LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

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

IN RE: **HB3717** by Dominguez (Relating to an oil and gas production tax credit for oil and gas producers that provide treated produced water to aquifer storage and recovery project operators.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3717, As Introduced: a negative impact of ($3,255,000) through the biennium ending August 31, 2021.

Additionally, there would be negative impact of ($12,500,000) through the biennium ending August 31, 2025.

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, Six-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2020	($3,255,000)
2021	$0
2022	$0
2023	$0
2024	($6,250,000)
2025	($6,250,000)

All Funds, Six-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1	Probable Revenue (Loss) from *General Revenue Fund* 1	Probable Revenue (Loss) from *Foundation School Fund* 193	Probable Savings from *General Revenue Fund - ESF/SHF Reserve* 1
2020	($3,255,000)	$0	$0	$0
2021	$0	$0	$0	$0
2022	$0	$0	$0	$0
2023	$0	$0	$0	$0
2024	$0	($18,750,000)	($6,250,000)	$18,750,000
2025	$0	($18,750,000)	($6,250,000)	$18,750,000

Fiscal Year	Probable Revenue (Loss) from *State Highway Fund* 6	Probable Revenue (Loss) from *Economic Stabilization Fund* 599
2020	$0	$0
2021	$0	$0
2022	$0	$0
2023	$0	$0
2024	$0	$0
2025	($9,375,000)	($9,375,000)

Fiscal Analysis

The bill would amend Subtitle I, Title 2 of the Tax Code by adding Chapter 208 to provide a tax credit to an oil and gas producer for providing produced water with a total dissolved solids concentration of more than 90,000 milligrams per liter to a project operator for treatment before injection into an aquifer for storage and recovery.

The treated water would be of the same quality and would not degrade the native groundwater. The project operator would be required to comply with any federal and state registration or permit requirements for treating and injecting water and for testing and water quality reporting.

To be eligible for the credit, the producer would submit an application to the Texas Commission on Environmental Quality (TCEQ) with the required information concerning the volume and quality of the produced water for certification. To claim the credit, the producer would apply to the comptroller providing the required information and a copy of the certificate issued by TCEQ.

The amount of credits for a reporting period would be 2.3 percent of the product of the total number of barrels of the treated produced water and the monthly average closing price of a barrel of West Texas Intermediate crude oil on the New York Mercantile Exchange.

The total amount of credits claimed could not exceed $25 million in a fiscal year, subject to the exception that unclaimed credit amounts below the limitation in the first year of a state fiscal biennium could be claimed in the second year the biennium. The comptroller would publish monthly the amount of unclaimed credits and prescribe procedures to allocate credits.

TCEQ would adopt a registration process for participating project operators. The registered project operator, who must hold a Railroad Commission permit to treat oil and gas waste fluid,

would submit to TCEQ a monthly report containing the volume of produced water the project operator received from each producer and treated, the total dissolved solids concentration of the produced water, and the volume of treated water injected into an aquifer for storage and recovery.

The comptroller and TCEQ would adopt rules necessary to implement provisions of the new chapter 208.

The bill would take effect September 1, 2019.

Methodology

Currently, it is not economically feasible in the state to recycle produced water with total dissolved solids concentrations above 90,000 milligrams per liter into fresh water. However, with growing technical difficulties and costs related to the disposal of the produced water in certain areas including the Permian Basin, at some point the tax credit would incentivize deployment of available technologies capable of recycling such produced water into fresh water for storage in an aquifer. In view of the time required for planning, permitting and building a recycling plant, such a facility could likely be fully operational by fiscal 2024.

Technology

The Comptroller of Public Accounts indicates there would be a one-time technology cost of $3,255,000 for an estimated 21,700 hours of programming to integrate into the Comptroller's existing oil and natural gas systems a tax credit system for oil and gas producers that provide treated produced water to aquifer storage and recovery project operators. The new system would also need interfaces to existing systems to monitor the tax credit claims that should not exceed $25 million per state fiscal year, as well as provide oil and natural gas taxpayers the ability to apply for credit claims to the Comptroller.

The Texas Commission on Environmental Quality indicates there would be technology costs associated with the bills requirements to register project operators who participate in the tax credit program and review and certify operator's eligibility for the tax credits each month. This estimate assumes those costs could be absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 582 Commission on Environmental Quality, 455 Railroad Commission

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