

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

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 11, 2007**

**TO:** Honorable Harvey Hilderbran, Chair, House Committee on Culture, Recreation, & Tourism

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

**IN RE: HB1697** by Hilderbran (Relating to the protection of property subject to certain conservation easements.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would add Section 183.006 to the Natural Resources Code to prohibit a municipality or a nonprofit organization holding a conservation easement on behalf of a municipality from using or authorizing the use of real property subject to a conservation easement for the construction, erection, or operation of a building, facility, or other item of infrastructure unless that infrastructure is to be used only for a purpose directly related to the operation of the real property as a park, open space, natural area, wildlife conservation area, public recreation area, or nature preserve in accordance with the terms of the conservation easement.

The bill would waive the municipality's sovereign immunity to suit and to liability regarding enforcement of Section 183.006, Natural Resources Code, or terms of a conservation easement subject to the statute. If a plaintiff prevails against the municipality, the municipality would be responsible for paying the plaintiff's reasonable attorney's fees, costs of court, and expenses directly related to the litigation. If the plaintiff prevails in a suit and is an owner of an interest in the easement, the holder of the easement, a third party with rights to the easement, or person otherwise granted rights by statute to the easement, the municipality would be required to pay damages in an amount equal to the cost of restoring the real property or to restore the real property at the municipality's expense.

**Local Government Impact**

If a municipality were to be the subject of a lawsuit under the proposed statute and were to lose the suit, the municipality would incur costs in addition to its own legal expenses and those of the plaintiff. Those additional costs would vary depending on what is involved in restoring the affected real property to its original condition, but could be significant.

**Source Agencies:**

**LBB Staff:** JOB, WK, DB