

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

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 6, 2017**

**TO:** Honorable René Oliveira, Chair, House Committee on Business & Industry

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB3065** by Deshotel (Relating to mechanic's, contractor's, or materialman's liens; authorizing a fee; changing the eligibility for community supervision.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3065, Committee Report 1st House, Substituted: a positive impact of \$5,666,600 through the biennium ending August 31, 2019.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2018	\$1,416,600
2019	\$4,250,000
2020	\$4,250,000
2021	\$4,250,000
2022	\$4,250,000

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>
2018	\$1,416,600
2019	\$4,250,000
2020	\$4,250,000
2021	\$4,250,000
2022	\$4,250,000

**Fiscal Analysis**

The bill would amend the Insurance Code and the Property Code relating to mechanic's, contractor's, or materialman's liens; authorizing a fee; changing the eligibility for community

supervision.

The bill would require the Secretary of State (SOS) to establish and maintain a lien website through the state electronic internet portal as defined by Section 2054.003, Government Code. The bill would permit a notice under Chapter 53 of the Property Code to be sent either to an owner or by an owner by posting the notice on the lien notice website. The lien website would be required to provide an online form for each notice or written communication that may be required by Chapter 53; allow a person to electronically obtain a form and to post the notice or written communication on the website; and allow a person to search the notices and written communications posted on the website using certain search criteria.

The bill would prohibit SOS from assessing and charging a user of the lien website a fee for using the search functions of the website; obtaining an online form; or for posting a notice/communication on the website, except that the bill would authorize SOS to charge a fee for posting a Notice of Commencement. Additionally, the bill would allow a property owner to choose whether or not to file a Notice of Commencement with the county in which the related property is located, but would require an owner who elects to file a Notice of Commencement to also post the notice on the lien website. The bill would take effect on May 1, 2018.

### **Methodology**

The state electronic internet portal is implemented as the Texas.gov website. Currently, Texas.gov is operated by a third-party vendor under a public-private partnership and is funded through service and transaction revenue on services provided through Texas.gov. After the deduction of credit card fees, the revenue is shared between the vendor (60 percent) and the state's General Revenue Fund (40 percent). This analysis assumes that the vendor operating Texas.gov would develop the lien website and recover the development costs through a transaction fee. The amount of the transaction fee is unknown, and as a portion of the fee would be deposited to unappropriated General Revenue Fund, there would be an indeterminate gain to the General Revenue Fund as a result of implementation of the lien website.

Based on information provided by SOS, this analysis assumes the agency would charge an average fee of \$25 per Notice of Commencement filed through the lien website, an amount in line with the amount counties currently assess for recording two-page documents. SOS assumes persons who formally obtain a building permit in Texas will also elect to file and post a Notice of Commencement. Based on the average number of residential building permits issued in Texas from 2014 to 2016, SOS assumes that 56,664 such notices would be filed in fiscal year 2018 and 170,000 such notices would be filed in fiscal years 2019 through 2022. As these fees are not assumed to offset either development costs under the current Texas.gov contract structure or SOS administrative costs, this analysis assumes the total resulting gain to General Revenue would be \$5,666,600 in the 2018-19 biennium.

### **Local Government Impact**

According to the Texas Association of Counties, the fiscal impact to counties is not anticipated to be significant.

**Source Agencies:** 307 Secretary of State, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 454 Department of Insurance

**LBB Staff:** UP, CL, NV, ASa, JGA, WP, RC, CP