

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 12, 2017

TO: Honorable Abel Herrero, Chair, House Committee on Land & Resource Management

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1685 by Clardy (Relating to the authority of the General Land Office to sell retail electric power.), **As Introduced**

The bill would have an indeterminate fiscal impact to the state because the number of customers currently contracting with the General Land Office and Veterans' Land Board (GLO) to purchase power that would terminate those contracts and begin paying the miscellaneous gross receipts tax and the public utility gross receipts tax subsequent to purchasing power from entities other than the GLO cannot be determined.

The bill would amend the Utilities Code to remove the ability of the General Land Office and Veterans' Land Board (GLO) to sell or convey electric power. Under current law, GLO purchases wholesale power with gas royalties from land owned by the Permanent School Fund 44 (PSF) and sells it at a profit, and those funds are deposited to the PSF. GLO reported on April 10, 2017, that over the past ten years its electricity sales have resulted in an average net revenue gain to the PSF of \$7.0 million per year.

GLO currently is authorized to sell power only to public retail customers, defined as state agencies, state institutions of higher education, public school districts, political subdivisions, U.S. military installations, and the U.S. Department of Veterans Affairs facilities. The bill would allow the continuation of GLO's existing contracts until those contracts expire. However, it is unclear what effect the bill would have on GLO's existing contracts that have been executed but for which service does not begin until after the effective date of the bill. Additionally, many of GLO's customers pay a variable rate for electricity and have the ability to lock into a fixed rate at any time. It is unclear under the provisions of the bill if those customers would be allowed to lock a rate after the effective date of the bill, and some customers may choose to terminate their contracts with GLO rather than continue a contract with uncertain terms.

Under current law, customers who purchase electricity from GLO are exempted from two utility taxes because GLO is a state agency: the miscellaneous gross receipts tax and the public utility gross receipts tax. If those existing customers are no longer able to purchase electricity through GLO, they may have to purchase electricity from a non-exempt provider and thus may be required to pay the two utility taxes from which they are currently exempted. Because GLO cannot estimate the number of customers who would terminate service in the near future, the Comptroller is unable to determine the potential revenue gain from having those customers begin paying the two utility taxes.

The University of Texas System, one of GLO's current customers, has indicated that it would experience a cost increase system-wide of \$1,611,036 per year if it is no longer able to purchase

electricity from GLO.

The bill would take effect September 1, 2017.

Local Government Impact

The bill may result in higher costs in the form of utility taxes for those local government entities that currently purchase electricity through GLO.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 720 The University of Texas System Administration

LBB Staff: UP, SZ, MW, PBO, CL, SD