

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 4, 2009

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

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 governance of the department and the transfer of certain functions of the department to the Texas Department of Motor Vehicles and the office of the governor; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB300, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

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 and the Office of the Governor.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	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> Acct 71	Change in Number of State Employees from FY 2009
2010	\$536,761	(\$115,000)	\$115,000	5.0
2011	\$688,067	(\$115,000)	\$115,000	5.0
2012	\$688,067	(\$115,000)	\$115,000	5.0
2013	\$688,067	(\$115,000)	\$115,000	5.0
2014	\$688,067	(\$115,000)	\$115,000	5.0

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 and the Governor's Office. The bill would extend the sunset abolition date for TxDOT to September 1, 2013.

The bill would create the Transportation Legislative Oversight Committee (TLOC), composed of six members,

including the chairs of the House and Senate committees on transportation, two Senate members appointed by the Lieutenant Governor, and two House members appointed by the Speaker of the House. The bill would authorize the TLOC to contract with an outside consulting firm to make recommendations regarding an effective and efficient organizational structure for TxDOT. The bill would require the transfer to the TLOC of all TxDOT employees who primarily perform duties associated with the department's government and public affairs research section on the effective date of the bill.

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 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 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. The bill would require the transfer of all responsibilities, personnel, computers, other property and equipment, and related materials of the Motor Carrier Division, Motor Vehicle Division, and the Vehicle Titles and Registration Division of TxDOT to the DMV on December 1, 2009. The bill would transfer and re-appropriate to the DMV in fiscal year 2010 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. 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 require the Governor to appoint the DMV board members not later than December 1, 2009.

The bill would transfer responsibilities related to the Automobile Burglary and Theft Prevention Authority (ABTPA) from TxDOT to the Office of the Governor and transfer the personnel, computers, other property and equipment, and related materials used by ABTPA to the Office of the Governor. The bill would transfer and re-appropriate to the Office of the Governor in fiscal year 2010 any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2009 (2008-09 biennium) relating to the ABTPA.

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 require TxDOT to fill only one of every five positions funded out of Strategy A.1.1, Plan/Design/Manage, in the General Appropriations Act (GAA) for the planning, design, and management of transportation projects so that staffing levels would be reduced by 40 percent from the level existing as of August 31, 2009, or to a level not to exceed 2,500 positions, with commensurate reductions in associated administrative costs. The bill would authorize the Legislative Budget Board (LBB) to modify the requirement if a study by the State Council on Competitive Government, performed at the request of the LBB, finds that TxDOT cannot obtain services from the private sector on a cost-effective basis to fulfill functions that would otherwise be provided by TxDOT personnel. The bill would require TxDOT to pay for the costs of the study through an interagency contract.

The bill would require the TLOC or the TTC to appoint an inspector general who reports to the commission and would prescribe the duties of the inspector general.

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 the allocated funds to be deposited to subaccounts for each region in the State Highway Fund. The bill would require each planning organization to develop a 10-year transportation plan for the use of funding allocated to the region and would require TxDOT to compile the planning organizations' project selections to develop a statewide transportation program and budget. 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, payment of debt service, repayment of loans from another region, or to fund planning organization operations. The bill would establish a cap on the amount of allocated funds that may be used for planning organization operations at the lesser of 10 percent or \$10 million if the planning organization

is located in a transportation management area; or the lesser of 10 percent or \$3 million if the planning organization is not located in a transportation management area. The bill would require TxDOT to develop a 10-year business work plan based on the planning organizations' 10-year plans. The bill would require TxDOT to develop performance measures specified by the bill and require the TTC to review performance biennially.

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 authorize the Texas Transportation Commission (TTC) to authorize the creation of a higher-speed rail authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, operating, and improving a higher-speed rail system in each border region. The bill would establish the authorities, powers, duties, requirements, restrictions, and governing body for a higher-speed authority. The bill would exempt the property, material purchases, revenues, and income of an authority and the interest on a bond or note issued by an authority from all taxes imposed by this state or a political subdivision of this state. The bill would impose a sales and use tax on items sold on authority property and would abolish all other local sales and use taxes that would otherwise be imposed on authority property. The bill would require the Comptroller to administer, collect, and enforce a tax imposed by the bill and to remit to the authority the local sales and use tax collected on the authority's property.

The bill would amend the Transportation Code to require TTC to establish rules for the distribution of state grants for public transportation, which include provisions ensuring that no recipient of state funding under the statutory formula and discretionary program receives an amount of funding that is less than the total amount of state funding received under those programs in the state fiscal year beginning September 1, 2004.

The bill would take effect on September 1, 2009.

Methodology

Based on the analysis of Sunset Advisory Commission staff, it is assumed 6 FTEs and approximately \$1.2 million in State Highway Fund appropriations would transfer from TxDOT to the TLOC to assist in implementing the duties of the TLOC prescribed by the bill.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed approximately 707 full-time-equivalent (FTE) positions and \$94.4 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. Costs in the table above for fiscal year 2010 reflect three fiscal quarters of funding (December 1, 2009, start date). 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.

Based on information provided by TxDOT and Sunset Advisory Commission staff, it is assumed 5 FTEs and approximately \$15.1 million for each fiscal year related to the ABTPA would be transferred from TxDOT to the office of the Governor for grants and administration.

It is assumed any appropriations transferred from TxDOT and any new appropriations made to the new DMV and the Office of the Governor would be made from the State Highway Fund.

Based on the analysis of TxDOT and Sunset Advisory Commission 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.

It is assumed any cost savings associated with a reduction in TxDOT's transportation planning, design, and management staff funded out of GAA Strategy A.1.1. Plan/Design/Manage, would be reallocated for contracted planning and design services and other transportation-related purposes. It is assumed the costs of a study to assess the costs of internal and contracted transportation planning and design would be accommodated using existing resources.

Based on the analysis of TxDOT, the provisions of the bill would allow planning organizations to utilize up to \$131 million from the regional transportation funding allocations for their operations. It is assumed the use of these of funds for planning organization operations would be offset by an equal reduction in expenditures for transportation construction.

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 existing resources.

Based on the analysis of the TxDOT, the Office of the Attorney General, and the Comptroller of Public Accounts, it is assumed that duties and responsibilities associated with the creation and administration of higher-speed rail authorities could be accomplished by utilizing existing resources.

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 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.

It is assumed that costs to local governmental entities for participating in the creation, administration, operation, and financing of higher-speed rail systems in this state would depend on the size and type of the projects that are constructed. The bill would also grant the authority the ability to establish fees, maintain rates, obtain grants, and issue bonds at a level to pay all expenses necessary for operations, maintenance, and repayment of any bond debt.

The bill would direct TTC to make changes in the method it uses to allocate funding to the designated recipients of State formula funds for public transportation. According to TxDOT, there are 39 rural transit districts and 30 urban transit districts that would be affected. The fiscal impact to a specific local governmental entity could be significant, but would vary depending on the amount of funding for public transportation each rural and urban transit district received or lost.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 601 Department of Transportation

LBB Staff: JOB, KJG, TG, MW