F I S C A L   I M P A C T   R E P O R T

SPONSOR Cisneros **DATE TYPED** 01/31/05 **HB**

SHORT TITLE Tax Credit For Electrical Generation Water **SB** 111

ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(*)	(3,000.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

*Unable to determine due to the lack of effective date provided

Duplicates: House Bill 197

SOURCES OF INFORMATION
LFC Files

Responses Received From
Energy, Minerals & Natural Resources Department (EMNRD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 111 would provide a corporate income tax credit to a taxpayer who gathers, transports or treats produced water (byproduct) in the generation of electricity. The disposition of water must be in accordance with rules of the oil conservation division of EMRD. The tax credit would be $1 thousand per acre-foot of produced water in the taxable year, provided that the total tax credit to all claimants not exceed $3 million. The total accumulated tax credits claimed by the taxpayer cannot exceed fifty percent of the capital cost of equipment for gathering, transporting, or treating the produced water. If the tax credit exceeds the taxpayer's tax liability, the credit may be rolled over for up to three consecutive years.

FISCAL IMPLICATIONS

The total full-year fiscal impact of Senate Bill 111 is $3 million to the general fund. The analysis TRD provided suggests that, according to industry representatives, there is no produced water that is currently being diverted to use in electricity generation, though the total volume of produced water in the state is significant. The amount of water used in power plant cooling is also significant. TRD notes that statewide water use for this purpose is well in excess of the 3,000 acre-feet that would maximize the utilization of this credit. TRD's fiscal analysis assumes that, due to the significant size of the tax credit, the proposed activity will grow, though it may take a while before the credit usage is maximized.

ADMINISTRATIVE IMPLICATIONS

The bill will impact both TRD and EMNRD. According to TRD, implementing provisions of the bill would require forms, instructions and publication changes, as well as employee education. It would also require coordination with the Conservation Division of EMNRD. TRD will probably employ about .25 FTEs at a cost of $10,000 annually to administer the credits, depending upon the number of corporations claiming the credits.

The Oil Conservation Division (OCD) of the Energy, Minerals, & Natural Resources Department would be responsible for determining if the produced water is disposed of in accordance with rules in Subsection B of the bill and would be responsible for issuing the certification of eligibility for the tax credit. The OCD is reportedly already in the process of promulgating rules related to that use of produced water. The bill also requires the OCD to determine how much of the produced water was used in the generation of electricity. Since the OCD does not currently gather this information, it currently has no mechanism to track produced water from production to disposition. The associated infrastructure support, inspection activities, and 0.5 FTE requireed will cost approximately $50,000 per year according to EMNRD.

TECHNICAL ISSUES

Three technical issues that TRD noted include:

1. The bill does not provide the department with guidance on how to allocate credits among taxpayers when more than one taxpayer is involved in the process of gathering, transporting and treating a given volume of water.
2. The bill does not provide guidance on how the $3 million cap on total credit claims in one year should be allocated among competing claimants.
3. The bill does not provide for a process by which taxpayers apply to the department for approval of their credits prior to claiming them on tax returns.

Additionally, there is an ending quotation mark at the end of Subsection E of the bill, which has no accompanying quotation mark.

OTHER SUBSTANTIVE ISSUES

According to EMNRD, the only taxpayers eligible for the credit are corporations – there is no comparable credit for sole proprietors, partnerships, etc. EMRND believes that if the corporations benefiting from this tax credit pass the savings on to their customers, they will have an unfair advantage over their non-corporate competitors doing the same work.

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