LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB1243** by Gallego (Relating to net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generator.), **As Passed 2nd House**

Since the fee on electric customers for the Distributed Solar Generation Incentive Program would be established by Public Utility Commission rule under the provisions of the bill which has not been issued, there would be an indeterminate revenue gain to the state. Similarly, there would also be an indeterminate fiscal impact to the state from the amount of interest generated by the LoneSTAR loan program because the terms and amount of the loans that would be distributed are unknown. It is assumed the other provisions of the bill could be implemented without significant fiscal impact to the Public Utility Commission or other affected agencies.

The bill would amend various provisions regarding distributed renewable generation and interconnection with electricity utilities, including a requirement for electric utilities to pay a distributed renewable generation owner in an area that has introduced customer choice a fair market value for excess energy. The bill would require that a distributed renewable generation owner in an area in which customer choice has not been introduced, who chooses to sell surplus electricity, must sell it at a value that is greater than or equal to the avoided cost of the electric utility or electric cooperative, as determined in accordance with Commission rules. The bill would require the Public Utility Commission (PUC) to adopt rules to establish interconnection and equipment standards that a distributed renewable generation must meet to qualify for compensation. The bill would require the PUC to establish a methodology for determining the fair market value of surplus energy. The bill would authorize the PUC to require electric utilities, electric cooperatives, and retail electric providers to disclose on a customer's bill the amount of surplus energy, the value of any credit for surplus energy, and the value of any credit for surplus energy that is carried over from a prior month.

The bill would establish provisions for the interconnection of distributed renewable energy generation to facilities of a municipal utility and would require the governing body of the municipal utility to adopt rates, rules, and procedures. The PUC would only administer this section in the case of a municipal utility that has introduced retail choice in its service area through establishing by rule interconnection and net metering standards.

The bill would require the PUC to post on its Power-to-Choose website information on a retail electric provider's offers for purchase of surplus energy and information on offers for the purchase of renewable energy credits. The bill would also direct the PUC to require electric cooperatives, retail electric providers, and electric utilities to provide information on their internet websites regarding purchase price offers for surplus distributed renewable generation. The bill would repeal Section 39.914, Utilities Code.

The bill would amend various provisions of Chapter 161 of the Utilities Code regarding board meetings, member elections, casting of proxy votes and board procedures of electric cooperatives. The bill would authorize a cooperative member who believes the board or a cooperative employee has infringed on the member's rights to file a complaint with the cooperative general manager. If the manager does not agree with the complaint or fails to take corrective action within 20 days, the bill

would authorize the member to file a complaint with the Consumer Protection Division of the Attorney General's Office. The bill would authorize an audit of the financial transactions and operations of an electric cooperative on approval of the Legislative Audit Committee.
The bill would require the Public Utility Commission (PUC) to adopt rules to establish standards and procedures for evaluating and approving a request by an electric cooperative to acquire equipment capable of generating electricity for sale, other than equipment that uses an alternative energy source. Based on the analysis of the PUC and the Office of the Attorney General, these duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would require the PUC to establish a distributed solar generation incentive program to be implemented by electric utilities. The bill would require that the PUC adopt rules that include provisions for cost recovery for the distributed solar generation program through a nonbypassable fee. The PUC would be required to ensure that all fees collected for this purpose are used for the program, with the exception that utilities would be authorized to retain 2.5 percent of the revenue for administering the program. The bill would direct the PUC to set the amount of the rebate for solar systems and to adjust that amount periodically to maximize the solar generation installation. The bill would also require the PUC to establish a "Made in Texas" certification program for energy products. Absent of any specifications in the bill, it is assumed that revenues collected would be deposited to the credit of the General Revenue Fund.

The bill would require the PUC, in conjunction with the Electric Reliability Council of Texas (ERCOT), to prepare and make available a study that identifies areas where utility-scale, non-wind generation may be installed with minimal transmission upgrades. The bill would authorize the PUC to establish an advisory committee to assist the Commission in selecting utility-scale solar and energy storage projects and permits. The bill would authorize the PUC to extend the program for an additional five years.

The bill would establish goals for a Solar Generation Incentive Program, to be administered by electric cooperatives and municipal utilities to increase the amount of solar generation installed in the state in a cost-effective, market-neutral and nondiscriminatory manner. The bill would require these entities to report their efforts to the State Energy Conservation Office (SECO) no later than September 1, 2015.

The bill would amend the Property Code to prohibit a property owners’ association from restricting a property owner from installing a solar energy device, with the exception of certain instances included in the bill.

The bill would establish a pilot revolving loan fund to be managed by SECO under the LoanSTAR program, to be used by school districts to install solar panels on school buildings. The bill would require SECO to allocate at least $4 million of the funds available to the LoanSTAR revolving loan program. The bill would direct each school district that receives a program loan to pay for the principal of and interest on the loan primarily from the amount budgeted for the energy costs of the school at which the improvements are installed. The bill would require the program loan be paid over a 15-year term.

Based on information provided by the PUC, it is assumed that it could absorb the costs associated with implementing the distributed solar generation incentive program required by the bill within its current resources. According to the analysis of the Comptroller, revenues for the distributed solar generation program and interest on the revolving loan program for solar energy improvements cannot be determined because rules and terms for these programs have not been established.

The bill would establish a definition of a distributed natural gas generation facility and would authorize distributed natural gas generation facility owners to sell power. The bill would require electric utilities, electric cooperatives or retail electric providers either to purchase power at an agreed upon price or to allow the owner or operator of the facility to use the transmission and distribution facilities to transmit the electric power to another market, in accordance with commission rules. The bill would authorize an electric utility or electric cooperative to recover from the owner or operator of a distributed natural gas generation facility the reasonable costs of interconnecting the facility and/or any upgrades to accommodate the distributed natural generation capacity. The bill would require the distributed natural gas generation facility to comply with emissions limitations established by the Texas Commission on Environmental Quality (TCEQ) for a standard emissions permit. The bill would authorize the Public Utility Commission (PUC) to adopt rules to establish simplified filing requirements for distributed natural gas generation facilities. The PUC would be required to conduct a rulemaking to conform existing rules to the provisions of the bill. Based on the analysis of the PUC and TCEQ, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would take effect immediately upon receiving a two-thirds vote of members elected to each house. Otherwise, the bill would take effect September 1, 2009.

Local Government Impact

This analysis assumes that there would be no significant fiscal impact to school districts because the bill would require the school to pay for the principal and interest of the loan within existing resources. No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

LBB Staff: JOB, ES, SZ, MW, SD, JRO