LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 25, 2009

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

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

IN RE: **HB2811** by Hardcastle (Relating to the implementation of and incentives for projects involving the capture, transportation, injection, sequestration, geologic storage, or abatement of carbon dioxide.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2811, As Introduced: a negative impact of ($264,804,228) 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	($130,311,993)
2011	($134,492,235)
2012	($76,891,223)
2013	($72,418,556)
2014	($73,226,556)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated--Advanced Clean Energy Project*	Probable Savings/ (Cost) from *New General Revenue Dedicated--Advanced Clean Energy Project*
2010	($100,889,993)	($29,422,000)	$100,000,000	($100,000,000)
2011	($100,790,235)	($33,702,000)	$100,000,000	($100,000,000)
2012	($41,504,223)	($35,387,000)	$300,000,000	($100,000,000)
2013	($35,262,556)	($37,156,000)	$0	($100,000,000)
2014	($34,212,556)	($39,014,000)	$0	($100,000,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2010	($4,974,000)	($703,000)	($1,696,000)
2011	($6,268,000)	($930,000)	($2,137,000)
2012	($6,581,000)	($930,000)	($2,244,000)
2013	($6,910,000)	($976,000)	($2,356,000)
2014	($7,256,000)	($1,025,000)	($2,474,000)

Fiscal Year	Change in Number of State Employees from FY 2009
2010	11.0
2011	11.0
2012	12.0
2013	12.0
2014	12.0

Fiscal Analysis

The bill would allow the Governor to allocate funding for advanced clean energy projects that sequester 70 percent carbon dioxide produced by the combustion of fuel for underground storage prior to September 1, 2010. Beginning September 1, 2010, the bill would provide funding for similar advanced clean energy projects that capture 50 percent or more of carbon dioxide (CO_2). The bill would establish a clean energy grant and loan program administered by the Texas Commission on Environmental Quality (TCEQ) to accelerate the development of advanced clean energy projects. Grants could be awarded to assist in the funding of the front-end-engineering and design of the project. Under the grant and loan program, TCEQ could make or guarantee a loan to the managing entity of an advanced clean energy project in this state. Cumulative distributions could not exceed $200 million and the initial funding would need to occur before September 1, 2010. The Texas Public Finance Authority would be authorized to issue general obligation bonds to provide and guarantee loans to encourage advanced clean energy projects if an authorizing constitutional amendment is approved by voters.

The bill would create a new General Revenue Dedicated Advanced Clean Energy Project Account consisting of: a sub-account in the account that consists of the proceeds of bonds; any amount appropriated by the Legislature to the account; funds allocated to the account by the governor; gifts, grants, and other donations received for the account; and interest earned on the investment of money in the account. Money in the account could only be appropriated to TCEQ to award grants or service debt.

The bill would create a tax exemption for tangible personal property used to capture, transport, or inject anthropogenic carbon dioxide as part of an enhanced oil recovery project. The bill also would create property tax abatement provisions for advanced clean energy projects located in county reinvestment zones.

The bill would provide a school tax limitation on appraised value of properties in connection with an advanced clean energy project and to extend the expiration date relating to these provisions from 2011 to 2020. The bill would amend the definition of qualifying time period for owners of advanced clean energy projects only. Property owners and districts could increase from two years to as many as five years the length of time during which the company could earn a tax credit under the chapter.

The bill would extend the tax rate reduction for qualified enhanced oil recovery projects (EOR) using sequestered carbon dioxide from clean energy projects from seven to ten years from the Comptroller's Office approval date.

The bill would provide the Railroad Commission with jurisdiction over the injection of anthropogenic carbon dioxide into a reservoir that is initially productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir.

The bill would take effect immediately if it receives a vote of two-thirds of all members to each house; otherwise, the act takes effect September 1, 2009.

Methodology

With respect to sales tax, taxable expenditures for machinery and equipment used for oil and gas extraction and pipeline construction were estimated based on data gathered from the Comptroller's

Office tax files. Expenditures were multiplied by the state sales tax rate; adjusted for potential effective dates of July 1, 2009 and September 1, 2009; and extrapolated through fiscal 2014. Fiscal implications on units of local government were estimated proportionally. Losses to the General Revenue Fund, cities, counties and transit authorities are shown in the tables above.

With respect to school district revenue losses, the Comptroller's Office indicates that, if a school district would approve a limitation on appraised value for a property in connection with an advanced clean energy process, the fiscal impact to school districts would not occur until the tax year 2014 and thereby the fiscal impact to the state through the school funding process would occur only beginning in fiscal year 2015, which is beyond the scope of this estimate.

With respect to the oil production tax, current law relating to sequestered carbon dioxide already provides the same tax incentive of 1.15 percent for qualified EOR projects for a period of seven years. According to the Comptroller, the fiscal impact from this provision would not occur until the eighth year of the (new) 10 year tax incentive period or fiscal year 2017. The Comptroller also reports that currently no exemptions have been granted for such EOR projects.

According to the University of Texas System, there could be a revenue loss to the Permanent University Fund if land owned by the PUF was used for this purpose, since it would no longer be available for oil and gas exploration.. The University of Texas System reports that passage of the bill would likely result in several thousand acres of university lands being removed from consideration of oil and gas exploration based on an estimated amount of subsurface acres required to sequester the carbon dioxide emissions of a 200 megawatt combined cycle coal gasification electric generating plant and applying that the subsurface acres required to sequester that amount of CO_2.

This estimate assumes that the TCEQ would make $100 million per fiscal year in grants from the Advanced Clean Energy Project Account created by the bill. It is assumed that the first $200 million would come from the General Revenue Fund, which would be transferred to the Governor's Emerging Technology Fund, to be distributed equally between fiscal year 2010 and 2011. These costs are shown out of the General Revenue Fund in the table above. This estimate assumes that the remaining $300 million would come from general obligation bonds. This estimate assumes the bonds would be issued in September 2011 and that the debt service would be paid out of the General Revenue Fund beginning in fiscal year 2012. For fiscal year 2012, debt service is estimated at $40.7 million, fiscal year 2013 is estimated at $34.4 million, and fiscal year 2014 is estimated at $33.4 million, and these amounts are included in the table above. Debt service estimates are based on taxable bonds because the funds would be provided to private entities. Interest is assumed at 7 percent at a 20-year issuance.

Administrative costs to the TCEQ include funding to establish and administer a new grant and loan program for advanced clean energy projects. It is estimated that 10.0 additional FTEs and related costs would be required at a cost of $763,787 in fiscal year 2010 and $698,787 in subsequent years. This estimate assumes that costs to the TCEQ would be paid for out of the General Revenue Fund since the bill does not provide for such cost to be paid using the Advanced Clean Energy Project Account.

Administrative costs to the Railroad Commission include costs associated with the bill providing the agency with jurisdiction over the injection of anthropogenic carbon dioxide into reservoirs. It is estimated that 1.0 FTE would be needed in 2010 and 2011, and that 2.0 FTEs would be needed in subsequent years. The costs to the Railroad are estimated at $126,206 in fiscal year 2010, $91,448 in 2011 and $138,769 in subsequent years.

This estimate assumes the bill would take effect on September 1, 2009.

Local Government Impact

City, county, and transit school district estimated sales tax losses are included in the tables above. School district impacts are not included in this estimated since the Comptroller reports those losses would not begin until 2015 at the earliest.

Source Agencies: 301 Office of the Governor, 304 Comptroller of Public Accounts, 347 Public Finance

Authority, 455 Railroad Commission, 473 Public Utility Commission of Texas, 582 Commission on Environmental Quality, 720 The University of Texas System Administration

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