LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 29, 2019

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

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

IN RE: **SB2116** by Hancock (Relating to the sale of electric power to certain public customers.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2116, As Introduced: an impact of $0 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	$0
2021	$0
2022	$0
2023	$0
2024	($7,200,000)

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
2020	$0	$0	($660,509)
2021	$0	$0	($1,175,290)
2022	$0	$0	($1,311,457)
2023	$0	$0	($1,430,614)
2024	($5,400,000)	($1,800,000)	($1,568,707)

Fiscal Analysis

The bill would amend the Natural Resources Code, the Tax Code, and the Utilities Code regarding the sale of electricity to certain public retail customers. Under current law, GLO purchases wholesale electricity with royalties taken in kind from land owned by the Permanent School Fund (PSF), sells the electricity at a profit, and deposits the proceeds to the PSF. By statute, GLO 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. GLO's sales of electricity are currently exempt from the miscellaneous gross receipts tax (MGRT) and public utility gross receipts assessment. The bill would remove GLO's authority to sell electricity generated from royalties taken in kind. GLO would be able to continue providing electricity for contracts entered into before the effective date of the bill. Existing contracts would not be able to be extended beyond January 1, 2024.

The bill would amend the Tax Code effective January 1, 2024, to exempt receipts from the sale of electricity to public school district customers from the MGRT and would require electricity providers to adjust the electric bills of school district customers accordingly.

Except for amendments to the Tax Code, the bill would be effective immediately if it receives a vote of two-thirds of the members of each house, or on September 1, 2019. Amendments to the Tax Code would take effect January 1, 2024.

Methodology

The bill would require GLO's current customers to purchase electricity from other electric utility providers who may be subject to utility taxes after January 1, 2024. To the extent that some customers will not extend or renew contracts expiring before January 1, 2024, this bill could result in revenue gains to the General Revenue Fund and the Foundation School Fund No. 0193 from tax collections paid by utility companies subject to utility taxes; however, this gain cannot be estimated and is not estimated to be significant.

Exempting school districts from the MGRT beginning on January 1, 2024, 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, and reduced for the portion of exemptions that would take place after the effective date of January 1, 2024.

The table above includes GLO's estimated revenue loss to the PSF. GLO's analysis includes (1) a calculation of estimated remaining future revenues (based on megawatt hours purchased by the PRCs) on each contract by month throughout the life of the contract; and (2) and adjustment for anticipated new contracts based on a 50 percent renewal rate and recent enhancements to the PSF.

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, CLo, MW, PBO, CMa