LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 6, 2011

TO: Honorable Byron Cook, Chair, House Committee on State Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: **HB2961** by Darby (Relating to the creation of a program for the development of solar energy industry in this state.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2961, As Introduced: a positive impact of $22,800,000 through the biennium ending August 31, 2013.

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
2012	$8,300,000
2013	$14,500,000
2014	$14,700,000
2015	$14,900,000
2016	$15,200,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Transit Authorities*	Probable Revenue Gain/(Loss) from *Counties and SPDs*
2012	$8,300,000	$1,600,000	$500,000	$300,000
2013	$14,500,000	$2,800,000	$900,000	$500,000
2014	$14,700,000	$2,900,000	$900,000	$500,000
2015	$14,900,000	$2,900,000	$900,000	$500,000
2016	$15,200,000	$3,000,000	$900,000	$500,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Solar Generation Rebate Fund*	Probable Savings/(Cost) from *Solar Generation Rebate Fund*	Change in Number of State Employees from FY 2011
2012	$140,800,000	($140,800,000)	1.0
2013	$142,900,000	($142,900,000)	1.0
2014	$145,000,000	($145,000,000)	1.0
2015	$147,200,000	($147,200,000)	1.0
2016	$149,400,000	($149,400,000)	1.0

Fiscal Analysis

The bill would require the Public Utility Commission (PUC) to develop and implement a program to facilitate the development of a solar energy market and solar energy industry in the state by increasing the amount of wholesale and distributed solar generation installed. The bill would require the program to be transparent, cost effective, limited in scope and duration, apply statewide, and allow residential and small commercial customers to choose to participate at a higher level than that prescribed or choose not to participate in the program.

The bill would establish a solar generation rebate fund as a special trust fund outside of the treasury and administered by the program administrator for the payment of the incentives authorized by the bill. The fund consists of fees established by the bill, gifts or grants awarded for the purposes of the program, and interest and other income from investment of the money deposited to the credit of the fund. The bill would require that 50 percent of all money spent under the program be used for incentives for wholesale solar generation projects, with the remainder to be spent on incentives for distributed solar generation projects and administration of the program. The bill would establish a fee to be assessed on residential, commercial and industrial meters. Under the provisions of the bill, the fee to be assessed on each residential meter would be set at $1, the fee on each commercial meter at $5, and the fee on each industrial meter at $50. The bill would require the PUC to establish rules for the collection of the fees, a method by which a residential or small commercial customer may request to increase the amount of the non-bypassable fee and a method by which a residential or small business customer may opt out of the program. The bill would establish the initial rebate amounts to be provided under the program. The bill also would establish that the fees are not to be assessed after the fifth anniversary of the date the program is established and that the program ends when all of the money in the fund is exhausted.

The bill amends Chapter 39 of the Utilities Code by adding Sections 39.9156 and 39.9157. Section 39.9156 outlines the goal of the Legislature pertaining to the administration of a similar program outlined in Section 39.9155 by electric cooperatives and municipally-owned utilities. It would allow electric cooperatives and municipally-owned utilities to recover costs associated with incentives provided to customers through fees assessed similar to those in Section 39.9155 or another cost-recovery mechanism. Section 39.9157 defines ownership of distributed solar generation.

The bill would amend Section 151.318 (c) of the Tax code to include in the list of non-exempt items solar energy devices as defined by Section 185.001(2) of the Utilities Code.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. If the bill does not receive a two-thirds vote in each house, the bill would take effect September 1, 2011.

Methodology

Information provided by the Comptroller of Public Accounts (CPA) and the PUC was used in developing this analysis. This analysis uses data provided by the PUC on expected fee revenue by customer class and estimates of annual fee revenue after adjustment for assumed opt-out rates for residential and small commercial customers. Based on the analysis by the CPA, caps on industrial accounts and refunds to low-income electric customers were extrapolated through the forecast period and used as the basis for estimating amounts available for rebate payments under the provisions of the bill. As outlined in the bill, fifty percent of these amounts were allocated to wholesale generation and the remainder allocated by customer class in order to estimate the effect of the exclusion of solar energy devices from the exemption for manufacturing equipment provided under current law by section 151.318. Based on the analysis of the CPA, it was assumed that a mean rebate percentage of 40 percent of the cost of the eligible solar energy items would be paid in the first year of the program and decline thereafter. According to the CPA, the amounts of taxable sales of solar energy equipment were estimated using these amounts. Based on the analysis of the CPA, the declining rebates and uncertain demand for solar energy equipment could result in the possibility that not all amounts available for rebate would be paid out. The estimated expenditures were adjusted for a portion expected to occur under current law, and the remainder was multiplied by the state sales tax rate to estimate the effect on the General Revenue Fund and units of local government. The effects for fiscal year 2012 were adjusted for an assumed startup lag after the effective date of the Act.

According to the analysis submitted by the PUC, implementing the program established by the bill would cost approximately $100,000 a year and 1 full-time-equivalent position for the duration of the program from the Solar Generation Rebate Fund. Based on the analysis of the PUC and the CPA, it is assumed that the fees established in the bill would be sufficient to cover the costs of implementing the bill. This analysis assumes that the full remaining balance of the Solar Generation Rebate Fund would be spent each year to provide incentives as outlined in the bill.

Local Government Impact

The bill would have a revenue impact on local governments as shown in the tables above. The provisions of the bill could have revenue and cost impacts on municipalities that own electric utilities and are required to participate in the program. This analysis assumes that any costs would be offset by revenues generated under the provisions of the bill.

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

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