Chapter 571

S.B. No. 736

AN ACT
relating to a report on the sale of retail electric power by the
General Land Office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) The General Land Office shall collect
information on the sale of electric power by the General Land
Office.

(b) Not later than September 1, 2018, the General Land
Office shall provide to the legislature a report on the information
collected under Subsection (a). The report must include the
following information for each year:

(1) number of participants;
(2) aggregate rates;
(3) general contract terms; and
(4) the extent of any fiscal impact on state resources
of administering the program.

SECTION 2. This Act takes effect September 1, 2017.
that S.B. No. 736 passed the Senate on April 12, 2017, by the following vote: Yeas 24, Nays 7; and that the Senate concurred in House amendment on May 27, 2017, by the following vote: Yeas 26, Nays 5.

I hereby certify that S.B. No. 736 passed the House, with amendment, on May 24, 2017, by the following vote: Yeas 146, Nays 0, two present not voting.

Approved:

6-9-2017

Date

Greg Abbott
Governor

S.B. No. 736

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

Secretary of State
TO: Honorable Abel Herrero, Chair, House Committee on Land & Resource Management

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB736 by Hancock (relating to a report on the sale of retail electric power by the General Land Office.), Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would require the General Land Office (GLO) to submit a report by September 1, 2018, to the legislature regarding its sale of electric power. Based on the analysis of GLO, duties and responsibilities associated with implementing the provisions of the bill could be accomplished using existing resources.

Local Government Impact

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

Source Agencies: 305 General Land Office and Veterans' Land Board

LBB Staff: UP, SZ, MW, PBO
TO: Honorable Abel Herrero, Chair, House Committee on Land & Resource Management  
FROM: Ursula Parks, Director, Legislative Budget Board  
IN RE: SB736 by Hancock (Relating to the authority of the General Land Office to sell retail electric power.), As Engrossed  

No significant fiscal implication to the State is anticipated.

The bill would amend the Utilities Code to remove the ability of the General Land Office (GLO) to sell or convey electric power as of September 1, 2022. Under current law, GLO is authorized to sell power only to public retail customers, defined as state agencies, state institutions of higher education, public school districts, political subdivisions, U.S. military installations, and the U.S. Department of Veterans Affairs facilities. The bill would allow the continuation of GLO's existing contracts until those contracts expire, but would not allow GLO to renew or extend the expiration or termination date of any contract beyond September 1, 2022. The bill would not affect the Land Commissioner's authority to sell or convey natural gas.

Currently, GLO purchases wholesale power with gas royalties from land owned by the Permanent School Fund 44 (PSF) and sells it at a profit. Those funds are deposited to the PSF. Absent the authority to sell power, GLO would deposit the full amount of gas royalties into the PSF. GLO reports that over the past ten years its electricity sales have resulted in an average net revenue gain to the PSF of $10.0 million per year. The bill would allow GLO to continue servicing its existing contracts until September 1, 2022.

The bill would require GLO to provide a report on its electricity sales to the legislature no later than September 1, 2021. The bill would take effect September 1, 2017.

As the bill would not affect GLO's ability to sell or convey electricity until September 1, 2022, there would be no significant fiscal impact for the upcoming biennium.

The bill would require GLO's current customers to purchase electricity from other electric utility providers who may be subject to utility taxes after September 1, 2022. GLO's sales of electricity are currently exempt from the miscellaneous gross receipts tax and public utility gross receipts assessment. To the extent that some customers will not extend or renew contracts expiring before September 1, 2022, this bill could result in revenue gains to the General Revenue Fund and GR Account 0193 - Foundation School, from tax collections paid by utility companies subject to utility taxes; however, this gain cannot be estimated and is not estimated to be significant.
Local Government Impact

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

**Source Agencies:** 305 General Land Office and Veterans' Land Board, 304 Comptroller of Public Accounts

**LBB Staff:** UP, SZ, MW, PBO, SD
TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB736 by Hancock (Relating to the authority of the General Land Office to sell retail electric power.), Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for SB736, Committee Report 1st House, Substituted: a positive impact of $4,500,000 through the biennium ending August 31, 2019.

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:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>2019</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>2020</td>
<td>$6,600,000</td>
</tr>
<tr>
<td>2021</td>
<td>$8,100,000</td>
</tr>
<tr>
<td>2022</td>
<td>$8,800,000</td>
</tr>
</tbody>
</table>

All Funds, Five-Year Impact:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Revenue Gain/(Loss) from General Revenue Fund</th>
<th>Probable Revenue Gain/(Loss) from Foundation School Fund</th>
<th>Probable Revenue Gain/(Loss) from Permanent School Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$800,000</td>
<td>$200,000</td>
<td>($649,680)</td>
</tr>
<tr>
<td>2019</td>
<td>$2,700,000</td>
<td>$800,000</td>
<td>($2,072,542)</td>
</tr>
<tr>
<td>2020</td>
<td>$5,100,000</td>
<td>$1,500,000</td>
<td>($3,439,810)</td>
</tr>
<tr>
<td>2021</td>
<td>$6,200,000</td>
<td>$1,900,000</td>
<td>($3,543,983)</td>
</tr>
<tr>
<td>2022</td>
<td>$6,800,000</td>
<td>$2,000,000</td>
<td>($2,556,210)</td>
</tr>
</tbody>
</table>
Fiscal Analysis

The bill would amend the Utilities Code to remove the ability of the General Land Office and Veterans' Land Board (GLO) to sell or convey electric power. Under current law, GLO purchases wholesale power with gas royalties from land owned by the Permanent School Fund 44 (PSF) and sells it at a profit. Those funds are deposited to the PSF.

GLO currently is authorized to sell power only to public retail customers, defined as state agencies, state institutions of higher education, public school districts, political subdivisions, U.S. military installations, and the U.S. Department of Veterans Affairs facilities. The bill would allow the continuation of GLO's existing contracts until those contracts expire, but would not allow GLO to renew or extend the expiration or termination date of any contract after the effective date of the bill.

The bill would take effect September 1, 2017.

Methodology

GLO reports that over the past ten years its electricity sales have resulted in an average net revenue gain to the Permanent School Fund No. 44 (PSF) of $10.0 million per year. Under current law, GLO purchases wholesale power with gas royalties from land owned by the PSF and then sells it at a profit. Absent the authority to sell power, GLO would deposit the full amount of gas royalties into the PSF. The bill would allow GLO to continue its existing contracts until they expire, so the agency would not see an immediate revenue loss of the full $10.0 million. GLO estimates there would be a revenue loss to the PSF each fiscal year that would vary depending on the expiration date of contracts established prior to September 1, 2017.

The table reflecting revenue losses to the PSF are based on the value of the contracts that GLO estimates will expire each fiscal year from 2018-22. GLO made several assumptions in developing its estimate, which include: (1) an average term of 37 months for mega-watt hour (MWh) contracts based on contracts made under current law; (2) the MWhs available for contract would be based on a 37 month period; and (3) only the MWhs available for contract under current law that would expire on the effective date of the bill would count towards the revenue loss.

GLO’s estimate also (1) excludes contracts either already re-signed or established with another provider as of the effective date of the bill in calculating the loss to the PSF or the amount of power available for replacement on the open market; (2) anticipates continued service for all existing contracts with terms extending beyond September 1, 2017, until their respective termination dates; (3) anticipates for any contracts that have already been executed but that have start dates sometime after September 1, 2017, that service will be continued and those contracts will be treated the same as existing contracts until termination; and (4) anticipates continuing to meet contractual obligations until termination for all contracts executed prior to September 1, 2017, in which the customer has the ability to convert from an index to a fixed rate at a future date.

This analysis does not anticipate any savings due to a reduced workload from implementing the provisions of the bill. GLO currently has one position that manages electricity contracts and it is estimated that the position will be necessary to continue managing the existing contractual obligations for electric power in addition to marketing and managing contractual obligations for natural gas.

Under current law, customers who purchase electricity from GLO are exempted from two utility
taxes because GLO is a state agency: the miscellaneous gross receipts tax and the public utility
gross receipts tax. If those existing customers are no longer able to purchase electricity through
GLO, they may have to purchase electricity from a non-exempt provider and thus may be required
to pay the two utility taxes from which they are currently exempted.

The tables reflecting a revenue gain to General Revenue and to the Foundation School Fund 193
are based on an assumption by the Comptroller that all customers who are no longer able to
continue service with GLO will select a provider who is not exempt from these utility taxes.

One of the utility taxes, the miscellaneous gross receipts tax, has three rates based on the
population of the city where the sale takes place. In determining its cost estimate for new
revenues from this tax, the Comptroller used GLO data on the value of contracts expiring each
fiscal year to estimate the value of the tax. The value of expiring contracts for each fiscal year was
reduced to a portion of sales to customers located in areas subject to the tax. The Comptroller used
the result to estimate gross receipts applicable to each rate based on fiscal 2016 collections data
by tax rate and forecasted revenue collections through fiscal year 2022. The projected revenue
collections were then allocated to the General Revenue Fund and the Foundation School Fund
193.

The Comptroller used the same data from GLO to estimate the potential revenue from the public
utility gross receipts tax, which is imposed at the rate of 0.167 percent of gross receipts.
Collections from this tax are allocated to the General Revenue Fund. GLO data on the value of
contracts expiring each fiscal year was used to estimate the corresponding gross receipts, then
multiplied by the tax rate to estimate the gross receipts assessment through 2022.

The University of Texas System, one of GLO's current customers, has indicated that it would
experience a cost increase system-wide of $1,611,036 per year.

Local Government Impact

The bill may result in higher costs in the form of utility taxes for those local government entities
that currently purchase electricity through GLO.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and
Veterans' Land Board

LBB Staff: UP, CL, MW, PBO, SD
TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB736 by Hancock (Relating to the authority of the General Land Office to sell retail electric power.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for SB736, As Introduced:
an impact of $0 through the biennium ending August 31, 2019.

However, there would be an impact of ($14,000,000) to Permanent School Fund 44 due to the provisions of the bill.

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:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>$0</td>
</tr>
<tr>
<td>2019</td>
<td>$0</td>
</tr>
<tr>
<td>2020</td>
<td>$0</td>
</tr>
<tr>
<td>2021</td>
<td>$0</td>
</tr>
<tr>
<td>2022</td>
<td>$0</td>
</tr>
</tbody>
</table>

All Funds, Five-Year Impact:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Probable Revenue Gain/(Loss) from Permanent School Fund 44</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>($7,000,000)</td>
</tr>
<tr>
<td>2019</td>
<td>($7,000,000)</td>
</tr>
<tr>
<td>2020</td>
<td>($7,000,000)</td>
</tr>
<tr>
<td>2021</td>
<td>($7,000,000)</td>
</tr>
<tr>
<td>2022</td>
<td>($7,000,000)</td>
</tr>
</tbody>
</table>

Fiscal Analysis

The bill would amend the Utilities Code to remove the ability of the General Land Office and
Veterans' Land Board (GLO) to sell or convey electric power. GLO currently is authorized to sell power to public retail customers, defined as state agencies, state institutions of higher education, public school districts, political subdivisions, military installations, and U.S. Department of Veterans Affairs facilities. The bill would allow the continuation of GLO's existing contracts until those contracts expire. The bill would take effect September 1, 2017.

Methodology

GLO reports that over the past ten years its electricity sales have resulted in an average net revenue gain to the Permanent School Fund No. 44 (PSF) of $10.0 million per year. Under current law, GLO purchases wholesale power with gas royalties from land owned by the PSF and then sells it at a profit. Absent the authority to sell power, GLO would deposit the full amount of gas royalties into the PSF. The bill would allow GLO to continue its existing contracts until they expire, so the agency would not see an immediate revenue loss of the full $10.0 million, but it would see the net estimated revenue loss of $7.0 million annually until the final existing contract expires in 2025, when the annual loss to the PSF would be the full $10.0 million.

This analysis does not anticipate any savings due to a reduced workload from implementing the provisions of the bill. GLO currently has one position that manages electricity contracts and it is estimated that the position will be necessary to continue managing the existing contractual obligations for electric power in addition to marketing and managing contractual obligations for natural gas.

Under current law, customers who purchase electricity from the GLO are exempted from two utility taxes because GLO is a state agency: the miscellaneous gross receipts tax and the public utility gross receipts tax. If GLO's existing customers are no longer exempted from these taxes, those customers may experience a cost increase in the price of their electricity. The University of Texas System has indicated that it would experience a cost increase system-wide of $1,611,036 per year as a result of increased utility taxes. The Comptroller of Public Accounts has indicated that there would be a minimal revenue gain to General Revenue as a result of increased utility taxes.

Local Government Impact

The bill may result in higher costs in the form of utility taxes for those local government entities that currently purchase electricity through GLO.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 720 The University of Texas System Administration

LBB Staff: UP, MW, PBO, SD