LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 16, 2005

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: **SB994** by Lucio (Relating to liability of a governmental unit for a claim arising from roadway lighting conditions.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code by excepting a governmental unit from liability for claims arising in connection with lighting or any condition related to the lighting of a road, highway, farm-to-market road, or street under the supervision of the governmental unit. The bill would specify that a municipality would still be liable for damages with regard to street construction and design. The bill would take effect September 1, 2005, and would apply only to a cause of action filed on or after that date.

According to the Office of Attorney General (OAG), there has been one recent claim involving roadway lighting, and the Texas Department of Transportation was found liable at trial after the Texas Supreme Court, in County of Cameron v. Brown, 80 S.W.3d 549 (Tex. 2002), overruled the contention that failure of roadway lighting could not, as a matter of law, constitute a dangerous condition. Enactment of the bill would expand immunity of governmental units and, therefore, protect them from potential liability. Provisions of the bill, which would provide sovereign immunity in the described circumstance, would not have a significant fiscal impact on the state.

Local Government Impact

A local governmental unit would experience a savings from not being held liable in a claim related to lighting and lighting conditions on roadways under its jurisdiction. The immediate savings would be in legal fees; other future savings would be the avoidance of paying on a claim.

Source Agencies: 302 Office of the Attorney General, 601 Department of Transportation
LBB Staff: JOB, SR, DLBa