LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 20, 2017

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB736** by Hancock (Relating to the authority of the General Land Office to sell retail electric power.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB736, Committee Report 1st House, Substituted: a positive impact of $4,500,000 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	$1,000,000
2019	$3,500,000
2020	$6,600,000
2021	$8,100,000
2022	$8,800,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *Permanent School Fund* 44
2018	$800,000	$200,000	($649,680)
2019	$2,700,000	$800,000	($2,072,542)
2020	$5,100,000	$1,500,000	($3,439,810)
2021	$6,200,000	$1,900,000	($3,543,983)
2022	$6,800,000	$2,000,000	($2,556,210)

Fiscal Analysis

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. Those funds are deposited to the PSF.

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, but would not allow GLO to renew or extend the expiration or termination date of any contract after the effective date of the bill.

The bill would take effect September 1, 2017.

Methodology

GLO reports that over the past ten years its electricity sales have resulted in an average net revenue gain to the Permanent School Fund No. 44 (PSF) of $10.0 million per year. Under current law, GLO purchases wholesale power with gas royalties from land owned by the PSF and then sells it at a profit. Absent the authority to sell power, GLO would deposit the full amount of gas royalties into the PSF. The bill would allow GLO to continue its existing contracts until they expire, so the agency would not see an immediate revenue loss of the full $10.0 million. GLO estimates there would be a revenue loss to the PSF each fiscal year that would vary depending on the expiration date of contracts established prior to September 1, 2017.

The table reflecting revenue losses to the PSF are based on the value of the contracts that GLO estimates will expire each fiscal year from 2018-22. GLO made several assumptions in developing its estimate, which include: (1) an average term of 37 months for mega-watt hour (MWh) contracts based on contracts made under current law; (2) the MWhs available for contract would be based on a 37 month period; and (3) only the MWhs available for contract under current law that would expire on the effective date of the bill would count towards the revenue loss.

GLO's estimate also (1) excludes contracts either already re-signed or established with another provider as of the effective date of the bill in calculating the loss to the PSF or the amount of power available for replacement on the open market; (2) anticipates continued service for all existing contracts with terms extending beyond September 1, 2017, until their respective termination dates; (3) anticipates for any contracts that have already been executed but that have start dates sometime after September 1, 2017, that service will be continued and those contracts will be treated the same as existing contracts until termination; and (4) anticipates continuing to meet contractual obligations until termination for all contracts executed prior to September 1, 2017, in which the customer has the ability to convert from an index to a fixed rate at a future date.

This analysis does not anticipate any savings due to a reduced workload from implementing the provisions of the bill. GLO currently has one position that manages electricity contracts and it is estimated that the position will be necessary to continue managing the existing contractual obligations for electric power in addition to marketing and managing contractual obligations for natural gas.

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.

The tables reflecting a revenue gain to General Revenue and to the Foundation School Fund 193 are based on an assumption by the Comptroller that all customers who are no longer able to continue service with GLO will select a provider who is not exempt from these utility taxes.

One of the utility taxes, the miscellaneous gross receipts tax, has three rates based on the population of the city where the sale takes place. In determining its cost estimate for new revenues from this tax, the Comptroller used GLO data on the value of contracts expiring each fiscal year to estimate the value of the tax. The value of expiring contracts for each fiscal year was reduced to a portion of sales to customers located in areas subject to the tax. The Comptroller used the result to estimate gross receipts applicable to each rate based on fiscal 2016 collections data by tax rate and forecasted revenue collections through fiscal year 2022. The projected revenue collections were then allocated to the General Revenue Fund and the Foundation School Fund 193.

The Comptroller used the same data from GLO to estimate the potential revenue from the public utility gross receipts tax, which is imposed at the rate of 0.167 percent of gross receipts. Collections from this tax are allocated to the General Revenue Fund. GLO data on the value of contracts expiring each fiscal year was used to estimate the corresponding gross receipts, then multiplied by the tax rate to estimate the gross receipts assessment through 2022.

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.

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

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