LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

Revision 1

May 12, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

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

IN RE: **HB9** by Truitt (Relating to transportation funding in this state.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB9, Committee Report 1st House, Substituted: a positive impact of $25,145,000 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$11,176,000
2011	$13,969,000
2012	($706,526,856)
2013	($690,341,856)
2014	($666,033,856)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from *Available School Fund* 2	Probable Revenue Gain from *State Highway Fund* 6	Probable (Cost) from *General Revenue Fund* 1
2010	$11,176,000	$33,528,000	$0
2011	$13,969,000	$41,908,000	$0
2012	$41,079,000	$123,237,000	($747,605,856)
2013	$57,264,000	$171,792,000	($747,605,856)
2014	$81,572,000	$244,714,000	($747,605,856)

Fiscal Analysis

The bill would amend the Transportation Code relating to permissible uses of the State Highway Fund. The bill would also amend the Tax Code relating to the motor fuels tax.

The bill would remove policing public roadways from the constitutionally-dedicated uses of the State Highway Fund. The bill also states that, contingent upon passage of a Constitutional Amendment, revenue from motor fuels taxes may be used for improving a passenger or freight rail facility. The bill also repeals Transportation Code, Section 222.002, which allows the money in the State Highway Fund that is not required to be spent on public roadways by the Texas Constitution or federal law may be used for any function performed by the TXDOT. This section of the bill would take effect September 1, 2011, therefore it would have no fiscal impact on the current biennium.

The bill would provide for an increase or decrease in the gasoline and diesel fuel tax rates on October

1st of each year based upon the percentage change in the producer price index for highway and street construction published by the United States Department of Labor. The percentage change in the producer price index would be the percentage increase or decrease, not to exceed five percent, in the producer price index of a given state fiscal year from the producer price index of the preceding fiscal year. Except in two cases, the gasoline and diesel tax rate would increase by an amount equal to the producer price index percentage change for the preceding fiscal year multiplied by the state gasoline and diesel tax rate, respectively, on August 1st of that year. The two exceptions would be that neither tax rate could fall below the current rate of 20 cents per gallon and neither tax rate could increase by more than 3 cents in a fiscal biennium. The rates would no longer be increased or decreased beginning in fiscal year 2023. This section would only take effect if a constitutional amendment authorizing the legislature to provide for automatic adjustments of the motor fuels tax rate is approved by voters in a statewide election to be held in November 2009. Since this is after the adjustment date of October 1, the first adjustment would not occur until fiscal year 2011.

The bill would reduce the amount of gasoline and diesel fuel tax that a licensed distributor or licensed importer is allowed to retain for the timely payments of the tax from 1.75 percent to 0.3 percent of the total taxes paid. The bill would also reduce the amount a supplier, permissive supplier, or importer of gasoline or diesel fuel that timely pays the tax may deduct as a collection allowance from 2 percent to 0.5 percent of the total amount of taxes paid. Finally the bill would reduce the amount of tax a licensed dealer of liquefied gas could retain for the timely payment of the tax from 1 percent to 0.5 percent. The sections of the bill dealing with the amount of tax revenue a distributor or supplier could retain would take effect immediately upon enactment, assuming the bill received the requisite two-thirds majority votes in both houses of the legislature. Otherwise, it would take effect September 1, 2009.

Methodology

The Department of Public Safety's (DPS) State Highway Fund 6 appropriations (including employee benefits) total $625,011,935 in fiscal year 2009, which is 76 percent of the agency's total appropriations. The bill states that, contingent upon voter approval of the companion joint resolution, the provisions would take effect on September 1, 2011, which would be the beginning of state fiscal year 2012. This bill would allow DPS to use Fund 6 in fiscal years 2010 and 2011, but the agency would not be able to access these funds beginning in fiscal year 2012. This analysis assumes that General Revenue Funds would be used to fund DPS at fiscal year 2009 funding levels for fiscal years 2012 and beyond.

The bill would repeal the authority to use non-constitutionally dedicated State Highway Fund 6 (Fund 6) money for any function carried out by the Department of Transportation (TxDOT) and would specify that these non-constitutionally dedicated fees could only be used to improve the state highway system and/or improve a passenger or freight rail facility. Therefore, it is assumed the provisions of the bill would prohibit the use of Fund 6 for certain non-highway improvement programs carried out by TxDOT, including general aviation, public transportation, vehicle titling and registration, traffic safety, and travel and tourism. This analysis assumes the total Fund 6 appropriations for these TxDOT non-highway programs for fiscal year 2009 as $122,593,921. The portion of these appropriations budgeted for salaries and wages is estimated to be $35,724,703. This analysis assumes that General Revenue Funds would be used to fund TxDOT at fiscal year 2009 funding levels for certain non-highway improvement programs for fiscal years 2012 and beyond.

Estimates of the changes in gasoline and diesel fuel tax revenues were obtained by adjusting the Comptroller's *2010-11 Biennial Revenue* Estimate to reflect the revised tax rates resulting from projected changes in the producer price index under the provisions of the bill.

Because of the October 1 effective date of each year's revised tax rate, the revenue change for each year was calculated based on the appropriate number of months of tax revenue at the differing tax rates during the year. An allowance was made for changes in purchasing behavior due to higher prices at the motor fuel pump. The estimate was also adjusted to reflect statutory collection lags.

The Comptroller also provided estimates of the gain in motor fuels tax revenue resulting from decreasing the amount of tax revenue distributors, importers, and suppliers are allowed to retain for timely payment. The gains to the State Highway Fund and the Available School Fund listed above include only the increase from the timely payment reduction in fiscal year 2010. In fiscal year 2011 and beyond, they include the gains from the timely payment reduction and indexing the motor fuels tax rates. It should be noted that the forecasted gain from indexing the motor fuels tax to inflation is much smaller in fiscal year 2011 than in subsequent years. This is the result of the fiscal 2011 increase being linked to the inflation rate from fiscal year 2010, which is expected to be well below historical levels as the economy remains in recession for much of the year.

Local Government Impact

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

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 601 Department of Transportation

LBB Staff: JOB, SD, KK