

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

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

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

IN RE: HB2533 by Bonnen (Relating to damages to affected business entities for project completion delays on highway projects.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2533, As Introduced: a negative impact of (\$660,720) 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	(\$330,360)
2011	(\$330,360)
2012	(\$330,360)
2013	(\$330,360)
2014	(\$330,360)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>State Highway Fund</i> 6	Probable (Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$3,085,680)	(\$330,360)	42.2
2011	(\$3,085,680)	(\$330,360)	42.2
2012	(\$3,085,680)	(\$330,360)	42.2
2013	(\$3,085,680)	(\$330,360)	42.2
2014	(\$3,085,680)	(\$330,360)	42.2

Fiscal Analysis

The bill would require the Texas Department of Transportation's (TxDOT) schedule for liquidated damages associated with project completion delay to provide for liquidated damages to be paid by a contractor to business entities located in a project area that are adversely affected by project completion delays. The bill would require TxDOT to incorporate the schedule in each highway construction contract, receive claims from applicable business entities claiming damages; and collect and send the damages to business entities as provided by the schedule. Under the provisions of the bill, TxDOT would hold damages paid by a contractor in trust outside the treasury for the benefit of an adversely affected business entity. The bill would require the State Auditor to conduct an annual audit of TxDOT's compliance with the provisions of the bill and report the results of the audit to the legislature no later than November 1 of each year.

The bill would take effect on September 1, 2009.

Methodology

TxDOT indicates that 194 construction projects (approximately 18 percent of all current projects) are currently in liquidated damages for project completion delays. Based on the analysis of TxDOT, it is assumed that if each delayed project adversely affected 10 businesses, the agency would need 40 full-time-equivalent (FTE) Financial Examiner positions (\$60,000 per year, each) to review and process an estimated 1,940 claims for damages from affected business entities each fiscal year. Employee benefit costs associated with the additional FTEs is estimated to be \$685,680 each year (28.57 percent of salary).

Based on the analysis of the State Auditor's Office (SAO), it is assumed the annual audit required by the bill would require 3,500 hours to complete. It is assumed SAO would need 2.2 FTEs for Auditors for a total salary cost of \$224,000 and \$42,363 for travel and other operating expenses in each fiscal year. Employee benefit costs associated with the additional Auditor FTEs is estimated to be \$63,997.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 308 State Auditor's Office, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG