

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 17, 2005

TO: Honorable Todd Staples, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: HB2799 by Talton (Relating to the removal of vehicles and property from a roadway in a political subdivision, to the authority of a political subdivision to establish a traffic incident management program, and to procedures regarding the removal and storage of certain vehicles.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code, Occupations Code, and Government Code as they relate to procedures regarding the removal of vehicles and property from a roadway and the storage of towed vehicles.

The bill would prohibit a local authority from establishing a transportation or mobility enhancement program on a state highway, including a farm-to-market or ranch-to-market road, unless permitted by an agreement between the local authority and the Texas Department of Transportation (TxDOT).

A political subdivision would be authorized to establish a traffic incident management program to provide for the safe and efficient removal of personal property from a roadway or right-of-way in the political subdivision. The bill would establish the parameters of the program and of the political subdivision's authority. The political subdivision would not be allowed to impose a fee or charge that exceeds 2 percent of the annual gross receipts for traffic incident management towing. Funds generated by fees or charges assessed must be applied only to the traffic incident management program.

The political subdivision would be allowed to pay the towing company for its services, but if it does not, the owner of a towed vehicle would be liable for reasonable towing and storage fees incurred.

The bill would allow a law enforcement agency to use agency personnel or contract for other personnel to send notice regarding and dispose of an abandoned motor vehicle, watercraft, or outboard motor taken into custody.

The bill would require a garagekeeper to report to the law enforcement agency with jurisdiction where the vehicle is located, or the Department of Public Safety (DPS), the abandonment of a motor vehicle. The bill would increase the fee currently paid by the garagekeeper to the law enforcement agency for the cost of notice and disposing of the vehicle from \$5 to \$10.

The bill would define "custody" to mean physical custody of the vehicle or notice to the storage facility that the law enforcement agency intends to dispose of the vehicle. The bill would also require that the proceeds from the sale of an abandoned vehicle be first applied to a garagekeeper's charges for towing and impoundment in addition to service, storage, and repair of the vehicle. The storage facility would be authorized to dispose of the vehicle if the law enforcement agency does not take the vehicle into custody before the 31st day after the vehicle was reported abandoned.

The bill would require that hearings be held in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

The bill would modify the contents of the notice issued to include the person, property owner, or law enforcement agency that authorized the removal of the vehicle and the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

The bill would increase the filing fee a court is authorized to charge from \$10 to \$20.

The bill would change from the day in which a hearing is required to be held, from the seventh to the tenth working day after the court receives notice. Notice for the hearing must be sent via registered or certified mail and must include a copy of the request for a hearing. The Transportation Code would be amended to allow for an appeal of the decision made at a hearing.

The bill would amend the Occupations Code by adding a section that would allow the operator of a vehicle storage facility to consider a vehicle abandoned and send notice to a law enforcement agency if the vehicle is not claimed before the tenth day after the notice was sent out.

The bill would amend the Occupations Code to be consistent with the Transportation Code with regard to the fee collected by the clerk of a justice court for hearing on probable cause for removal of a vehicle and placement in a storage facility.

The Government Code would be amended to be consistent with the Transportation Code with regard to the fee collected by the clerk of a municipal court for hearing on probable cause for removal of a vehicle and placement in a storage facility.

The bill would apply only to the procedures for the removal of a vehicle to a vehicle storage facility or the seizure of a vehicle on or after the effective date of the bill. Although the bill would change certain fees, the increase in revenue is not expected to be significant.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

Local Government Impact

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

Source Agencies:

LBB Staff: JOB, SR, VDS, DLBa, SJ, LM, KJG