

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 10, 2009

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: HB3097 by McClendon (Relating to the creation, organization, duties, and functions of the Texas Department of Motor Vehicles and to the use of certain specialty license plate fees to fund the Choose Life and Choose Adoption account; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3097, As Engrossed: a negative impact of (\$8,770,588) 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.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$4,475,294)
2011	(\$4,295,294)
2012	(\$4,295,294)
2013	(\$4,295,294)
2014	(\$4,295,294)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>State Highway Fund</i> 6	Probable Revenue Gain from <i>New General Revenue Dedicated Choose Life and Choose Adoption Account</i>
2010	(\$4,650,773)	\$175,479	\$2,250	\$6,600
2011	(\$4,455,473)	\$160,179	\$2,250	\$6,600
2012	(\$4,455,473)	\$160,179	\$2,250	\$6,600
2013	(\$4,455,473)	\$160,179	\$2,250	\$6,600
2014	(\$4,455,473)	\$160,179	\$2,250	\$6,600

Fiscal Year	Probable Revenue Gain from <i>Counties</i>	Change in Number of State Employees from FY 2009
2010	\$150	8.3
2011	\$150	7.0
2012	\$150	7.0
2013	\$150	7.0
2014	\$150	7.0

Fiscal Analysis

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 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. All powers, duties, obligations, and rights of action of the Texas Transportation Commission (TTC) associated with the Motor Vehicle Division, Vehicle Titles and Registration Division, and the portion of the Motor Carrier Division of TxDOT that is responsible for motor carrier registration and enforcement would be transferred to the board of the DMV. The bill would require the board of the DMV to hold meetings at least quarterly or at the call of the presiding officer. 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 amend the Transportation Code to specify that the DMV may not be appropriated more than \$100 million from money in the State Highway Fund in a state fiscal year.

The bill would require money received by Auto Burglary and Theft Prevention Authority (ABTPA) to be sent to the comptroller for deposit in a separate account in the treasury.

The bill would require the TxDOT to issue "Choose Life" and "Choose Adoption" 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 and Choose Adoption 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 to 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 require the Texas Department of Licensing and Regulation (TDLR) to license and regulate used automotive parts recyclers. The bill would require the presiding officer of the Commission of Licensing and Regulation to appoint six 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, continuing education requirements, and examination content for used automotive parts recyclers. 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 the TxDOT. The bill would require TxDOT to provide the used automotive parts recycler with receipts for the reports, records, and other specified documentation.

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 take effect on September 1, 2009.

Methodology

Based on information provided by TxDOT and Sunset Advisory Commission 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.

Since the bill would specify that appropriations to the DMV from the State Highway Fund may not exceed \$100 million in a fiscal year, it is assumed any funding requirements for the DMV above \$100 million each year would be covered with General Revenue Funds (estimated to be \$4.3 million each year).

Based on the information and analysis provided by TxDOT, this analysis assumes 300 of the new “Choose Life” and “Choose Adoption” 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 and Choose Adoption Account in the General Revenue Fund. Based on the analysis of TxDOT and the Office of the Attorney General, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within the agencies' existing resources.

TDLR estimates the population of used automotive parts recyclers to be 1,363. TDLR anticipates 300 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 that an additional 3.0 FTEs: 0.5 legal assistants, 0.5 administrative assistants, and 2.0 additional investigators to assist in conducting periodic and risk based inspections would be needed each year. This analysis assumes total costs would be \$175,479 in 2010 and \$160,179 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 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.

Note: 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. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993, and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 301 Office of the Governor, 308 State Auditor's Office, 452 Department of Licensing and Regulation, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TG