

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

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 28, 2009**

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

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

**IN RE: HB1810** by Pickett (Relating to the purposes and designation of a transportation reinvestment zone.), **Committee Report 1st House, Substituted**

**While the overall fiscal impact to state administrative costs would be insignificant, the enactment of the bill could result in a loss of federal highway funds to the state.**

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 add Sections 222.108 and 222.109 to Subchapter E, Chapter 222, Transportation Code, to 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 Texas Department of Transportation (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. 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.

TxDOT would be prohibited from penalizing a municipality or a county with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone. Any funding from TxDOT identified for a project before the date that a zone is designated may not be reduced because the zone is designated in connection with that project.

TxDOT would be prohibited from reducing any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone.

The bill would take effect September 1, 2009.

TxDOT indicates that the state's federal highway funding could be jeopardized under certain provisions of the bill, and it is assumed federal penalties could accrue depending on the number and scope of projects in violation of federal requirements. Currently, TxDOT is the designated state administrative agency granted authority by the federal government to oversee or conduct environmental and design and build reviews for any major roadway receiving federal aid and/or intersecting a federal-aid highway or transit system subsidized by the federal government. Under Title 23, Code of Federal Regulations (23 CFR), the Federal Highway Administration could sanction the state with penalties of one percent to ten percent of federal highway funding apportionments for allowing a local transportation entity to assume full responsibility for a transportation project that is on or that intersects with federally-funded and/or regulated state and interstate highways. Based on the state's fiscal year 2008 federal apportionment of Surface Transportation Program funds in the amount of \$554.8 million, federal penalties could range from \$5.5 million to \$55.5 million in each year the state is in violation of 23 CFR.

**Local Government Impact**

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.

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

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