

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 10, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

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

IN RE: HB632 by Turner, Sylvester (Relating to the requirement that retail water and utility services maintain auxiliary generators for use during a local power outage; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB632, As Introduced: a negative impact of (\$2,921,660) through the biennium ending August 31, 2011.

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
2010	(\$1,621,580)
2011	(\$1,300,080)
2012	(\$1,300,080)
2013	(\$1,300,080)
2014	(\$1,300,080)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2009
2010	(\$1,621,580)	21.0
2011	(\$1,300,080)	21.0
2012	(\$1,300,080)	21.0
2013	(\$1,300,080)	21.0
2014	(\$1,300,080)	21.0

Fiscal Analysis

The bill would amend the Health and Safety Code to require a retail public utility to incorporate and maintain auxiliary power generators capable of ensuring that, in the event of a local power outage, the retail public utility maintains the ability to provide water and sewer services.

The Texas Commission on Environmental Quality (TCEQ) would be required to prescribe standards regarding the auxiliary generators, create and implement an inspection schedule for compliance, and impose an administrative penalty for violations. Inspections would be required of each utility once every 12 months. A penalty for noncompliance could not exceed \$1,000 for each day the violation continues or occurs, with a maximum total of not more than \$10,000. In addition to imposing a penalty, the TCEQ would be authorized to revoke the utility's license to operate. TCEQ would be

required to adopt rules related to the new requirements by not later than December 1, 2009. The utilities would be required to be in compliance with the rules by not later than January 31, 2010.

The Office of the Attorney General would be authorized to sue to collect an administrative penalty assessed.

Methodology

The TCEQ would require additional staff to meet the bill's requirement of performing inspections at retail public utilities. The TCEQ also would be required to alter its current Risk Based Investigation Strategy from a three to five year schedule to once a year. The agency estimates that 1,000 to 1,400 more engineering plans and specifications for water retail public utilities would be reviewed during the initial implementation phase of the bill's provisions.

The TCEQ expects that nine regional investigators would be needed to conduct annual compliance investigations at water retail public utilities, and that 11 regional investigators would be needed to conduct annual investigations at sewer retail public utilities. One additional FTE will be needed to address the increased workload from fast-tracking rulemaking and requiring plans for auxiliary power for retail public utilities. Total costs for the first year of implementation are estimated at \$1.6 million, which includes one-time costs for additional vehicles, furniture and equipment, with recurring costs of \$1.3 million in future years as shown in the table above. This estimate assumes that costs resulting from passage of the bill would be paid using General Revenue.

No significant fiscal implications to the Office of the Attorney General are expected.

Local Government Impact

Based on information provided by a sampling of local government entities that would be affected by the provisions of the bill, the fiscal impact would depend on the number of generators that would have to be purchased to meet the proposed requirements and whether the entities already have sufficient equipment in place that meet the requirements.

For example, the Northeast Texas Municipal Water District, serving a population of 15,000 would incur costs in fiscal year 2010 of \$602,000 to purchase a generator and to pay for fuel for the generator. The cost each year thereafter would be for fuel only. The initial outlay would be considered a significant fiscal impact. The City of Longview Public Works Department, serving a population of 73,344, estimates the initial cost to provide required generators for each of its 10 stations would be more than \$1.1 million, a moderate fiscal impact for their budget. The City of Bowie public utility, serving a population of 5,300, estimates a first year net negative fiscal impact of \$1.5 million, which for the department budget would be significant. The City of Carrollton, serving a population of 120,600, estimates first year costs of nearly \$3.6 million, but assumes that amount could be reduced by converting to a 15-year debt service at 5 percent. Each entity estimated insignificant costs for fiscal years 2011 through 2014 for maintenance of the equipment.

Source Agencies: 302 Office of the Attorney General, 582 Commission on Environmental Quality

LBB Staff: JOB, KJG, ZS, TL, DB