

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB431 by Lucio III (Relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain government buildings and facilities.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated during the 2010-11 biennium. There would be costs associated with implementation of the high-performance building portions of the bill beginning in fiscal year 2012.

Due to the potential for more efficient use of energy, water, and other resources, there would be an indeterminate amount of savings during the life of a high-performance building.

The bill would amend the Government Code to establish standards for all new state building construction or renovations that cost more than 50 percent of the value of state owned buildings, including education facilities other than institutions of higher education. The bill exempts the Texas Department of Criminal Justice (TDCJ) and the Texas Youth Commission (TYC) from these standards. The projects would have to be designed, constructed, or renovated so that the building:

- achieves certification under high-performance building standards that are developed and revised through a consensus-based process;
- provides minimum requirements for energy use, natural resource use, and indoor air quality;
- requires substantiating documentation for certification;
- employs third-party, post-construction review and verification for certification, or a third-party post-construction, rigorous review of documentation and verification for certification;
- encourages the use of products manufactured in this state;
- meets nationally recognized energy efficiency and air quality building standards or an updated version of those standards as adopted by the State Energy Conservation Office (SECO); and
- achieves a 15 percent reduction in water use when compared to water use in accordance with the Energy Policy Act of 1992.

The bill would create an advisory committee that would, at least annually, advise the Texas Facilities Commission (TFC) in determining which high-performance building standards to approve for use. The committee would be comprised of personnel from various public and private entities. It is assumed the operation of this committee would have no significant fiscal impact to the state.

The bill would also amend the Education Code to establish standards applying to institutions of higher education (IHE) for all new building construction or renovations that cost more than 50 percent of the value of state owned buildings for which any part of the construction or renovation is financed by revenue bonds. The bill would require projects to comply with high-performance building standards approved by an IHE's board of regents. In approving high-performance building standards, a board of regents would be required to consider the high-performance standards approved by the TFC and would be authorized to solicit and consider recommendations from the TFC's advisory committee. IHEs would be required to comply with applicable energy and water conservation design standards currently established by SECO under Government Code 447.004.

Multiple IHEs indicated that their projects are currently meeting either SECO's standards, high-performance certifications or other minimum requirements for energy use, air quality and natural resources use. Therefore this bill would not have a fiscal impact on IHEs unless an institution's board of regents decides to increase standards on certain projects to attain certifications.

Recent industry studies conclude that the additional upfront construction costs to support green design ranges from 0 to 2 percent. Several of the state agencies contacted indicated that additional upfront construction costs to support green design ranges from 0 to 8 percent. Based on this, it is assumed that the average cost increase is 2 percent.

Applying the 2 percent average cost increase to the reported cost for new construction and repair/renovation for state agencies, except for IHEs, TDCJ, and TYC, as provided by the Bond Review Board's (BRB) State of Texas Capital Expenditure Plan for Fiscal Years (FY) 2010-2011, it is estimated that additional General Revenue of approximately \$500,000 for FY2012 and \$500,000 for FY2013 and beyond would be required.

The provisions of the bill that refer to high-performance buildings would apply only to a facility or building for which the contract for design services is entered into on or after September 1, 2011. Therefore, fiscal impacts relating to construction or renovations would occur in the 2010-11 biennium.

It is assumed that a building that supports green design will have energy, water, and other savings during the life of the building.

The bill would also amend the Government Code to require state and local governmental entities, when constructing or renovating a critical governmental facility (CGF) or replacing major heating, ventilation, and air-conditioning equipment for a CGF, to evaluate whether equipping the CGF with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period.

The entity may equip the facility with a combined heating and power system if the expected energy savings would exceed the expected costs.

It is assumed the requirements of the bill would have a minimal cost to perform the evaluation, and that this cost would be absorbed by the agency as part of the cost of a planned CGF construction or renovation project.

If it is determined that it would be cost effective to utilize a combined heating and power system, then there would be initial costs that would be offset by future savings.

Local Government Impact

One local entity reported the cost for a consultant to perform the evaluation of a combined heating and power system is an estimated \$10,000 per facility. The costs to local governmental entities to obtain an evaluation of a facility's system could be significant depending on the number of critical governmental facilities that require an evaluation.

No significant fiscal implications are anticipated for school districts. The bill would provide an opportunity for school districts to obtain loans to install solar panels and associated energy efficiency improvements. It is assumed that school districts would take into consideration any potential costs and savings in determining whether to participate in the program.

The bill would amend the Education Code to require SECO to adopt energy efficiency and conservation standards for design, construction, and major renovations of schools that school district could adopt or use to achieve long-term savings in energy and water costs, and assist school districts in obtaining state and federal funds to implement the standards by July 1, 2010. The fiscal impact to school districts could be significant to comply with the provision, but would vary depending on the energy efficiency standards currently being followed, and the amount of state and federal funding a school district received.

No other significant fiscal implication to units of local government are anticipated.

Source Agencies: 303 Facilities Commission, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 308 State Auditor's Office, 332 Department of Housing and Community Affairs, 352 Bond Review Board, 405 Department of Public Safety, 529 Health and Human Services Commission, 582 Commission on Environmental Quality, 601 Department of Transportation, 694 Youth Commission, 696 Department of Criminal Justice, 720 The University of Texas System Administration, 758 Texas State University System, 771 School for the Blind and Visually Impaired, 772 School for the Deaf, 781 Higher Education Coordinating Board, 783 University of Houston System Administration, 802 Parks and Wildlife Department, 809 Preservation Board

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