

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**February 20, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

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

**IN RE: SB444** by Hinojosa (Relating to the provision of electricity in this state; providing civil penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB444, As Introduced: a negative impact of (\$930,460) 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	(\$628,916)
2009	(\$301,544)
2010	(\$301,544)
2011	(\$301,544)
2012	(\$413,959)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> <b>1</b>	Probable Revenue (Loss) from <i>System Benefit Account</i> <b>5100</b>	Probable Revenue Gain/(Loss) from <i>System Benefit Trust</i> <i>Fund</i>	Change in Number of State Employees from FY 2007
2008	(\$628,916)	(\$133,854,000)	\$132,207,000	7.8
2009	(\$301,544)	(\$155,605,000)	\$150,336,000	4.0
2010	(\$301,544)	(\$159,365,000)	\$153,855,000	4.0
2011	(\$301,544)	(\$162,967,000)	\$157,457,000	4.0
2012	(\$413,959)	(\$166,654,000)	\$161,144,000	5.4

**Fiscal Analysis**

The bill would amend the Utilities Code relating to certain provisions of electricity in Texas and provide for certain civil penalties. The bill would require electric utilities, by the adoption and enforcement of rules by the Public Utility Commission (PUC), to establish the System Benefit Trust Fund outside of the State Treasury. The bill also would establish a civil penalty for abuses of market power, prohibit certain activities by retail electric providers (REP), require the establishment of retail electric energy efficiency programs by affiliated retail electric providers (AREP), require a PUC-prescribed standard service agreement, and require AREPs to offer a standard retail service package to eligible residential customers. The bill would require electric utilities to remit the nonbypassable fee to the trust fund in accordance with PUC rules. The bill would require PUC to adopt review procedures by rule and provide prompt and efficient disbursement from the trust fund. The bill would make

nonsubstantive conforming amendments relating the fund's new status as a trust fund.

The bill would establish a civil penalty for an entity's abuse of market power. PUC would provide the necessary information to prosecute the suit. The bill would require courts to order the penalty be paid to consumers who suffered economic harm in amounts directly proportional to the harm suffered. Fees collected before the effective date would be remitted to the Comptroller. Fees collected after the effective date would be remitted to PUC until the establishment of the trust fund and remittance rules were adopted. Violations committed before the effective date would be covered by the law in effect at the time.

This bill would take effect September 1, 2007.

## **Methodology**

Based on the analysis of the Comptroller of Public Accounts, the bill would result in a revenue loss to the System Benefit Account 5100 of \$133,854,000 in fiscal year 2008; \$155,605,000 in fiscal year 2009; 159,365,000 in fiscal year 2010; \$162,967,000 in fiscal year 2011; and \$166,654,000 in fiscal year 2012. The bill would result in a gain to the System Benefit Trust Fund outside the state treasury of \$132,207,000 in fiscal year 2008; \$150,336,000 in fiscal year 2009; \$153,855,000 in fiscal year 2010; \$157,457,000 in fiscal year 2011; and \$161,144,000 in fiscal year 2012. The bill would create the System Benefit Trust Fund (fund) as a trust fund outside of the State Treasury and divert the revenue from the System Benefit Account 5100 to the fund. The estimated fiscal impact was based on the Comptroller of Public Accounts Biennial Revenue Estimate for 2008-09. Revenues for fiscal 2008 were adjusted for the one month of revenue that would be retained in the account. Interest income was adjusted downward in GR Account 5100 because of the loss of revenue.

Based on the analysis of the Office of Attorney General (OAG), it is assumed that there would be costs associated with additional complaints, investigations, or cases by the agency's Consumer Protection and Public Health Division. It is also estimated that the OAG will incur General Revenue costs for staff of \$251,281 and 4.0 FTEs through fiscal year 2012. Other operating expenses are estimated to be \$55,040 in fiscal year 2008 and \$25,360 through 2012. Associated benefits are estimated to be \$60,903 through fiscal year 2012.

Based on the analysis of the Public Utility Commission, it is assumed that there would be costs associated with continued projects relating to standard offer service, customer protection, requiring retail electric providers to serve residential customers, and the System Benefit Account 5100. It is also estimated that the PUC would incur General Revenue costs for staff of \$222,341 and 3.8 FTEs in fiscal year 2008 and \$83,960 and 1.4 FTEs in fiscal year 2012. Other operating expenses are estimated at \$12,451 in fiscal year 2008 and \$4,702 in fiscal year 2012. Associated benefits are estimated at \$62,900 in fiscal year 2008 and \$23,753 in fiscal year 2012.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review.

## **Technology**

There will be a one time technology impact of \$7,432 in fiscal year 2008 for network stations and software.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

**LBB Staff:** JOB, SD, JRO, MW, TGI