

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 31, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
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; providing penalties.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, Conference Committee Report: a negative impact of (\$131,872,800) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$30,000,000)
2011	(\$101,872,800)
2012	(\$173,748,400)
2013	(\$245,620,000)
2014	(\$317,492,950)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>Hwy Beautification</i> <i>Acct</i> 71
2010	(\$30,000,000)	(\$82,844)	\$67,987,250	\$115,000
2011	(\$101,872,800)	(\$82,844)	\$82,263,500	\$115,000
2012	(\$173,748,400)	(\$82,844)	(\$3,424,000)	\$115,000
2013	(\$245,620,000)	(\$82,844)	(\$4,931,500)	\$115,000
2014	(\$317,492,950)	(\$82,844)	(\$6,439,000)	\$115,000

Fiscal Year	Probable Revenue Gain/(Loss) from <i>New General Revenue</i> <i>Dedicated Choose Life</i> <i>Account</i>	Probable Revenue Gain/(Loss) from <i>Counties</i>	Change in Number of State Employees from FY 2009
2010	\$6,600	\$30,550,150	1.0
2011	\$6,600	\$34,989,838	1.0
2012	\$6,600	(\$5,465,475)	1.0
2013	\$6,600	(\$6,480,788)	1.0
2014	\$6,600	(\$7,496,100)	1.0

Fiscal Analysis

The bill would amend provisions in the Transportation Code, regarding the continuation and functions of the Texas Department of Transportation (TxDOT). 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 authorize a person who receives notice from TxDOT of the revocation or denial of an application of an outdoor sign permit or an administrative penalty to make a written request to the TTC for an administrative hearing with the State Office of Administrative Hearings to appeal the TxDOT action.

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 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 the Chief Financial Officer of the Texas Department of TxDOT on September first of every odd numbered year to issue a 10-year cash flow forecast for each method and category of funding, which is to be used by the TTC to allocate funding to planning organizations. The bill would require TxDOT to review the plans of each planning organization to ensure they are in compliance

with federal requirements and provide assistance to correct deficiencies. The bill would require TTC to adopt rules to create funding formulas for different types of transportation projects. The bill would authorize the use of funds allocated to planning organizations for transportation projects costs, and payment of debt service. 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 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 require TxDOT to establish a pilot program in at least one county that is part of a regional mobility authority to study the feasibility of assessing a road user fee based on the number of miles traveled in Texas by a motor vehicle. The bill would require certain criteria be included in the program and would authorize TxDOT to contract with an RMA or the Texas Transportation Institute, or both, to implement or administer the program. The bill would require TxDOT to submit a report to the legislature that includes recommendations regarding the feasibility of implementing a road user fee based on the number of miles traveled and legislation to implement the fee. The bill would require TxDOT to set the amount of the road user fee on a per mile basis and sets forth requirements for consideration in determining the amount of the fee.

The bill would amend Chapter 222 of the Transportation Code regarding use of taxes collected on property in a municipal transportation reinvestment zone and in a county transportation zone and deposited into a tax increment account. The bill would also change the criteria for which municipalities and counties would be authorized to create a transportation reinvestment zone. The bill would authorize a municipality or a county, notwithstanding other subsections, to establish a transportation zone for any transportation project. In addition, if all or part of a transportation project in the zone is subject to oversight by the TxDOT, TxDOT would be required, at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection to the municipality or county, provided that TTC or TxDOT may take any action that is necessary to comply with any federal requirement to enable the state to receive federal-aid highway funds. A project on the state highway system must comply with state design criteria unless TxDOT were to grant an exception to the municipality or county.

The bill would require TxDOT to establish a process to certify district environmental specialists within the department, including specialists for matters regarding compliance with state and federal regulation of stormwater runoff and control.

The bill would amend the Transportation Code to authorize a public or private entity, including a regional mobility authority, regional tollway authority, or TxDOT, to agree to fund a cash collateral account for providing money that may be withdrawn as provided in the tolling services agreement because of an authority's failure to make any payment as required by the agreement. TxDOT would be allowed to use money from any available source to fund a cash collateral account under the applicable subsection of statute.

The bill would require the TxDOT to consider offering the unusable remainder of real property not to be used for right-of-way purposes to a nonprofit corporation designated by the municipality in which the real property is located or, if the real property is not located in a municipality, by the county in which the real property is located, without cost or expense to the designated nonprofit corporation.

The bill would require TxDOT, upon verification that the County and City of Presidio have obtained appropriate financing, to sell and convey the Presidio International Bridge to the City and County of Presidio at cost if the sale is allowed under federal law. The bill would allow TxDOT to maintain up to a 10 percent minority share of ownership of the bridge.

The bill would require TxDOT to conduct a study to determine the feasibility of creating a higher-speed rail authority for the Texas-Louisiana border region, the Texas-Mexico Border region, or both.

The bill would amend the Transportation Code to authorize certain counties bordering the United Mexican States to impose an additional fee of \$10 or up to \$50 for registration of a vehicle in the counties. The fee revenue would be deposited to a special account in the county general fund of each count and could only be used for authorized transportation projects.

The bill would require a county tax assessor-collector to accept a check or credit card invoice for the payment of motor vehicle registration fees and motor vehicle title transfer fees. The bill would amend the Local Government Code to require a county tax assessor-collector to accept payment by electronic means as a conditional payment of a county or state fee or tax.

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 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.

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 planning organizations could be accommodated within existing resources.

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.

Based on the analysis of the State Office of Administrative Hearings, it is assumed that any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's 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.

Local Government Impact

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.

The fiscal impact of implementing the proposed requirements for use of tax increments in a transportation reinvestment zone would vary depending on the projects to be funded. Regarding change in eligibility to create a transportation reinvestment zone, based on information provided by the Texas Association of Counties and the Texas Municipal League, it is assumed that a municipality or a county would designate a transportation reinvestment zone and undertake a transportation project only if there were sufficient resources available or the net fiscal impact would be positive.

Based on the population and geographic criteria within the bill, using the statutorily required most recent official U.S. decennial census, the provisions of the bill authorizing an optional county fee of \$10 or up to \$50 for registration of a vehicle would apply only to Val Verde and Webb Counties, respectively. Any positive revenue implications to the applicable counties from the implementation of the optional fee would depend on the amount of the additional fee and the number of vehicles registered in the counties.

Regarding accepting payments of motor vehicle registration fees and motor vehicle title transfer fees, the fiscal impact to local governments would vary by county depending on whether under the current permissive statute the tax assessor-collector is set up as would be required by the bill.

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

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