 582 Commission on Environmental Quality

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