

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 11, 2009**

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

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

**IN RE: SB1387** by Seliger (Relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1387, Committee Report 2nd House, Substituted: a negative impact of (\$184,906) 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)<br>Impact to General Revenue Related<br>Funds |
|-------------|--|
| 2010        | (\$93,458)   |
| 2011        | (\$91,448)   |
| 2012        | \$171,457  |
| 2013        | \$136,728  |
| 2014        | \$136,728  |

**All Funds, Five-Year Impact:**

| Fiscal Year | Probable Savings/(Cost)<br>from<br><i>General Revenue Fund</i><br>1 | Probable Savings/(Cost)<br>from<br><i>New Anthropogenic Carbon<br/>Dioxide Trust Fund</i> | Probable Revenue Gain/<br>(Loss) from<br><i>New Anthropogenic Carbon<br/>Dioxide Trust Fund</i><br>1 |
|-------------|---|---|--|
| 2010        | (\$93,458)  | \$0   | \$0  |
| 2011        | (\$91,448)  | \$0   | \$0  |
| 2012        | \$0   | (\$171,457)   | \$171,457  |
| 2013        | \$0   | (\$136,728)   | \$136,728  |
| 2014        | \$0   | (\$136,728)   | \$136,728  |

| Fiscal Year | Change in Number of State<br>Employees from FY 2009 |
|-------------|---|
| 2010        | 1.0   |
| 2011        | 1.0   |
| 2012        | 2.0   |
| 2013        | 2.0   |
| 2014        | 2.0   |

## **Fiscal Analysis**

The bill would define “anthropogenic carbon dioxide,” “anthropogenic carbon dioxide (CO<sub>2</sub>) injection well,” “enhanced recovery operations,” “geologic storage, and “geologic storage facility.” The bill would provide that the Railroad Commission (RRC) has jurisdiction over injection of CO<sub>2</sub> into a reservoir that is initially productive of oil, gas, or geothermal resources or a saline formation directly above or below that reservoir.

The bill would prohibit a person from drilling or operating a CO<sub>2</sub> injection well or constructing or operating a geologic storage facility without first obtaining a permit from the RRC. The bill would allow the RRC to impose fees to recover its costs for permitting, monitoring, and inspection of CO<sub>2</sub> injection wells and geologic storage facilities. The fees would be deposited to the credit of a newly created special fund in the state treasury to be known as the Anthropogenic Carbon Dioxide Trust Fund. The fund could be used only by the RRC for activities relating to CO<sub>2</sub> injection and storage.

The bill would provide that an application to the RRC must include a letter from the Executive Director of the TCEQ stating that drilling and operating a CO<sub>2</sub> injection well or operating the geologic storage facility will not endanger any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand. The bill would require the RRC to adopt rules for injection and geologic storage of CO<sub>2</sub> including geologic site characterization, acquisition of property rights, area of review and corrective action, well construction, operation, mechanical integrity testing, monitoring, well plugging, post-injection site care, site closure, long-term stewardship, enforcement, and the collection of fees and penalties. Rules adopted by the RRC would be required to be consistent and not more stringent than rules or regulations adopted by the US Environmental Protection Agency or another federal agency governing the injection and geologic storage of CO<sub>2</sub>.

The bill would allow the RRC to issue permits if it would make certain findings, and it would allow the TCEQ and RRC to enter property and examine records relating to a CO<sub>2</sub> injection well or geologic storage facility. Both agencies would also be authorized to require financial assurance for a person to whom an injection well permit is issued to ensure that the injection well is properly plugged and that funds are available for plugging, post-injection site care, and closure. Each state agency would also be authorized to receive funds from the financial assurance mechanism.

The bill would repeal Water Code, Section 27.038, which provides the RRC jurisdiction over injection of carbon dioxide produced by a clean coal project into a reservoir that is productive of oil, gas, or geothermal resources by a Class II injection well, or by a Class I injection well if required by federal law.

The bill would require the Land Commissioner to prepare a preliminary report to file a report with the Legislature by December 1, 2010 related to geologic storage on state-owned land. The General Land Office (GLO) would be required to coordinate with Bureau of Economic Geology (BEG), RRC, TCEQ, and the heads of other appropriate agencies.

The bill would require the TCEQ and RRC, in consultation with the BEG to issue a joint report to the Legislature by December 1, 2010, provide a report that analyzes the requirements and recommends a permitting process for the injection and geologic storage of anthropogenic CO<sub>2</sub> into saline formations that are not productive of oil and gas or geothermal resources. The report would also contain a recommendation on which agency should have jurisdiction over permitting for such injection into saline formations and assess the status of compliance with federal rules regulating the geologic storage and associated injection of anthropogenic CO<sub>2</sub>.

## **Methodology**

This estimate assumes that the RRC would require 1.0 additional FTE in 2010 and 2011 to assist in rulemaking, interagency coordination, and establishment of the injection well permitting program. Because the bill would not provide for fees to be collected for deposit to the Anthropogenic Carbon Dioxide Trust Fund until fiscal year 2011, this estimate assumes that the first two years' costs (\$93,458 in 2010 and \$91,448 in 2011) would be paid out of the General Revenue Fund.

This estimate assumes that 2.0 FTEs would be required in fiscal year 2012 and subsequent years to administer the permitting program. It is assumed that costs in these years (\$138,739 in 2012 and \$136,728 in subsequent years) would be paid out of the Anthropogenic Carbon Dioxide Trust Fund.

This estimate assumes that the TCEQ could accomplish any responsibilities added by the bill using existing resources. Costs to the General Land Office in coordinating with other state agencies are not expected to be significant. The General Land Office reports that the bill's passage could result in additional revenue to the Permanent School Fund (PSF) as a result of collection of storage fees, surface or submerged surface leases, and other sources of revenue as a result of having a storage facility located on (PSF) lands. The amount of revenue generated would depend on the number and location of storage facilities and the fees and leases collected. This estimate also assumes that cost to the BEG in assisting in preparing the reports required by the bill would not be significant.

## **Local Government Impact**

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

**Source Agencies:** 455 Railroad Commission, 582 Commission on Environmental Quality, 305 General Land Office and Veterans' Land Board, 580 Water Development Board

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