

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

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

**March 26, 2007**

**TO:** Honorable Mike Krusee, Chair, House Committee on Transportation

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

**IN RE: HB3712** by Krusee (Relating to the authority of regional mobility authorities, including the participation of private entities in authority projects.), **As Introduced**

**It is assumed any additional legal actions required of the Office of the Attorney General as a result of provisions of the bill could be absorbed using existing resources. If a lawsuit were to be brought against an RMA and the comptroller, and if the state were to lose, associated costs would be dependant on the judgment of the court and cannot be determined.**

The bill would amend Chapter 370, Transportation Code, to allow a regional mobility authority (RMA), if authorized by an applicable regulatory authority, to offer to purchase a conservation easement from the owner of real property to mitigate an adverse environmental impact that is a direct result of a transportation project. The bill would also authorize an agreement between an RMA and a private entity in certain circumstances to be for a term of up to 70 years. Under current statute, agreements are limited to no longer than 50 years.

The bill would authorize an RMA to include any provision that it considers appropriate for a comprehensive development agreement entered into under Section 370.305, Transportation Code. Notwithstanding any other law and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the authority under a comprehensive development agreement entered into under Section 370.305 to make or secure payments to a person because of the termination of the agreement, including the purchase of interest of a private participant or other investor in a project, may be enforced by mandamus against the RMA and the comptroller in a district court in Travis County. Sovereign immunity of the state would be waived for that purpose.

The bill would authorize a private entity that contracts with an RMA to operate a turnpike project to contract with an agency of the state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce highway traffic laws and toll payments.

The bill would amend the Tax Code to stipulate that any portion of a facility leased to a private entity by an RMA is public property used for a public purpose if the facility is operated by the private entity to provide transportation or utility services. Any part of a facility leased to a private entity for a commercial purpose under Chapter 370, Transportation Code, would not be exempt from taxation.

The bill would take effect September 1, 2007.

### **Local Government Impact**

The Alamo Regional Mobility Authority and the Central Texas Regional Mobility Authority indicated provisions of the bill would not create additional fiscal impact for the authorities. However, as indicated above, if a suit were to be filed and there were to be a judgment against the state and the RMA, associated costs would be dependant on the judgment of the court and cannot be determined. In addition, it is assumed that other provisions of the bill would provide more flexibility in the operations of the RMAs, which could provide some savings in operational costs.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, KJG, DB