LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 7, 2017

TO: Honorable Joseph Pickett, Chair, House Committee on Environmental Regulation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB26** by Estes (relating to the Texas emissions reduction plan and other related programs and measures to reduce emissions.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB26, Committee Report 2nd House, Substituted: an impact of $0 through the biennium ending August 31, 2019.

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
2018	$0
2019	$0
2020	$0
2021	$0
2022	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *Texas Emissions Reduction Plan* 5071	Probable Revenue Gain/(Loss) from *Texas Emissions Reduction Plan* 5071	Probable Savings/(Cost) from *State Highway Fund* 6	Change in Number of State Employees from FY 2017
2018	($47,076,977)	($31,119,000)	$31,119,000	6.0
2019	($47,064,377)	($31,586,000)	$31,586,000	6.0
2020	($164,900,881)	$213,861,000	($117,171,000)	6.0
2021	($164,900,881)	$215,032,000	($118,342,000)	6.0
2022	($164,900,881)	$96,690,000	$0	6.0

Fiscal Analysis

The bill would expand the definition of alternative fuels for vehicles used by state agency to include vehicles powered by hydrogen fuel cells, and to clarify that "plug-in hybrid vehicles" are hybrid electric vehicles.

The bill would extend the Texas Emissions Reduction Plan (TERP) program, currently set to expire on August 31, 2019, to the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone. The Clean School Bus (CSB) program, the New Technology Implementation Grant (NTIG) program, the Texas Clean Fleet (CF) program, and the Texas Natural Gas Vehicle Grant (NGVG) program would each be extended from August 31, 2019 to the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone.

The bill would amend Texas Health and Safety Code, Chapter 386, Subchapter D-1 to change the name of the Drayage Truck Incentive program to the Seaport and Rail Yard Areas Emissions Reduction program, and to add cargo handling equipment to the program.

The bill would amend Texas Health and Safety Code, Section 386.205 to require the Public Utility Commission (PUC) to amend the reporting requirements to include quantified reductions in the emissions of each air contaminant subject to the permitting requirements in Clean Air Act, Chapter 382.

The bill would combine the Alternative Fueling Facilities (AFF) program and the Clean Transportation Triangle (CTT) program into one program under the AFF program name; the combined program would be extended from August 31, 2018 to the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone. The funding allocations for the two programs, each receiving 5 percent of TERP funding under current law, would be allocated an initial value of 10 percent, subject to reallocation.

The bill would allow the Texas Commission on Environmental Quality (TCEQ) to reallocate funding between TERP programs based on demand for grants. The bill would remove various caps and minimum spending levels on program. The bill would reduce the initial allocation for the NGVG program from 16 percent to 10 percent, specify that the amount to be allocated for supporting research related to air quality be no more than $750,000, and would increase the initial allocation for the Seaport and Rail Yard Areas Emissions Reduction program from 2 percent to 6 percent. The bill would allocate $6,000,000 to the AFF program instead of 10 percent, and would prohibit allocating funding to the AFF program in fiscal year 2019. Funding previously appropriated solely for administrative expenses would be expanded to allow use for administrative expenses and outreach and education activities.

The bill would add a new definition of "Clean Transportation Zone," which includes areas within the existing Clean Transportation Triangle, areas within a new "Southern Area", defined as counties between Laredo, San Antonio, and Corpus Christi, as well as areas designated as nonattainment or near nonattainment. There areas would be eligible for AFF program funding.

The bill would make changes to the NTIG program, changing the eligibility of emissions sources under the program from "point sources" to "stationary sources." The list of projects eligible for funding under the NTIG program would be expanded to include new technology projects that reduce emissions from oil and gas production, storage, and transmission activities through replacement, repower, or retrofit of stationary compressor engines, installation of systems to reduce or eliminate flaring of gas or the burning of gas using other combustion control devices, or installation of systems that reduce flaring and other site emissions through capturing waste heat to generate electricity. TCEQ would be instructed to give preference to projects that recover waste heat from the flaring of natural resources in order to generate electricity. The bill would alter the application review process by making review and comments by other state agencies optional, and would amend reporting requirements for the program.

The bill would remove an allocation of 1.5 percent of TERP funds for the Texas A&M Engineering Experiment Station (TAMEES) for administrative costs, but it would provide that funds from the General Revenue-Dedicated Texas Emissions Reduction Plan Account No. 5071 (TERP account) could still be allocated to TAMEES for administrative costs. The bill would expand the scope of the computation by TAMEES to include other reductions of air contaminants subject to the permitting requirements of the Texas Clean Air Act.

The bill would allocate a maximum of $500,000 for conducting research and other activities in order to demonstrate that excess emissions reported for an area are the result of a foreign emissions source or an exceptional event. The bill would amend the Small Business Incentives program requirements.

The bill would renew the Light-Duty Vehicle Purchase or Lease Incentive (LDMVPLI) program; this program expired on August 31, 2015. The program would provide incentive grants for the purchase or lease of vehicles powered by compressed natural gas or liquefied petroleum gas and electric drive vehicles powered by battery or a hydrogen fuel cell. The LDMVPLI program would expire at the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone.

The bill would create the Governmental Alternative Fuel Fleet Grant (GAFFG) program, which would provide grants to an eligible state agency, county, municipality, or political subdivision in purchasing or leasing new motor vehicles that operate primarily on compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including fully electric motor vehicles or plug-in hybrid electric vehicles. No more than 10 percent of the total amount awarded in any fiscal year may be used for purchasing, leasing, installing, or procuring refueling infrastructure, equipment, or services. TCEQ is required to provide an online application process for application submissions, which the agency estimates may take two years to complete, possibly delaying the implementation of the program until the system is put in place. Funding for this program would be appropriated by the legislature from the TERP account, and expenditures may not exceed 3 percent of the balance in the TERP account at the beginning of each fiscal year. Administrative expenses are capped at 1.5 percent of the total amount allocated to the GAFFG program in one fiscal year up to $1.0 million. TCEQ has indicated that at maximum program funding levels for fiscal year 2018, the administrative expenses cap may be too low to effectively administer the program, especially if the online application system is not funded through a separate appropriation.

The bill would allow TCEQ to streamline the application process for the Diesel Emissions Reduction Incentive Grant (DERIG) program by developing, maintaining, and periodically updating a system to accept applications electronically through the agency's website. Funding for the CSB program would be expanded to include replacement of school buses; the program currently funds only retrofits. The bill would lower the number of vehicles required to qualify for CF program funding from 20 to 10 vehicles. The bill would amend eligibility requirements of the NGVG program and would amend the definitions of a "natural gas engine" and "natural gas vehicle".

The bill would amend Texas Tax Code, Sections 151.0515(d) and 152.0215(c), and Texas

Transportation Code, Section 502.358(c) and 548.5055 to extend fees and surcharges providing revenue to the General Revenue-Dedicated Texas Emissions Reduction Plan (TERP) Fund No. 5071 that are currently set to expire on August 31, 2019 to the end of the biennium in which Texas attains the national ambient air quality standards for ground-level ozone. The bill would amend Texas Transportation Code, Section 501.138(b-3) to extend the transfer from the State Highway Fund (SHF) to the TERP Fund from certain certificate of title fees from August 31, 2019 to August 31, 2021. The transfer provision would be amended so that the transfer amount would be equal to the revenue from title fees collected from people in nonattainment areas.

The bill would apply only to a TERP grant awarded on or after the effective date of the bill. The bill would take effect August 30, 2017.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Methodology

The new purchasing requirements in Government Code, §2158.051 are not estimated to have any significant fiscal impact.

PUC estimates that implementing the amended reporting requirements could be implementing using existing resources.

The LDMVPLI program renewal is limited to funding 1,000 incentives for light-duty motor vehicles powered by compressed natural gas or liquefied petroleum gas in the amount of $5,000 per incentive in the biennium, and 2,000 incentives for light-duty motor vehicles powered by electric drive in the amount of $2,500 per incentive in the biennium, for a total program cost of $5,000,000 for the biennium, or $2,500,000 each fiscal year.

This estimate is based on GAFFG program funding being 3 percent of the ending fund balance in the TERP Fund at the end of fiscal year 2017; according to the Comptroller's 2018-19 Biennial Revenue Estimate, this fund balance will be $1,384,166,000. The GAFFG program's maximum funding for fiscal year 2018 would be $41,524,980. This estimate assumes a program allocation of this amount each fiscal year that follows. TCEQ estimates that the cost of implementing an online application system for the GAFFG program would cost $300,000 in the first year and $300,000 in the second year for system design, development, and implementation. Ongoing maintenance costs are estimated to be $5,000 per fiscal year. These costs would be funded from the TERP account and area also included in the 3 percent funding total. TCEQ estimates that, in order to administer and implement the new GAFFG program, 3.0 FTEs would be required (two planner positions to administer the program processes and a contract specialist). Fewer FTEs would be needed if appropriations were lower.

The bill would expand the types of NTIG projects that would be eligible for TERP funding to include oil and gas-related activities. TCEQ estimates additional staff with expertise in the oil and gas field would be required. It is estimated that an additional 2.0 FTEs (an engineering specialist, and a financial analyst) would be required in the NTIG program.

Based on estimates provided by TCEQ, an additional program supervisor would be required in the Implementation Grants Section of the TERP program. The 6.0 additional FTEs that would be necessary as a result of the bill and the associated capital and operational needs would cost

$538,287 in fiscal year 2018 and $513,087 in fiscal year 2019. The continuing costs of these FTEs and associated operational expenses would continue at fiscal year 2019 levels in future years.

This estimate was made assuming that current TERP program activities would continue to be funded at 2016-17 funding levels, and that the new requirements concerning the renewal of the LDMVPLI program, the expansion of the NTIG program, and the implantation of the GAFFG program are funded in addition to existing TERP program activities. However, total appropriations to existing TERP programs could be reduced in order to shift funding to these new initiatives, while keeping expenditures from the TERP account the same as in the 2016-17 biennium.

This estimate assumes that any administrative expenses associated with making DERIG applications available on the agency's website would be funded through this continuation of 2016-17 appropriations, and that appropriations to TAMEES for TERP activities would remain at 2016-17 levels. This estimate assumes that no additional funds would be appropriated out of the TERP Fund because of the bill's expansion of the areas eligible for CTT program funding. Because the bill does not increase the maximum statutory allocation for CTT grant funding of 5 percent of TERP funding, this estimate assumes that funding for the program would remain constant, while the number of entities eligible to apply for funding would increase.

Beginning in fiscal year 2020, this estimate assumes that the current amount of TERP funds would continue at current levels to fund the various existing programs whereas under current law, appropriations out of the TERP Fund to TCEQ would be eliminated. Thus, in the table above a cost to the TERP Fund is included equal to the annual appropriations to TCEQ of $118,131,504 per year for the TERP program in the 2016-17 biennium.

To the extent that appropriations pursuant to this bill reduce the available balance in the TERP Fund, there would be a cost to certification.

Under current law, revenue supporting the TERP Fund would expire August 31, 2019; therefore, no fiscal implications are anticipated for fiscal years 2018 and 2019 as a result of the extension of the collection of revenue deposited to the TERP Fund. According to analysis provided by the Comptroller, this revenue would total $96,690,000 each fiscal year.

The transfer from the SHF to the TERP Fund is set to expire under current law on August 31, 2019; the bill would extend the expiration of this transfer to August 31, 2021, resulting in an increase in revenue deposited to the TERP Fund and a revenue loss to the SHF in fiscal years 2020 and 2021. The transfer amount would only be calculated using vehicle title fee revenue collected from persons in nonattainment areas, resulting in a decrease in the revenue amount deposited to the TERP Fund as a result from the transfer in fiscal years 2018 and 2019, with an equivalent savings to the SHF.

The Comptroller estimates that approximately 79 percent of vehicle title fees come from nonattainment areas. According to analysis provided by the Comptroller, a 21 percent reduction in revenue deposited to the TERP Fund in fiscal years 2018 and 2019 results in a revenue loss to the TERP Fund of $31,119,000 in fiscal year 2018 and $31,586,000 in fiscal year 2019, which an equivalent savings to the SHF. According to analysis provided by the Comptroller, a revenue gain of $117,171,000 in fiscal year 2020 and $118,342,000 in fiscal year 2021 to the TERP Fund, with an equivalent cost to the SHF, would be realized.

Technology

The online application system required by the bill for the GAFFG program would cost $300,000 in each fiscal year of the 2018-9 biennium. Recurring maintenance costs for the system would total $5,000 each fiscal year starting in 2020.

Local Government Impact

The local governments in counties contained within the bill's definition of the Clean Transportation Zone could become recipients of TERP grant awards. The extent of such funding would depend on the number of grant applications from those counties and whether those applications were competitive relative to other TERP grant applications TCEQ would receive.

According to the Texas Municipal League, some municipalities would be eligible for grants under the alternative fleet grant program; however, the fiscal impact cannot be determined at this time as it is unknown the amount of funds that might be dispersed to cities through the grant program.

According to the Texas Conference of Urban Counties, the fiscal impact to counties is not anticipated to be significant.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 601 Department of Transportation, 712 Texas A&M Engineering Experiment Station

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