

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 7, 2011

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

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

IN RE: SB731 by Nichols (Relating to the payment of an examination fee to the attorney general for the legal sufficiency review of a comprehensive development agreement.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a toll project entity to pay the attorney general a nonrefundable examination fee for each proposed comprehensive development agreement (CDA) for a toll project submitted to the attorney general for legal sufficiency review. Under current statute, the Office of the Attorney General (OAG) is required to perform a legal sufficiency review of all CDAs entered into by a toll project entity. A toll project entity would be authorized to collect or seek reimbursement of the examination fee from the private participant. The bill would require the attorney general to set the amount of the examination fee and to adopt rules to implement the provision.

The bill would take effect immediately upon receiving a vote of two-thirds of all members elected to each house; otherwise the bill would take effect on September 1, 2011.

According to the OAG, any additional work to implement the provisions of the bill could be absorbed within current resources. For the purposes of this analysis, it is assumed the OAG would establish fees sufficient to cover the cost reviewing each CDA.

Under current law, the authority for the Texas Department of Transportation (TxDOT) and regional mobility authorities (RMA) to enter into CDAs will expire on August 31, 2011. It is assumed TxDOT or an RMA would submit a proposed CDA to the OAG for legal sufficiency review and pay the proposed fee on or after September 1, 2011, only if the CDA authority is renewed by the Legislature and TxDOT or an RMA proposes to enter into a CDA. Based on the analysis of TxDOT, it is assumed any costs associated with the new fee could be absorbed within the agency's existing resources.

Local Government Impact

There could be a significant fiscal impact to a toll project entity depending on the amount of the fee set by the attorney general and the number of proposed comprehensive development agreements.

According to the Grayson County Regional Mobility Authority, the Alamo Regional Mobility Authority, and the North Texas Tollway Authority, there could be a negative fiscal impact associated with the nonrefundable examination fee, but the cost could be offset if the RMA sought reimbursement from a private participant. The authorities also noted that if they did not enter into a comprehensive development agreement, they would not be allowed to seek reimbursement from the private participant which would then result in a negative fiscal impact.

Source Agencies: 302 Office of the Attorney General, 601 Department of Transportation

LBB Staff: JOB, KJG, MW, TP, JB, TG