LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Byron Cook, Chair, House Committee on Environmental Regulation

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

IN RE: **SB16** by Averitt (Relating to the enhancement of air quality, including the capture and storage of carbon dioxide and development of a greenhouse gas registry, the development of emissions reduction technologies, and the improvement of energy efficiency in buildings, vehicles, and appliances.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB16, Committee Report 2nd House, Substituted: a negative impact of ($1,182,226) 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	($591,113)
2011	($591,113)
2012	($591,113)
2013	($591,113)
2014	($371,113)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *Clean Air Account* 151	Probable Savings/ (Cost) from *Texas Emissions Reduction Plan* 5071	Probable Savings/ (Cost) from *Operating Permit Fees Account* 5094
2010	($591,113)	($751,176)	($684,062)	($334,118)
2011	($591,113)	($444,276)	($625,562)	($129,518)
2012	($591,113)	($193,676)	($625,562)	($129,118)
2013	($591,113)	($191,876)	($625,562)	($127,918)
2014	($371,113)	($191,276)	($625,562)	($127,518)

Fiscal Year	Probable Revenue Gain/(Loss) from *Texas Emissions Reduction Plan* 5071	Change in Number of State Employees from FY 2009
2010	$0	17.0
2011	$0	17.0
2012	$0	17.0
2013	$0	17.0
2014	$82,659,000	17.0

Fiscal Analysis

Article I of the bill amends the definition of an advanced clean energy project to require that a project meeting this definition must also capture at least 50 percent of the carbon dioxide in the fuel being combusted and sequester that carbon dioxide through methods that include geologic storage. The bill also includes a definition of "geologic storage."

Article II of the bill would establish the New Technology Implementation Grant (NTIG) program, and it would require the Commission on Environmental Quality to establish and administer a new technology implementation grant program to implement new technologies to reduce emissions from facilities and other stationary sources located within the state. The bill provides guidelines and criteria for the program as well as grant application review procedures. The section provides cost sharing requirements that require applicants to provide at least 50 percent of the costs of implementing a project under this chapter. TCEQ is required to coordinate an interagency application review process with the Comptroller, Public Utility Commission, and the Railroad Commission. The TCEQ would be required to incorporate the review results into the grant award decision process and include an annual report justification for awards made to projects that were negatively reviewed by the other agencies. Projects eligible for grants in the NTIG program could include: advanced clean energy project; new technology projects that reduce emissions of regulated pollutants from point sources that involve capital expenditures that exceed $500 million; and electricity storage projects related to renewable energy.

Article II would require the Comptroller to conduct an annual review of each recipient of a new technology implementation grant to ensure that the use of the fund complies with state law and the terms of the award. A finding of any misuse of grant funds by a recipient would result in a debt owed to the state.

Article III of the bill would provide that funds collected under Section 185 of the Federal Clean Air Act be deposited to the General Revenue-Dedicated Clean Air Account No. 151.

Article IV of the bill would extend a 2.5 percent of consideration surcharge on vehicles over 14,000 pounds, a surcharge on the registration of a truck-tractor or commercial vehicle in an amount equal to 10 percent of total fees due for the registration; and a $10 fee on every commercial motor vehicle required to be inspected, all of which would expire under current law on August 31, 2013, to August 31, 2019. Article IV also adds stationary engines to the list of items the TCEQ can fund through the TERP grant program. It would also exempt mobile generators used for natural gas recovery purposes from the requirement that a TERP-funded project operate at least 75 percent of the annual use in the nonattainment areas and affected counties for at least five years.

Article V of the bill would reduce the allocation of funding for the New Technology Research and Development (NTRD) program from 9.5 percent of TERP funds to 9 percent. The bill would remove an allocation of $250,000 to the TCEQ for administering the NTRD program and it would remove an allocation of $216,000 of the NTRD funds to be used by the Texas Engineering Experiment Station (TEES) for the calculation of the statewide emissions reduction for the State Implementation Plan. The bill also would remove an allocation of at least 20 percent of the NTRD funds for research related to air quality at a nonprofit based in Houston, and it would reallocate these NTRD funds to the a contract with a nonprofit organization or institution of higher education to establish and administer a program to support research related to air quality. The bill would allow the TCEQ to fund air quality research with the remaining NTRD funds and provide a $216,000 contract with the Texas Engineering

Experiment Station for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan. Finally, Article V of the bill would provide that 3.5 percent of TERP funding, instead of 3 percent, can be used for administration of the TERP program, and it would specify that the TCEQ receive 2 percent, and that the Texas Engineering Experiment Station (TEES) receive 1.5 percent.

Article VI of the bill would replace the adopted energy code of the state with the May 1, 2009 International Residential Code versus the May 1, 2001 version. It would also require the State Energy Conservation Office to amend the Energy Code to require that buildings constructed after January 1, 2012 be equipped with electrical outlets capable of recharging plug-in electric or plug-in hybrid vehicles.

Article VII of the bill would prohibit the TCEQ from limiting idling of any motor vehicle with a gross vehicle weight rating greater than 8,500 pounds that is equipped with a 2008 or subsequent model year engine certified by the U.S. Environmental Protection Agency to emit no more than 30 grams of nitrogen oxides per hour when idling.

Article VIII of the bill would define an "idle reduction system," and it would exempt up to 400 pounds of the weight of an on-vehicle idle reduction system from vehicle weight limits.

Article IX of the bill would add rebates to the list of methods the State Energy Conservation Office (SECO) may use to promote the efficient use of energy in Texas residential housing, and it would add state agencies to the list of entities that may serve as leads in establishing partnerships with the SECO. Article X of the bill would require the TCEQ, the Railroad Commission, and the PUC to establish a greenhouse gas registry in which they would participate in the development of federal greenhouse gas reporting requirements. The TCEQ would also be directed to establish a registry of voluntary actions taken by businesses in the state and state agencies since September 1, 2001, to reduce carbon dioxide emissions and to work with the U.S. Environmental Protection Agency to give credit for early action under any federal rules that may be adopted for federal greenhouse gas regulation.

Article XI would requires that the TCEQ compile into an existing online database permitted allowable emissions information from major point sources and other point sources that submit emissions inventories. The TCEQ would be required to make the information in the database searchable by permit number. Information collected would be assessed by the TCEQ and a report submitted to the Governor, Lieutenant Governor, and the Speaker of the House no later than December 31 of each year. Data would be compiled into a database no later than December 31, 2011 and the first report would be due no later than December 31, 2011.

In addition, Article XI would provide that if the EPA adopts a maximum achievable control technology standard (MACT) for control of mercury from coal-fired electric generating facilities, such facilities would be required to install and operate continuous emission monitors to measure and record the concentration of mercury unless another method to measure and record mercury concentrations is prescribed by federal rules. These facilities also would report mercury emissions quarterly, and the TCEQ would make such data available.

Article XII would establish the effective date of the bill as September 1, 2009.

Methodology

Article II's provisions creating the NTIG program is expected to result in the need for an additional 9.0 FTEs at the TCEQ and associated costs. These additional resources would be used mainly to review grant applications. Costs for the NTIG program are assumed to be paid out of the TERP Account No. 5071. Additional costs to the PUC and Railroad Commission for coordinating with the TCEQ on grant application selection are not expected to be significant.

Article II's provisions requiring the Comptroller to assess the financial stability of applicants and to conduct an annual review for the new technology implementation grant program would result in the need for 5.0 additional FTEs and $371,113 in related costs to the Comptroller of Public Accounts. This includes 1.0 FTE to assess financial stability of applicants under the grant application review procedures, and 4.0 FTEs to conduct grant audits. This estimate assumes these costs would be paid out of the General Revenue Fund.

Article III provisions providing for the deposit of fees collected through Section 185 of the Federal Clean Air Act to the Clean Air Account No. 151 would not result in a net fiscal impact to the state because this estimate assumes that any such funds that would otherwise have been collected would have been deposited to the General Revenue Fund. The amount of funds that would be deposited to the Clean Air Account No. 151 would be dependent on baseline emission information in the Houston-Galveston-Brazoria nonattainment area, which the TCEQ reports is not yet available.

Article IV's provisions which extend the 2.5 percent of consideration surcharge on vehicles over 14,000 pounds, the surcharge on the registration of a truck-tractor or commercial vehicle in an amount equal to 10 percent of total fees due for the registration, and the $10 fee on every commercial motor vehicle required to be inspected, are expected to result in an additional $82.7 million per year in new revenues beginning in fiscal year 2014.

Article V's provisions removing the allocation of $250,000 to the TCEQ for administering the NTRD program and the removal of the allocation of $216,000 of the NTRD funds to be used by the TEES are not expected to result in a fiscal impact to either agency because this estimate assumes that the overall amount the TCEQ receives from the TERP Account No. 5071 would actually increase because the amount TCEQ would be eligible for administration of the program would increase from 1.5 to 2.0 percent of TERP Account No. 5071 funds, while the amount TEES receives would remain the same since the agency would receive $216,000 through an Interagency Contract with the TCEQ.

Article X's provisions requiring the creation of a greenhouse gas registry and coordination with the US EPA would result in costs to the PUC of $220,000 in fiscal years 2010 - 2013, with no significant costs in future years. These costs would include consulting fees because it is assumed the agency would need outside expertise, and travel costs because it is assumed that agency staff would be required to travel to Washington, D.C. These costs are assumed to be paid out of the General Revenue Fund. TCEQ expects to incur costs of $250,000 in fiscal years 2010 and 2011 to modify the agency's Emissions Inventory Data System to create the greenhouse gas registry. It is assumed these costs would be paid out of the Clean Air Account No. 151.

Article XI's provisions requiring the creation of an air permits allowables database would result in the need for 3.0 additional FTEs at the TCEQ to populate the database, analyze data, and perform network and database management. In addition, the TCEQ would require capital costs of $450,000 in fiscal year 2010 to create the database and approximately $110,000 per fiscal year for state data center costs. This estimate assumes that costs relating to the air permits allowables database would be paid 40 percent from the General Revenue-Dedicated Clean Air Account No. 151 and 60 percent from the General Revenue-Dedicated Operating Permit Fee Account No. 5094.

Technology

Technology costs would include $250,000 in fiscal years 2010 and 2011 for the greenhouse gas registry database and $554,000 in fiscal year 2010 and approximately $110,000 in subsequent years for the air permits allowables database and related maintenance.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 712 Texas Engineering Experiment Station, 301 Office of the Governor, 302 Office of the Attorney General, 405 Department of Public Safety, 455 Railroad Commission, 473 Public Utility Commission of Texas, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices

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