LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 24, 2003

TO: Honorable Steve Ogden, Chair, Senate Committee on Infrastructure Development and Security

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB3588** by Krusee (Relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in the state; imposing criminal penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3588, Committee Report 2nd House, Substituted: a negative impact of ($127,398,000) through the biennium ending August 31, 2005.

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
2004	$176,000
2005	($127,574,000)
2006	($130,129,000)
2007	($132,734,000)
2008	($135,393,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Savings/ (Cost) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *Counties*
2004	$176,000	$1,135,641,000	($1,103,755,366)	($130,652,000)
2005	($127,574,000)	$1,138,251,000	($1,212,856,706)	($5,511,000)
2006	($130,129,000)	$1,140,913,000	($1,321,955,450)	($5,618,000)
2007	($132,734,000)	$1,143,628,000	($1,431,051,250)	($5,727,000)
2008	($135,393,000)	$1,146,397,000	($1,540,153,389)	($5,838,000)

Fiscal Analysis

Article 1 of the bill relates to the establishment, designation, construction, and operation of a system of multi-modal facilities to be designated as the Trans Texas Corridor. Article 2 relates to the powers and duties of a regional mobility authority, including the power of eminent domain and the power to issue bonds. Article 3 relates to the authorization for the Texas Transportation Commission (TTC) to acquire property for possible use in or in connection with a transportation facility before final determination of the intended facility's location on that property. Article 4 relates to the acquisition, financing, construction, operation, and maintenance of rail facilities by the Texas Department of Transportation (TxDOT) and the authorization for the TTC to issue bonds. Article 5 relates to the issuance of bonds and other public securities secured by the State Highway Fund and the financing and construction of highway improvement projects. Article 6 relates to the use of pass-through tolls for financing certain highway facilities. Article 7 relates to the conversion of a non-toll state highway to a toll facility. Article 8 relates to the suspension of sentence and the deferral of adjudication in cases involving certain misdemeanor traffic offenses. Article 9 relates to the suspension of a driver's license. Article 10 relates to the eligibility of a person to operate a commercial motor vehicle in Texas. Article 11 relates to the Motor Vehicle Tax collections and county retention of motor vehicle registration fees. Article 12 relates to transportation planning; land sale authorizations for the TTC and the authority to exercise eminent domain on Aircraft Pooling Board property at the Robert Mueller Municipal Airport in Austin; and amends the Transportation Code to increase the amount of money TxDOT may grant relating to toll roads to an amount not to exceed $800 million.

Articles 1, 2, 4, and 6 of the bill would take effect immediately upon receiving a two-thirds majority vote in both houses; otherwise, they would take effect September 1, 2003. Articles 3, 7, 8, 9, 11, and 12 of the bill would take effect September 1, 2003. Article 10 would take effect June 1, 2005. Article 5 of the bill would take effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, authorizing the issuance of bonds for improvements to the state highway system would take effect. If that amendment does not receive approval by the voters, Article 5 of the bill would have no effect.

Methodology

Article 1 costs include $10 million during the first fiscal year with costs increasing incrementally by $10 million during each successive year from the State Highway Fund for feasibility studies, environmental studies, right-of-way acquisition, and preliminary engineering efforts during the first five years of implementation. TxDOT indicates estimated costs are conservative because actual Trans Texas Corridor locations and designs are currently undecided. TxDOT estimates the Trans Texas Corridor will require 50 to 75 years to build and anticipates that total costs will exceed $145 billion over that period of time. For the purposes of this analysis, TxDOT identified four priority segments that are currently being considered for use in the Trans Texas Corridor, which include proposed segments of I-35, I-37 and I-69 from Denison to the Rio Grande Valley; I-69 from Texarkana to Houston to Laredo; I-45 from Dallas-Fort Worth to Houston; and I-10 from El Paso to Orange. The analysis for this article does not consider any fiscal implications for the issuance of bonds; loans; grants; revenues generated from allowable fees related to utilities, tolls, and rails; commercial charges; leases; right-of-way acquisition agreements; private sector involvement in projects; or any other authority, duty, or provision of the bill based on the analysis and information provided by TxDOT.

Article 5 is contingent on the passage and voter approval of HJR 28, or similar legislation, and would require debt service costs estimated on the assumption there would be a bond issuance of $1 billion of project costs each year for the next 10 years beginning on September 1, 2003, at an interest rate of 1.11 percent; that the total revenues available in the State Highway Fund during each year would exceed $5.9 billion; that debt service for the issuance would be for a 20 year period; that the interest rate would increase to 2.6 percent in FY 2005; that repayments would be financed through the State Highway Fund; and that the amount of the bond issue would be reduced by the estimated interest earned on the balance of bond proceeds each year. It is assumed issuance and underwriting costs would be added to the bond issuance and that State Highway Fund costs would be realized in the amounts of approximately $1.0 billion in fiscal year 2004; $1.2 billion in fiscal year 2005; $1.3 billion in fiscal year 2006; $1.4 billion in fiscal year 2007; and $1.5 billion in fiscal year 2008.

Article 11 costs are based on the analysis of the Comptroller of Public accounts and assume that amendments to the Tax Code and the Transportation Code would result in a small increase in General Revenue for 2004 in the amount of $176,000 with significant losses during each subsequent year to that fund. The bill would allow counties to calculate an amount equivalent to 5% of the motor vehicle sales tax in their counties and retain a portion of that percentage in accordance with the bill. It is assumed that counties would not retain any taxes until fiscal year 2005 and that in that year they would retain 10% of 5% of the amount identified, increasing to 100% of the 5% in 2014. It is assumed that fees retained by counties under current law would be no longer be retained at a rate equivalent to 90% of the 5% in 2005, declining to 0% by 2014. In addition, counties would retain a portion of the motor vehicle sales tax revenues instead of vehicle registration fees in accordance with the provisions of the bill. It is assumed that counties would also start retaining 90% of the 5% in fiscal year 2005. General Revenue losses are anticipated to be approximately $127.6 million in 2005; $130.1 million in 2006; $132.7 million in 2007 and $135.4 million in 2008. Revenue gains to the State Highway Fund are estimated to be approximately $130.5 million in 2004; $133.1 million in 2005; $135.7 million in 2006; $138.5 million in 2007; and $141.2 million in 2008. It is also estimated that counties would realize a revenue loss of approximately $130.6 million in 2004; $5.5 million in 2005; $5.6 million in 2006; $5.7 million in 2007; $5.8 million in 2008. Costs related to the standard presumptive value requirements can not be estimated based on the information available.

It is assumed that duties and responsibilities associated with implementing the provisions of Articles 2 through 4, and 6 through 10 could be accomplished by utilizing existing resources; that any cost savings realized by TxDOT from implementing the provisions of the bill would be used for other transportation related purposes; and that any non-dedicated State Highway Funds used for the purposes of Article 4 would not be available for other transportation purposes permissible under current law. TxDOT does not anticipate that it will be able to use the powers and authorities provided in Article 4 of the bill within the next five years. TxDOT does estimate that initial costs for a rail project would involve feasibility studies, environmental assessments, preliminary right-of-way determination, freight and rider studies, and proposal reviews.

Local Government Impact

It is assumed that costs to local governmental entities, regional mobility authorities, or other transportation-related authorities to implement the provisions of Articles 1, 2, 4, 5, and 7 of the bill would depend on the size and type of projects constructed or transferred and the nature of agreements entered into with TxDOT and/or private entities. According to TxDOT, costs associated with the acquisition, construction and operation of any project would eventually be offset by revenue generated by utility fees, toll receipts, railroad fees and commercial charges. Although TxDOT anticipates that a significant portion of financing will come from private sector involvement, no estimates where made on private sector and state funding portions due to a lack of available information.

It is assumed that costs to local governmental entities for to implement Article 6 of the bill would depend on the size and type of projects constructed and the nature of the "pass-through" agreements entered into with TxDOT. Costs associated with the bill would eventually be offset by revenue generated by the pass-through tolls.

Local courts could see some additional revenue after implementing the provisions of Article 8 of the bill. If a municipal court or justice court were to impose a fee in addition to court costs, fees, and administrative fees, the additional fee would amount to between the proposed minimum of $10 and the maximum fine for a Class C misdemeanor, which is $500. According to reports available on the Office of Court Administration's (OCA) website, in fiscal year 2002, there were 436,253 non-parking traffic violation cases dismissed in municipal courts after completion of a driving safety course; 203,270 non-parking traffic violation cases dismissed in justice courts after completion of a driving safety course; and 105,271 juvenile cases in municipal court for violations of the Transportation Code, for a total of 744,794 traffic violations to which the proposed additional fee may apply. The OCA report does not specify the level of traffic violations reported; therefore, an assumption is being made for the purposes of this analysis that all would be affected under the proposed amendment to statute. If the same number of applicable cases were to be filed in coming years, and if an additional $10 fee were to be imposed in all 744,794 cases, the courts would experience a cumulative statewide revenue gain of over $7.4 million. If the courts were to impose the maximum additional fee of $500, which is not expected, the courts would experience a cumulative statewide revenue gain of more than $37.2 million. The revenue gain would vary by court and depend on the number of applicable cases and the amount imposed by the court.

No significant fiscal implication to units of local government is anticipated to implement Article 10 of the bill. Local government entities may incur minimal costs to report offenses to the Texas Department of Public Safety.

Under the provisions of Article 11, it is estimated that counties would realize a revenue loss of approximately $130.6 million in 2004; $5.5 million in 2005; $5.6 million in 2006; $5.7 million in 2007; $5.8 million in 2008.

Source Agencies: 405 Department of Public Safety, 582 Commission on Environmental Quality, 601 Department of Transportation, 802 Parks and Wildlife Department

LBB Staff: JK, JO, RR, RT, WP, KG, MW