LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION
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TO: Honorable Byron Cook, Chair, House Committee on State Affairs

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

IN RE: **HB2373** by Gallego (Relating to control over state facilities and to the abolition of the Texas Facilities Commission and the transfer of its duties to the General Land Office.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2373, Committee Report 1st House, Substituted: a positive impact of $830,486 through the biennium ending August 31, 2013.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	$415,243
2013	$415,243
2014	$415,243
2015	$415,243
2016	$415,243

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *General Revenue Fund* 1	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated--State Facilities Fund*	Probable Savings from *Interagency Contracts* 777
2012	$1,055,243	($640,000)	$640,000	$491,963
2013	$1,055,243	($640,000)	$640,000	$491,963
2014	$1,055,243	($640,000)	$640,000	$491,963
2015	$1,055,243	($640,000)	$640,000	$491,963
2016	$1,055,243	($640,000)	$640,000	$491,963

Fiscal Year	Probable Savings/(Cost) from *Appropriated Receipts* 666	Probable Revenue Gain/(Loss) from *Business Ent Prog Acct* 492	Probable Savings/(Cost) from *Business Ent Prog Acct* 492	Probable Revenue (Loss) from *Federal Funds* 555
2012	$56,851	($935,847)	$935,847	($2,928,096)
2013	$56,851	($935,847)	$935,847	($2,928,096)
2014	$56,851	($935,847)	$935,847	($2,928,096)
2015	$56,851	($935,847)	$935,847	($2,928,096)
2016	$56,851	($935,847)	$935,847	($2,928,096)

Fiscal Year	Probable Savings/ (Cost) from *Federal Funds* 555	Change in Number of State Employees from FY 2011
2012	$2,928,096	(30.0)
2013	$2,928,096	(30.0)
2014	$2,928,096	(30.0)
2015	$2,928,096	(30.0)
2016	$2,928,096	(30.0)

Fiscal Analysis

The bill would abolish the Texas Facilities Commission (TFC) and transfer all of its powers, duties, and appropriations to the General Land Office (GLO). The Commissioner of the GLO would remain the head of the expanded agency. The bill would take effect on September 1, 2011.

The bill would transfer maintenance of the John H. Reagan building from the TFC to the Preservation Board.

The bill would create the State Facilities Fund as a General Revenue-Dedicated account, proceeds of which could only be appropriated to the GLO. The fund would consist of money received from the lease of space to public or private tenants, revenue from state-owned parking lots and garages, revenue from the use or lease of public buildings or grounds, and certain fines. The GLO would be authorized to recover all amounts spent from all accounts other than the State Facilities Fund for advertising, management, and leasing expenses.

The bill would require the GLO to conduct a study of its functions to assess the best allocation of state resources for the acquisition and lease of state buildings, the construction of buildings owned by the state, the control and maintenance of buildings owned or leased by the state, and all other related responsibilities performed by the Land Commissioner. The bill would remove various restrictions on limitations of the leasing of state owned space to private entities. It would eliminate the requirement that vending facilities operated by the Department of Assistive and Rehabilitative Services (DARS) be given preference to operate in state facilities, and it would provide authority to the Land Commissioner to allow private vending facilities to operate in a building under the Commissioner's charge and control if the Commissioner would finds that it is in the best interest of the state.

The bill would take effect on September 1, 2011.

Methodology

The GLO reports that savings could be realized by eliminating costs for duplicative services in central administration, information resources, and other support services, if the two agencies would be aggregated. It is estimated that, of the combined agency appropriations, approximately $824,000 in annual General Revenue savings could be realized in amounts appropriated to the agencies, with an additional $230,000 per year in employee benefits. Savings to Interagency Contracts are estimated at $384,936 plus approximately $107,000 in related employee benefits. The savings result from a reduction of 21.0 full-time-equivalent positions (FTEs) plus related costs and also include $56,851 from Appropriated Receipts each fiscal year. Total savings are shown in the table above.

The transfer of the Reagan Building from the TFC to the Preservation Board would result in the need appropriations for maintenance costs being transferred from the GLO/TFC to the Preservation Board upon passage of the bill. The TFC reports that it spends $217,000 per fiscal year, excluding utility costs, and 0.5 FTE on maintaining the Reagan Building. However, the Preservation Board reports that it would need at least $739,000 per fiscal year and 4.5 FTEs to operate the building. This estimate only assumes that the amount currently being spent by the TFC would actually transfer to the Preservation Board.

Because the bill would provide for funds currently going to the General Revenue Fund to be moved to the newly created General Revenue-Dedicated State Facilities Fund, there would be a loss to General Revenue and a corresponding increase to revenues in the new Fund. According to the TFC, approximately $140,000 per year in revenue currently received from self-directed semi-independent agencies and $500,000 in annual revenue received from the lease of space in state-owned parking lots and garages that currently goes to the General Revenue Fund would be affected by this change, as shown in the table above.

Although there could be some increase in revenue to the state resulting from the bill's provisions providing greater flexibility in leasing space to private entities, the revenue increase would depend on the amount of space that the Land Commissioner determines would be in the state's best interest to lease and the lease rates that would be assessed. As a result, the fiscal impact of this provision cannot be determined and is not shown in the table above.

Under current law, the TFC must permit DARS to install a vending facility on state owned property that the commissioner intends to lease to a private tenant, other than a child care provider. If installation of a vending facility is not feasible, the TFC must lease space to least one private tenant whose activity will be managed by a blind person or person with a disability who is not blind. Under the provisions of the bill, the Land Commissioner could chose to lease such property to a private vendor if he determined it was in the best interest of the state. If properties currently used by the Business Enterprises of Texas (BET), the vending facility operated by DARS, were instead leased to private entities there could be a loss of revenue to the General Revenue-Dedicated Business Enterprise Program Account No. 492, which is the program's primary source of funding. Additionally, because the Business Enterprise Account No. 492 proceeds are used to leverage Federal Funds, there could also be a loss in Federal Funds. These losses would be offset by decreases in program expenditures. This estimate assumes that approximately 50 percent of the facilities operated by the BET would instead be leased to private entities upon passage of the bill, resulting in a loss of $935,847 per year out of the Business Enterprise Program Account No. 492 and a corresponding loss of Federal Funds from the Vocational Rehabilitation program of $2,928,096 per fiscal year. These funding reductions would result in the need for 9.0 fewer FTEs at DARS. The actual amount of funding and FTEs reduced would depend on the actual number of vending facilities that would be leased to private entities.

The Texas Public Finance Authority (TPFA) issues tax exempt debt for the construction, repair and rehabilitation of state owned buildings and for the purchase of vehicles and equipment through the Master Lease Purchase Program. According to analysis by the TPFA, federal tax regulations require that property financed with tax-exempt bonds be used primarily for governmental purposes. Because the bill expands opportunities for leasing property to non-governmental entities, such uses could constitute "private business use" and could risk the tax-exempt status of the bond issues, unless such use is within the permitted limits set out in tax regulations. Therefore, the TPFA reports that it would need to evaluate any use of state property subject to tax-exempt bond indebtedness, including the revenue derived from building use, to ensure compliance with bond covenants and federal tax laws. The potential cost of such evaluations, nor the potential cost related to losing tax-exempt status for outstanding bond debt on affected facilities cannot be determined at this time.

Technology

The TFC uses the services of the Data Center Services (DCS) operated by the Department of Information Resources (DIR), however, the GLO is exempt from using the DCS contract. This estimate assumes that contracts between TFC and DIR would remain in place. If the GLO chooses not to use DCS, a reduction of about $350,000 per year to the DIR contract for services currently provided to the TFC is possible.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 303 Facilities Commission, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 313 Department of Information Resources, 347 Public Finance Authority, 538 Assistive and Rehabilitative Services, Department of, 809 Preservation Board

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