

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**March 1, 2005**

**TO:** Honorable Ray Allen, Chair, House Committee on County Affairs

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

**IN RE: HB1194** by Mowery (Relating to prohibiting the removal of a barrier on a road placed by a person contesting the interest in the road claimed by a county or certain governmental entities.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would prohibit a county from removing a barrier on a road placed by a person contesting the interest in the road claimed by a county or other governmental entity while the case is pending in district court unless the contested portion of the road is fenced on both sides along its entire length or the district court has granted a temporary injunction in favor of the county or other governmental entity and that entity has posted a bond in the amount determined by the court. The bill would take effect September 1, 2005 and would apply only to a contest or suit that is brought on or after that date.

According to the Texas Department of Transportation (TxDOT), if a county road has a barrier placed on it that restricts public travel, the county would be required to formally notify TxDOT. A county could experience a reduction in revenue received from the Lateral Road and Bridge Fund, which is administered by the Comptroller of Public Accounts. Distributions from the \$7.5 million fund are based on the certified county road mileage for both paved and unpaved county roads in each county relative to the total certified county roads in the state. TxDOT reports that there are currently approximately 127,586 designated county roads with a total of 143,641 certified miles.

**Local Government Impact**

If a county road, or a portion of a county road, that is included in the county road system is removed from a county's system as a result of having to leave a barrier in place that was erected by an individual contesting the county's interest in the road, the county could experience a reduction in revenue from the state that would be proportionate to the loss of road. In addition, TxDOT reports that, depending on the class of road, the county could become ineligible for certain federal funding. Any negative fiscal impact would be for the period of time in which the road is removed from the system. If the individual contesting the county's interest in the road were to prevail, the revenue loss would be permanent.

**Source Agencies:** 601 Department of Transportation

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