LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

TO: Honorable Patricia Harless, Chair, House Committee on Environmental Regulation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3582** by Strama (Relating to emission and water reduction in permitted generation facilities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3582, As Introduced: an impact of $0 through the biennium ending August 31, 2015.

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
2014	$0
2015	$0
2016	$0
2017	$0
2018	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *Texas Emissions Reduction Plan* 5071
2014	($99,459,608)
2015	($98,288,608)
2016	($97,288,608)
2017	($95,988,608)
2018	($94,588,608)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	5.0
2015	5.0
2016	5.0
2017	5.0
2018	5.0

Fiscal Analysis

The bill would add a new chapter to the Health and Safety Code creating a loan guarantee program to be administered by the Texas Commission on Environmental Quality (TCEQ) for repower and modification projects at an existing permitted generation facility that will result in the reduction of emissions of nitrogen oxides (NOX) and water consumption.

The bill would apply only to projects in which a permitted generation facility would apply for a modified permit before January 1, 2020, in order to achieve the following: a 50 percent reduction in annual average emission rate for NOX; a 25 percent reduction in the rate of water consumption; and to maintain or exceed the previous rated capacity of the facility. The TCEQ would be authorized to provide loan guarantees or other financial incentives for eligible projects to facilitate the repowering and modification of the facility needed to reduce emissions and water consumption. A proposed project would be required to be eligible for a loan guarantee under the initiative program established in Health and Safety Code, Section 391.002.

The bill would establish loan guarantee guidelines and criteria to be adopted in TCEQ rules, including a requirement that the loan guarantees do not exceed 85 percent of the direct cost of a project, with the total cost of installed capacity not to exceed $1,000 per kilowatt. The bill would provide that the loan guarantee program would expire upon the earlier of the following: three years after the Public Utility Commission implements a "forward capacity market;" the point at which loan to value of the projects falls at or below 50 percent; or 18 years from the date of approval. Projects eligible for the loan guarantee program established by the bill would have comply with provisions applicable to Texas Emissions Reduction Plan (TERP) projects under Health and Safety Code, Sections 386.055 and 386.056. The TCEQ would be directed to give preference to projects that are located in nonattainment and near-nonattainment areas of the state.

The TCEQ would be required to prepare an annual report that summarizes the applications received under the new loan program and loan guarantees awarded in the preceding year.

The Comptroller of Public Accounts would be required to conduct an annual review of each recipient of a loan guarantee to ensure that the recipient's use of the loan complies with state law and the terms of the loan. The TCEQ would be required to provide the Comptroller all monitoring reports received and other documentation. On a finding of any misuse of loan funds or other noncompliance, the comptroller would report to the TCEQ with recommendations for subsequent action. The Comptroller would also be required to notify the TCEQ and the applicant when the loan-to-value of the project falls at or below 50 percent and the loan guarantee is withdrawn.

The chapter creating the loan guarantee program would expire on August 31, 2019.

Methodology

This estimate assumes that the TCEQ would provide two to four $50 million loan guarantees in each fiscal year beginning in fiscal year 2014 and continuing through fiscal year 2019. The loan amount is based on TCEQ estimates of average projects to convert an existing electric generation facility to a reduced emissions and water consumption facility that would meet the eligibility criteria established by the bill.

The bill provides that proposed projects for the loan guarantee program must meet the requirements established in Health and Safety Code, Section 391.002, a provision that relates to eligibility for New Technology Implementation Grant project funding, an eligible use of TERP Account No. 5071. Thus, although the bill does not provide specific language regarding the source of funding for the loan guarantee program established by the bill, this estimate assumes that funding for the loan guarantees would be from the TERP Account No. 5071.

This estimate assumes that funds sufficient to cover the amount of loan guarantee that would be provided would be transferred from the TERP Account No. 5071 to a trust account, such as the Texas Treasury Safekeeping Trust, so that the funds could be accessed in case an applicant would default on a loan. In the first year, this estimate assumes that $98.9 million would transfer from the TERP Account No. 5071 to the trust account to guarantee the first $100 million loan in fiscal year 2014. In future years, the amount to be transferred would decrease as the principal on prior years' loans would begin to be paid down, along with interest, which this estimate assumes would remain in the trust account. Based on an interest rate of 7.0 percent and a 20-year repayment schedule, the following amounts would transfer from the trust fund: $97.8 million in fiscal year 2015; $96.8 million in fiscal year 2016; $95.5 million in fiscal year 2017; and $94.1 million in fiscal year 2018. Because the TERP Account No. 5071 fund balance August 31, 2013 in the Comptroller's BRE for 2014-15 is estimated at $772.0 million, and revenues to the account currently exceed expenditures out of the account, this estimate assumes there would be sufficient fund balances to cover loan guarantees through the program's expiration on August 31, 2019.

This estimate also assumes that when a project would meet one of the criteria for expiration of the loan guarantee program, any funds in the trust account being held to guarantee that project's loan would revert to the TERP Account No. 5071. However, this analysis assumes that no guarantees would expire through the fiscal year 2019 horizon.

The TCEQ would incur costs in administering the new loan guarantee program established by the bill. Such costs would be associated with application review, loan processing, financial analysis, outreach, legal expenses, reporting, and monitoring. An estimated 5.0 FTEs at an annual cost of $438,608 would be needed, as well as $50,000 in annual contracting costs to handle the additional workload. In addition, one-time start-up costs of $71,000 would be needed in fiscal year 2014. These administrative costs, as well as the funds that would be transferred to the trust account, are shown as costs out of the TERP Account No. 5071 in the table above.

The Comptroller estimates there would be a cost to implement provisions of the bill requiring annual reviews of each recipient of a loan guarantee. It is assumed that the additional costs could be absorbed within existing resources.

Local Government Impact

Local governments operating eligible facilities could participate in the loan guarantee program. This estimate assumes that any entity choosing to participate would do so because the program would offer a financial advantage to financing a repower or modification project that the entity would otherwise be contemplating.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality

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