

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 24, 2007

TO: Honorable Kevin Bailey, Chair, House Committee on Urban Affairs

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

IN RE: HB3079 by Hilderbran (Relating to the development of unrelated infrastructure on certain venue projects.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would add Subchapter L to Chapter 334, Local Government Code, to restrict the development of unrelated infrastructure on municipal projects involving arenas, stadiums, and other venues for sports and community events unless authorized by the voters in a municipal election. The bill specifies the procedures for an election, and procedures for enforcement of the statutory requirements by the district or county attorney, attorney general, taxpayers, and neighbors. The bill would authorize recovery of attorney's fees and costs in any enforcement action. The bill contains a provision waiving municipal sovereign immunity.

The bill would also add Section 26.006 to Chapter 26 of the Parks and Wildlife Code to apply the provisions of Subchapter L, Local Government Code, to construction, operation, or maintenance of unrelated infrastructure on property that is part of an approved venue project and designated or used as a park, recreation area, scientific area, wildlife refuge, or historic site.

Provisions of Subchapter L would apply to construction, operation, or maintenance of unrelated infrastructure in violation of that subchapter before the effective date of the bill that is the subject of litigation filed after January 1, 2005, in which a final judgment has not been entered as of the effective date of the bill. The bill would take effect immediately if it were to received the required two-thirds vote of all members; otherwise it would take effect September 1, 2007.

Although the bill would authorize enforcement by the Office of the Attorney General (OAG), such enforcement is discretionary. The OAG presumes that any enforcement for violations would likely be conducted by the district or county attorney, taxpayers, or neighbors. Because the bill authorizes the recovery of attorney's fees and costs in any enforcement action, the OAG assumes there would be no fiscal impact to the agency if it were to take enforcement actions.

Local Government Impact

The fiscal impact to a municipality in which projects may have already begun and are subject of litigation filed after January 1, 2005, would depend on the discretion of the court in its final judgment. The fiscal impact regarding projects not already begun would vary and would include election costs. The loss of sovereign immunity for the purposes of provisions within the bill could result in a negative fiscal impact that would vary depending on court decisions.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, DB