

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

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

**April 11, 2011**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

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

**IN RE: SB1741** by Fraser (Relating to tree mitigation fees imposed by municipalities.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would add Subchapter H to Chapter 212 of the Local Government Code to authorize a municipality that requires a tree mitigation fee as a condition for approval of a permit, to set an amount roughly proportionate to the impact the activity will have on the public.

The governing body of a municipality would be required make a determination within 30 days after notice of an appeal of the tree mitigation fee is filed by a permit applicant and must set an appeal hearing. The municipality would be required to establish burden of proof that the tree mitigation fee was roughly proportionate to the impact on the public. After final determination is made by the governing body regarding the tree mitigation fee, the permit applicant would be authorized to file an appeal to a county or district court. A court would be required to award court costs and attorney's fees to a permit applicant that prevails in an appeal.

**Local Government Impact**

There could be a positive fiscal impact to a city that imposes a tree mitigation fee as a condition for permit approval, but the amounts would vary and would likely be offset by the costs associated with tree removal or relocation. In addition, there could be a negative fiscal impact to a municipality for court costs and attorney's fees if an appeal was filed and won by a permit applicant, but it would vary depending on the current procedures in a city, the number of appeals that are filed in an area and the outcome of an appeal.

Tree mitigation fees vary by municipality, but range from an estimated \$100 to \$200 per caliper inch in tree diameter for a significant tree and from \$300 to \$600 per inch for a heritage tree. As an example, an oak tree with a 24-inch diameter would cost \$14,400, and a 30-inch-diameter tree would cost \$18,000 to remove.

The City of Round Rock's Urban Forestry Division of the Parks and Recreation Department reported the city's mitigation fee is \$150 per inch. The city currently has an appeals process in the ordinance that allows developers or any person to file an appeal, but has not had an appeal in the last six years of reviews with an estimated 2,000 plans under review during that period of time. The city also noted that any loss of revenue would depend on the amount of development in each year and whether it is a heavily wooded project. The city's Tree Fund for this year to this point is less than \$20,000 and the two previous years it was \$79,000 to \$35,000.

**Source Agencies:**

**LBB Staff:** JOB, SZ, TP