LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 7, 2007

TO: Honorable Dennis Bonnen, Chair, House Committee on Environmental Regulation

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

IN RE: **SB12** by Averitt (Relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB12, Committee Report 2nd House, Substituted: a positive impact of $1,934,000 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	$472,000
2009	$1,462,000
2010	$2,262,000
2011	$3,108,000
2012	$4,000,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *CLEAN AIR ACCOUNT* 151	Probable Savings/ (Cost) from *CLEAN AIR ACCOUNT* 151	Probable Revenue Gain/(Loss) from *TEXAS EMISSIONS REDUCTION PLAN* 5071
2008	$472,000	$1,297,000	($26,500,000)	$0
2009	$1,462,000	$2,073,000	($28,500,000)	$0
2010	$2,262,000	$2,200,000	($28,500,000)	$0
2011	$3,108,000	$2,327,000	($28,500,000)	$195,260,000
2012	$4,000,000	$2,453,000	($28,500,000)	$206,935,000

Fiscal Year	Probable Savings/ (Cost) from *TEXAS EMISSIONS REDUCTION PLAN* 5071	Probable Revenue Gain/(Loss) from *TEXAS MOBILITY FUND* 365	Change in Number of State Employees from FY 2007
2008	($1,193,403)	$0	9.0
2009	($1,054,403)	$0	9.0
2010	($1,054,403)	$0	9.0
2011	($195,260,000)	($103,155,000)	9.0
2012	($206,935,000)	($106,335,000)	9.0

Fiscal Analysis

Article 1 of the bill would make changes to the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), including enhancement of capabilities for the retirement of old vehicles and their replacement. The bill would modify language regarding the application of the vehicle inspection and maintenance program extending the program to all vehicles, instead of gasoline-powered vehicles only under current law. The bill would also set 1980 as the limit for the model year of vehicles to which the vehicle inspection and maintenance program applies.

The bill would allow the Texas Commission on Environmental Quality (TCEQ) to provide repair and replacement assistance under the LIRAP program for owners making 300 or less of the federal poverty level with vehicles that are at least 10 years old, or fail an emissions test within 15 months of an application for assistance. The bill establishes a schedule for the maximum amount for a qualified replacement vehicle ranging from $1,500 for vehicles five to 10 years old to $5,000 for hybrid motor vehicles of the latest model year. The replacement vehicle would be required to have a gross vehicle weight of less than 10,000 pounds. The bill would also set a limit of 10 percent for administrative costs for the counties to administer the local initiatives program in nonattainment counties and, for Early Action Compact counties, require the TCEQ to provide 10 percent of all fees collected in such counties to the respective county for administration of the program. The bill would allow for replacement of pre-1996 vehicles, and allow funding for replacement of vehicles that have passed the EPA Start-up Acceleration Simulation Mode Standards emissions test but would have failed the EPA Final Acceleration Simulation Mode Standards emissions test.

The Local Initiatives Projects authorization for local air quality programs in counties participating in the LIRAP program would be repealed and replaced, with a maximum yearly cap of $10.0 million out of the Clean Air Account No. 151. It would apply only to counties participating in the LIRAP.

Article 2 would amend the Texas Emissions Reduction Plan (TERP) and New Technology Research and Development (NTRD) programs administered by the TCEQ. The bill would direct the TCEQ to hire staff and consultants needed to complete the comission's duties under this section and ensure timely review of applications and reimbursement of grant applicants' eligible project costs. The counties that may be designated as affected counties eligible for the TERP program are expanded to include counties containing all or part of a major highway transportation corridor, and for a marine vessel or engine, the area of eligibility is expanded to include waterays or bays within nine miles of a nonattainment area.

Article 2 also would: raise the cost per ton TERP grant award cap to $15,000; include marine vessels as infrastructure projects eligible for TERP funding; allow grants to other state agencies for idling reduction infrastructure projects at rest areas and other public facilities; and require the TCEQ to implement an internet-based TERP application project by June 1, 2008. The bill would provide that the TCEQ administer the TERP Account instead of the Comptroller.

Article 2 would amend the New Technology Research and Development (NTRD) program to provide TCEQ oversight over grants provided to nonprofit organizations. The use of grant revenue for administrative costs would be limited to 10 percent of funding provided, and a nonprofit organization would be subject to the requirements of open meetings and public information as outlined in the Government Code. The bill would expand the NTRD program to encourage the establishment of a testing facility to evaluate retrofits, add-ons, and advanced technologies and fuels to determine technology effectiveness.

The bill would extend to August 31, 2013, from September 30, 2010 under current law, the expiration date for the following fees deposited to the credit of the General Revenue-Dedicated TERP Account No. 5071: the 2 percent surcharge on the sale, lease or rental of new or used off-road, heavy-duty diesel equipment; the 2.5 percent (1996 and earlier models), and 1 percent (1997 and later models) surcharge on every retail sale, lease, or use of an on-road diesel motor vehicle over 14,000 pounds; the TERP surcharge imposed on the registration of a truck-tractor or commercial motor vehicle in an amount equal to 10 percent of the total registration fees due; and the TERP surcharge of $10 on the inspection of every commercial motor vehicle required to be inspected.

In addition, the bill would maintain the state fee for a certificate of title deposited to the credit of the General Revenue-Dedicated TERP Account No. 5071 at $20 for all applicants in a nonattainment area, whereas under current law the fee would have been reduced and the portion of the fee going to the TERP Account No. 5071 would have been reduced to $15 for all applicants regardless of county of residence. Proceeds of the certificate of title fee scheduled to be deposited to the Texas Mobility Fund No. 365 starting on September 1, 2008, would revert to the TERP Account No. 5071 on September 1, 2010.

Article 3 of the bill amends the energy efficiency programs administered by the State Energy Conservation Office and establishes new energy efficiency requirements for appliances sold in Texas. State agencies and institutions of higher education will now be included, along with local political subdivisions, in the requirement to establish goals to reduce electric consumption by five percent each year for six years, beginning September 1, 2007. It would also direct state agencies to purchase energy efficient appliances and equipment, if such items are available and cost-effective.

The bill would amend Chapter 388 of the Health and Safety Code, relating to energy efficiency, to allow the State Energy Conservation Office (SECO), to adopt by rule more stringent energy efficiency standards. SECO's responsibility to provide assistance and information to help entities meet required standards would be expanded to include institutions of higher education and state agencies. School districts would also be required to establish a goal to reduce electric consumption by the entity by 5 percent each year for six years, beginning September 1, 2007.

The bill would require the Texas Building and Procurement Commission (TBPC) to develop and update a list of equipment and appliances that met adopted energy efficiency standards and assist state agencies in selecting products appropriate under the standards. The bill would require the TBPC or state agencies to purchase equipment and appliances that met or exceeded standards if available and cost effective.

Methodology

Article 1

Removal of the words "gasoline powered" with regard to vehicles subject to the vehicle inspection and maintenance program would effectively add diesel-powered vehicles to the inspection program. The TCEQ reports that this would increase the number of vehicles subject to emissions testing each year by 325,000. In addition, because the bill would make all vehicles of model year 1980 or later subject to emissions testing, rather than those aged 25 years or less under current law, the number of vehicles subject to emissions testing will increase each year, and, consequently, the number of vehicles subject to the LIRAP fee would increase as well. Because vehicle emissions and testing fees are deposited partially to General Revenue ($2.00 per fee) and partially to the General Revenue-Dedicated Clean Air Account No. 151 ($0.50), and because LIRAP fees of $2.00 to $6.00 per inspection are deposited to the Clean Air Account No. 151, both of these accounts would experience revenue gains as estimated by the Comptroller and shown in the tables above. The Department of Public Safety has indicated that the cost of implementing the provisions of this bill would not be significant.

Provisions expanding the universe of owners and vehicles eligible for LIRAP vehicle replacement assistance would result in an increased demand for funding from LIRAP fee proceeds. This analysis assumes that all revenues collected from LIRAP fees and deposited to the credit of the General Revenue-Dedicated Clean Air Account No. 151 would be appropriated to meet this increased demand. According to the TCEQ, $32,000,000 in LIRAP revenues is expected in fiscal year 2008 and $34,000,000 is expected in 2009. This analysis assumes $34,000,000 in revenues in 2010 through 2012 as well.

The TCEQ would require one additional FTE and related costs to conduct audits of program requirements, including repair assistance, replacement incentives, retirement certifications, and programmatic administrative costs. A one-time cost of $500,000 would be incurred because the TCEQ would have to design vehicle emissions inspections testing for diesel-fueled vehicles, rather than gasoline-powered vehicles only as under current law. An additional one-time cost in fiscal year 2008 of $30,000 would be needed for a contract to determine the new final testing standards established by the bill. An additional one-time cost in fiscal year 2008 of $300,000 will be needed to install revised software in the emissions testing analyzer. The bill's requirement that the TCEQ work in partnership with automobile manufacturers and dealers to increase public awareness and participation in LIRAP would require an estimated $250,000 per fiscal year for each of the five years. The AirCheck Texas Repair and Replacement Assistance brochure would need to be reprinted to include the dollar limits and any other updated information. The brochure is given to each vehicle owner whose vehicle fails an emissions test. Reprinting the brochure would cost an estimated $100,000 in fiscal year 2008 and $10,000 in subsequent years.

This estimate assumes that the $10.0 million authorized for Local Initiatives Projects air quality program would result in the need for $10.0 million from the Clean Air Account No. 151. Two FTEs would be required to administer contracts for the Local Initiatives Projects

Total administrative costs for implementing Article 1 of the bill total $1,371,813 in fiscal year 2008 and $432,313 in subsequent years, all from the General Revenue-Dedicated Clean Air Account No. 151, and it would require three additional FTEs.

Based on current annual appropriations for LIRAP of $5,500,000 out of the General Revenue-Dedicated Clean Air Account No. 151 increased administrative costs to the TCEQ of $1,371,813 in fiscal year 2008 and $432,313 in subsequent years, and $10,000,000 per year for the Local Initiatives Projects, remaining revenues available for LIRAP vehicle replacement assistance would total $15.1 million in fiscal year 2008 and $18.1 million in subsequent years. Assuming an average replacement assistance amount of $3,000, this would provide funding for approximately 5,000 to 6,000 vehicle replacements per fiscal year.

Article 2

The bill's provisions expanding areas eligible for TERP funding to include major highway transportation corridors is expected to increase the number of projects and contracts to be administered by the TERP program and result in a corresponding increase in demand for TERP funds in a larger area of the state. The bill's provision expanding TERP funding eligibility to marine vessels also is expected to increase the demand for TERP funds and the number of applications received. These provisions, along with the provision allowing the agency to purchase and install idle reduction technologies and facilities at rest areas and other public facilities on major highway transportation routes, will result in the need for six additional FTEs and related costs.

An additional $400,000 each fiscal year for contracts for the audit and monitoring of TERP projects, based on the expansion of eligible areas and types of projects. An additional $100,000 would be needed in fiscal year 2008 to implement the requirement that TERP application submission be available via the Internet. It is estimated that an additional $250,000 per year would be needed to contract for application assistance to training in the completion of required grant administration and reimbursement forms to fulfill the bill's requirement for the timely review of applications and reimbursement of grant applicants' eligible project costs.

Total administrative costs for implementing Article 2, including costs associated with 6 additional FTEs and contracting costs, would total $1,193,403 in fiscal year 2008 and $1,054,403 in future years, all from the General Revenue-Dedicated TERP Account No. 5071.

With regard to changes relating to fee collections, the changes would result in a gain to the General Revenue-Dedicated TERP Account No. 5071 of $195.3 million in fiscal year 2008 and $206.9 million in fiscal year 2009 and a loss to the Texas Mobility Fund No. 365 of $103.2 million in fiscal year 2008 and $106.3 million in 2009. These estimates were provided by the Comptroller, based on the *2008-09 Biennial Revenue Estimate*, and result from fee extensions for the: off-road, heavy-duty diesel equipment surcharge, the on-road diesel motor vehicle surcharge, TERP surcharge of 10 percent on the registration of truck-tractors and commercial vehicles, the TERP surcharge of $10 on the inspection of a commercial motor vehicle; and the changes proposed by the bill for proceeds of the certificate of title.

This estimate assumes appropriations out of the General Revenue-Dedicated TERP Account No. 5071 would remain level in fiscal years 2008, 2009, and 2010. For 2011 and 2012, this estimate assumes all revenues deposited to the TERP Account No. 5071 would be appropriated, since this would be a new General Revenue-Dedicated revenue stream as compared to current law.

State agencies receiving TERP grants as a result of the bill's provisions authorizing idling reduction infrastructure projects at rest areas and other public facilities could incur a positive fiscal impact. The extent to which such projects were funded would depend on how much funding the TCEQ would designate for such projects and how cost-effective such projects would be at reducing emissions as compared to other applicants.

Article 3

State agencies could experience some cost savings relating to the bill's provisions requiring agencies to establish goals to reduce electric consumption by five percent each year.

Technology

To implement the provisions of the bill, in fiscal year 2008, the TCEQ would require $300,000 to install revised software in the agency's emissions testing analyzer; $30,000 would be needed for a contract to determine the new final testing standards established by the bill; and $10,500 would be needed for computers for new FTEs.

Local Government Impact

Local governments would be the recipients of the additional $5 million annually statewide from the bill's from the Local Initiatives program. In addition, local governments could gain up to 10 percent of additional LIRAP funds passed through the counties for administration, estimated to be $2.7 million to $2.9 million per year, due to the expansion of eligibility for the LIRAP program.

In fiscal year's 2011 and 2012, local governments could receive some portion of the additional funds available in the General Revenue-Dedicated TERP Account No. 5071 resulting from changes to fee expirations and dedications proposed by the bill. The amount they would receive would depend on the number of applications they would submit and the relative cost-effectiveness of other applicants.

Similar to state agencies, local governments may experience cost savings in electricity costs due to the bill's requirements that political subdivisions establish energy savings goals.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 701 Central Education Agency, 302 Office of the Attorney General, 303 Building and Procurement Commission, 405 Department of Public Safety, 601 Department of Transportation, 712 Texas Engineering Experiment Station

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