

BILL ANALYSIS

Senate Research Center
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S.B. 1585
By: Ogden
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Article 1 of this bill authorizes state agencies to reduce or recover expenditures by taking action to consolidate reports; extend license, permit or registration periods; enter into contracts to carry out an agency's duties; adopt additional eligibility requirements for benefits; provide for electronic communication; and adopt and collect fees or charges to recover costs incurred by an agency.

Articles 2 and 3 of the bill implement recommendations in the report "Maximize the Federal Funds Texas Receives for Transportation" in the Legislative Budget Board's (LBB) *Government Effectiveness and Efficiency Report* (GEER) submitted to the 82nd Legislature, 2011. Article 2 amends the Transportation Code to require the statewide transportation plan to include an evaluation of future federal funding opportunities for all modes of transportation and require the Texas Department of Transportation (TxDOT) to work with local transportation planning entities to maximize the amount of federal funds awarded for projects. This bill requires the Texas Department of Motor Vehicles to establish, implement, and administer the terms of the uniform program for hazardous materials transportation registration and permitting. This bill amends the Code of Criminal Procedure to require a peace officer to include the race or ethnicity of each passenger involved in a motor vehicle stop.

Article 3 of this bill removes dyed diesel fuel for a railway engine from the list of exemptions to which the diesel fuel tax applies and prohibits a person from making a tax-free purchase of dyed diesel fuel for a railway engine. This bill authorizes a credit or refund for use of diesel fuel to operate a railway engine in another state. This bill requires taxes on diesel fuel used for a railway engine to be deposited to the Texas Rail Relocation and Improvement Fund.

Article 4 of this bill implements a recommendation in the report "Restructure the Highway Maintenance Fee to Better Align it with Road Maintenance and Repair Costs," in LBB's GEER report submitted to the 82nd Legislature, 2011. This article requires TxDOT to evaluate highway use in this state by oversize or overweight vehicles, calculate the cost of damage caused by those vehicles, determine whether fees charged for permits issued are adequate to offset costs, and recommend any fee adjustments for permits to reflect the cost of damage to highways caused by those vehicles. This bill requires TxDOT to adopt rules to implement a highway maintenance fee based on vehicle weight and distance traveled and establish a schedule of rates based on miles traveled for all vehicle weight categories that provides for an increase in the rates according to the weight of a vehicle.

Article 5 of this bill amends the Government Code to transfer the Texas Department of Rural Affairs (TDRA) and all of its functions to the Office of Rural Affairs within the Texas Department of Agriculture on September 1, 2011.

As proposed, S.B. 1585 amends current law relating to state fiscal matters regarding business and economic development.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 2.05 (Section 645.005, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 4.02 (Section 623.077, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF CHARGES GENERALLY

SECTION 1.01. Provides that this article applies to any state agency that receives an appropriation under Article VII of the General Appropriations Act.

SECTION 1.02. Provides that, notwithstanding any other statute of this state, each state agency to which this article applies is authorized to reduce or recover expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- (2) extending the effective period of any license, permit, or registration the agency grants or administers;
- (3) entering into a contract with another governmental entity or with a private vendor to carry out any of the agency's duties;
- (4) adopting additional eligibility requirements for persons who receive benefits under any law the agency administers to ensure that those benefits are received by the most deserving persons consistent with the purposes for which the benefits are provided;
- (5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet; and
- (6) adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions.

ARTICLE 2. FISCAL MATTERS REGARDING TRANSPORTATION PROJECTS AND ACTIVITIES

SECTION 2.01. Amends Article 2.133, Code of Criminal Procedure, by adding Subsection (c) to require that a report under Subsection (b) (relating to certain reports required of a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance) also include the race or ethnicity of each passenger in the motor vehicle, as stated by the passenger or, if the passenger does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability.

SECTION 2.02. Amends Section 201.601, Transportation Code, by adding Subsection (e) to require that the statewide transportation plan include a component that evaluates future federal funding opportunities for all modes of transportation and identifies actions necessary to maximize the total amount of federal funds received in the future for transportation improvements in this state.

SECTION 2.03. Amends Subchapter H, Chapter 201, Transportation Code, by adding Section 201.622, as follows:

Sec. 201.622. COOPERATION WITH LOCAL PLANNING ENTITIES TO MAXIMIZE FEDERAL FUNDING FOR PROJECTS. Requires the Texas Department of Transportation (TxDOT) to work and plan with local transportation planning entities to maximize the amount of federal funding awarded for projects in this state by identifying and pursuing projects that are eligible for federal grant programs, including the scenic byways program.

SECTION 2.04. Amends the heading to Chapter 645, Transportation Code, to read as follows:

CHAPTER 645. REGISTRATION FOR OPERATION IN MULTIPLE STATES

SECTION 2.05. Amends Chapter 645, Transportation Code, by adding Section 645.005, as follows:

Sec. 645.005. UNIFORM HAZARDOUS MATERIALS TRANSPORTATION. Requires the Texas Department of Motor Vehicles by rule to establish, implement, and administer the terms of the uniform program for hazardous materials transportation registration and permitting developed by the Alliance for Uniform Hazmat Transportation Procedures under 49 U.S.C. Section 5119.

ARTICLE 3. FISCAL MATTERS REGARDING MOTOR FUEL TAX

SECTION 3.01. Amends Section 162.204, Tax Code, by amending Subsection (a) and adding Subsection (g), as follows:

(a) Provides that the tax imposed by this subchapter does not apply to certain fuels, including dyed diesel fuel delivered by a license holder into the fuel supply tanks of motorboats or refrigeration units, rather than of railway engines, motorboats, or refrigeration units, or other stationary equipment powered by a separate motor from a separate fuel supply tank.

(g) Prohibits a person, notwithstanding any other provision of this chapter, from making a tax-free purchase of dyed diesel fuel for delivery into the fuel supply tank of a railway engine. Provides that Sections 162.205(b) (relating to a license to be a dyed diesel fuel bonded user), 162.206 (Statement for Purchase of Dyed Diesel Fuel), 162.231 (Notice Regarding Dyed Diesel Fuel), 162.233 (Unauthorized Sale or Use of Dyed Diesel Fuel), and 162.403(32) (relating to an offense committed by making a sale of dyed diesel fuel tax-free under certain circumstances) do not apply to a purchase described by this subsection.

SECTION 3.02. Amends Section 162.227, Tax Code, by adding Subsection (i) to authorize a person who paid tax on diesel fuel delivered into the fuel supply tank of a railway engine to claim a credit or seek a refund with the comptroller if the person uses the diesel fuel to operate the railway engine in another state.

SECTION 3.03. Amends Section 162.504, Tax Code, as follows:

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Creates this subsection from existing text. Requires the comptroller of public accounts (comptroller), on or before the fifth workday after the end of each month, after making deductions for refund purposes, for the administration and enforcement of this chapter, and for the amounts allocated under Subsection (b) and Section 162.5025 (Allocation of Other Unclaimed Refundable Nondedicated Taxes), to allocate the remainder of the taxes collected under Subchapter C (Diesel Fuel Tax) as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

(b) Requires the comptroller, on or before the fifth workday after the end of each month, after making deductions for refund purposes, to allocate taxes collected under Subchapter C on dyed or undyed diesel fuel delivered into the fuel tanks of railway engines to the credit of the Texas rail relocation and improvement fund.

ARTICLE 4. FISCAL MATTERS REGARDING PERMIT FEES

SECTION 4.01. Amends Subchapter A, Chapter 623, Transportation Code, by adding Section 623.002, as follows:

Sec. 623.002. EVALUATION OF PERMIT FEES. (a) Requires TxDOT to evaluate highway use in this state by oversize or overweight vehicles, calculate the cost of damage to highways in this state caused by those vehicles, and determine whether:

(1) the fees charged for permits issued under this chapter are adequate to offset the costs of damage to highways caused by those vehicles and recommend any fee adjustments for the permits to reflect the costs of damage to highways caused by those vehicles; and

(2) vehicles currently exempt from permit requirements under this chapter should be required to obtain a permit to operate on roads or highways in this state.

(b) Requires TxDOT, not later than October 1 of each even-numbered year, to report its findings to the Legislative Budget Board, and the governor.

SECTION 4.02. Amends Section 623.077, Transportation Code, as follows:

Sec. 623.077. HIGHWAY MAINTENANCE FEE. (a) Requires an applicant for a permit under this subchapter, other than a permit under Section 623.071(c)(3) (relating to superheavy or oversize equipment), to also pay a highway maintenance fee in an amount determined according to vehicle weight and distance traveled, rather than according to a certain table.

(b) Requires TxDOT to adopt rules to implement this section and establish a schedule of rates, based on miles traveled, for all vehicle weight categories that provides for an increase in the rates according to the weight of a vehicle.

(c) Redesignates existing Subsection (b) as Subsection (c). Makes no further changes to this subsection.

SECTION 4.03. (a) Requires TxDOT to adopt rules implementing Section 623.077, Transportation Code, as amended by this article, not later than January 1, 2012.

(b) Makes application of Section 623.077(a), Transportation Code, as amended by this article, to an application for a permit submitted under Subchapter D (Heavy Equipment), Chapter 623, Transportation Code, to TxDOT, prospective to January 1, 2012.

ARTICLE 5. FISCAL MATTERS REGARDING TEXAS DEPARTMENT OF RURAL AFFAIRS

SECTION 5.01. Amends the heading to Chapter 487, Government Code, to read as follows:

CHAPTER 487. OFFICE OF RURAL AFFAIRS IN DEPARTMENT OF AGRICULTURE

SECTION 5.02. Amends Section 487.001, Government Code, to redefine "board," "department," and define "commissioner" and "office."

SECTION 5.03. Amends Subchapter A, Chapter 487, Government Code, by adding Section 487.003, as follows:

Sec. 487.003. REFERENCE IN LAW. (a) Provides that a reference in this chapter or other law to the board of the Texas Department of Rural Affairs (TDRA) means the commissioner of agriculture (commissioner).

(b) Provides that a reference in law to the executive director of TDRA means the director of the Office of Rural Affairs in TDA (director; office) appointed under Section 12.038 (Office of Rural Affairs), Agriculture Code.

SECTION 5.04. Amends Section 487.026, Government Code, as follows:

Sec. 487.026. New heading: DIRECTOR. (a) Provides that the director of the Office of Rural Affairs serves as the chief executive officer of the office and performs the administrative duties of the office. Deletes existing text authorizing the board to hire an executive director to serve as the chief executive officer of TDRA and to perform the administrative duties of TDRA.

(b) Deletes existing text of Subsection (b) providing that the executive director serves at the will of the board. Deletes existing Subsection (c) designation. Authorizes the director, rather than executive director, to hire staff within guidelines established by the commissioner, rather than the board.

SECTION 5.05. Amends Section 487.051(a), Government Code, to require the office, rather than TDRA, to perform certain actions, including ensuring that the office, rather than TDRA, qualifies as the state's office of rural health for the purpose of receiving grants from the Office of Rural Health Policy of the United States Department of Health and Human Services under 42 U.S.C. Section 254r; in conjunction with other offices and divisions of the Texas Department of Agriculture (TDA), regularly cross-training office employees, rather than TDRA employees, with other TDA employees regarding the programs administered and services provided to rural communities, rather than provided by the agency to rural communities.

SECTION 5.06. Amends Section 487.0541(c), Government Code, to require the work group to meet at the call of the director of the office, rather than the executive director of TDRA.

SECTION 5.07. Amends Section 487.351(d), Government Code, as follows:

(d) Authorizes an applicant for a grant, loan, or award under a community development block grant program to appeal a decision of the director, rather than of the executive director, by filing an appeal with the commissioner, rather than with the board. Requires the commissioner, rather than the board, to hold a hearing on the appeal and render a decision.

SECTION 5.08. Amends Section 535.051(b), Government Code, to require the chief administrative officer of each of certain state agencies, in consultation with the governor, to designate one employee from the agency to serve as a liaison for faith-based and community-based organizations, including the Office of Rural Affairs within TDA, rather than the Office of Rural Community Affairs.

SECTION 5.09. Amends Section 2306.1092(b), Government Code, to set forth the composition of the housing and health services coordination council, including a representative from the Office of Rural Affairs within TDA, rather than the Office of Rural Community Affairs.

SECTION 5.10. Repealers: Sections 487.002 (Sunset Provision), 487.021 (Board), 487.022 (Conflicts of Interest), 487.023 (Training for Members of Board), 487.024 (Removal), 487.025 (Division of Responsibility), 487.028 (Equal Employment Opportunity Policy Statement), 487.029 (Standards of Conduct), 487.051(b) (relating to requiring certain employees to be based in TDA offices), 487.058 (Contract for Administrative Services), and 487.352 (Transfer of Federal Funds), Government Code.

SECTION 5.11. (a) Provides that TDRA is abolished as an independent agency and transferred as a program to office in TDA. Abolishes the board of TDRA.

(b) Provides that the validity of an action taken by TDRA or its board before either is abolished under Subsection (a) of this section is not affected by the abolishment.

SECTION 5.12. Provides that on September 1, 2011:

- (1) the position of executive director of TDRA is abolished, except that the director of the office in TDA is authorized to hire the executive director for a position in the office;
- (2) an employee of TDRA becomes an employee of the office in TDA;
- (3) a reference in law to TRDRA means the office in TDA;
- (4) all money, contracts, leases, rights, and obligations of TDRA are transferred to the office in TDA;
- (5) all property, including records, in the custody of TDRA becomes the property of the office in TDA; and
- (6) all funds appropriated by the legislature to TDRA are transferred to the office in TDA.

SECTION 5.13. Provides that a function or activity performed by TDRA is transferred to the office in TDA as provided by this article.

SECTION 5.14. Requires TRDA and TDA to establish a transition plan for the transfer described in Sections 5.11 and 5.12 of this article.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Effective date: September 1, 2011.