

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 9, 2011

TO: Honorable Larry Phillips, Chair, House Committee on Transportation

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

IN RE: SB548 by Nichols (Relating to the environmental review process for transportation projects.),
As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to authorize the Texas Department of Transportation (TxDOT), a county, regional tollway authority, or a regional mobility authority to enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for TxDOT transportation projects. The bill would require each entity to make each agreement available on the entity's Internet website. The bill would require TxDOT to establish, by rule, a process to certify district environmental specialists to work on all documents related to state and federal environmental review processes and to make the process available to TxDOT employees. The bill would require the certification process to require continuing education for recertification. The bill would require a memorandum of understanding (MOU) between TxDOT and certain state agencies required under Section 201.607, Transportation Code, to specify a time period not to exceed 45 days during which a state agency reviews and provides comments to TxDOT regarding the environmental, historical, or archeological effect of a highway project. The bill would require TxDOT, by rule, to establish procedures for coordinating with state agencies in carrying out the responsibilities under such MOUs. The bill would amend the Parks and Wildlife Code to require the Texas Parks and Wildlife Department (TPWD) to provide recommendations and information in response to a TxDOT request for comments no later than 45 days after the date TPWD receives the request.

The bill would amend the Transportation Code to require the commission by rule to set standards for processing an environmental review document for a transportation project pursuant to certain guidelines established by the bill. The bill would authorize a political subdivision (local government sponsor, as defined by the bill) to submit a document for review by TxDOT for a project contained in the financially-constrained portion of the state transportation improvement program (STIP) or the unified transportation program (UTP) or a project that is identified by the commission as being eligible for participation. The bill would authorize a sponsor to develop an environmental review document for a project that is not identified in the STIP or UTP by submitting to a notification to TxDOT that the sponsor will prepare the document and paying a fee in an amount established by commission rule and in an amount not to exceed the actual cost of reviewing the document. The bill would require a local government sponsor to prepare a detailed scope of the project in collaboration with TxDOT before TxDOT may process the environmental review document. The bill would require TxDOT to determine whether environmental review documents submitted by a sponsor are administratively complete and ready for technical review within 20 days of the date the sponsor submits the documents to TxDOT for review. The bill would require TxDOT to submit reports to the commission and the Legislature identifying the status of each project being processed under the review process established by the bill and to publish and regularly update project status information on the TxDOT website.

Based on the analysis of TxDOT, TPWD, the Historical Commission, and the Texas Commission on Environmental Quality, it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources. Based on the information

provided by TxDOT, it is assumed the agency would use existing highway planning and construction appropriations to provide funding to other state and federal agencies under agreements for expedited environmental reviews of TxDOT transportation projects.

TxDOT indicates that the agency currently reviews projects submitted by local sponsors but does not conduct reviews of document submissions for administrative completeness prior to performing technical reviews. TxDOT assumes that consultants would be hired to perform the administrative reviews at a cost of \$70 per hour. The total costs of review would depend on the number of projects submitted for review, the initial level of completeness of the original documents submitted for review, and the number of projects that may be resubmitted for subsequent review. It is assumed TxDOT's costs for the administrative reviews required by the bill would be accommodated through the reallocation of the agency's existing transportation planning and construction funds. This analysis does not estimate the amount of revenue that may be received with an application from a local sponsor that opts to prepare documents for a project that is not included in the financially-constrained portion of the STIP or UTP. Based on the analysis of TxDOT, it is assumed any additional staffing requirements related to implementing the environmental document review and project status tracking provisions of the bill would be accommodated through the reallocation of vacant positions and associated resources to the agency's Environmental Affairs Division from elsewhere within the agency.

Local Government Impact

It is anticipated that a local government would only opt to participate as a sponsor and prepare environmental documents for a highway project if sufficient funds were available. No significant fiscal implication to units of local government is anticipated.

Source Agencies: 601 Department of Transportation, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department, 808 Historical Commission

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