LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 15, 2009

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

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

IN RE: **HB4246** by Keffer (Relating to the reporting of lost or unaccounted gas by the first purchaser and the tax due by the first purchaser on lost or unaccounted for gas.), **As Introduced**

Depending on the amount of lost or unaccounted-for natural gas reported by first purchasers or gatherers of natural gas, there could be an indeterminate amount of revenue gain to the General Revenue Fund and the Permanent University Fund.

The bill would amend Section 201.2035 of the Tax Code, relating to reporting and taxation of lost or unaccounted-for natural gas.

The bill would require the first purchaser or a gatherer who transports natural gas for a fee to report the lost or unaccounted-for gas to the Comptroller on a monthly basis. Severance taxes owed on lost gas would be paid by the first purchaser or the gatherer on volumes in excess of 2 percent of the gross volume received from producers by the last day of the following month. For first purchasers, taxes will be paid at the price the first purchaser paid the producer. For gatherers, taxes will be paid at the closing price before the due date at the Houston Ship Channel.

The bill's provisions could generate additional natural gas severance tax revenue by taxing lost gas. There does not appear to be an "industry standard" for acceptable line loss. No loss would, of course, define the lower limit while ten percent would appear to be toward the upper range. If line loss, which is assumed to vary by pipeline, exceeds two percent the bill could generate additional revenue. However, data on pipeline line loss is limited and, therefore, the fiscal impact cannot be determined.

The Comptroller indicates it will need to hire 3 additional FTEs, beginning in FY 2010, to administer the provisions of the bill at a total cost of $170,000 per fiscal year. There would also be a one time technology cost of $275,000 for programming and project management.

The UT System office indicates this bill could have a positive impact on the Permanent University Fund. Currently, first purchasers or gatherers have an incentive to exaggerate the amount of gas lost during the course of transmitting the gas to a processing plant (also known as the "raw field deduction"), because it reduces the gross value of the gas purchased and thus reduces their tax liability and the amount paid to producers. This also has the effect of reducing the amount of gas royalty paid by producers using University Land. To the extent that making first purchasers or gatherers liable for severance taxes on a portion of lost or unaccounted-for gas would reduce the amount of gas claimed under the raw field deduction, this bill could increase the amount of gas royalties paid to the Permanent University Fund.

The revenue generated would be deposited into the General Revenue Fund, and one-fourth of the revenue will be used for the administration of the state's oil and gas conservation laws.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 720 The University of Texas System Administration

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