

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 10, 2011

TO: Honorable Bill Callegari, Chair, House Committee on Government Efficiency & Reform

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

IN RE: HB611 by Murphy (Relating to the provision of certain professional services by certain governmental entities.), **As Introduced**

<p>There is an indeterminate fiscal cost to the state to implement the provisions of this bill.</p>
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House Bill 611 would restrict governmental entities from providing commercially available professional services related to the improvement of real property not owned or leased by the entity. Commercially available professional services are defined as: the practice of engineering; the practice of architecture; construction services; and construction management services. The bill's restrictions do not apply to actions taken by governmental entities in response to a public calamity or emergency that is required to preserve life, health, safety, welfare, or property.

The bill would also require agencies to provide an accounting of costs for providing professional services for an improvement to real property owned or leased by the agency.

Several state agencies have statutory or legislative mandates to provide the types of services defined in HB 611 to other state agencies or units of local government for property not owned or leased by the agency providing the service. The two principal examples of this are the Texas Facilities Commission (TFC) and the Texas Department of Transportation (TxDOT).

TFC is responsible for providing building management and maintenance services for a portfolio of state agency real property, including properties that TFC neither owns nor leases. The provisions of HB 611 conflict with existing statutory provisions in Chapter 2166, Government Code and related provisions governing the construction and maintenance of state facilities. TFC reports it realizes efficiencies and cost savings for the state through the centralized coordination and management of state construction and maintenance projects, and that agency outsourcing of such projects has been shown to increase total costs. TFC reports that the total amount of cost increases from the provisions of the bill in fiscal years 2012 and 2013 cannot be determined because savings realized will vary from project to project and the level of construction and maintenance activities to be pursued is unknown.

Likewise, TxDOT provides engineering and construction services to many local governments for projects related to county roads, city streets, metropolitan highways, and park roads; however TxDOT neither owns nor leases the land on which these facilities are located. From fiscal year 2006 through 2009, TxDOT provided \$95.9 million in services to local and parks entities and an additional \$8.5 million in grants oversight on airport improvement projects. TxDOT reports that under HB 611 these services will be required to be outsourced by local entities at an undetermined cost. It is unclear how the agency's federal responsibility for oversight of mobility projects would be fulfilled under the provisions of the bill.

TxDOT also reports that the bill's cost-accounting and reporting provisions would require a modification of the Financial Information Management System (FIMS) currently used by the agency, resulting in a cost to the agency. The final cost would be dependent on the total amount of programming and senior accounting time necessary to implement the modifications (\$7,000 and \$6,000 per month respectively). Such a change to FIMS, along with a new indirect cost plan, would need to be submitted and approved by the Federal Highway Administration (FHWA). Failure to

receive FHWA approval could result in a delay of federal reimbursements for impacted projects.

Local Government Impact

The bill would prohibit all municipalities, counties and special districts from providing commercially available services for an improvement to real property that is not owned or leased by the entity. Additionally, a governmental entity that provides such services to property it owns or leases would be required to make available to the public an accounting of the costs of said services; this provision does not apply to a municipality, county or special district or authority with a population of 50,000 or less.

The Comptroller of Public Accounts (CPA) contacted three cities and two counties regarding the local fiscal impact of this bill. Wise County reported a startup cost of \$5,000 for FY2011 and a new part-time employee at an annual cost of \$43,205 for FY2011-FY2016. Washington County reported no additional costs associated with the bill. The City of Houston reported a startup cost of \$25,000 in FY2012 and \$168,751 annually for FY2013-2016. The City of Pearland estimated a startup cost of \$5,000 in FY2011 and \$70,000 annually for FY2012-FY2016. The City of Mercedes reported no startup costs and \$15,000 annually for additional administrative costs.

The City of Richardson reported to Texas Municipal League (TML) that city engineers provide recommendations to residents and work in easements concerning utilities services. The bill would require Richardson to hire an outside engineer for these services; however an estimate of these costs was not provided. TML also noted that the City of Arlington questioned whether this bill would apply to its graffiti eradication program; if so the city would be required to hire new contractors to remove graffiti. TML also reported that the fiscal impact of the cost accounting provision could be significant; however, specific costs would vary depending on how often an outside service provider would be required.

Source Agencies: 303 Facilities Commission, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 405 Department of Public Safety, 529 Health and Human Services Commission, 601 Department of Transportation, 696 Department of Criminal Justice, 802 Parks and Wildlife Department

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