LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATURE 1st CALLED SESSION - 2009

July 1, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

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

IN RE: **SB1** by Carona (Relating to certain sources of revenue for the funding of highways and transportation projects.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1, As Introduced: a negative impact of ($100,000,000) 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	$0
2011	($100,000,000)
2012	($145,302,000)
2013	($145,297,800)
2014	($145,297,300)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1
2010	$0
2011	($100,000,000)
2012	($145,302,000)
2013	($145,297,800)
2014	($145,297,300)

Fiscal Analysis

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. 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 of Public Accounts to pay the principal and interest and any costs related to the bonds that become due, including payments under credit agreements.

The bill would amend the Transportation Code to create the Texas Transportation Revolving Fund to be held in the Texas Treasury Safekeeping Trust Company and to be administered by the Texas Transportation Commission (TTC) through the Texas Department of Transportation (TxDOT). The bill would require TTC to file an annual report with the Governor, Lieutenant Governor, and the Legislative Budget Board providing certain information on the operation of the fund. The bill would authorize the TTC to deposit to the fund proceeds from the sale of State Highway Fund revenue bonds (Proposition 14), bonds authorized Section 49-p, Article III, Texas Constitution (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 the 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 the 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 the 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, the 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 the TTC and the entity. The bill would authorize the 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 the 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 the TTC to appoint a rules advisory committee to advise TxDOT and TTC on the development of the initial rules.

The bill would amend Rider 60 of the TxDOT bill pattern of Senate Bill 1 (81st Leg., Regular Session) to allow the called session legislation to activate the rider's contingent provisions of the General Appropriations Act.

Based on the analysis of TxDOT, the Office of the Attorney General, and the Comptroller of Public Accounts, it is assumed any administrative costs or duties associated with the implementation of the bill could be absorbed within each agency's existing resources.

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.

The bill would take effect immediately upon receiving a vote of two-thirds of all members elected to each house or otherwise on the 91st day after the last day of the legislative session.

Methodology

Based on the analysis of the Bond Review Board, the debt service estimates in the table above assume that the bonds would be backed by the first monies coming into the treasury, not otherwise appropriated; the bonds would have a 30 year maturity; there would be a fixed interest rate of 6 percent; $400 million would be issued in April 2010 and $1.6 billion would be issued in 2011($2 billion total) with principal payments every April 1st beginning in April 1, 2010 and semi-annual interest payments every April 1st and October 1st beginning in October 1, 2010; the cost of issuance and bond insurance fees are excluded; appropriate level of debt service payments would be made throughout the life of the bonds; and that there would be a reduced principle payment for the October 2010 issuance of $20,240,000 in April 2011. The estimated debt service payments of approximately $145.3 million would continue through fiscal year 2040.

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 0.08 percent to 4.01 percent.

Local Government Impact

It is unknown which or how many local government entities would seek to borrow funds from the proposed revolving fund. The fiscal impact would vary by entity depending on the amount of the loan or other financial assistance received. It is assumed that an entity would seek a loan for which the entity would have sufficient resources for repayment.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 352 Bond Review Board, 601 Department of Transportation

LBB Staff: JOB, MN, MW, ES