

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 17, 2011

TO: Honorable Tommy Williams, Chair, Senate Committee on Transportation & Homeland Security

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

IN RE: HB2357 by Pickett (Relating to motor vehicles; providing penalties.), **As Engrossed**

Implementing the provisions of the bill would result in an indeterminate revenue impact to the state due to changes made by the bill impacting the collection and disposition of fees by electronic funds transfer, allowable fee amounts, and service charges; and due to changes to the Tax Code depending on the number of off-road vehicles sold.

The bill would amend the Transportation Code relating to titling and registration of motor vehicles, including penalties. The bill would amend and reorganize Chapters 501, 502, 504, and 520 and would authorize the board of the Texas Department of Motor Vehicles (DMV) to implement, by rule, an electronic titling system.

The bill would establish procedures for the recording of documents, the collection and disposition of fees by electronic funds transfer, and allowable fee amounts and service charges.

The bill would repeal sections of the Transportation Code, recodify new and amended sections, and otherwise adopt conforming language. Sections of the Transportation Code that would be repealed would include: Sections 501.026, 501.075, 501.094, 501.133, 501.134(e)(f)(i), Sections 502.0074, 502.0075, 502.008, 502.104, 502.105, 502.1535, 502.154, 502.175, 502.177, 502.206, 502.271, 502.2862, 502.2971, 502.403, 502.405, 502.407(c), 502.412(c), 502.452, 502.453, 502.455, 502.456, Sections 504.201(h), 504.316(b), 504.401(b), 504.402(b), 504.403(b), 504.404(b), 504.405(b), 504.502(j), 504.506(f), 504.507(c), 504.508(d), 504.624, 504.629, 504.634, 504.643, 504.649, 504.650, 504.653, 504.655, 504.701, 504.702(c), 504.851(k); 504.854(c), Sections 520.013, 520.034, and headings to Subchapters C and D in Chapter 520.

The bill would require the DMV to post a complete schedule of registration fees on the Internet, and to accept electronic payments for registration fees, including transaction fees, or service charges billed to the department by vendors providing services in connection with electronic payments. The bill also would require the removal of the registration insignia and each license plate on any motor vehicle that was sold or transferred. The bill would allow a purchaser to obtain a temporary transit permit from the DMV before driving on a public road.

The bill would require the DMV to consult with the Department of Public Safety (DPS) to conduct a study on the consolidation of similar information collected separately by each agency to be completed no later than September 1, 2012. Based on the analysis of DPS and DMV, it is assumed that duties and responsibilities associated with implementing the provisions of the bill related to conducting the study could be covered with existing resources.

The bill would amend the Transportation Code relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims. The bill would outline procedures for the sale of certain motor vehicles by a salvage pool operator. The bill would specify that if a motor vehicle were sold to satisfy the allowable costs incurred by a salvage pool operator and the previous owner of a motor vehicle and the lienholder could not be identified or located, then any excess proceeds from the

sale of the motor vehicle would escheat to the state. The proceeds would be administered by the Comptroller and disposed of in the manner provided by Chapter 74 of the Property Code.

The bill would amend the Transportation Code to qualify Val Verde County as a county in which the commissioners court may impose an optional fee for transportation projects of up to \$10 on a vehicle registered in the county.

The bill would amend provisions in the Transportation Code relating to the marketing, sale, and hosting of specialty and personalized license plates. The bill would authorize certain public entities to contract with a private specialty plate vendor to distribute the public entities' portion of funds from certain professional sports team specialty plates in a manner other than provided for in Transportation Code Section 504.614(b). The bill would authorize DMV to contract with the private vendor to host DMV-issued specialty and personalized plates on the vendor's website and specifies the states portion of the personalization fee for a plate hosted and sold on the vendor's website may not be less than \$40. The bill would allow the board of the DMV to establish rules authorizing person who purchases a plate displaying an alphanumeric pattern for a period of five years or more to transfer the pattern and to establish a transfer fee to be distributed in accordance with the contract with the private vendor.

The bill would require the board of DMV to adopt rules to require the county and DMV to refuse to register a vehicle that is the subject of a past due toll or administrative fee owed to a toll project entity. The bill would authorize the rules adopted by the board of DMV to include a requirement for a toll project entity to enter into contract with DMV that provides for compensation to DMV or the county to cover expenses associated with providing services under the contract.

The bill would amend Subchapter D, Chapter 504, of the Transportation Code to require DMV to issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

The bill would amend Chapter 152 of the Tax Code, regarding motor vehicle taxes, to add to the definition of a motor vehicle an "off-road vehicle" that is not required to be registered under Chapter 502 of the Transportation Code, and to add a definition for "off-road vehicle" to mean an all-terrain vehicle or a recreational off-highway vehicle as defined in Section 502.001, provided that the vehicle could be designed by the manufacturer primarily for farming, and a motorcycle designed for off-highway use.

The bill would amend this chapter's tax exemption provisions to add an exemption for an off-road vehicle meeting the farm or timber use exemption criteria. The bill would amend the Chapter 501 of the Transportation Code to require that an off-road vehicle not required to be registered under Chapter 502 of this code be titled, unless the off-road vehicle was exempt under the farm or timber use provisions from the motor vehicle sales and use tax, or, the vehicle was acquired and sold or disposed of by a lienholder exercising a statutory or contractual lien right with regard to the vehicle.

The bill would amend Chapter 2302 of the Occupations Code, relating to the regulation of salvage vehicle dealers, to authorize the Department of Motor Vehicles to impose an administrative penalty against a person who violates Chapter 2302 or a rule adopted under that chapter.

The bill would take effect January 1, 2012.

Based on the analysis of the Comptroller of Public Accounts (CPA), DMV, and the Texas Commission on Environmental Quality (TCEQ), implementing the provisions of the bill would result in an indeterminate revenue impact to the state due to changes made by the bill impacting the collection and disposition of fees by electronic funds transfer, allowable fee amounts, and service charges. Regarding all other duties and responsibilities associated with implementing the provisions of the bill, it is assumed that existing resources would suffice to cover such costs based on the analysis of the DMV, DPS, and TCEQ.

Recreational vehicles used off-road have typically been taxed under Chapter 151 of the Tax Code, the sales and use tax. This bill would add off-road vehicle to the definition of a motor vehicle and make all-terrain vehicles, recreational off-highway vehicles and off-highway use motorcycles subject to the

6.25 percent motor vehicle sales and use tax found in Chapter 152 of the Tax Code. Items taxed under Chapter 151 are subject to a 6.25 percent state tax plus local option sales taxes of up to 2 percent. As local option taxes do not exist in Chapter 152, the bill's provisions would result in a loss of revenue to any local entity with a local sales tax option. Because the number of units sold, transaction price and local option tax rate is unknown, this portion of the bill cannot be determined. Additionally, under Chapter 152, off-road vehicles could be transferred by gift, or by even-trade, and transaction prices would be subject to standard presumptive value. Off-road vehicles taxed under Chapter 151 may be eligible for an exemption from the tax if used exclusively for the building of roads and water facilities, or in the production of food for humans, grass, feed for animals, or other agricultural products. Off-road vehicles taxed under Chapter 152 may be eligible for an exemption from the tax if used primarily for farming and ranching, including the rearing of poultry, and in feedlots or in timber operations. This is a more liberal standard than currently allowed in Chapter 151 and could result in a greater number of exemptions granted. Because the number of units sold and transaction prices are unknown, this portion of the bill cannot be determined. The Comptroller's office indicates there is potential for circumstances resulting in no tax paid, for units brought in from out-of-state or units sold among individuals. In these cases there may be noncompliant purchasers who do not go to the county tax office to secure a title and pay the motor vehicle sales tax.

The bill would add a new requirement under the Transportation Code that any off-road vehicle would be required to obtain a certificate of title unless the transaction was tax exempt, or, acquired and sold or disposed of by a lien-holder exercising a statutory or contractual lien right. The fee for a certificate of title is \$33 in a non-attainment county and \$28 in every other county. Of each fee collected, \$5 goes to the county; \$5 to the General Revenue Fund; \$3 to the State Highway Fund 0006; and, the remaining balance to the Texas Mobility Fund 0365, except that of every \$33 fee, \$5 collected before September 1, 2015 would be deposited to the Texas Emissions Reduction Plan Fund 5071. Because the number of units sold is not known, the fiscal impact from this portion of the bill cannot be determined.

Local Government Impact

Based on the analysis of the CPA, DMV, and TCEQ it is assumed that implementing the provisions of the bill would result in an indeterminate revenue impact to counties and local government entities due to changes made by the bill impacting the collection and disposition of fees by electronic funds transfer, allowable fee amounts, and service charges.

Source Agencies: 608 Department of Motor Vehicles, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 582 Commission on Environmental Quality

LBB Staff: JOB, KJG, MW, TG, EH, KKR