

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 30, 2003

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB860 by Wentworth (Relating to county maintenance of drainage ditches along public roads in certain counties.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require in a county with a population of 100,000 or less that the county must remove or provide for the removal or clearance of a blockage of a ditch on real property not owned by the county if requested to do so by the record owner of property, and if that property is platted in a residential subdivision in which a ditch connects with a drainage ditch constructed or maintained by the county and the primary source of water carried by the ditch is runoff from roads and ditches maintained by the county. The county would have 45 days in which to remove or clear the blockage; otherwise, the county would be liable to the property owner and to adjoining property owners for the cost of removal of the blockage and for property damage, personal injury, or death proximately caused by the blockage. The bill would take effect immediately if it receives a two-thirds vote in each house; otherwise, it would take effect September 1, 2003.

Under current statute, clearing a blockage from a ditch that is not owned by the county is optional and left to the discretion of the county commissioners court.

County associations were contacted regarding the impact of the bill. A significant negative fiscal impact is anticipated for counties in which a large number of drainage ditches along public roads would meet the requirements for obtaining county maintenance. For example, in Comal County (population 78,021) the county engineer states that there is a large number of privately-owned drainage systems that could meet the eligibility requirements of the proposed change in statute. If the county received 30 requests per month, it would have to increase the number of four-man drainage crews by six and purchase equipment for each crew, for an estimated initial cost of \$2 million. Expenses each year thereafter would be about \$600,000, according to the Comal County engineer.

In counties in which there is little or no property that meets the eligibility requirements for requesting county maintenance, the cost would be insignificant.

If a county were to miss the deadline for clearing a blockage and if consequently a property owner was injured or killed or their property damaged, the cost to the county could be very high as a result of court costs and required payment for damages from any liability suits.

Local Government Impact

The cost to a county would vary depending on the amount of property meeting the eligibility requirements of the proposed change in statute, the frequency of blockages, the number of requests received, and whether or not the county met the deadline for acting, but the cost could be significant.

Source Agencies: 304 Comptroller of Public Accounts, 601 Department of Transportation

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