LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 23, 2007

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

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

IN RE: **HB3732** by Hardcastle (Relating to the implementation of advanced clean energy projects and other environmentally protective projects in this state.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3732, As Passed 2nd House: a negative impact of ($30,000,000) 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	($30,000,000)
2009	$0
2010	($30,000,000)
2011	$0
2012	($30,000,000)

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--Advanced Clean Energy Project*	Probable Savings/(Cost) from *New General Revenue Dedicated--Advanced Clean Energy Project*	Probable Savings/(Cost) from *CLEAN AIR ACCOUNT* 151
2008	($30,000,000)	$30,127,500	($10,127,500)	($830,000)
2009	$0	$127,500	($10,127,500)	($330,000)
2010	($30,000,000)	$30,127,500	($10,127,500)	$0
2011	$0	$127,500	($10,127,500)	$0
2012	($30,000,000)	$30,127,500	($10,127,500)	$0

Fiscal Year	Probable Savings/(Cost) from *Operating Permit Fees Account* 5094	Change in Number of State Employees from FY 2007
2008	($120,000)	2.0
2009	($120,000)	2.0
2010	$0	2.0
2011	$0	2.0
2012	$0	2.0

Fiscal Analysis

The bill would create the Advanced Clean Energy Project Grant and Loan Program to encourage the development of clean energy projects that produce reliable and affordable electric power in an environmentally protective manner. The program would be administered by the State Energy Conservation Office (SECO) located within the Office of the Comptroller. The bill would create the new General Revenue-Dedicated Advanced Clean Energy Project (ACEP) Account within the General Revenue Fund. Money in the account could only be appropriated to the SECO to award grants or make or guarantee loans under the program.

The UCEP Account would consist of bonds issued by the Texas Public Finance Authority; the first $30 million in revenues from gross receipt taxes from utilities collected in any biennium; appropriations by the Legislature to the account; gifts grants and donations; and interest earned on the investment of money in the account. From the proceeds of the gross receipt tax, the SECO would be authorized to award up to $20 million in grants from the UCEP account each fiscal biennium and up to $10 million to make or guarantee loans.

The Texas Public Finance Authority (TPFA) would be directed to issue general obligation bonds. Loans made or guaranteed from the proceeds of such bonds would have to satisfy conditions in the Texas Constitution, Article III, Section 49-p.

The Texas Commission on Environmental Quality would be required to establish a permitting procedure for ultraclean energy projects. The TCEQ would also be required to establish a nonexclusive list of facilities, devices or methods for the control of air, water or land pollution. The bill would provide various forms of tax relief, abatement, exemptions, and property appraisal limitations for ultraclean energy projects, including a tax exemption from the oil production tax for the enhanced recovery of anthropogenic carbon dioxide. The Railroad Commission and the TCEQ would be responsible for approving the enhanced recovery tax exemption applications.

The bill would require the SECO to establish the ultraclean energy grant and loan program by January 1, 2008. The SECO could provide for the recovery of fees and administrative expenses relating to the UCEP. The bill would require the TCEQ to adopt rules relating to the ultraclean energy project and rollback relief by January 1, 2008. The provision relating to the issuance of general obligation bonds by the TPFA would take effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy were approved by the voters.

The bill would require the TCEQ and the SECO to issue a joint report to the Legislature by September 1, 2010 and again by September 1, 2016 providing an update on the status of implementation of the UCEP program.

The bill would create a Hydrogen Energy Loan Program to be administered by the SECO.

The bill require that the TCEQ not issue a permit for an advanced clean energy project if emissions from the proposed facility will cause an area to be designated as nonattainment.

The bill would require the TCEQ to identify emission reduction strategies for greenhouse gases (including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) in the state and submit a report to the legislature no later than October 31, 2008. The report would identify strategies that may result in net savings for consumers or businesses in the state and that could be achieved without financial cost to consumers or businesses in the state.

The bill would require that for a new permit for an electric generating facility, cumulative effects would need to be considered from air contaminants from the facility in the application and from other facilities located within 200 kilometers of the facility.

The bill would require the TCEQ conduct a pilot test of an advanced NOx control on one cement kiln. Specifically, the bill would require the commission to:(a) select one cement kiln for pilot testing of a selective technology; (b) conduct a feasibility study, design, supervise and monitor testing in consultation with an appropriate technology vendor, the kiln owner, the presiding officer of a local council of governments, and a representative of a citizen group; (c) competitively bid a contract for pilot testing; (d) accept, hold and spend any gift or grant conditioned on its use for pilot testing;(e) Complete pilot testing by December 31, 2008; and (e) deliver a report to the Legislature by January 1, 2009 detailing results of testing, including any NOx reductions from the chosen selective technology. The report would also detail the costs of installation, use, and maintenance of the chosen selective technology.

Methodology

This estimate assumes that the transfers from gross receipt taxes to the newly created General Revenue-Dedicated ACEP Account would occur in the first year of each future biennium.
This estimate assumes that no joint resolution would pass authorizing the issuance of bonds to encourage clean energy projects would be issued during the 2008-09 biennium. If a resolution would pass and be approved by voters, and if $250 million in bonds were issued; no General Revenue would be expected to be needed for debt service because loan repayments would be used to repay the debt. The total debt service on $250 million in bonds is estimated at $24.6 million for the 2008-09 biennium. If a portion of loans would default, the state could be liable for a portion of that debt service.

The above estimate includes salary and related costs for 2 FTE positions for the SECO to implement the advanced clean energy grant and loan programs. This estimate assumes such costs would be paid through fees assessed on applicants to cover the cost of administering the program (estimated to be $127,500 per fiscal year), and that those fees would be deposited to the newly-created ACEP Account. This estimate assumes that the SECO would make $10 million in grant awards out of the ACEP Account per year, or 50 percent of the biennial amount designated for such purposes. This estimate assumes that the $10 million biennial allocation of ACEP Account funds for loans would not be spent; rather it would remain in the account to guarantee the loans.

The bill's exemption on the sale of electricity generated by an advamced clean energy project from gross receipts taxes would likely result in a loss in tax revenue to the state. The loss would depend on the number of advanced clean energy facilities that would become operational and the electricity sales associated with such facilities. The bill's expansion of the oil production tax exemption for anthropogenic carbon dioxide recovery also could result in a loss of tax revenue to the state. The loss would depend on the number of producers choosing to capture oil using carbon dioxide from an anthropogenic source.

This estimate assumes that the TCEQ could absorb costs relating to the bill's requirement that the agency report to the Legislature on other state's efforts to reduce greenhouse gases.

To conduct a cumulative analysis as required by the bill, the TCEQ would need to develop a database to store the emissions data. Staff would be required to enter emissions data into the system, and analyze the data for specific permitting actions. In addition, until the database is populated, permit reviewers could be required to verify emissions information for sites within a radius of at least 200 kilometers of the facility, which could require the reviewer to identify and contact owners and operators of those sites. The cost to hire contractors for the modification of a database is estimated at $200,000 for fiscal year 2008 and $200,000 for fiscal year 2009. This estimate assumes that $80,000 of these costs would be paid out of the General Revenue-Dedicated Clean Air Account No. 151 in fiscal years 2008 and 2009 and the remaining $120,000 in fiscal years 2008 and 2009 would be paid out of the General Revenue-Dedicated Operating Permit Account No. 5094.

The pilot study for cement kilns proposed by the bill is expected to cost $1,000,000, with $750,000 being required in fiscal year 2008 and $250,000 being needed in fiscal year 2009. This estimate assumes that the pilot study would be complete by August 31, 2009, and that costs would be paid out of the Clean Air Account No. 151.

Local Government Impact

Because of the bill's proposed tax abatements, local governments may see a reduction in tax revenue if existing coal energy projects located within their jurisdictions meet the qualifications of an ultraclean energy project. The reduction would depend upon the value of such an entity's property and the tax rate of the jurisdiction.

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

LBB Staff: JOB, SD, WK, ZS, TL