

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 21, 2009**

**TO:** Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

**IN RE: HB1751** by Leibowitz (Relating to an exemption from ad valorem taxation of a renewable energy device, structure, facility, or system installed or constructed on residential property, land designated for agricultural use, or open-space land devoted to farm or ranch purposes for the generation of energy for use in connection with the property.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1751, As Introduced: a negative impact of (\$3,242,000) 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	\$0
2011	(\$3,242,000)
2012	(\$4,008,000)
2013	(\$4,618,000)
2014	(\$5,330,000)

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

Fiscal Year	Probable Savings/ (Cost) from <i>Foundation School Fund 193</i>	Probable Revenue Gain/(Loss) from <i>School Districts - Net Impact</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Probable Revenue Gain/(Loss) from <i>Cities</i>
2010	\$0	\$0	\$0	\$0
2011	(\$3,242,000)	(\$1,078,000)	(\$1,268,000)	(\$1,448,000)
2012	(\$4,008,000)	(\$920,000)	(\$1,436,000)	(\$1,635,000)
2013	(\$4,618,000)	(\$1,111,000)	(\$1,656,000)	(\$1,881,000)
2014	(\$5,330,000)	(\$1,330,000)	(\$1,911,000)	(\$2,165,000)

**Fiscal Analysis**

The bill would amend Chapter 11 of the Tax Code to exempt from ad valorem taxation the part of the appraised value of certain types of property that arises from a renewable energy device, structure, facility or system, as defined by the bill, installed after October 1, 2007.

The exempted value would be on single-family and certain multi-family residential property, land designated for agricultural use, or open-space land devoted to farm or ranch purposes (qualified agricultural land). The energy generated must be used in connection with the property.

The Comptroller would be required to develop guidelines to assist local officials with these provisions.

This bill would take effect January 1, 2010, contingent upon the adoption of a constitutional amendment. The proposed amendment would be submitted to voters at an election to be held November 3, 2009.

### **Methodology**

Passive and active solar and wind-powered devices that produce and distribute energy for on-site use are exempt from the property tax under current law. Appraisal districts report that, in tax year 2008, about \$298 million in appraised value was lost to the current exemption. According to the Comptroller's office, this amount is probably significantly understated because appraisal districts normally appraise larger property without regard to the solar or wind-powered device and do not separately appraise and report the exempt portion of the property.

The bill would create a cost to taxing units and to the state by providing a more expansive exemption with no restriction that the energy be used on-site and allowing several other kinds of energy production to qualify for exemption (e.g., fuel cell, methane gas, ocean tides, hydropower, geothermal, and biomass).

The bill would also differ from the current exemption for solar and wind-powered devices in that the device itself would not be exempt. The exemption would be for the portion of the appraised value of certain qualified agricultural land and residential property that arises from the installation or construction of a renewable energy device.

This cost estimate extrapolates from the reported value lost to the current solar and wind-powered device exemption to project the value of residential property that would be exempted under the bill. It is unlikely that the appraised value of qualified agricultural land would be affected by the installation or construction of a renewable energy device because it is determined solely on the basis of the average agricultural productivity of typical land in the county.

The projected city, county, and school district tax rates were applied to the value losses in each year to estimate their respective levy losses. Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the portion of the cost related to a school district compressed rate is transferred to the state. A portion of the school district debt (facilities funding) and enrichment costs is also transferred to the state after a one-year lag because of the operation of the funding formulas. All costs were estimated over the five year projection period.

Note: According to the Comptroller's office, the bill's provisions are not clear with regard to the taxation of renewable energy devices. If the bill were to result in an exemption for the devices themselves, the cost to the state could be considerably greater than indicated above.

### **Local Government Impact**

The estimated fiscal implication to units of local government is reflected in the table above.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, SJS