LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 11, 2009

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

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

IN RE: **SB855** by Carona (Relating to local options regarding mobility improvement projects in certain counties and municipalities; providing authority to impose a tax, issue bonds, and impose penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB855, As Engrossed: a negative impact of ($17,556,000) through the biennium ending August 31, 2011.

Certain local funding options proposed in the bill would generate a revenue gain to the state. The amount would depend on how many counties might impose the optional fee; therefore, the amount of revenue gain is unknown.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	($15,028,000)
2011	($2,528,000)
2012	($2,528,000)
2013	($2,528,000)
2014	($2,528,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1	Change in Number of State Employees from FY 2009
2010	($15,028,000)	37.0
2011	($2,528,000)	37.0
2012	($2,528,000)	37.0
2013	($2,528,000)	37.0
2014	($2,528,000)	37.0

Fiscal Analysis

The bill would create Chapter 446 as part of Subtitle B, Title 14, Local Government Code, regarding local options for funding transportation projects. SECTION 1 of the bill is divided into SUBCHAPTERS A through H.

SUBCHAPTER A of Chapter 446 would prohibit a reduction in state or federal transportation funding, including funding from the State Highway Fund, the Texas Mobility Fund, the Texas Highway Beautification Fund, general obligation bonds, or any other method of state or federal transportation financing to a county, municipality, or metropolitan planning organization because that entity imposes local option funding to fund local transportation projects as provided under the chapter. The Texas Department of Transportation (TxDOT) would also be prohibited from reducing any allocation of state or federal transportation funding to a TxDOT district because the district contains a county that imposes a method of local option funding under the chapter. Chapter 446 would expire January 1, 2019.

SUBCHAPTER B would authorize a county to include on a ballot proposition any combination of local funding options for transportation projects, and describes each method and requirements associated with each method: (1) a tax on the retail sale of gasoline or diesel fuel; (2) a mobility improvement fee of between $1 and $60; (3) a parking management fee in an amount not to exceed $2 per day per vehicle use of a parking space; an (4) annual motor vehicle emissions fee of $1 to $15 on vehicles registered in the county; (5) a driver's license renewal fee between $1 and the state renewal fee amount; and (6) a Texas new resident roadway impact fee between $1 and $250.

A county would be required to adopt rules and forms for collecting taxes and fees and could impose a monetary penalty for noncompliance. The county attorney, county district attorney, or district attorney could bring an action to collect the taxes, fees, and penalties. The bill provides how the local option funds may be used. Except for the motor fuel tax or parking management fee, the county would be required to hold a public hearing then issue an order before January 10, 2010 to establish exemptions for persons of low or moderate income who could demonstrate significant financial hardship.

Money collected under Chapter 446, Local Government Code, would be exempt from the provisions of Sections 502.102, 502.1025, and 502.108, Transportation Code.

The Comptroller of Public Accounts (Comptroller) would be required to administer, collect, and enforce any tax imposed upon the sale of gasoline or diesel fuel approved in accordance with the chapter. The Comptroller would be authorized to adopt reasonable rules and prescribe forms for the administration, collection, reporting, and enforcement of the applicable section of the chapter. The Comptroller would be allowed to charge a county a pro-rata amount for the Comptroller's costs, as well as deduct 2 percent of the amount of taxes collected and credit the money deducted to the General Revenue Fund.

Money under a county driver's license renewal fee would be collected by the Department of Public Safety (DPS), deposited into trust in a separate suspense account of the county, and monthly the Comptroller would be required to send to the county the county's share of fees. The Comptroller would be authorized to retain a portion.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to adopt standards and specifications for motor vehicle emissions testing equipment if a county imposes an annuyal motor vehicle emissions fee. A county would be required to reimburse TCEQ for any expenses incurred by the agency related to the county's emissions fee.

The county would be required to submit an annual report and audit of local option funds to the Comptroller and to the State Auditor's Office.

SUBCHAPTERS C through H would establish procedures and requirements specific to various regions and the counties within those regions regarding local options for funding mobility improvement projects.

SECTION 2 of the bill would amend the Transportation Code to add conforming language related to the proposed new Chapter 446, Local Government Code.

SECTION 3 of the bill provides for three options on the use and distribution of money collected from a county motor fuel tax, depending on requirements of the state constitution, including the possibility that one-fourth of the tax be allocated to the Available School Fund.

The bill would take effect only if the constitutional amendment proposed by the Eighty-first Legislature, 2009, proposing a constitutional amendment limiting the purposes for which revenue from taxes on motor fuels and lubricants may be used is approved by the voters. If that amendment is not approved by the voters, the bill would have no effect.

Methodology

TxDOT assumes the agency would need to make programming changes to the Registration and Title System to accommodate the collection of applicable fees and to provide support to the ballot committees in the regions. Based on analysis by the agency, it is anticipated that any costs related to those activities could be absorbed within existing resources.

DPS reports that the agency would have to make changes to the driver license system and associated applications. The agency would also have to modify the Revenue Processing/Imaging System to capture additional fees due to the counties. Based on the analysis of the agency, it is assumed those costs could be absorbed within existing resources.

According to TCEQ, it is anticipated that any expenses to update analyzer software would be funded Inspection and Maintenance funds collected from the counties and that software updates would occur in conjunction with other future updates; therefore, those costs could be absorbed within existing resources. In addition, based on analysis by the agency, it is assumed that any costs associated with making revisions to rules and developing and monitoring contracts could be absorbed within existing resources.

While it is unknown how many of the applicable counties would impose new county motor fuel taxes, the Comptroller assumes if each eligible county were to do so, the agency would have to hire incur 37 full-time-equivalent positions to administer, collect, and enforce the requirements associated with the motor fuels tax. The agency would also experience a one-time technology cost of $12.5 million in fiscal year 2010 for programming and project management. Although it is unknown how many counties would impose each of the optional local funding methods, there would be some revenue gain to the state to offset some of the costs to the state.

Technology

As indicated in Methodology, TxDOT, DPS, and TCEQ would incur programming costs that it is anticipated could be absorbed within existing resources. As also shown in Methodology, the Comptroller would incur technology costs of $12.5 million in fisca year 2010.

Local Government Impact

The fiscal impact to units of local government would vary depending on whether they choose to hold an election concerning local option funding, the options pursued, and the decisions of the voters. At a minimum, there would be election costs. If funding options are approved, there would be revenue gains that would vary depending on the options implemented.

Using current vehicle registration records, assuming an annual increase of 2.6 percent, and assuming each region imposed all the fees authorized by the bill (mobility improvement fee, vehicle registration fee, and new resident roadway impact fee), TxDOT provided estimates for the revenue gain by region for the five-year period of fiscal year 2010 through fiscal year 2014:

North Texas Region -- $985.2 million

Alamo Region -- unknown because the only authorized funding option is a fuel tax, which is not collected at the time of registration

Capital Region -- $226.5 million

West Texas Border Region -- $101.5 million

South Texas Region -- $69.1 million

Coastal Bend Region -- $24.3 million

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 582 Commission on Environmental Quality, 601 Department of Transportation

LBB Staff: JOB, KJG, SD, DB