LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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; providing civil penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB16, Committee Report 1st House, Substituted: a negative impact of ($1,330,672) 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	($665,336)
2011	($665,336)
2012	($665,336)
2013	($665,336)
2014	($445,336)

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	($665,336)	($498,414)	($1,405,062)	($372,172)
2011	($665,336)	($314,714)	($1,273,177)	($97,072)
2012	($665,336)	($64,314)	($1,073,177)	($96,472)
2013	($665,336)	($63,114)	($1,073,177)	($94,672)
2014	($445,336)	($62,714)	($1,073,177)	($94,072)

Fiscal Year	Probable Revenue Gain/(Loss) from *Texas Emissions Reduction Plan* 5071	Probable Revenue (Loss) from *All Local Units of Government*	Probable Revenue Gain from *All Local Units of Government*
2010	$0	($5,000,000)	$3,088,011
2011	$0	($5,000,000)	$3,088,011
2012	$0	($5,000,000)	$3,088,011
2013	$0	($5,000,000)	$3,088,011
2014	$66,525,000	($5,000,000)	$3,088,011

Fiscal Year	Change in Number of State Employees from FY 2009
2010	21.0
2011	21.0
2012	21.0
2013	21.0
2014	21.0

Fiscal Analysis

Article II of the bill creates the New Technology Implementation Grant (NTIG) Program, the plug-in hybrid motor vehicle rebate program, and the energy efficient appliance purchase incentive (EEAPI) program, all within the Texas Emissions Reduction Plan (TERP). The bill specifies that up to 10 percent of the diesel emissions reduction incentive grant funds could be used for the NTIG program, and it would allow for a portion of this funding to be used for electricity storage products and light-duty plug-in hybrid vehicles. The bill specifies NTIG grant application review and eligibility criteria, as well as cost-effectiveness criteria. The bill would provide for cost sharing requirements for the NTIG program, requiring applicants to provide at least 50 percent of the costs of implementing a project under this chapter. TCEQ would be required to coordinate with the Comptroller, Railroad Commission, Public Utility Commission (PUC) and other agencies regarding NTIG grant selection decisions. The Comptroller would be required 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 an additional nine days past the date of proof of sale to counties to distribute repair and reimbursement funds for the Low-Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP). The bill also would repeal Health and Safety Code, Section 382.220, which provides funding for participating counties to implement specified air quality programs.

Article IV of the bill would extend a provision allocating a portion of the vehicle title fee and other TERP funding sources deposited to the TERP Account No. 5071 from 2013 to 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. In addition, Article IV also would establish the provisions for a new statewide rebate program for light-duty plug-in hybrid motor vehicles, allowing up to $4,000 per vehicle to be provided for hybrid vehicles that can be recharged from an external source.

Article IV of the bill would also create a new Energy Efficient Appliance Purchase Incentive Program to be administered by the TCEQ. Appliances funded through this program would include air conditioning and refrigeration units. Participating governmental entities would be authorized to use funds in the program to implement an energy-efficient appliance purchase incentive program, subject to the oversight of the TCEQ. Governmental entities eligible to participate in the program would include counties, regional Councils of Government (COGs), and Metropolitan Planning Organizations (MPOs).

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 newly created EEAPI program. The bill would allow the TCEQ to fund air quality research with the remaining NTRD funds. The TCEQ could still contract with a nonprofit to operate all or part of the NTRD/EEAPI grant program, but the agency would not be required to do so. 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 establish appliance energy efficiency standards to be administered by the Comptroller. Article IX would also require that the TCEQ and the TEES work together to ensure that the state receives full credit in the state implementation plan for air emissions reductions achieved through energy efficiency. Article IX would also provide for procedures for waivers from the efficiency standards, testing requirements, product certifications, inspections, violations, and penalties.

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.

Article XI of the bill would provide that the TCEQ analyze and consider the formation of ozone due to the cumulative effects of emissions before issuance of a permit for a new electric generating facility expected to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides, and it would require them to determine whether a facility could cause an area to be designated as nonattainment or negatively affect compliance with the state implementation plan (SIP). The bill would also subject preconstruction permits issued before December 1, 1991 for review every 10 years rather than the 15 years required by current law, and it would add new considerations that the TCEQ must consider before granting a permit renewal.

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

Methodology

Article II's provisions creating the NTIG program and Article V's provisions removing the requirement that the NTRD program be contracted for at a nonprofit 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. In addition, this estimate assumes that 5.0 additional FTEs would be needed to administer the plug-in hybrid motor vehicle rebate program created in Article II. In addition, the estimated cost to establish a hybrid rebate database is $200,000 in both fiscal years 2010 and 2011, and related Data Center Services (DCS) costs would increase by an estimated $105,000 per fiscal year. All costs for the NTIG and plug-in hybrid rebate programs 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 6.0 additional FTEs and $455,336 in related costs to the Comptroller of Public Accounts. This includes 1.0 FTE for initiating a proactive enforcement program for appliance standards, 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 IV's provisions which extend the sales tax surcharge on off-road, heavy duty diesel equipment are expected to result in an additional $66.5 million per year in new revenues beginning in fiscal year 2014.

Article IV's provisions establishing the EEAPI program at TCEQ are not expected to have a significant administrative impact on the agency. Because the funds are already appropriated to the TCEQ, passage of the bill would result only in a shift in where the agency directs the funding--instead of going to a non profit, they would go to local governments participating in the program. Assuming 20 percent of the total amount of TERP funds available for the new technology research and development program are passed through to local governments, it is estimated that local entities throughout the state would receive $3,088,011 for the administration of the EEAPI program, as shown in the table above.

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 as a result of the bill's passage, while the amount TEES receives would remain the same, based on the 2.0 percent and 1.5 percent allocation to each agency made by the bill.

Article IX's requirements relating to appliance energy efficiency standards to be administered by the Comptroller are not expected to result in significant costs to the agency. Article IX's requirement that the TCEQ and the TEES work together to ensure that the state receives full credit in the state implementation plan for air emissions reductions achieved through energy efficiency is not expected to result in significant costs to either agency.

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 TCEQ to consider cumulative effects in the review of permits for new electric-generating facilities would result in the need for 1.0 additional FTE to populate a permit allowable database with emissions data. Database development costs are estimated at $450,000 in fiscal year 2010, with maintenance costs of $30,000 per fiscal year thereafter. Additional DCS costs are expected to total $104,000 in 2010, $72,000 in 2011, $71,000 in 2012, $68,000 in fiscal year in 2013; and $67,000 in 2014. Article XII costs are assumed to 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 include: costs to the TCEQ of $200,000 in each fiscal year 2010 and 2011 for the creation of a hybrid rebate database and increased DCS costs of $105,000 per fiscal year for the

implementation of Article X of the bill; a cost to the TCEQ of $250,000 in fiscal years 2010 and 2011 to modify the agency's Emissions Inventory Data System to create the greenhouse gas registry required in Article XI of the bill; and $450,000 in database development costs in fiscal year 2010, with maintenance costs of $30,000 per fiscal year thereafter, plus increased Data Center costs of $104,000 in 2010 and approximately $70,000 per fiscal year thereafter, to implement the cumulative effects provisions in Article XII of the bill.

Local Government Impact

The bill would require local governments to participate in programs, and adopt local procedures and amendments relating to the improvement of air quality, emissions reductions, and energy efficiency in buildings, vehicles, and appliances. The bill would require an applicant to fund 50 percent of the costs of implementing a project. Local governments could incur costs associated with the provision; however, some of those costs could be offset depending on the amount of savings from implementing energy efficiency programs, the amount of grants received, and the amount of funds reimbursed for program administration costs.

Local governments opting to participate in the EEAPI program would be eligible to receive an estimated $3,088,011 statewide as a result of the bill's passage, as shown in the table above.

Under the bill, local governments could receive up to 10 percent of the money allocated to the overall TERP grant program for the new technology implementation grants. The amount of funds local governments would receive would vary depending on the number of applications submitted, the costs to implement the programs, and the amount of funds reimbursed.

The bill would repeal Section 382.220 of the Health and Safety Code pertaining to the Local Initiative Program which provided funding for participating counties to implement specified air quality programs. During the 2008-09 biennium, local governments received $5 million through this program each fiscal year. The loss is shown in the table above. No savings to the state are expected because this estimate assumes the funds would be appropriated instead for grants through the Low-Income Vehicle Repair Assistance and Replacement Program.

Source Agencies: 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, 582 Commission on Environmental Quality, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices, 304 Comptroller of Public Accounts

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