

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**April 25, 2011**

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

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

**IN RE: HB1727** by Brown ( Relating to the sale and sale and leaseback of certain state property.),  
**Committee Report 1st House, Substituted**

**There would be a significant indeterminate fiscal impact from the provisions of the bill.**

The bill would require the Texas Facilities Commission (TFC), with the assistance of the General Land Office's (GLO) asset management division, to identify state buildings that could be sold or sold and leased back from a private purchaser, while considering certain factors, including: the current and future need for state agency office space; the fair market value of state properties; projected lease costs; related property tax implications; and the term of the leaseback agreement. The bill would require the commissioner of GLO to sell, or sell and leaseback, applicable identified buildings after determining that the action is the most economical means of providing state office space or the best use of the property. The bill would require the creation of an oversight committee to receive information concerning actions taken under the bill's provisions. The bill would take effect September 1, 2011.

The bill does not identify specific state facilities which would be considered for sale, or sale and leaseback, leaving the decision to the discretion of TFC and GLO. Other unknown variables include the level of outstanding bond debt on identified state facilities, the cost to lease comparable space in private facilities and leaseback terms the state could expect to receive from a private investor. Due to the amount and significance of these unknown variables, the statewide fiscal impact of the bill's provisions cannot be determined.

In their January 2011 report to the Governor concerning underused state property holdings, GLO identified 16 properties held by 6 state agencies. The General Revenue Fund gain resulting from sale of these properties was estimated to be \$26.8 million during the 2012-13 biennium. This estimate would be reduced by the final amount of costs related to the property disposition process, which cannot be determined. Disposition costs vary from property to property and are typically no more than 10 percent of the final property sales value.

GLO reports the bill's provisions would result in an administrative cost of \$1.2 million from the Permanent School Fund during the 2012-13 biennium related to performing necessary appraisals, surveys, and economic analyses.

TFC calculated the fiscal impact of leaseback operations for their portfolio of state office and parking facilities for 10-year, 20-year, and 30-year leaseback terms. TFC maintains approximately \$840 million in state office and parking facilities, 93 percent of their total asset inventory. For the purposes of this analysis, some properties - such as cemetery land and undeveloped land - were not included. TFC estimated that the state could realize a lump-sum payment of \$493.3 million for their properties under each scenario, after discounting the total property value for bond debt obligations and closing costs related to the sale.

Under a 10-year leaseback agreement, the state would pay a total of \$1.3 billion in lease payments; \$642.2 million in payments during the first 5 years, for a five-year loss of \$153.6 million. Under a 20-year leaseback agreement, the state would pay a total of \$2.0 billion in lease payments; \$451.3 million

in payments during the first 5 years, for a five-year gain of \$37.4 million. Under a 30-year leaseback agreement, the state would pay a total of \$2.8 billion in lease payments; \$401.3 million in payments during the first 5 years, for a five-year gain of \$87.3 million. In each scenario, by the end of the leaseback agreement the state would realize a net loss ranging from \$834.3 million to \$2.3 billion.

The Texas Department of Transportation (TXDOT) similarly reported that the bill's provisions, if applied to their facilities under a leaseback scenario, would result in a significant negative fiscal impact to the agency from the ongoing expense of lease payment. TXDOT estimates the leaseback net cost would range from \$1.2 billion to \$19.8 billion depending upon the term of the agreement.

The Texas Public Finance Authority (TPFA) reports that each property considered under the provisions of this bill would need to be reviewed by bond counsel to calculate any remaining bond debt and to identify the applicability of private activity use restrictions placed on the property. TPFA estimates that the anticipated number of such reviews would require the acquisition of contracted legal and financial resources at a cost of \$250,000.

### **Local Government Impact**

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

**Source Agencies:** 303 Facilities Commission, 305 General Land Office and Veterans' Land Board, 347 Public Finance Authority, 601 Department of Transportation, 304 Comptroller of Public Accounts, 320 Texas Workforce Commission, 401 Adjutant General's Department, 405 Department of Public Safety, 529 Health and Human Services Commission, 694 Youth Commission, 696 Department of Criminal Justice, 802 Parks and Wildlife Department, 808 Historical Commission, 809 Preservation Board

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