LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 9, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **SB483** by Seliger (Relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester in geological formations carbon dioxide that would otherwise be emitted into the atmosphere.), **As Introduced**

Depending on the size of the franchise tax credit and the number of power plants constructed in accordance with the provisions of the bill, the state could experience an indeterminate amount of loss in revenue.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would provide tax incentives to organizations that participate in research and development activities related to a "clean energy project". Specifically, a "clean energy project" is defined as the construction of a coal-fired electric generating facility that: (1) can generate at least 200 megawatts; (2) uses Integrated Gasification Combined Cycle technology; and (3) is capable of capturing and permanently sequestering in a geological formation at least 60% of the carbon dioxide generated by the power plant.

The bill provides for a franchise tax credit not to exceed $100 million per entity implementing a clean energy project, with a maximum of three projects receiving the credit. The comptroller would adopt provisions detailing the issuance of the franchise tax credit, for example, on how much of the franchise tax credit would be allowed per year. An organization would be qualified to receive the franchise tax credit irrespective of whether the entity owes or pays the franchise tax and only after the project is completed and fully operational. Additionally, the entity would be permitted to assign the tax credits to a taxable entity.

The bill would require the Bureau of Economic Geology of the University of Texas at Austin (BEG) to monitor, measure, and verify the status of the sequestered carbon dioxide generated by clean energy projects. The BEG has indicated the cost of monitoring one clean energy project will be approximately $1,000,000 per year. These costs mainly consist of hiring approximately 7 FTEs per year and purchasing necessary equipment.

The University Lands Office of the UT System estimates that approximately ten thousand acres of land will be needed, per clean energy project, to sequester the necessary amount of carbon dioxide. According to the office, 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 bill would amend the Tax Code to reduce the oil production tax rate from 4.6% to 1.15% for certain oil producers. To qualify, the oil produced must be recovered through an Enhanced Oil Recovery Project (EOR) that uses carbon dioxide generated by a clean energy project. Also, the producer must receive certification from either the Railroad Commission or the Texas Commission on Environmental Quality, depending on where the carbon dioxide is sequestered. The tax rate reduction will last for 30 years.

Currently, a producer is eligible for the rate reduction for 7 years if at least 99% of the carbon dioxide sequestered will remain so for at least 1000 years. Since the bill would extend the length of the rate reduction and impose a less stringent requirement for obtaining the reduction, the state could experience a revenue loss that would depend on the number of producers participating in an EOR project.

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, 720 The University of Texas System Administration, 301 Office of the Governor, 455 Railroad Commission

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