LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 27, 2011

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

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

IN RE: **SB655** by Hegar (Relating to the abolition of the Railroad Commission of Texas, the creation of the Texas Oil and Gas Commission, and the transfer of the powers and duties of the railroad commission to the oil and gas commission.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB655, Committee Report 1st House, Substituted: a positive impact of $53,561,754 through the biennium ending August 31, 2013.

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
2012	$27,030,877
2013	$26,530,877
2014	$26,530,877
2015	$26,530,877
2016	$26,530,877

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *Oil-field Cleanup Acct* 145	Probable Revenue Gain/(Loss) from *Oil-field Cleanup Acct* 145
2012	$24,030,877	$3,000,000	$27,500,000	($55,201,000)
2013	$24,030,877	$2,500,000	$27,500,000	($25,111,000)
2014	$24,030,877	$2,500,000	$27,500,000	($25,268,000)
2015	$24,030,877	$2,500,000	$27,500,000	($25,483,000)
2016	$24,030,877	$2,500,000	$27,500,000	($25,696,000)

Fiscal Year	Probable Savings/ (Cost) from *New Other--Oil and Gas Regulation and Cleanup*	Probable Revenue Gain/(Loss) from *New Other--Oil and Gas Regualtion and Cleanup*	Probable Savings/ (Cost) from *Alter Fuels Research Acct* 101	Probable Revenue Gain/(Loss) from *Alter Fuels Research Acct* 101
2012	($50,300,000)	$80,500,000	$1,700,000	($2,600,000)
2013	($50,300,000)	$50,300,000	$1,700,000	($2,100,000)
2014	($50,300,000)	$50,300,000	$1,700,000	($2,100,000)
2015	($50,300,000)	$50,300,000	$1,700,000	($2,100,000)
2016	($50,300,000)	$50,300,000	$1,700,000	($2,100,000)

Fiscal Year	Change in Number of State Employees from FY 2011
2012	(23.0)
2013	(23.0)
2014	(23.0)
2015	(23.0)
2016	(23.0)

Fiscal Analysis

The bill would abolish the Railroad Commission and would transfer all of its programs and functions to the newly created the Oil and Gas Commission (OGC). The OGC would be governed by a single, elected commissioner serving a four-year term, as opposed to the current three-member elected Railroad Commission serving staggered six-year terms. The Governor would appoint the initial commissioner of the OGC. The commissioner of the Railroad Commission who was most recently elected in a general election would serve as initial commissioner of the OGC until the Governor would make an appointment. The appointed commissioner would serve until January 1, 2013, when the newly elected single commissioner would take office. The bill also deletes a requirement that the commission employs an administrative chief, and it would allow for a phase-in of the agency name change until January 1, 2012.

The bill would create the Oil and Gas Regulation and Cleanup (OGRC) Fund as a special fund in the treasury outside of the General Revenue Fund. The OGRC would replace the existing General Revenue-Dedicated Oil Field Cleanup (OFCU) Account No. 145, with all balances in that account transferring to the OGRC Fund, and all current revenue streams to the OFCU Account No. 145, except penalties, accruing to the OGRC Fund. Penalties would be deposited to the credit of the General Revenue Fund. The bill would authorize surcharges on the agency's existing fees to provide that the OGRC Fund cover all of the agency's costs related to the regulation of oil and gas development. The bill would provide a specific methodology for the OGC to determine the amount of such surcharges. In addition, the bill would require that the Comptroller notify the OGC when the OGRC Fund has an unexpended balance of $20.0 million or greater, at which point the agency would cease collecting oil-field cleanup regulatory fees, until the unexpended balance of the OGRC Fund falls to $10.0 million.

The bill would require the OGC to establish specific performance goals for oil and gas regulation through the appropriations process for: the number of orphaned wells plugged with the use of state funds; the number of abandoned sites to be investigated, assessed, or cleaned up; and the number of surface locations to be remediated. The OGC would also be required to submit quarterly reports to the Legislative Budget Board on OGRC Fund revenues and expenditures and progress towards the performance goals. Annually, the OGC would be required to report to the Legislature a review of the effectiveness of money provided in the OGRC Fund at enabling the agency to better protect the environment.

The bill would require that the State Office of Administrative Hearings (SOAH) conduct all contested case hearings in enforcement proceedings under laws administered by the OGC. It would also require that all Gas Utility Regulatory Act hearings be conducted by SOAH.

The bill would abolish the Alternative Fuels Research and Education (AFRED) program and the General Revenue-Dedicated AFRED Account No. 101. Funds remaining in the AFRED Account No. 101 would be transferred to the undedicated portion of the General Revenue Fund.

Methodology

Because the bill deletes the requirement of an administrative chief at the OGC, this estimate assumes that the new agency would begin operations without an executive director. Because of the elimination of two commissioner positions, this estimate also assumes that the commissioners' 10 staff member positions would also be eliminated, for a reduction of 13.0 FTEs. The savings associated with these positions, including benefits, is estimated at $1,230,877 per fiscal year. Because 94 percent of the agency's indirect administration costs in 2010-11 are paid out of the General Revenue Fund, this estimate assumes all of the savings associated with these positions as General Revenue savings in the table above. This estimate assumes that the cost of changing the name of the agency could be absorbed using existing agency resources.

Regarding the creation of the OGRC Fund, this estimate assumes that all balances in the OFCU Account No. 145 as of August 31, 2011 as reported in the Comptroller's Biennial Revenue Estimate (BRE) for 2012-13 of $30.2 million would transfer to the new special fund and effectively be a loss to the General Revenue Fund. Current revenues to the OFCU Account No. 145, estimated at approximately $25 million per year based on the Comptroller's BRE, minus an estimated $2.5 million in penalties, or $22.5 million per year, would begin to accrue to the new OGRC Fund, and is shown in the table above as a revenue gain, while a loss of $25.0 million per fiscal year is shown to the OFCU Account No. 145. The $2.5 million per year in penalty revenues is shown in the table above as a gain to the General Revenue Fund.

The bill would require the OGC to cover all costs of oil and gas-related activities. Currently in the 2012-13 biennium, $18.9 million in annual expenditures for oil- and gas-related strategies are being paid out of the General Revenue Fund, along with an estimated $3.9 million in associated employee benefits, for a total of $22.8 million. This amount is shown as a savings to the General Revenue Fund in the table above.

Based on the agency's 2012-13 Legislative Appropriations Request, the Railroad Commission's costs in 2010-11 out of the OFCU No. 145 of $27.5 million exceed revenues by $2.5 million, including benefits costs. Upon passage of the bill, $2.5 million in penalties would no longer be available, increasing that deficit to $5.0 million per year. This estimate assumes that the agency would have to set fees sufficient to cover that deficit, along with the $22.8 million amount to replace current General Revenue appropriations. It is therefore estimated that the OGC would have to set surcharges sufficient to raise $27.8 million in new revenue per fiscal year. Because the agency would spend all of the new revenue stream plus amounts covered by revenues to the OFCU Account No. 145 ($22.5 million per fiscal year that would transfer to the new OGRC Fund), the OGRC would have total annual estimated costs of $50.3 million. As shown in the table above, this estimate assumes that revenue to the new OGRC Fund would be equal to total costs out of the Fund.

Because the bill would require SOAH to handle all contested case hearings in enforcement proceedings and all Gas Utility Regulatory Act hearings, the OGC would be required to contract with SOAH for hearings that the Railroad Commission conducts under current law. Based on SOAH's estimates, the additional costs would total $312,482 in fiscal year 2012 and $291,971 in future years and require an additional 2.5 FTEs. This estimate assumes that 2.5 FTEs and related appropriations would be paid for by the OGC using savings experienced by no longer having to conduct the hearings on its own, and that the OGC would thus require 2.5 fewer FTEs.

The elimination of the AFRED program would result in balances in the AFRED Account No. 101 being deposited to the General Revenue Fund. Although the Comptroller's Biennial Revenue Estimate for 2012-13 reports a projected balance in the account of $10.0 million on September 1, 2011, the Railroad Commission reports that the majority of these cash balances will, in fact, be spent prior to the end of fiscal year 2011. Therefore, this estimate assumes only $500,000 in AFRED Account No. 101 balances will actually move to the General Revenue Fund. In addition, $2.1 million in annual revenues to the AFRED Account No. 101 will be lost, partially offset by an estimated $1.7 million in annual expenditures, based on 2010-11 expenditure levels. Elimination of the marketing and education program would also result in 10.0 fewer FTEs being needed, as compared to 2010-11. It should be noted that FTEs in House Bill 1, As Introduced, were reduced by 4.8 FTEs to reflect recommended reductions to funding for the AFRED marketing and public education program.

Local Government Impact

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

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 455 Railroad Commission

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