

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 20, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

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

IN RE: HB3646 by Kolkhorst (Relating to the length of certain contracts between a state agency and a private entity.), **As Introduced**

<p>The fiscal implications to the State cannot be determined.</p>
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The bill would amend the Government Code to prohibit a state agency from entering into a contract with a private entity for a term that exceeds 20 years. The bill would exempt a state security approved by the Bond Review Board or an agreement providing for pass-through tolls under the Transportation Code. The provisions of the bill would apply to a contract entered into or for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications, as applicable, on or after September 1, 2007; and an extension of an existing contract entered into on or after that date.

The Texas Department of Transportation (TxDOT) indicates that the provisions of the bill would place limits on the terms of a comprehensive development agreement (CDA) that the department could enter into with a private participant for the development and operation of transportation projects, which could result in higher project financing costs, increased reliance on state funds, and reduced concession fees paid to the state from CDA projects. Based on the information provided by TxDOT, it is assumed any fiscal implications to the state would depend on the number of potential CDA projects and concession agreements that could be implemented under current law but would be limited as a result of the enactment of the bill and, therefore, cannot be determined. Based on the analysis of the Office of the Attorney General, it is assumed state agencies would consider contract terms of 20 years or less for new contracts or contract extensions after the effective date of the bill, which would not result in a significant fiscal impact to the state.

The bill would take effect on September 1, 2007.

Local Government Impact

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

Source Agencies: 302 Office of the Attorney General, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG