LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 25, 2007

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

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

IN RE: **HB3693** by Straus (Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3693, As Passed 2nd House: a negative impact of ($6,099,402) 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	($2,958,000)
2009	($3,141,402)
2010	($18,208,637)
2011	($18,296,637)
2012	($18,387,637)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account*	Probable Savings/(Cost) from *New General Revenue Dedicated Agricultural Biomass and Landfill Diversion Incentive Program Account*	Probable Revenue Gain/(Loss) from *Cities*
2008	($2,958,000)	$0	$0	($289,000)
2009	($3,141,402)	$94,402	($94,402)	($451,000)
2010	($18,208,637)	$15,067,637	($15,067,637)	($469,000)
2011	($18,296,637)	$15,067,637	($15,067,637)	($486,000)
2012	($18,387,637)	$15,067,637	($15,067,637)	($503,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties/SPDs*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2008	($337,000)	($99,000)
2009	($358,000)	($155,000)
2010	($360,000)	($161,000)
2011	($363,000)	($167,000)
2012	($365,000)	($173,000)

Fiscal Year	Change in Number of State Employees from FY 2007
2008	0.0
2009	1.0
2010	1.0
2011	1.0
2012	1.0

Fiscal Analysis

The bill would amend the Agriculture Code to establish a program by the Department of Agriculture (TDA) to make grants to encourage the construction of facilities that generate electrical energy with certain types of agricultural residues, waste, debris, or crops. The bill would require TDA with the assistance of the Texas Commission on Environmental Quality (TCEQ) and the Public Utility Commission (PUC), to establish an Agricultural Biomass and Landfill Diversion Incentive Program to provide grants to farmers, loggers, and diverters who provide agricultural biomass to facilities that: are located in the state; placed in service after August 31,2009; generate electric energy sold to a third party using agricultural biomass; and use the best available emissions control technology.

The bill would create a new General Revenue-Dedicated Account within the General Revenue Fund, the Agricultural Biomass and Landfill Diversion Incentive Program Account, which would consist of money transferred to the account at the direction of the Legislature, gifts, grants, donations and money from any other sources to be used by TDA to implement the incentive program. The new fund would be subject to funds consolidation review by the current Legislature.

The bill would amend the Education Code to require school districts to establish a goal to reduce their annual electric consumption by 5 percent each fiscal year for six years. The bill would amend the Education Code and the Government Code to require school districts, institutions of higher education, and state agencies to purchase the commercially available model of light bulbs that use the fewest watts for the necessary flux or light output and is compatible with the light fixture. In addition, the Texas Building and Procurement Commission (TBPC) would be required to develop and update a list of equipment and appliances that meet certain energy efficiency standards.

The bill would amend statute relating to required publication and reporting by governmental entities of electricity, water, and natural gas consumption. The governmental entities would have to track the use of electricity, water, or natural gas and report the information on a publicly accessible Internet website or another publicly accessible location.

The bill would amend the Government Code to create energy efficiency standards for the construction or rehabilitation of certain single and multifamily dwellings that are performed with assistance from the Texas Department of Housing and Community Affairs, including state or federal money, housing tax credits, or multifamily bond financing.

The bill would amend the Health and Safety Code to allow cooperative associations to provide central heating and cooling services. The bill would amend the Health and Safety Code to allow the State Energy Conservation Office (SECO), based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station, by rule, to adopt or substitute more stringent provisions of the International Residential Code or International Energy Conservation Code as they existed on May 1, 2001. If new provisions were adopted, SECO would have to establish an effective date for the new provisions no earlier than nine months after the date of adoption. The bill would include institutions of higher education and state agencies in energy efficiency programs, relating to Texas building energy performance standards. The Energy Systems Laboratory at the Texas Engineering Experiment Station would also develop different report formats for rating newly constructed residences from those of existing residences in regard to home energy ratings.

The bill would amend the Property Code, relating to the delivery of money by nonprofit cooperative corporations for rural scholarship, economic development, and energy efficiency assistance to add "energy efficiency assistance" among the permissible uses for unclaimed property and to increase the cap on unclaimed property diverted for these purposes that would normally be escheated to the state from $1 million to $2 million.

The bill would amend the Tax Code to exempt certain energy-efficient products from sales tax during a period beginning on the Saturday preceding the last Monday in May and ending on the last Monday in May. The bill would also amend the Tax Code relating to the tax credit for enhanced efficiency equipment installed on marginal oil wells by adding four more years to the qualifying period by advancing the expiration date of the tax credit from September 1, 2009 to September 1, 2013.
The bill would require the Comptroller of Public Accounts to provide a compliance report, in relation to the Texas Economic Development Act, to the Lieutenant Governor, the Speaker of the House of Representatives, and the other members of the Legislature at the beginning of each regular session.
The bill would amend various sections of the Utilities Code, relating to energy demand, energy load, energy efficiency incentives, energy programs and energy performance measures, relating to the restructuring of the electric utility industry. The bill would require the PUC to conduct several studies, including a study and recommendations regarding the potential for energy efficiency and a report on the installation of combined heat and power technology. The bill would provide prospective PUC oversight of mergers involving or the sale of 50 percent or more of the shares of a transmission and distribution utility or electric utility and would require notice of such transactions prior to closing the transaction. The bill would require PUC to provide information to school districts regarding how they may finance installation of solar panels for school district buildings and allow for a "Credit for Surplus Solar Generation by Public Schools."

The bill would amend the Utilities Code to provide for the interconnection of distributed renewable generation. The bill would require PUC, by rule, to establish safety, technical, and performance standards for distributed renewable generation that may be interconnected. The bill would establish metering requirements, ownership of renewable energy credits, and the value of surplus electricity produced. This provision of the bill would take effect January 1, 2009.

The bill would further amend the Utilities Code to define an eligible infrastructure project as the difference between the value of invested capital of a gas utility for the preceding calendar year and the value of the invested capital for the calendar year preceding that calendar year. The bill would make changes relating to interim adjustments in utility rates, and it would provide that a gas utility implementing a tariff or rate schedule reimburse a municipality or coalition of municipalities for their costs of consultants, accountants, auditors, attorneys, and engineers engaged to review the interim rate adjustment. However, the amount that a utility would be obligated to reimburse a municipality or a coalition of municipalities would not exceed an amount equal to two percent of the expected annual increase in revenue.

The bill would take effect September 1, 2007.

Methodology

Relating to the establishment of a program by the Department of Agriculture (TDA) to make grants to encourage the construction of facilities that generate electrical energy with certain types of agricultural residues, waste, debris, or crops, the Department of Agriculture estimates that $15 million would be granted to farmers/loggers/diverters per fiscal year. The estimate is based on an incentive of $20 for each ton of bone-dry biomass, and assumes an average load of 40 tons (the maximum load limit for non-permitted commercial transporters) of which 75 percent is bone-dry and 25,000 loads being transported by farmers, loggers and/or diverters a year. TDA anticipates no grants to be made until fiscal year 2010 given the provision that to be eligible for the incentive payments, these tons of biomass can only be provided to facilities that were in service after August 31, 2009.

TDA anticipates needing 1.0 FTE in fiscal year 2009 and some associated start up costs, including the creation of a computer application to support the new grant program, in order to be ready to implement the provisions of the bill when this program comes on-line in the beginning of fiscal year 2010, for a total cost of $94,402. TDA anticipates needing one FTE in subsequent fiscal years as well to administer the new grant program. Since no funding is available in the new General Revenue-Dedicated Account created by the bill, it is assumed that all costs would be paid from the General

Revenue Fund.

The provisions of the bill relating to school districts establishing a goal for a five percent reduction in energy consumption is estimated to not be a significant fiscal impact. The provisions of the bill relating to the purchase of energy-efficient light bulbs by school districts, higher education institutions, and state agencies are estimated to not have a significant fiscal impact. However, several universities indicate that if the provisions of the bill were mandated, they would incur a significant impact. Depending upon the amount of reduction of energy usage the state would realize an indeterminate amount of savings.

The provision relating to the powers of certain cooperative associations to provide central heating and cooling services residences is assumed to have no significant fiscal impact.

The provision relating to the State Energy Conservation Office adopting or substituting more stringent energy provisions and the Energy Systems Laboratory developing different report formats for rating newly constructed residences is assumed to have no significant fiscal impact to the agencies.

The bill would increase the cap from $1 million to $2 million on the amount that could be transferred to rural scholarship, economic development, and energy efficiency assistance programs. According to the Comptroller of Public Accounts, by changing this cap, all nonprofit cooperative corporations could increase money going to these programs and no longer remit these unclaimed funds to the Comptroller for deposit to the General Revenue Fund. The payment of claims on these properties would shift from the Comptroller to the nonprofit cooperative corporations or the administrator of the funds. The Comptroller estimates that the resulting loss to the General Revenue fund would be $700,000 in each fiscal year.

Under current law, Section 74.602 of the Property Code allows for unclaimed capital credits delivered to the state by electric cooperative corporations to be used by the county in which the cooperative members reside, for economic development programs defined under Section 381.004 of the Local Government Code. The bill would reduce the amount of unclaimed property, including capital credits, remitted to the state from electric cooperatives and thus reduce the amount available to counties for economic development programs under Section 381.004 of the Local Government Code. The Comptroller reports that all of the additional capital credits diverted to scholarship funds, to stimulate rural economic development, or to provide energy efficiency assistance to members of electric cooperatives would no longer be available to counties as it currently is. The Comptroller estimates that the resulting loss to counties fund would be $300,000 in each fiscal year.

The Comptroller reports that the extension of the expiration date relating to the tax credit for certain equipment purchased and installed on marginal wells would have no significant fiscal impact, as the tax credit is well-specific and capped at $1,000.

The estimate, relating to the sales tax exemption for certain energy-efficient products, provided by the Comptroller is based on gathered data from the U.S. Department of Energy on the sale of the specified energy efficient products. For the purpose of this analysis, the Comptroller adjusted sales data to reflect sales made in Texas for personal use and for the appropriate price range and time period, and multiplied the data by the state sales tax rate. The estimates were adjusted for the effective date and extrapolated through fiscal 2012. The Comptroller proportionally estimated the fiscal impacts on units of local government.

The Public Utility Commission reports that the required rule-making and reports would not have a significant fiscal impact on the Agency.

No significant fiscal impact is expected from the provisions amending the Utilities Code relating to the authority of a gas utility to receive an interim adjustment for certain infrastructure projects.

Technology

The Department of Agriculture anticipates that the cost to create a computer application to support the new grant program would be $21,600.

Local Government Impact

The fiscal impact to local government from the sales tax holiday is illustrated in the above tables. Because the bill would provide for the reimbursement of municipalities and coalitions of municipalities for costs relating to interim rate adjustments, the fiscal impact to local governments relating to the authority of a gas utility to receive an interim adjustment for certain infrastructure projects could have a positive fiscal impact for local governments in areas with interim rate adjustments. The amount of funds that would be reimbursed would be limited to two percent of the expected annual increase in revenue derived from the interim rate adjustment.

Source Agencies: 473 Public Utility Commission of Texas, 304 Comptroller of Public Accounts, 303 Building and Procurement Commission, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 712 Texas Engineering Experiment Station, 717 Texas Southern University, 720 The University of Texas System Administration, 783 University of Houston System Administration, 808 Historical Commission, 809 Preservation Board

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