

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Terry Canales, Chair, House Committee on Transportation

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1951 by Krause (Relating to the development, construction, and operation of toll projects; authorizing an administrative fee; imposing a civil penalty.), **As Introduced**

No immediate significant fiscal implication to the State is anticipated. However, cessation of tolling on state-operated toll projects, if implemented on the bill's effective date, would result in an estimated impact of (\$78,326,000) to the State Highway Fund for the five-year period ending August 31, 2024.

The bill would amend Subchapter E, Chapter 223, Transportation Code, relating to the authority of the Texas Department of Transportation (TxDOT) to enter into a comprehensive development agreement (CDA).

The bill would amend Chapter 372 of the Transportation Code to stipulate that a toll project entity, including TxDOT and local toll project entities, may not construct or operate a toll project unless the project is approved by a majority of voters in all affected counties at an election held for that purpose.

The bill would repeal various provisions in the Transportation Code relating to toll collections and enforcement and add new Subchapter B-1 to Chapter 372 to establish similar provisions. The bill would exempt an authorized emergency vehicle from payment of a toll regardless of whether the vehicle is responding to an emergency, displaying a flashing light, or marked as an emergency vehicle. The bill would repeal provisions regarding remedies for habitual toll violators and the current \$250 Class C misdemeanor violation for failure to pay a toll. The bill would establish a \$25 civil penalty for failure to pay two or more toll invoices.

The bill would amend Subchapter B, Chapter 372 of the Transportation Code by adding Subchapter D regarding the cessation of tolls. The bill would stipulate that a toll project becomes part of the state highway system and shall be maintained by the Texas Transportation Commission (TTC) without tolls when the costs of acquisition and construction of the project have been paid and either (1) all bonds and bond interest payable from or secured by the project's revenue have been paid, or (2) a sufficient amount for payment of all bonds to maturity has been set aside by the issuer. As an exception, the bill would authorize TTC to extend by 10 years a toll cessation date of a toll project for which a toll project entity charges a variable toll rate and authorize subsequent extensions in 10-year increments thereafter.

The bill would amend Chapters 228, 366, and 370 of the Transportation Code by repealing provisions authorizing certain toll project entities, including TxDOT, to use surplus revenue of a

toll project to support the financing another project.

The bill would take effect on September 1, 2019.

TxDOT reports that three toll projects operated by the department do not have debt but charge variable toll rates, including toll facilities on the DFW Connector, IH 30/Tom Landry, and IH 635. It is assumed the provisions of the bill in proposed Section 372.154, Continuation of Variable Tolls after Toll Cessation Date, would authorize the TTC to approve variable toll charges on these facilities in 10-year increments after the bill takes effect. Because current policies adopted by the TTC have established variable toll charges on these facilities, this analysis assumes tolling would continue on these facilities after the effective date of the bill. Otherwise, based on the analysis provided by TxDOT, it is assumed cessation of tolls on these projects on the effective date of the bill would result in revenue losses to the State Highway Fund, estimated to be \$78.3 million for the five-year period beginning September 1, 2019, and ending August 31, 2024, with losses continuing each year thereafter.

TxDOT also reports five additional TxDOT toll projects have debt outstanding, with final maturity dates ranging from 2042 to 2057, and additional toll concession projects have debt outstanding from private activity bonds or other private debt. Some of these projects charge variable toll rates. TxDOT indicates that cessation of tolling on toll concession projects once the concessionaire's project debt has been paid may require the department to use the "termination for convenience" contract provision in the associated CDA, which could require a cash payment to a concessionaire in an amount that cannot be determined at this time. However, it is assumed implementation of the bill would not result in an immediate impact to the tolling, operations, and maintenance of these projects.

TxDOT reports that cessation of tolling would eliminate a source of revenue used to fund the maintenance of toll roads. Based on the information provided by TxDOT, it is assumed the routine maintenance and rehabilitation costs of any toll projects that cease tolling and become part of the state highway system, including local toll project entities' projects, would be accommodated through the reallocation of the agency's existing highway planning and construction funding sources.

Based LBB's analysis of information provided by TxDOT, it is assumed the agency could absorb within its existing resources any costs or duties associated with changes to toll collection and enforcement and any costs associated with contracting with counties to hold an election for voter approval of a TxDOT toll project. It is assumed any costs associated with executing a CDA for a transportation project under the provisions of the bill would be accommodated within the TxDOT's existing highway planning and construction funding sources.

Based on LBB's analysis of information provided by the Office of Court Administration, it is assumed implementation changes related to enforcement civil penalties, collection of unpaid tolls, and court costs would not result in a significant fiscal impact to the state court system.

Local Government Impact

Based on the information provided by Harris County and regional mobility authorities (local toll project entities), it is assumed implementation of the bill would result in an immediate negative impact to a local toll project entity's ability to secure debt financing for construction and reconstruction of transportation projects. Additionally, local toll project entities and affected counties would incur costs associated with holding elections for voter approval of toll projects.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 601 Department of Transportation, 608
Department of Motor Vehicles

LBB Staff: WP, JGAn, SGr, TG, AF