LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 21, 2021

TO: Honorable Craig Goldman, Chair, House Committee on Energy Resources

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1520** by Paddie (Relating to the recovery and securitization of extraordinary costs incurred by certain gas utilities; authority to issue bonds.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1520, As Introduced : a negative impact of ($1,629,560) through the biennium ending August 31, 2023. Additionally, as the amount and timing of the customer rate relief bond issuance and associated collection of customer rate relief bond charge amounts are unknown, the fiscal impact to revenue collections cannot be determined.

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*
2022	($914,780)
2023	($714,780)
2024	($714,780)
2025	($714,780)
2026	($714,780)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Probable Savings/(Cost) from *Bond Proceeds-Rev Bonds* 781	*Change in Number of State Employees from FY 2021*
2022	($914,780)	($666,360,720)	7.0
2023	($714,780)	($666,360,720)	7.0
2024	($714,780)	($666,360,720)	7.0
2025	($714,780)	($666,360,720)	7.0
2026	($714,780)	($666,360,720)	7.0

Fiscal Analysis

The bill would allow the Public Finance Authority (TPFA) to provide a method of financing for customer rate relief bonds authorized by the Railroad Commission (RRC) whose proceeds would be used to reduce the cost that customers would otherwise experience due to the extraordinary costs that gas utilities may incur to secure gas supply and provide service during natural or man-made disasters, system failures, and other catastrophic events and to restore gas utility systems after such events by providing securitization financing enabling gas utilities to recover these costs.

The bill would authorize the creation of a bankruptcy-remote special purpose entity designed to hold financial assets pledged as security for repayment of the bonds, such financial assets consisting of future assessments and fees receivable from utilities customers offsetting exceptional costs incurred during unusual circumstances.

The bill would require RRC to issue a financing order before requesting TPFA to issue the bonds on its behalf. The financing order must include a statement of the aggregated regulatory asset determination to be included in the principal bond amount, not to exceed $10.0 billion for any separate bond issue, and the maximum scheduled final maturity may not exceed 30 years, however the legal final maturity may be longer, based upon rating agency and market considerations. The bill would require the financing order to remain in effect notwithstanding the bankruptcy of the gas utility, the authority or their successors, or assignees. In addition, the bill would require the financing order to include terms ensuring that the imposition and collection of the bond charge are non-bypassable and to also include a true-up charge adjustment mechanism at least annually to correct any overcollections or under collections for the preceding year.

The bill would allow bond proceeds to be deposited with a trustee selected by TPFA or held by the Comptroller of Public Accounts (CPA) in a dedicated trust fund outside of the treasury. Proceeds, including investment income, could only be used to reimburse gas utilities the regulatory asset amount as determined by the financing order, to pay the financing costs of issuing the bonds, and provide bond reserves. Under the provisions of the bill, any excess funds remaining could be used to provide credits to gas utility customers.

The bill would require that bonds would be solely the obligation of the assignee or issuing financing entity and will not be an obligation of the State or any gas utility company. According to TPFA, no fiscal impact to the state is anticipated related to ongoing debt service associated with the customer rate relief bonds. Obligations would be payable solely from assets held in trust by the special purpose entity above.

The bill would exempt any profits made from the sale of the bonds from state and local taxation. It would also exempt the amount a gas utility collects in bond charges from its customers from state and local taxation.

The bill would take effect September 1, 2021.

Methodology

Based on information provided by the CPA, the exemption of any profits related to customer rate relief bonds from state and local taxation could be interpreted as exempting fees paid to agents, trustees, attorneys, and other professional service providers involved in bond administration from revenue for franchise tax purposes. The bill could also exempt from sales tax any purchase of taxable items used during bond administration or exempt from sales tax the purchase of taxable items by a gas utility that received bond proceeds. The bill would exempt a gas utility's collection of bond charges from its customers which may have negative revenue implications to franchise tax, sales tax, gas utility pipeline tax, and miscellaneous gross receipt tax collections. Since the amount of bonds that would be issued and the collection of bond charges is unknown, the revenue impact to the state cannot be determined.

According to the RRC, the agency would require General Revenue funding for $714,780 and 7.0 FTEs each fiscal year for 3.0 financial analyst positions ($233,586), 2.0 attorney positions ($145,578), 2.0 administrative assistant positions ($75,828), operating expenses ($105,000), and employee benefits ($154,788). In addition, the agency would incur a one-time cost of $200,000 in fiscal year 2022 for a professional services contractor to review costs. The positions would prepare financial orders and establish schedules, filing requirements, and processes for the assessment a gas utility's assets, develop an application review process to ensure the collection and enforcement of non-by-passable charges, and review transactions that occur during a natural or man-made disaster, system failure, or other catastrophic event for each regulatory asset filing.

Based on information provided by the Bond Review Board (BRB), the estimate for debt-service payments for the issuance of the maximum allowable revenue debt under the provisions of the bill ($10.0 billion), is estimated to be $666,360,720 each fiscal year. This analysis assumes that (1) the bonds will be payable from and secured by the Customer Rate Relief property, including charges; (2) the bonds will have a thirty-year maturity; (3) a fixed interest rate of 5.0 percent in fiscal year 2022 and 5.25 percent in fiscal year 2022 and for each subsequent fiscal year; (4) all bonds in the amount of $10.0 billion will be issued by September 1, 2021 with principal payments every August 1, and semi-annual interest payments every February 1 and August 1, beginning February 1, 2022; (5) cost of issuance and bond insurance fees are excluded; and (6) an approximate level of debt service payments throughout the life of the bonds.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated due to implementing the provisions of the bill.

Based on information provided by the TPFA, administrative costs associated with the issuance of the bonds would be funded with revenue from bond proceeds.

Based on information provided by the Public Utility Commission, no fiscal impact to the agency is anticipated.

This legislation 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.

Technology

No fiscal implications related to technology are anticipated.

Local Government Impact

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

Source Agencies: 212 Office of Court Admin, 304 Comptroller of Public Accounts, 347 Public Finance Authority, 352 Bond Review Board, 455 Railroad Commission, 473 Public Utility Commission of Texas

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