LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 16, 2007

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

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

IN RE: **SB2001** by Averitt (Relating to the construction and operation of reservoirs, including the assessment of a fee on the sale or lease of water impounded in a reservoir to compensate the owners of property in the reservoir site and the protection of the rights of owners or former owners of property in a reservoir site.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would allow a holder of a permit to impound surface water in a reservoir to acquire the real property for the construction of a reservoir in exchange for a royalty fee from the sale or lease of water. The Texas Commission on Environmental Quality (TCEQ) would collect the fee in an amount equal to 10 percent of the total revenue received by the permit holder, multiplied by the ratio of the exchanged acreage to the total acreage of the reservoir site. The TCEQ would allocate the fee to each person who participated in the royalty fee program within 90 days of the fee submission. The TCEQ would be authorized to assess fees against permit holders to recover costs necessary to administer the program.

The bill would require political subdivisions to file a letter of intent to construct the reservoir with the TCEQ and offer to provide encumbrance payments to real property owners prior to bringing a cause of action to remedy violations of legislative designations of unique reservoir sites. The payment would be at least 2.5 times the piror year's total ad valorem taxes for the property. If the property owner would accept the offer of the fee, then the political subdivision would be required to pay the fee annually until the property is acquired for the reservoir, or the property is no longer in the reservoir site.

The bill also provides that once property is acquired for a reservoir, but before the construction starts, the original owner would be entitled to lease the property back from the reservoir owner. For agricultural lands, the lease could not cost more than the agricultural rental value. The bill also provides that if mitigation land is required for the reservoir site, the owner would, if authorized by the regulatory authority, be required to attempt to mitigate by offering to pay the land owner for development rights, or similar contractual arrangements.

Upon enactment of the bill, the TCEQ would be required to establish an administrative fee, establish due dates for royalty information and payments, and could be required to authorize mitigation of environmental effects. Procedures and forms would also need to be developed to track pass through payments for royalties.

This estimate assumes that any administrative costs to the TCEQ would not be significant and could be recovered through fees assessed against permit holders as authorized by the bill.

The amount of funds that would be collected by the TCEQ in royalty fees from permit holders and distribute back to property owners would depend on the number of entities that would acquire property in exchange for royalty fees, the amount of property acquired, and the cost of land per acre in the affected areas. In any case, this estimate assumes that all revenue collected would be paid out within 90 days of receipt, resulting in no significant net fiscal impact to the state.

Local Government Impact

Local governments holding reservoir permits and acquiring property for the construction of reservoirs could be required to pay the administrative fee authorized by the bill to the TCEQ. The amount would depend on the rate set by the TCEQ, but is not expected to be significant. Local governments holding reservoir permits could also be required to pay the royalty fees established by the bill. However, this estimate assumes a local government would only choose to excercize the royalty payment option to acquire property if the entitiy would find it more cost effective than other means of property acquisition.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 580 Water Development Board

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