

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 24, 2023

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3355 by Landgraf (Relating to exemption from taxation of facilities, devices, or methods used to control pollution.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB3355, As Introduced : a negative impact of (\$8,779,000) through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	(\$8,779,000)
2026	(\$13,902,000)
2027	(\$23,511,000)
2028	(\$33,372,000)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from Foundation School Fund 193</i>	<i>Probable Savings/(Cost) from Recapture Payments Atten Crdts 8905</i>	<i>Probable Revenue Gain/(Loss) from School Districts</i>
2024	\$0	\$0	\$0
2025	(\$8,779,000)	\$3,735,000	(\$13,123,000)
2026	(\$13,902,000)	\$5,866,000	(\$20,605,000)
2027	(\$23,511,000)	\$9,792,000	(\$33,985,000)
2028	(\$33,372,000)	\$13,844,000	(\$48,593,000)

Fiscal Analysis

The bill would amend Section 11.31 of the Tax Code to expand the definition of pollution control property to include any facility or device that is demonstrated to prevent, monitor, control, or reduce air, water, or land pollution or that is used, constructed, acquired, or installed wholly or partly for the purpose of capturing, storing, sequestering, using, reusing, gathering, or transporting carbon dioxide emissions to prevent carbon dioxide from entering the atmosphere or for removing carbon dioxide from the atmosphere.

The bill would amend 11.31(i) to direct the chief appraiser to appraise a pollution control property at no less than twenty-five percent of the cost of capital of the pollution control property.

The bill would amend Sec. 11.31(k)(16), regarding property used to capture carbon dioxide (CO2), to remove

the requirement that the EPA adopt a rule regulating CO2 as a pollutant, and that it must come from an anthropogenic source; and to expand eligibility for exemption to include property for utilization of carbon as well as for sequestration.

Methodology

Article 8, Section 1-l, Texas Constitution provides that pollution control property may be exempted if it meets or exceeds rules or regulations adopted by any environmental protection agency. Consequently, this analysis assumes the added Subdivision (2) of Section 11.31(b), providing that property “demonstrated to prevent, monitor, control, or reduce air, water or land pollution” is pollution control property eligible for exemption will not have fiscal implications to the extent such property is not used to meet or exceed a regulatory standard; to the extent it is used to meet or exceed a regulatory standard it is already exempt under current law.

Currently, no federal or state agency regulates CO2 as an air pollutant. The Texas Railroad Commission does have a rule regarding storage and injection of anthropogenic CO2, for the purpose of protecting underground sources of drinking water (TAC Title 16, Part 1, Chapter 5).

The requirement that pollution control property be appraised for taxation at a minimum of twenty-five percent of capital cost would increase tax levies on pollution control property, as the current exemption is of the total value. Data available from appraisal districts on the cost of the current exemption is based on replacement cost. No data is available with respect to historical cost of the exempt property, consequently the fiscal implications of the amendment of Sec. 11.31(i) cannot be determined.

There are currently several carbon sequestration projects announced or underway in Texas with investment ranging from \$800.0 million to \$10.0 billion, including for the Rio Grande LNG plant and a King Ranch carbon storage facility near the Eagle Ford Shale field announced by Occidental, and others. Estimates are based on reports indicating substantial, escalating investment in carbon storage or capture for utilization facilities.

According to the Texas Commission on Environmental Quality (TCEQ), implementing the provisions of the bill would likely lead to an increase in revenue collected by the Tax Relief for Pollution Control Property Program administered by TCEQ associated with an increase in the number of applications. However, the revenue increase cannot be determined.

Under provisions of the Education Code, the school district tax revenue loss is partially transferred to the state. The estimated cost to the Foundation School Program (FSP) is \$8.8 million in fiscal year 2025, increasing to \$33.4 million in fiscal year 2028. The cost to the FSP includes estimated decreases in Recapture Payments - Attendance Credits of \$3.7 million in fiscal year 2025, increasing to \$13.8 million in fiscal year 2028 as a result of school district tax revenue loss. The decrease in recapture is reflected as a savings in the table above because recapture is appropriated as a method of finance for the FSP in the General Appropriations Act.

Local Government Impact

Passage of the bill would increase the number of properties that qualify for the pollution control property tax exemption. As a result taxable property values would be reduced. However, the no-new-revenue and voter-approval tax rates as provided by Section 26.04, Tax Code could be higher as a consequence of the exemption proposed by the bill.

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

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