LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 22, 2009

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

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

IN RE: **HB4076** by Paxton (Relating to the establishment of the Texas power source fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB4076, As Introduced: a negative impact of ($500,000,000) 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	($500,000,000)
2012	$0
2013	$0
2014	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Texas Power Source Fund (Trust)*
2010	$0	$500,000,000
2011	($500,000,000)	$1,000,000,000
2012	$0	$0
2013	$0	$0
2014	$0	$0

Fiscal Analysis

The bill would create the Texas Power Source Fund, as a trust fund outside the state treasury. The fund would be managed by a board of trustees consisting of nine members appointed by the Governor. Each member would be required to have demonstrated substantial investment experience and would serve a term of six years expiring February 1 of odd-numbered years. The Governor would appoint one member for a two year term as the presiding officer. The Governor would be required to make the initial board appointments by December 1, 2009.

To manage the fund, the board could: employ staff including a chief executive officer; take actions necessary for the creation, protection and administration of the fund; enter into investor investment contracts; adopt rules; acquire, hold, or dispose of assets; execute contracts; pay expenses; provide for different classes of voting and nonvoting shares; purchase liability insurance coverage; and contract for private management of the fund. The board would appoint regional investment boards to evaluate opportunities and make investment decisions in each region. The board of trustees would have the power to override investment decisions by the regional boards.

Investment in the fund would be limited to residents and political subdivisions of the state. Investments by the fund would be limited to publically traded or closely held Texas businesses. The bill would require the Comptroller to invest $1 from the General Revenue Fund 0001 for each private dollar invested, up to $500 million. Private investors would receive a first year incentive, as defined in the bill. Investors would receive quarterly proportional distributions of income realized on investments. Capital appreciation would become part of the fund's corpus. The board would operate the fund under generally accepted business practices relating to a mutual fund and would value fund shares accordingly. Fund participation evidence would be held by the Comptroller's Office.

The bill would require the board to dissolve the fund and return the principal and capital gains to the investors by the fund's tenth anniversary unless the Legislature extends the fund for another ten years by two-thirds majority vote. This bill would require the Sunset Advisory Commission to review the fund and issue a report to the Legislature by December 1, 2014. The board would be required to annually report on the fund's operation and finances to the Legislature. The bill would allow the Comptroller to adopt rules for the governing of the fund.

The bill would take effect September 1, 2009.

Methodology

The Comptroller of Public Accounts indicates it is not clear whether state participation would begin immediately as private investment begins—on a dollar-for-dollar match basis—or if state investment begins only after private investment has raised $500 million. In either case, the state could be investing up to $500 million. For the purposes of this analysis, it is assumed that in 2010 $500 million of private investment is made. In 2011, another $500 million of private investment is assumed to be made and the state would match that with $500 million transferred from General Revenue.

The potential fund investment gains to the Power Source Fund cannot be determined and any gain to the state as a participant investor cannot be estimated.

Additionally, the implications of the bill's provisions relating to a first year incentive in the amount of non-school property taxes paid by an investor, subject to limits, cannot be estimated.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The implications of the bill's provisions relating to a first year incentive in the amount of non-school property taxes paid by an investor, subject to limits, cannot be estimated. Therefore, the fiscal impact is indeterminable.

Source Agencies: 116 Sunset Advisory Commission, 301 Office of the Governor, 304 Comptroller of Public Accounts

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