LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 3, 2013

TO: Honorable Jim Keffer, Chair, House Committee on Energy Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2446** by Crownover (Relating to the qualifications of certain electric generation projects for programs designed to encourage the capture and utilization of carbon dioxide for use in enhanced oil recovery.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2446, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

However, the bill will result in a negative impact of ($4,000,000) beginning in FY 2017.

General Revenue-Related Funds, Ten-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	$0
2015	$0
2016	$0
2017	($4,000,000)
2018	($8,700,000)
2019	($9,000,000)
2020	($9,000,000)
2021	($9,000,000)
2022	($9,000,000)
2023	($9,000,000)

All Funds, Ten-Year Impact:

Fiscal Year	Probable Revenue (Loss) from *School Districts*	Probable (Cost) from *Foundation School Fund* 193
2014	$0	$0
2015	$0	$0
2016	$0	$0
2017	($4,200,000)	($4,000,000)
2018	($8,800,000)	($8,700,000)
2019	($9,100,000)	($9,000,000)
2020	($8,700,000)	($9,000,000)
2021	($8,300,000)	($9,000,000)
2022	($8,000,000)	($9,000,000)
2023	($7,300,000)	($9,000,000)

Fiscal Analysis

The bill would remove from the definition of an advanced clean energy project under Health and Safety Code, Chapter 382, the requirement that such projects involve the use of coal, biomass, petroleum, coke, solid waste, or fuel cells using hydrogen derived from such fuels. With regard to emissions standards that an advanced clean energy project is required to meet, the bill would provide that a project could meet the criteria if it is designed for the use of one or more combustion turbines and the emissions rate meets best available control technology requirements as determined by the Texas Commission on Environmental Quality (TCEQ). The bill would also remove the requirement that a clean energy project under Natural Resources Code, Chapter 120, involve coal-fueled or petroleum coke-fueled electric generating facilities.

The bill would provide that a franchise tax credit for an advanced clean energy project could be assigned to another entity that would acquire an interest in the income generated by a project in proportion to the entity's ownership in the project. The bill would change the way franchise tax credits are calculated and allow for unused credit to be carried forward for up to 20 years. The bill would extend a provision that prohibits the Comptroller from issuing a franchise tax credit before September 1, 2013 to September 1, 2018, and it would prohibit the Comptroller from issuing credits while a valuation cap agreement under Tax Code, Chapter 313, is in effect for a project.

The bill would take immediate effect if it receives a two-thirds vote in both houses. Otherwise, it would take effect on September 1, 2013.

Methodology

The TCEQ reports that passage of the bill would allow for more projects to become eligible for NTIG Program funding. The TCEQ is given the authority to allocate the amount of appropriated TERP funds (Account 5071) it receives to support the program. At this time, no TERP funding has been allocated for any clean energy projects. Future allocations would depend upon the possible increased demand for such projects.

The Comptroller reports that through the expansion of the definition of an "advanced clean energy project" the bill would allow combined-cycle natural-gas-fueled power plants capturing carbon dioxide for enhanced oil recovery to become eligible for franchise tax credits under Tax Code,

Chapter 313. The Comptroller reports that there is one announced natural-gas-fueled power plant, valued at $450 million, meeting the requirements of the bill, which is scheduled to be operational in mid-2015 in Point Comfort. This analysis assumes that this plant, plus a second plant of similar size, and a third plant at a value of $1 billion would become operational. These would represent the last of three plants allowable under statute governing the franchise tax credits. The Comptroller reports that the third plant, in Ector County, is currently qualified for a Chapter 313 limitation. This analysis assumes the other two plants would be subject to the value limitations on new plants until 2018.

It is estimated that the franchise tax credit, to be received after the end of the Chapter 313 limitation period, capped at 10 percent of initial capital costs, would be $45 million for the two natural-gas-fueled power plants. It is estimated that the third plant would be eligible for $100 million in franchise tax credits. Currently, the plants would be eligible to receive the franchise tax credit once the facility is fully operational, has been certified by the Bureau of Economic Geology, and has entered into an interconnection agreement with ERCOT, however the amount of credit could not exceed total franchise tax liability.

Under provisions of the bill, the cost to the state from the franchise tax credits would be moved into at least 2018. If the plants enter into a Chapter 313 agreement with a school district, this would further push the state cost out until at least 2024, as the plants would not be able to simultaneously receive the franchise tax credit and a value limitation under Chapter 313. Based on the estimated capital costs of the plants, the available franchise tax credits would total $190 million.

The estimated fiscal impact on the school districts shown in the table above is based on two natural-gas-fueled projects being completed in 2015, and one being completed in 2016. The state would incur cost under the Foundation School Program (FSP) corresponding to local M&O revenue losses associated with the expansion of projects eligible for value limitation under Chapter 313, Tax Code. Additional state cost of $4.0 million is estimated beginning in FY17 increasing to approximately $9.0 million by FY19 and continuing at a similar level through FY23.

The General Land Office expects that passage of the bill would not have a significant fiscal impact on the agency or revenues derived from state lands.

Local Government Impact

School districts could lose revenue as a result of the bill's extension of franchise tax credits for advanced clean energy projects. As shown in the table above, this loss is estimated at $4.2 million in fiscal year 2017 and $8.8 million in fiscal year 2018. Similar fiscal implications are expected in future years beyond fiscal year 2018.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 455 Railroad Commission, 582 Commission on Environmental Quality, 720 The University of Texas System Administration

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