LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 26, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB300** by Isett (Relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation; providing penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, As Passed 2nd House: a negative impact of ($132,052,800) through the biennium ending August 31, 2011.

Depending on the number of counties that elected to impose a county motor fuels tax, there would be an indeterminate amount of revenue gain to the state and units of local government. Due to the provisions of the bill, the Comptroller's office would incur costs of $17,556,000 for the biennium ending August 31, 2011 for administration of county motor fuels taxes. However, these costs are specifically contingent upon an interlocal agreement with one or more local entities in which the Comptroller would receive sufficient funding in advance of the effective date of any motor fuels tax imposed by a county to adequately cover these costs. If the Comptroller does not receive funding in a timely manner as determined by the Comptroller, the Comptroller is not required to enforce the provisions of this Act. Therefore, there would be no effect on the state budget for these provisions.

The amount of additional costs and overall negative fiscal impact to the Department of Transportation for the acquisition of property through condemnation under the provisions of the bill would vary by case, and therefore, there would be an indeterminate fiscal impact to the state.

The bill would re-appropriate in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation for the 2008-09 biennium related to programs that would be transferred to the new Department of Motor Vehicles.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($45,208,000)
2011	($104,400,800)
2012	($176,276,400)
2013	($248,148,000)
2014	($320,020,950)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Savings/ (Cost) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *State Highway Fund* 6
2010	($45,455,342)	$247,342	($688,067)	$67,987,250
2011	($104,621,542)	$220,742	($688,067)	$82,263,500
2012	($176,497,142)	$220,742	($688,067)	($3,424,000)
2013	($248,368,742)	$220,742	($688,067)	($4,931,500)
2014	($320,241,692)	$220,742	($688,067)	($6,439,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *Hwy Beautification Acct* 71	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated Choose Life Account*	Probable Revenue Gain/(Loss) from *Counties*	Change in Number of State Employees from FY 2009
2010	$115,000	$6,600	$30,550,150	47.3
2011	$115,000	$6,600	$34,989,838	46.0
2012	$115,000	$6,600	($5,465,475)	46.0
2013	$115,000	$6,600	($6,480,788)	46.0
2014	$115,000	$6,600	($7,496,100)	46.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT) and the transfer of certain functions of TxDOT to a new Texas Department of Motor Vehicles (DMV) and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

The bill would allow the use of money in the General Revenue – Dedicated Highway Beautification Account for the regulation of outdoor signs on rural roads. The bill would require the deposit of certain license fees and penalties related to the regulation of outdoor signs on rural roads to the General Revenue – Dedicated Highway Beautification Account rather than the State Highway Fund. The bill would require a municipality to pay just compensation to the owner of a sign if the removal of a sign is required because of a road project and the relocation of the sign is prohibited by local charter or ordinances.

The bill would establish and prescribe composition duties of a Transportation Legislative Oversight Committee (TLOC). The bill would require TxDOT to enter into an interagency agreement with the legislature or a legislative agency to provide up to $1 million from available appropriations to TxDOT to support the operation of the TLOC.

The bill would establish a rail transportation division within TxDOT and would establish certain duties of the division related to the transportation planning, development, and financing for passenger and freight rail.

The bill would create the Texas Department of Motor Vehicles (DMV) and a board of the DMV consisting of nine members appointed by the Governor with the advice and consent of the Senate and would require the transfer of all powers, duties, obligations, rights of action, personnel, computers, other property and equipment, files, and related materials of the Motor Carrier Division (with the exception of Oversize/Overweight vehicle permitting and enforcement), Motor Vehicle Division, Vehicle Titles and Registration Division, and the Automobile Burglary and Theft Prevention Authority office of the Texas Department of Transportation (TxDOT) to the DMV on November 1, 2009. The bill would transfer and re-appropriate to the DMV any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) for the transferred programs in fiscal year 2010. The bill would also direct the transfer of other full-time equivalent employees (FTE) that support the transferred motor vehicle functions at TxDOT to the DMV. The bill would authorize TxDOT and DMV to determine the number of support FTEs to be transferred through a memorandum of understanding (MOU). The bill would require the board of the DMV and TTC to adopt or revise a joint MOU to coordinate the agencies' information systems to allow for the sharing of information and to implement the MOU using existing personnel and resources. The bill would authorize the DMV board and the TTC to enter into a joint MOU to effectuate the transfer of powers and duties, which could include an agreement for the provision of office space, utilities, and support services. The bill would require TxDOT to establish a DMV transition team to plan for and make recommendations regarding the transfer of obligations, property, personnel from TxDOT to the DMV.

The bill would require the State Auditor's Office (SAO), as soon as practicable after the effective date of the bill, to conduct a financial audit to establish financial benchmarks for the DMV on its overall status and condition in relation to funds, equipment and assets, pending matters, and other issues considered appropriate by the SAO.

The bill would authorize the Texas Transportation Commission (TTC) to issue up to $5 billion in general obligation bonds to fund state highway improvement projects under the authority of Section 49-p, Article III of the Texas Constitution (Proposition 12 General Obligation Bonds). The bill would specify that proceeds of the bonds may not be used for purposes other than the payment of costs related to the bonds; highway improvement projects defined in the bill as acquisition of highway, construction, reconstruction and major maintenance; and providing a source of funding to the Texas Transportation Revolving Fund or similar fund if authorized by statute in order to make loans for improvement projects. The bill would require the Comptroller to pay the principal and interest and any costs related to the bonds that become due, including payments under credit agreements. This provision of the bill would only take effect if a specific appropriation for the implementation is included in a General Appropriations Act of the Eighty-first Legislature.

The bill would require TxDOT to develop and implement a system to allow an owner of a commercial fleet of vehicles consisting of at least 25 nonapportioned vehicles used for business purposes to register vehicles in the commercial fleet for an extended registration period of no less than one year and no greater than 8 years. The bill would require an annual fleet registration fee of $10 per fleet vehicle, a one-time license plate manufacturing fee of $1.50 for each fleet vehicle license plate, and the advance payment of all registration license taxes and fees for the entire registration period.

The bill would recodify and amend Chapters 501, 504 and 520 of the Transportation Code, to add a new electronic titling system, including the payment of fees by electronic funds transfer or credit card; revise the administration, marketing and sale of specialty license plates and personalized license plates, including the private vendor contract terms and conditions; change motor vehicle registrations, including electronic fee payments, reclassifications and fee amounts, and the transfer and removal of license plates upon the sale or transfer of a vehicle; amend the duties and responsibilities of tax assessor-collectors; and require joint studies by TxDOT and DPS, in consultation with the Texas Commission on Environmental Quality (TCEQ), on the consolidation of motor vehicle registrations and compulsory inspection procedures, and on the merger or consolidation of similar information collected separately by each agency.

The bill would require TxDOT to redevelop and regularly update the Statewide Transportation Plan and to coordinate with metropolitan planning organizations (MPO) on funding assumptions for long-range planning. The bill would require TxDOT to establish a transportation project information reporting system that is available on the agency's website. The bill would authorize the creation of rural planning organizations (RPO). TxDOT would be required to facilitate the creation of RPOs with existing resources and provide funds and personnel to assist the RPOs with rural transportation planning.

This bill would implement recommendations in the Legislative Budget Board's (LBB's) *Government Effectiveness and Efficiency Report to the Eighty-First Legislature, 2009,* entitled "Improve State Coordination of the Development of a Passenger Rail System." The bill would add Chapter 92 to the Transportation Code to require the Texas Department of Transportation (TxDOT) to coordinate activities regarding passenger rail and to create and annually update a plan for a statewide passenger rail system. TxDOT would be required to select between one and five metropolitan planning organizations (MPOs) to design, construct, and implement an urban passenger rail demonstration project and certain other mobility improvement projects and to report to the legislature annually on the demonstration programs. The bill sets forth requirements of, application procedures for, and the powers and duties of a county involved in an urban passenger rail demonstration project.

The bill would create Chapter 180 as part of Title 5, Transportation Code, regarding local options for funding urban passenger rail demonstration and mobility improvement projects. The provisions of this chapter would apply only to counties meeting certain criteria and selected by TxDOT for an urban passenger rail demonstration project. The bill authorizes applicable counties to impose (1) a tax on the retail sale of gasoline or diesel fuel of 5 or 10 cents per gallon; (2) a mobility improvement fee of between $1 and $60; and (3) a driver’s license renewal fee between $1 and the state renewal fee amount. Any money the county would receive from the methods of finance authorized by this bill would be deposited into a County Mobility Improvement Fund (fund). The bill sets forth requirements applying to TxDOT, counties imposing an applicable method of finance, the Comptroller, and the Department of Public Safety relating to methods of finance authorized by this chapter and makes conforming changes. The bill provides for three options on the use and distribution of money collected from a county motor fuel tax, depending on requirements of the state constitution, including the possibility that one-fourth of the tax be allocated to the Available School Fund. The above provisions of the bill would take effect immediately upon enactment, assuming that the bill receives the requisite two-thirds majority vote in both houses of the Legislature. Otherwise this section would take effect September 1, 2009.

The bill would require the Texas Department of Licensing and Regulation (TDLR) to license and regulate used automotive parts recyclers and employees of used automotive parts recyclers. The bill would require the presiding officer of the Commission of Licensing and Regulation to appoint five members to a Used Automotive Parts Recycling Advisory Board for the purposes of providing advice and recommendations to the TDLR on technical matters relevant to the administration and enforcement of licensing standards. The bill would authorize TDLR to establish and collect fees. The bill would require TDLR to perform periodic and risk-based inspections on licensees at the place of business. The bill would establish terms of license eligibility, administrative penalties, and criminal penalties. The bill would require a used automotive parts recycler to file certain reports regarding vehicle title acquisition, notification of vehicle dismantling, and records of purchase and inventory of parts with TxDOT. The bill would require TxDOT to provide the used automotive parts recycler with receipts for the reports, records, and other specified documentation. The license requirement and enforcement requirements would take effect September 1, 2010.

The bill would require TxDOT to issue "Choose Life" specialty license plates. The bill would require the fee for issuance of the license plates, after deduction for TxDOT’s administrative costs, to be deposited to the credit of a new Choose Life account in the General Revenue Fund. The bill would require the Attorney General to administer the account. The bill would specify that money in the account could only be spent to make grants to an eligible organization and defray the costs of administering the account. The bill would require the Attorney General by rule to establish guidelines for the expenditures; report on expenditure compliance; and appoint a seven-member advisory committee to assist in developing rules, reviewing grant applications, and making grant recommendations.

The bill would create the Texas Transportation Revolving Fund to be held in the Texas Treasury Safekeeping Trust Company and to be administered by the TTC through TxDOT. The bill would require TTC to file an annual report with the Governor, Lieutenant Governor, and the LBB providing certain information on the operation of the fund. The bill would authorize TTC to deposit to the fund proceeds from the sale of State Highway Fund revenue bonds (Proposition 14), Proposition 12 General Obligation Bonds, and proceeds from the sale of revenue bonds backed by the fund as authorized by the bill; repayments of principal and interest on loans made from the fund as authorized by the bill; funds provided by TTC from the State Highway Fund, Texas Mobility Fund, and/or any other source designated by TTC; and from direct appropriations to the fund. Interest income from investments of money in the funds would also be deposited to the fund.

The bill would authorize TTC to issue revenue bonds backed by the fund. The bonds would be special obligations of TTC and would not constitute a debt of the state or a pledge of the faith and credit of the state. The bill would authorize TTC to use money held in the fund to provide financial assistance to a public entity for the costs of a transportation project and to pay debt service on revenue bonds backed by the fund. The bill would authorize a public entity that is authorized by law to construct, maintain, or finance a transportation project to borrow money from the fund and to pledge revenues, income, and pledge, levy, and collect taxes (subject to constitutional limitation) for the repayment of a loan or other financial assistance from the fund. The bill would authorize TTC to require the entity receiving financial assistance to make charges, levy and collect taxes, pledge revenues, or otherwise take actions necessary to provide for money in an amount sufficient for repayment under the terms and conditions of the financial assistance/loan. For a tolled project, TTC would be authorized to require that revenues from the project be shared between the entity and the commission based on the terms and conditions of a revenue sharing agreement between TTC and the entity. The bill would authorize TTC to sell any loans made from money in the fund, the proceeds from which would be deposited to the fund. The bill would require a competitive bid process for the sale of loans. The bill would require TTC to adopt rules to establish eligibility and prioritization criteria for entities applying for financial assistance and for projects that may receive financial assistance; specify the method for setting the terms and conditions for providing financial assistance from the fund; and establish procedures for the sale of loans originated from amounts on deposit in the fund. The bill would require TTC to appoint a rules advisory committee to advise TxDOT and TTC on the development of the initial rules.

The bill would amend Section 21.042 of the Property Code to require the special commissioners in estimating the injury or benefit to a property owner in a condemnation proceeding relating to real property that is condemned in connection with a transportation project of TxDOT or other political subdivision or governmental entity to consider an injury or benefit that is peculiar to the property owner and that relates to the owner's ownership, use, or enjoyment of the property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property.

The bill would require TxDOT to use up to $25 million in funds received from the federal American Recovery and Reinvestment Act of 2009 for the relocation of certain utility facilities required by any transportation projects financed with those funds.
The bill would take effect September 1, 2009 except as otherwise noted for specific sections of the bill.

Methodology

Based on the analysis of Sunset Advisory Commission (SAC) staff it is assumed the provisions of the bill that require the deposit of outdoor rural sign fee and penalty revenues to the General Revenue – Dedicated Highway Beautification Account No. 27 instead of the State Highway Fund would result in a $115,000 revenue gain to the General Revenue - Dedicated Fund and a corresponding decrease to State Highway Fund in each fiscal year.

Based on the analysis of TxDOT and SAC staff, it is assumed the establishment of a rail transportation division within TxDOT would require one additional FTE for a division director at a salary of $64,435 each year. Employee benefits costs for the additional FTE are estimated to be $18,409 each year.

Based on information provided by TxDOT and SAC staff, it is assumed approximately 622 full-time-equivalent (FTE) positions and $103.7 million for each fiscal year would be transferred from TxDOT to the new DMV. It is also assumed the new DMV would require four additional FTEs: one Executive Director ($150,000 per year), two FTEs for executive management and board support ($209,600 total per year), and one auditor position ($66,838 per year). Employee benefits costs associated with the four new FTEs is estimated to be $121,833 per year (28.57 percent of annual salary). It is assumed the travel and support expenses for the nine-member board of the DMV would cost an estimated $56,952 each year. It is assumed any unobligated and unexpended TxDOT appropriations from the 2008-09 state fiscal biennium would be re-appropriated to the DMV and would be used to cover any additional transition costs. It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV would be made from the State Highway Fund.

Based on the analysis of the SAO, it is assumed the financial audit of the new DMV would require 1.3 FTEs and 2,000 hours to complete at a cost of $180,000 in fiscal year 2010.

Based on the analysis of the Bond Review Board, the debt service estimates in the table above assume $1 billion in general obligation bonds for highway improvement projects would be issued each year from fiscal year 2010 through fiscal year 2014 with a 6 percent interest rate and 30-year level debt service structure. The estimated debt service payments would increase to $359.4 million in fiscal year 2015 and continue through fiscal year 2044.

Note: The $5.0 billion in general obligation bonds for highway improvement projects, authorized by voters in the November 2007 election, is assumed to be repaid with General Revenue Funds. As not self-supporting general obligation debt, these bonds are currently factored into the state's constitutional debt limit. As of the end of fiscal year 2008, the constitutional debt limit for issued and unissued debt is 4.09 percent. As specified in Article III, Section 49-j of the Texas Constitution, the Legislature may not authorize debt if the maximum annual debt service in any fiscal year on state debt payable from the General Revenue Fund exceeds 5 percent of an amount equal to the average of the amount of General Revenue Fund revenues for the three preceding fiscal years. This limitation includes amounts for authorized but unissued bonds. The Bond Review Board estimates that if a 30-year amortization schedule is used for these bonds with a 6 percent interest rate, this bill would decrease the current 4.09 percent debt limit by 0.20 percent to 3.89 percent.

TxDOT estimates there are approximately 400,000 fleet vehicles in Texas and that approximately 37,500 fleet vehicles would be added each fiscal year (FY). Based on the analysis of TxDOT, it is assumed half of the current fleet vehicles (200,000) would apply for an 8-year fleet registration in FY 2010, the remaining half would apply for a 8-year fleet registration in FY 2011, and an additional 37,500 would apply in FY 2011 and each year thereafter. All applicable fees would be paid in advance for the 10-year period. For the purposes of this analysis, it is assumed 67 percent of the registration fees would be deposited to the State Highway Fund and 33 percent would be retained by the counties. The tables above also reflect the impact of the $10/$5 optional county road and bridge fee, of which 97 percent is deposited to county road and bridge funds and 3 percent to the State Highway Fund. It is assumed half of the fleet vehicles would be registered in counties assessing the $10 optional fee and the remainder would be registered in counties assessing a $5 optional fee. Based on current law, the new $10 fleet management fee and one-time $1.50 plate manufacturing fee would be deposited to the State Highway Fund. The advance payment of all applicable fees would result in a revenue gain in the initial year of the fleet registration and a revenue loss in subsequent years as the fleet vehicles would not be required to pay annual fees until the term of the fleet registration has expired.

The Comptroller has indicated it will incur costs to administer the new county motor fuels tax. The administrative cost estimate in the table above reflects the funds necessary to hire 37 additional FTEs, additional professional staff personnel, and resources to administer, collect, and enforce a new county motor fuels tax from fiscal year 2010 to 2014. The administrative cost estimate also reflects a one-time technology cost of $12,500,000 in fiscal year 2010 for programming/project management.

TDLR estimates the population of used automotive parts recyclers to be 1,363 and the employees of used automotive parts recyclers to be 2,726. TDLR anticipates 390 complaints annually, of which 100 will be jurisdictional and 27 will lead to risk based inspections. TDLR estimates it will hold 3 administrative hearings annually. Based on information provided by TDLR, it is assumed the agency would need an additional 4.0 FTEs each year: 1.0 legal assistant, 1.0 administrative assistant, and 2.0 additional investigators to assist in conducting periodic and risk based inspections. This analysis assumes total costs would be $247,342 in fiscal year 2010 and $220,742 each year thereafter. This analysis also includes one-time start-up costs for computers and office equipment. This analysis assumes that any increased costs to TDLR, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue. Based on information provided by the TCEQ, the DPS, the Office of the Attorney General, and TxDOT, it is assumed that duties and responsibilities for each of these agencies associated with implementing the provisions of the bill related to the regulation of used automotive parts recyclers could be accomplished within current resources.

Based on the information and analysis provided by TxDOT, this analysis assumes 300 of the new Choose Life specialty license plates would be issued each year at a fee of $30 each of which $7.50 would be deposited to the State Highway Fund for TxDOT administrative expenses; $0.50 would be retained by the counties; and $22 would be deposited to the new Choose Life Account in the General Revenue Fund.

Based on the analysis of TxDOT and SAC staff, it is assumed the transportation planning and coordination between TxDOT and MPOs and RPOs could be accommodated within existing resources. Additionally, it is assumed any staff and funding assistance provided by TxDOT to RPOs would be accommodated within the department's existing transportation planning budget.

Based on the analysis of TxDOT, it is assumed any other costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

TxDOT indicates that there are currently no unobligated Proposition 14 bond proceeds that would be available for deposit to the Texas Transportation Revolving Fund (Fund). Therefore, it is assumed TTC would provide money for deposit to the Fund from Proposition 12 General Obligation Bond proceeds (contingent upon the enactment of enabling legislation) or from existing State Highway Fund or Texas Mobility Fund appropriations to TxDOT that are not otherwise obligated for the payment of bond debt service or outstanding construction contract obligations. It is assumed the use of existing State Highway Fund and Texas Mobility Fund appropriations for deposit to the Fund would result in a decrease of funds from these sources that the department could use for new construction contracts or bond issuances.

Based on the analysis of the Texas Department of Transportation, it is assumed the amendment to 21.042 of the Property Code could result in increased costs for the acquisition of highway right of way through condemnation. Because the factors considered in evaluating the value of the property to be condemned and estimating damages to a property owner would vary by case, any additional costs or negative fiscal implications to the state cannot be determined.

Local Government Impact

The potential costs to municipalities to compensate owners of outdoor signs under the provisions of the bill would vary. Costs for compensation are likely to be higher for cities with more stringent billboard ordinances.

The fiscal impact to units of local government would vary depending on whether they are selected for, an urban passenger rail demonstration program, choose to hold an election concerning local option funding, the options pursued, and the decisions of the voters. At a minimum, there would be election costs. If funding options are approved, there would be revenue gains that would vary depending on the options implemented.

It is unknown which or how many local government entities would seek to borrow funds from the Texas Transportation Revolving Fund proposed in the bill. The fiscal impact would vary by entity depending on the amount of financial assistance received. It is assumed an entity would seek financial assistance for which it would have sufficient resources for repayment.

Any costs to units of local government connected to implementing the provisions of the proposed subsection (i) of Section 21.042 of the Property Code would depend on the determination of the special commissioners.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG, SD