

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 22, 2023

TO: Honorable Charles Schwertner, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB2011** by Schwertner (Relating to the authority of the Public Utility Commission of Texas to impose administrative penalties and enter into voluntary mitigation plans; increasing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB2011, As Introduced : a negative impact of (\$739,065) through the biennium ending August 31, 2025. There would be a positive, but indeterminate, revenue gain from increasing the administrative penalties for violation of a Voluntary Mitigation Plan; however, the amount and timing of any increased penalty violations cannot be estimated.

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:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$429,856)
2025	(\$309,209)
2026	(\$309,209)
2027	(\$309,209)
2028	(\$309,209)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$429,856)	4.0
2025	(\$309,209)	3.0
2026	(\$309,209)	3.0
2027	(\$309,209)	3.0
2028	(\$309,209)	3.0

Fiscal Analysis

This bill would amend the Utilities Code increase the administrative penalty for a violation of a Voluntary Mitigation Plan (VMP) from \$25,000 to an amount not to exceed \$1,000,000; require that all VMPs be updated at least once every two years; and require the Public Utility Commission to review all existing VMPs within 90 days of any substantial wholesale market design change to determine whether any changes to the existing VMPs are necessary. The bill would also allow persons with justiciable interests in the result of

proceedings to adopt or renew a VMP to intervene in such proceedings.

Under the provisions of the bill, instead of providing an absolute defense to an alleged violation of the VMP, a company's adherence to a VMP is allowed to be considered when determining whether a violation occurred and/or whether a penalty should be assessed.

The bill would take effect September 1, 2023.

Methodology

Based on the analysis of the Public Utility Commission, this estimate assumes that the agency would require 4.0 additional full time equivalent (FTE) positions in fiscal year 2024 to implement the provisions of the bill. This would include two Attorneys III (\$90,000 per year with estimated benefit cost of \$27,297) to provide rulemaking, proceedings and enforcement for VMP rules. An Economist IV (\$90,000 per year with estimated benefit cost of \$27,297) to assist with rulemaking and reviews of VMPs and a Legal Secretary (\$50,000 per year with estimated benefit costs of \$15,165) to support and assist the attorneys. This estimate assumes one additional Attorney III position would not be needed beyond fiscal year 2024 as a majority of the rulemaking associated with the bill's implementation would be completed.

Based on analysis by the Comptroller of Public Accounts, the amounts and timing of any increased administrative penalty revenue is unknown; therefore, the fiscal impact to the state for this portion of the bill's provisions cannot be estimated.

Technology

The Public Utility Commission of Texas estimate a technology impact to be \$8,000 in fiscal year 2024 and \$6,000 ongoing, starting in fiscal year 2025.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

LBB Staff: JMc, SZ, GDZ, JBel