

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 12, 2019

TO: Honorable Dade Phelan, Chair, House Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2011 by Geren (Relating to the affordability of electric power for certain public retail customers.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2011, As Introduced: a negative impact of (\$29,000,000) through the biennium ending August 31, 2021.

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
2020	(\$14,300,000)
2021	(\$14,700,000)
2022	(\$14,900,000)
2023	(\$15,400,000)
2024	(\$15,500,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i>	Probable Revenue Gain/(Loss) from <i>Foundation School Fund</i>
	1	193
2020	(\$10,700,000)	(\$3,600,000)
2021	(\$11,000,000)	(\$3,700,000)
2022	(\$11,200,000)	(\$3,700,000)
2023	(\$11,500,000)	(\$3,900,000)
2024	(\$11,600,000)	(\$3,900,000)

Fiscal Analysis

The bill would amend the Utilities Code and the Tax Code regarding the sale of electricity to certain public entities. The bill would exempt from the miscellaneous gross receipts tax (MGRT) any public customer, which is defined in statute as including 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 MGRT is a tax that a utility company must pay if it is doing business in a town with a population greater than 1,000. The amount of the tax varies based on the population.

The bill would limit use of General Land Office (GLO) letterhead, seal, or marketing materials relating to the sale of electricity to use by GLO employees and would specify that GLO contractors are not employees for this purpose.

The bill would limit GLO to selling electricity only to public retail customers that solicit requests for proposals from multiple power providers. GLO's bid in such a request for proposal would be considered subject to public disclosure.

The bill would include provisions that would require adjustment of the billings of school district customers by electric utilities and retail electric providers to reflect any decrease in tax liability attributable to the exemption provided by the bill.

The bill would be effective September 1, 2019.

Methodology

Based on the analysis of the Comptroller of Public Accounts, exempting public retail customers from the MGRT would reduce revenue to the General Revenue Fund and to the Foundation School Fund No. 0193. School district expenditures on electricity were estimated based on Texas Education Agency data on school district expenditures on utilities, and reduced by GLO sales to school districts since GLO is not a taxable electricity provider. Estimated school district electricity expenditures were further reduced for purchases from municipal utilities and electric cooperatives exempt from the MGRT, with the result multiplied by the MGRT tax rates based on Comptroller data regarding the distribution of the MGRT.

Electricity expenditures for other public retail customers were estimated based on Comptroller data on state agencies and institutions of higher education expenditures on utilities and increased for purchases from political subdivisions, military installations, and Veterans facilities. Estimated electricity expenditures were then reduced for purchases from municipal utilities and electric cooperatives exempt from the MGRT, with the result multiplied by the MGRT tax rates based on Comptroller data regarding the distribution of the MGRT.

GLO's profits from electricity sales are deposited into the Permanent School Fund (PSF). According to GLO, while some public retail customers use the formal request for proposal process, many others use alternate methods to request electricity quotes, including making requests directly from electricity providers, participating in aggregate pools for competitive supply, soliciting bids through brokers, and using inter-local agreements to secure supply. Under the provisions of the bill, public retail customers would not be able to purchase electricity through GLO unless they use a formal request for proposal process. As a result, this analysis assumes there would be an indeterminate revenue loss to the PSF because the number of customers that do not use a formal request for proposal process is unknown.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 473 Public Utility Commission of Texas

LBB Staff: WP, CMa, MW, PBO, MB