

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 10, 2013

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3665 by Darby (Relating to the financing of transportation projects; authorizing fees.),
As Introduced

The bill would result in the State Infrastructure Bank (SIB) balances in the amount of \$293.8 million shifting from the State Highway Fund to a fund outside the State Treasury. It is assumed the costs to the State to capitalize the SIB to provide a credit enhancement program would be significant. Because the number of public entities that would apply for financial assistance from the SIB and the scope of the associated project is unknown, the costs to the state cannot be estimated.

The bill would amend various provisions of Subchapter D, Chapter 222, of the Transportation Code relating to the State Infrastructure Bank (SIB). The bill would establish the SIB as an account held by the Comptroller outside the State Treasury or by a financial institution serving as a trustee. The bill would specify sources of funds that the Texas Transportation Commission (commission) may deposit to the fund, including funds appropriated by the Legislature for that purpose and proceeds from the sale of loans made from money in the SIB as authorized by the bill. The bill would authorize the use of money in the SIB to provide financial assistance to the Texas Department of Transportation (TxDOT); provide liquidity enhancement through an agreement to purchase bonds, notes, or other obligations from a public entity; and for certain other purposes specified in the bill. The bill would authorize the commission to require a public entity to pay an application fee and other reasonable amounts for a request for financial assistance provided from the SIB and would require this revenue to be deposited to the State Highway Fund to reimburse administrative costs charged to that fund or to the account in the SIB from which the assistance is requested. The bill would require the Office of the Attorney General (OAG) to review and approve the commission's records authorizing the issuance, execution, and delivery of SIB revenue bonds, credit agreements, and any related contracts authorized under Section 222.075, Transportation Code. The bill would authorize proceeds from the sale of revenue bonds to be used to finance other funds or accounts relating to the bonds or credit agreement. The bill would authorize the commission to sell any loans made from money in the SIB and require the proceeds of the sale to be deposited into the SIB. The bill would authorize the commission to submit to OAG any financial assistance agreement related to any loans to be sold under the provisions of the bill.

The bill would require the commission to create a transportation credit enhancement account in the SIB that would consist of money appropriated by the Legislature for that purpose, interest earnings on the account, and fees and other repayments of obligations to TxDOT. The bill would require the commission to use the account implement a credit enhancement program (CEP) to guarantee the payment of debt service on bonds issued by a public entity to finance a public transportation project. The bill would authorize a public entity to apply for and enter into an

agreement with TxDOT under the CEP and authorize the commission to impose an application fee. The bill would authorize a public entity to pledge taxes and other available revenue for payments owed under a credit agreement. The bill would require TxDOT to direct the comptroller or the trustee holding the SIB to transfer from the account the amount necessary to pay debt service due on a bond after receipt of written notice from a public entity of the entity's inability to pay debt service on a guaranteed bond. The bill would authorize the commission to allow TxDOT to undertake the completion, operation, and maintenance of a project if a public entity has failed to comply with a credit agreement under the CEP.

The bill would take effect immediately upon receiving a vote of two-thirds of all members elected to each house or otherwise on September 1, 2013.

Based on year-end balance information provided by TxDOT, the Comptroller's office estimates that \$293,819,000 in State Infrastructure Bank balances would be transferred out of State Highway Fund 006 to a SIB fund outside the State Treasury on the effective date of the bill.

The bill would allow the commission to capitalize the SIB outside the State Treasury with appropriations made by the Legislature for that purpose. Because the number of public entities that would apply for financial assistance and the scope of the associated transportation projects and credit agreements is unknown, the total cost to the state cannot be determined at this time. It is assumed that the cost to capitalize an account in the SIB to provide an effective CEP to guarantee the bonds of public entities would be significant. TxDOT estimates that a CEP established under the provisions of the bill would be able to guarantee debt in an amount two to three times the amount held in the SIB account.

Based on the information provided by OAG and TxDOT it is assumed any administrative costs resulting from requirements of the bill could be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code, Section 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

It is assumed a local governmental entity would apply for assistance from the SIB and enter into related credit agreements only if it would result in a positive fiscal impact. Based on the information provided by TxDOT, it is assumed a local governmental entity could achieve reduced borrowing costs for public transportation projects through the implementation of a credit enhancement program.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 601 Department of Transportation

LBB Staff: UP, KK, MW, TG, AG