# SENATE AMENDMENTS

## 2nd Printing

By: Zerwas, Darby, Krause, Davis of Harris, Howard, et al.

H.B. No. 2048

A BILL TO BE ENTITLED

AN ACT

relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 102.022(a), Code of Criminal Procedure, is amended to read as follows:

(a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 542.304 [~~708.052~~], Transportation Code.

SECTION 2. Section 1001.112, Education Code, is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The rules must provide that the student driver spend a minimum number of hours in classroom and behind-the-wheel instruction.

(a-2) The rules must provide [~~and~~] that the person conducting the course:

(1) possess a valid license for the preceding three years that has not been suspended, revoked, or forfeited in the past

three years for an offense that involves the operation of a motor vehicle;

(2) has not been convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated in the past seven years; and

(3) has not been convicted during the preceding three years of:

(A) three or more moving violations described by Section 542.304, Transportation Code, including violations that resulted in an accident; or

(B) two or more moving violations described by Section 542.304, Transportation Code, that resulted in an accident [~~does not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code, at the time the person begins conducting the course~~].

SECTION 3. Section 411.110(f), Government Code, is amended to read as follows:

(f) The Department of State Health Services may not consider offenses described by [~~for which points are assessed under~~] Section 542.304 [~~708.052~~], Transportation Code, to determine whether to hire or retain an employee or to contract with a person on whom criminal history record information is obtained under this section.

SECTION 4. Section 773.0614(b), Health and Safety Code, is amended to read as follows:

(b) For purposes of Subsection (a), the department may not consider offenses described by [~~for which points are assessed~~

~~under~~] Section 542.304 [~~708.052~~], Transportation Code.

SECTION 5. Section 773.06141(a), Health and Safety Code, is amended to read as follows:

(a) The department may suspend, revoke, or deny an emergency medical services provider license on the grounds that the provider's administrator of record, employee, or other representative:

(1) has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of the administrator, employee, or representative, other than an offense described by [~~for which points are assigned under~~] Section 542.304 [~~708.052~~], Transportation Code;

(2) has been convicted of or placed on deferred adjudication community supervision or deferred disposition for an offense, including:

(A) an offense listed in Article 42A.054(a)(2), (3), (4), (6), (7), (8), (10), or (14), Code of Criminal Procedure; or

(B) an offense, other than an offense described by Subdivision (1), for which the person is subject to registration under Chapter 62, Code of Criminal Procedure; or

(3) has been convicted of Medicare or Medicaid fraud, has been excluded from participation in the state Medicaid program, or has a hold on payment for reimbursement under the state Medicaid program under Subchapter C, Chapter 531, Government Code.

SECTION 6. Section 780.002, Health and Safety Code, is amended to read as follows:

Sec. 780.002. CERTAIN DEPOSITS TO ACCOUNT. The comptroller shall deposit any gifts, grants, donations, and legislative appropriations made for the purposes of the designated trauma facility and emergency medical services account established under Section 780.003 to the credit of the account. [~~(a) On the first Monday of each month, the Department of Public Safety shall remit the surcharges collected during the previous month under the driver responsibility program operated by that department under Chapter 708, Transportation Code, to the comptroller.~~

[~~(b) The comptroller shall deposit 49.5 percent of the money received under Subsection (a) to the credit of the account established under this chapter and 49.5 percent of the money to the general revenue fund. The remaining one percent of the amount of the surcharges shall be deposited to the general revenue fund and may be appropriated only to the Department of Public Safety for administration of the driver responsibility program operated by that department under Chapter 708, Transportation Code.~~

[~~(c) Notwithstanding Subsection (b), in any state fiscal year the comptroller shall deposit 49.5 percent of the surcharges collected under Chapter 708, Transportation Code, to the credit of the general revenue fund only until the total amount of the surcharges deposited to the credit of the general revenue fund under Subsection (b), and the state traffic fines deposited to the credit of that fund under Section 542.4031(g)(1), Transportation Code, equals $250 million for that year. If in any state fiscal year the amount received by the comptroller under those laws for~~

~~deposit to the credit of the general revenue fund exceeds $250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.~~]

SECTION 7. Section 780.003(b), Health and Safety Code, is amended to read as follows:

(b) The account is composed of money deposited to the credit of the account under Sections 542.4031, 542.406, [~~and~~] 707.008, and 709.002, Transportation Code, under Section 10, Article 4413(37), Revised Statutes, and under Section 780.002 of this code.

SECTION 8. Sections 780.004(c), (d), and (e), Health and Safety Code, are amended to read as follows:

(c) In any fiscal year, the commissioner shall use at least 94 [~~96~~] percent of the money appropriated from the account, after any amount the commissioner is required by Subsection (b) to reserve is deducted, to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the department or an undesignated facility in active pursuit of designation. Funds may be disbursed under this subsection based on a proportionate share of uncompensated trauma care provided in the state and may be used to fund innovative projects to enhance the delivery of patient care in the overall emergency medical services and trauma care system.

(d) In any fiscal year, the commissioner shall use three [~~not more than two~~] percent of the money appropriated from the account, after any amount the commissioner is required by Subsection (b) to reserve is deducted, to fund, in connection with an effort to provide coordination with the appropriate trauma service area, the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency medical services. The money shall be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county. To receive a distribution under this subsection, the regional advisory council must be incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of that code. The share of the money allocated to the eligible recipients in a county's geographic area shall be based on the relative geographic size and population of the county and on the relative number of emergency or trauma care runs performed by eligible recipients in the county. Money that is not disbursed by a regional advisory council to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed may be retained by the regional advisory council for use in the following fiscal year in accordance with this subsection. Money that is not disbursed by the regional advisory council in that following fiscal year shall be returned to the department to be used in accordance with Subsection (c).

(e) In any fiscal year, the commissioner shall [~~may~~] use two [~~not more than one~~] percent of the money appropriated from the account, after any amount the commissioner is required by Subsection (b) to reserve is deducted, for operation of the 22 trauma service areas and for equipment, communications, and education and training for the areas. Money distributed under this subsection shall be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county. To receive a distribution under this subsection, the regional advisory council must be incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of that code. A regional advisory council's share of money distributed under this section shall be based on the relative geographic size and population of each trauma service area and on the relative amount of trauma care provided. Money that is not disbursed by a regional advisory council to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed may be retained by the regional advisory council for use in the following fiscal year in accordance with this subsection. Money that is not disbursed by the regional advisory council in that following fiscal year shall be returned to the department to be used in accordance with Subsection (c).

SECTION 9. Sections 10(b) and (e), Article 4413(37), Revised Statutes, are amended to read as follows:

(b) An insurer shall pay to the authority a fee equal to <u>$4</u> [~~$2~~] multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer. The fee shall be paid not later than:

(1) March 1 of each year for a policy issued, delivered, or renewed from July 1 through December 31 of the previous calendar year; and

(2) August 1 of each year for a policy issued, delivered, or renewed from January 1 through June 30 of that year.

(e) Out of [~~Fifty percent of~~] each fee collected under Subsection (b):

(1) 20 percent shall [~~may~~] be appropriated [~~only~~] to the authority for the purposes of this article;

(2) 20 percent shall be deposited to the credit of the general revenue fund, to be used only for criminal justice purposes; and

(3) 60 percent shall be deposited to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code, to be used only for the criminal justice purpose of funding designated trauma facilities, county and regional emergency medical services, and trauma care systems that provide trauma care and emergency medical services to victims of accidents resulting from traffic offenses.

SECTION 10. Section 502.357(b), Transportation Code, is amended to read as follows:

(b) Fees collected under this section shall be deposited to the credit of the state highway fund except that the comptroller shall provide for a portion of the fees to be deposited first to the credit of a special fund in the state treasury outside the general revenue fund to be known as the TexasSure Fund in a total amount that is necessary to cover the total amount appropriated to the Texas Department of Insurance from that fund and for the remaining fees to be deposited to the state highway fund. Subject to appropriations, the money deposited to the credit of the state highway fund under this section may be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, to include use of image comparison technology; and

(2) [~~establish and maintain a system to support the driver responsibility program under Chapter 708; and~~

[~~(3)~~] make lease payments to the master lease purchase program for the financing of the driver's license reengineering project.

SECTION 11. Subchapter C, Chapter 542, Transportation Code, is amended by adding Section 542.304 to read as follows:

Sec. 542.304. MOVING VIOLATIONS FOR CERTAIN PURPOSES. (a) The department by rule shall designate the offenses involving the operation of a motor vehicle that constitute a moving violation of the traffic law for the purposes of:

(1) Article 102.022(a), Code of Criminal Procedure;

(2) Section 1001.112(a-2), Education Code;

(3) Section 411.110(f), Government Code; and

(4) Sections 773.0614(b) and 773.06141(a), Health and Safety Code.

(b) The rules must provide that for the purposes of the provisions described in Subsection (a), moving violations:

(1) include:

(A) a violation of the traffic law of this state, another state, or a political subdivision of this or another state; and

(B) an offense under Section 545.412; and

(2) do not include:

(A) an offense committed before September 1, 2003;

(B) the offense of speeding when the person convicted was at the time of the offense driving less than 10 percent faster than the posted speed limit, unless the person committed the offense in a school crossing zone;

(C) an offense adjudicated under Article 45.051 or 45.0511, Code of Criminal Procedure; or

(D) an offense under Section 545.4251.

SECTION 12. Sections 542.4031(a), (f), (g), and (h), Transportation Code, are amended to read as follows:

(a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay $50 [~~$30~~] as a state traffic fine. The person shall pay the state traffic fine when the person enters the person's plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

(1) a sentence is imposed on the person;

(2) the court defers final disposition of the person's case; or

(3) the person is placed on community supervision,

including deferred adjudication community supervision.

(f) A municipality or county may retain four [~~five~~] percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (e).

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 80 [~~67~~] percent to the credit of the undedicated portion of the general revenue fund; and

(2) 20 [~~33~~] percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 80 [~~67~~] percent of the money received under Subsection (e)(2) to the credit of the general revenue fund only until the total amount of the money deposited to the credit of the general revenue fund under Subsection (g)(1) [~~and Section 780.002(b), Health and Safety Code,~~] equals $250 million for that year. If in any state fiscal year the amount received by the comptroller under Subsection (e)(2) [~~those laws~~] for deposit to the credit of the general revenue fund under Subsection (g)(1) exceeds $250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.

SECTION 13. Section 601.233(a), Transportation Code, is amended to read as follows:

(a) A citation for an offense under Section 601.191 issued as a result of Section 601.053 must include, in type larger than other type on the citation, [~~except for the type of the statement required by Section 708.105,~~] the following statement:

"A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at the time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of financial responsibility."

SECTION 14. Subtitle I, Title 7, Transportation Code, is amended by adding Chapter 709 to read as follows:

CHAPTER 709. MISCELLANEOUS TRAFFIC FINES

Sec. 709.001. TRAFFIC FINE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) Except as provided by Subsection (c), in addition to the fine prescribed for the specific offense, a person who has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated shall pay a fine of:

(1) $3,000 for the first conviction within a 36-month period;

(2) $4,500 for a second or subsequent conviction within a 36-month period; and

(3) $6,000 for a first or subsequent conviction if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.16 or more at the time the analysis was performed.

(c) The judge of the convicting court shall waive all or part of the fine required by Subsection (b) if the judge determines that the person is indigent or unable to pay all or part of the fine required by that subsection without undue hardship.

(d) For the purposes of Subsection (c), there is a rebuttable presumption that the person is indigent and qualifies for a full waiver if the judge determines that the person's net income is 125 percent of the federal poverty level or less.

(e) For the purposes of Subsection (c), there is a rebuttable presumption that the person qualifies for a partial waiver if the person's net income is greater than 125 percent of the federal poverty level but less than 300 percent of the federal poverty level.

Sec. 709.002. REMITTANCE OF TRAFFIC FINES COLLECTED TO COMPTROLLER. (a) An officer collecting a traffic fine under Section 709.001 in a case in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the county treasury.

(b) Each calendar quarter, an officer collecting a traffic fine under Section 709.001 shall submit a report to the comptroller. The report must comply with Articles 103.005(c) and (d), Code of Criminal Procedure.

(c) The custodian of money in a municipal or county treasury may deposit money collected under Section 709.001 in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.

(d) A municipality or county may retain four percent of the money collected under Section 709.001 as a service fee for the collection if the county remits the funds to the comptroller within the period described by Subsection (c). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (c).

(e) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 80 percent to the credit of the undedicated

portion of the general revenue fund, to be used only for criminal justice purposes; and

(2) 20 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code, to be used only for the criminal justice purpose of funding designated trauma facilities, county and regional emergency medical services, and trauma care systems that provide trauma care and emergency medical services to victims of accidents resulting from traffic offenses.

(f) Money collected under this section is subject to audit by the comptroller. Money spent is subject to audit by the state auditor.

SECTION 15. Chapter 708, Transportation Code, is repealed.

SECTION 16. (a) The repeal by this Act of Chapter 708, Transportation Code, applies to any surcharge pending on the effective date of this Act, regardless of whether the surcharge was imposed before that date.

(b) The Department of Public Safety shall reinstate any driver's license that is suspended under Section 708.152, Transportation Code, as of the effective date of this Act if the only reason the driver's license was suspended is a failure to pay a surcharge under Chapter 708, Transportation Code.

SECTION 17. This Act takes effect September 1, 2019.

ADOPTED

VV

MAY 15 2019

Patsy Spaw

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Joan Huffman

Amend H.B. No. 2048 (senate committee printing) in SECTION 12 of the bill as follows:

(1) In amended Section 542.4031(g)(1), Transportation Code (page 5, line 35), strike "80" and substitute "70".

(2) In amended Section 542.4031(g)(2), Transportation Code (page 5, line 37), strike "20" and substitute "30".

(3) In amended Section 542.4031(h), Transportation Code (page 5, line 41), strike "80" and substitute "70".

ADOPTED

vv

MAY 15 2019

Patsy Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 2 BY: Joan Huffman

Amend H.B. No. 2048 (senate committee printing) in SECTION 14 of the bill, in added Section 709.001(b)(3), Transportation Code (page 6, line 17), by striking "<u>0.16</u>" and substituting "<u>0.15</u>".

ADOPTED

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MAY 15 2019

Patsy Spaw

Secretary of the Senate

FLOOR AMENDMENT NO. 3 BY: Joan Huffman

Amend H.B. No. 2048 (senate committee printing) in SECTION 14 of the bill, by striking added Sections 709.001(c), (d), and (e), Transportation Code (page 6, lines 19-31), and substituting the following:

(c) If the court having jurisdiction over an offense that is the basis for a fine imposed under this section makes a finding that the person is indigent, the court shall waive all fines and costs imposed on the person under this section.

(d) A person must provide information to the court in which the person is convicted of the offense that is the basis for the fine to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 17, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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

**IN RE:** **HB2048** by Zerwas (Relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2048, As Passed 2nd House: a negative impact of ($15,041,072) through the biennium ending August 31, 2021. The General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 would experience a revenue gain of $31,815,000 through the biennium.

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:**

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2020 | ($7,302,036) |
| 2021 | ($7,739,036) |
| 2022 | ($8,183,036) |
| 2023 | ($8,634,036) |
| 2024 | ($9,091,036) |

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

| Fiscal Year | Probable Savings/(Cost) from *General Revenue Fund* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund (Vendor Compensation)* 1 | Probable Savings/(Cost) from *General Revenue Fund (Appropriation to the Automobile Burglary and Theft Prevention Authority)* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund* 1 |
|---|---|---|---|---|
| 2020 | $14,279,551 | ($11,433,587) | ($19,441,000) | $9,293,000 |
| 2021 | $14,279,551 | ($11,433,587) | ($19,733,000) | $9,148,000 |
| 2022 | $14,279,551 | ($11,433,587) | ($20,029,000) | $9,000,000 |
| 2023 | $14,279,551 | ($11,433,587) | ($20,329,000) | $8,849,000 |
| 2024 | $14,279,551 | ($11,433,587) | ($20,634,000) | $8,697,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Trauma Facility And Ems* 5111 | Probable Revenue Gain/(Loss) from *Local Government* | Change in Number of State Employees from FY 2019 |
|---|---|---|---|
| 2020 | $15,460,000 | $4,076,000 | (43.0) |
| 2021 | $16,355,000 | $4,076,000 | (43.0) |
| 2022 | $17,223,000 | $4,076,000 | (43.0) |
| 2023 | $18,124,000 | $4,076,000 | (43.0) |
| 2024 | $19,039,000 | $4,076,000 | (43.0) |

**Fiscal Analysis**

The bill would repeal the Driver Responsibility Program (DRP) and eliminate the surcharges assessed on drivers convicted of certain driving offenses. The bill would forgive surcharges assessed on or before the effective date of the bill, and reinstate any driver's license suspended only because of a failure to pay a DRP surcharge.

The bill would amend the Health and Human Safety Code to remove provisions that allocate DRP surcharge revenue to the General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 (Account 5111) and the General Revenue Fund. The bill would remove references to the allocation of DRP surcharge and state traffic fine revenue to the Texas Mobility Fund No. 365 (TMF) that would occur if combined deposits to the General Revenue Fund from these sources in a fiscal year reach $250 million. Under the bill's provisions, if state traffic fine revenue exceeded $250 million in a fiscal year, the Comptroller of Public Accounts (CPA) would deposit the additional amount to the TMF.

The bill would change the allocation of payments from Account 5111 from at least 96 percent to at least 94 percent to fund a portion of uncompensated trauma care, from not more than 2 percent to 3 percent to fund emergency medical services, and from not more than 1 percent to 2 percent to fund regional advisory councils.

The bill would increase the fee that motor vehicle insurance companies pay per motor vehicle year to the Automobile Burglary and Theft Prevention Authority (ABTPA) from $2 to $4, and change the allocation of the fee revenue. The bill would change the allocation of fee revenue to ABTPA from 50 percent to 20 percent and to the General Revenue fund from 50 percent to 20 percent to be used only for criminal justice purposes. The remain 60 percent would be allocated to the Account 5111 to be used only for the criminal justice purpose of funding designated trauma facilities, county and regional emergency medical services, and trauma care systems.

The bill would increase the state traffic fine from $30 to $50, reduce the amount retained by local governments that collect the fine as a service fee, and change the allocation of the state traffic fine between Account 5111 and the General Revenue Fund. The bill would decrease the service fee that may be retained by local governments from 5 to 4 percent, and change the allocation of state traffic fine receipts to Account 5111 from 33 percent to 30 percent and to the General Revenue Fund from 67 percent to 70 percent.

The bill would establish, in addition to the fine prescribed for the specific offense, a fine of $3,000 for the first conviction of certain intoxicated driver offenses within a 36-month period; $4,500 for a second conviction in a 36-month period; and $6,000 if the person's blood, breath, or urine showed an alcohol concentration over a certain amount.

The new fines would be assessed once, rather than each year for a three-year period under DRP. The new fines would be collected by local governments and remitted to CPA on a quarterly basis. The bill would authorize local governments to retain a service fee equal to four percent of collections as well as interest accrued if the funds are remitted within the prescribed period.

This bill would take effect September 1, 2019.

Note: 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, 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.

**Methodology**

According to CPA, the repeal of DRP surcharges would result in a $72.0 million loss to General Revenue for each fiscal year and a $69.2 million loss to Account 5111 for each fiscal year.

These revenue losses would be offset by three revenue sources: an increase in the ABTPA assessment on motor vehicle insurance companies from $2 to $4 per motor vehicle year, an increase in the state traffic fine from $30 to $50, and fines for convictions of driving while intoxicated (DWI).

According to CPA, the increase in the ABTPA assessment fee from $2 to $4 and allocation to Account 5111 would result in a gain of $58.3 million in fiscal year 2020 and $59.2 million in fiscal year 2021 to Account 5111. The reduction in allocation to General Revenue would result in a revenue loss of $9.7 million in fiscal year 2020 and $9.8 million in fiscal year 2021 to General Revenue. Under current law, revenue from the ABTPA assessment fee is undedicated General Revenue, although up to 50 percent may be appropriated to the ABTPA. In the House Committee Substitute for House Bill 1 and the Senate Committee Substitute for House Bill 1, the ABTPA is appropriated $12.8 million in each fiscal year of the 2020-21 biennium. The bill would require the appropriation of 20 percent of the ABTPA fee to the ABTPA, which would result in a cost of $19.4 million in fiscal year 2020 and $19.7 million in fiscal year 2021 to General Revenue.

The $50 state traffic fine, assuming no change in collection rate, and the adjustment of the allocation of the revenue derived from the fine between General Revenue and Account 5111 would result in a gain of $37.7 million per year for General Revenue and a gain of $13.0 million per year for Account 5111.

The new DWI fines and the adjusted allocation would generate an estimated $53.3 million each fiscal year for General Revenue and $13.3 million each year for Account 5111.

According the Texas Department of Transportation (TxDOT), the provision eliminating the potential for diversion of DRP and state traffic fine revenue from General Revenue to the TMF would have no fiscal impact, as the conditions required for that allocation have never been met.

The repeal of DRP would also eliminate DRP administration costs. According to LBB analysis, the total cost of administering DRP is an estimated $14.3 million per year or $28.6 million each biennium, including Department of Public Safety (DPS) program staff and operating costs ($2.8 million each fiscal year and 43.0 full-time equivalent positions), and compensation (an estimated $11.4 million each fiscal year) to the vendor that, among other things, collects the surcharges. However, the cost savings of the $11.4 million in vendor compensation is also considered a General Revenue loss, as that revenue is generated by additional vendor fees and is remitted to CPA before it is distributed to the vendor.

The Department of State Health Services (DSHS) indicates that the bill's reallocation of payments from Account 5111 may reduce available funding to offset uncompensated trauma care for designated facilities, increase available funding for regional advisory councils, and increase available funding for emergency medical services providers.

The aggregate impact of the bill's provisions for the 2020-21 biennium is a negative impact of $15.0 million for General Revenue and a gain of $31.8 million for Account 5111.

**Technology**

DPS indicates that they would require contractors to provide programming support to modify the Driver License System and discontinue the DRP assessment of surcharges. Based on the LBB's analysis of DPS, these activities could be accomplished with existing resources.

**Local Government Impact**

Based on the increase in the state traffic fine, assuming no change in compliance rates, and the new 4 percent service fee for collecting the new fines for DWI related offenses, CPA estimates that local government revenue would increase on an annual basis by approximately $4.1 million. Revenue from increasing the state traffic fine from $30 to $50 is expected to more than offset any loss associated with reducing the service fee from 5 to 4 percent.

The Texas Department of Motor Vehicles indicates that local entities would benefit from increased availability of funding for state grants from the ABTPA.

The Texas Municipal League estimates there may be a negative fiscal impact to cities in their municipal courts based on provisions of the bill, but the exact amount cannot be determined at this time.

The Texas Association of Counties does not anticipate a fiscal implication to counties.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of

**LBB Staff:** WP, KK, JQ, MNa, SD, LBO

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

# FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

**May 7, 2019**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

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

**IN RE:** **HB2048** by Zerwas (Relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2048, As Engrossed: a positive impact of $9,928,928 through the biennium ending August 31, 2021. The General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 would experience a revenue gain of $6,826,000 through the biennium.

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:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2020 | $5,182,964 |
| 2021 | $4,745,964 |
| 2022 | $4,301,964 |
| 2023 | $3,850,964 |
| 2024 | $3,393,964 |

## All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from *General Revenue Fund* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund (Vendor Compensation)* 1 | Probable Savings/(Cost) from *General Revenue Fund (Appropriation to the Automobile Burglary and Theft Prevention Authority)* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund* 1 |
|---|---|---|---|---|
| 2020 | $14,279,551 | ($11,433,587) | ($19,441,000) | $21,778,000 |
| 2021 | $14,279,551 | ($11,433,587) | ($19,733,000) | $21,633,000 |
| 2022 | $14,279,551 | ($11,433,587) | ($20,029,000) | $21,485,000 |
| 2023 | $14,279,551 | ($11,433,587) | ($20,329,000) | $21,334,000 |
| 2024 | $14,279,551 | ($11,433,587) | ($20,634,000) | $21,182,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Trauma Facility And Ems* 5111 | Probable Revenue Gain/(Loss) from *Local Government* | Change in Number of State Employees from FY 2019 |
|---|---|---|---|
| 2020 | $2,976,000 | $4,076,000 | (43.0) |
| 2021 | $3,850,000 | $4,076,000 | (43.0) |
| 2022 | $4,738,000 | $4,076,000 | (43.0) |
| 2023 | $5,640,000 | $4,076,000 | (43.0) |
| 2024 | $6,555,000 | $4,076,000 | (43.0) |

## Fiscal Analysis

The bill would repeal the Driver Responsibility Program (DRP) and eliminate the surcharges assessed on drivers convicted of certain driving offenses. The bill would forgive surcharges assessed on or before the effective date of the bill, and reinstate any driver's license suspended only because of a failure to pay a DRP surcharge.

The bill would amend the Health and Human Safety Code to remove provisions that allocate DRP surcharge revenue to the General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 (Account 5111) and the General Revenue Fund. The bill would remove references to the allocation of DRP surcharge and state traffic fine revenue to the Texas Mobility Fund No. 365 (TMF) that would occur if combined deposits to the General Revenue Fund from these sources in a fiscal year reach $250 million. Under the bill's provisions, if state traffic fine revenue exceeded $250 million in a fiscal year, the Comptroller of Public Accounts (CPA) would deposit the additional amount to the TMF.

The bill would change the allocation of payments from Account 5111 from at least 96 percent to at least 94 percent to fund a portion of uncompensated trauma care, from not more than 2 percent to 3 percent to fund emergency medical services, and from not more than 1 percent to 2 percent to fund regional advisory councils.

The bill would increase the fee that motor vehicle insurance companies pay per motor vehicle year to the Automobile Burglary and Theft Prevention Authority (ABTPA) from $2 to $4, and change the allocation of the fee revenue. The bill would change the allocation of fee revenue to ABTPA from 50 percent to 20 percent and to the General Revenue fund from 50 percent to 20 percent to be used only for criminal justice purposes. The remain 60 percent would be allocated to the Account 5111 to be used only for the criminal justice purpose of funding designated trauma facilities, county and regional emergency medical services, and trauma care systems.

The bill would increase the state traffic fine from $30 to $50, reduce the amount retained by local governments that collect the fine as a service fee, and change the allocation of the state traffic fine between Account 5111 and the General Revenue Fund. The bill would decrease the service fee that may be retained by local governments from 5 to 4 percent, and change the allocation of state traffic fine receipts to Account 5111 from 33 percent to 20 percent and to the General Revenue Fund from 67 percent to 80 percent.

The bill would establish, in addition to the fine prescribed for the specific offense, a fine of $3,000 for the first conviction of certain intoxicated driver offenses within a 36-month period; $4,500 for a second conviction in a 36-month period; and $6,000 if the person's blood, breath, or urine showed an alcohol concentration over a certain amount.

The new fines would be assessed once, rather than each year for a three-year period under DRP. The new fines would be collected by local governments and remitted to CPA on a quarterly basis. The bill would authorize local governments to retain a service fee equal to four percent of collections as well as interest accrued if the funds are remitted within the prescribed period. All funds remitted to the CPA would be deposited as follows: 80 percent to the General Revenue Fund and 20 percent to Account 5111.

This bill would take effect September 1, 2019.

Note: 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, 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.

**Methodology**

According to CPA, the repeal of DRP surcharges would result in a $72.0 million loss to General Revenue for each fiscal year and a $69.2 million loss to Account 5111 for each fiscal year.

These revenue losses would be offset by three revenue sources: an increase in the ABTPA assessment on motor vehicle insurance companies from $2 to $4 per motor vehicle year, an increase in the state traffic fine from $30 to $50, and fines for convictions of driving while intoxicated (DWI).

According to CPA, the increase in the ABTPA assessment fee from $2 to $4 and allocation to Account 5111 would result in a gain of $58.3 million in fiscal year 2020 and $59.2 million in fiscal year 2021 to Account 5111. The reduction in allocation to General Revenue would result in a revenue loss of $9.7 million in fiscal year 2020 and $9.8 million in fiscal year 2021 to General Revenue. Under current law, revenue from the ABTPA assessment fee is undedicated General Revenue, although up to 50 percent may be appropriated to the ABTPA. In the House Committee Substitute for House Bill 1 and the Senate Committee Substitute for House Bill 1, the ABTPA is appropriated $12.8 million in each fiscal year of the 2020-21 biennium. The bill would require the appropriation of 20 percent of the ABTPA fee to the ABTPA, which would result in a cost of $19.4 million in fiscal year 2020 and $19.7 million in fiscal year 2021 to General Revenue.

The $50 state traffic fine, assuming no change in collection rate, and the adjustment of the allocation of the revenue derived from the fine between General Revenue and Account 5111 would result in a gain of $50.2 million per year for General Revenue and a gain of $507,187 million per year for Account 5111.

The new DWI fines and the adjusted allocation would generate an estimated $53.3 million each fiscal year for General Revenue and $13.3 million each year for Account 5111.

According the Texas Department of Transportation (TxDOT), the provision eliminating the potential for diversion of DRP and state traffic fine revenue from General Revenue to the TMF would have no fiscal impact, as the conditions required for that allocation have never been met.

The repeal of DRP would also eliminate DRP administration costs. According to LBB analysis, the total cost of administering DRP is an estimated $14.3 million per year or $28.6 million each biennium, including Department of Public Safety (DPS) program staff and operating costs ($2.8 million each fiscal year and 43.0 full-time equivalent positions), and compensation (an estimated $11.4 million each fiscal year) to the vendor that, among other things, collects the surcharges. However, the cost savings of the $11.4 million in vendor compensation is also considered a General Revenue loss, as that revenue is generated by additional vendor fees and is remitted to CPA before it is distributed to the vendor.

The Department of State Health Services (DSHS) indicates that the bill's reallocation of payments from Account 5111 may reduce available funding to offset uncompensated trauma care for designated facilities, increase available funding for regional advisory councils, and increase available funding for emergency medical services providers.

The aggregate impact of the bill's provisions for the 2020-21 biennium is a positive impact of $9.9 million for General Revenue and a gain of $6.8 million for Account 5111.

**Technology**

DPS indicates that they would require contractors to provide programming support to modify the Driver License System and discontinue the DRP assessment of surcharges. Based on the LBB's analysis of DPS, these activities could be accomplished with existing resources.

**Local Government Impact**

Based on the increase in the state traffic fine, assuming no change in compliance rates, and the new 4 percent service fee for collecting the new fines for DWI related offenses, CPA estimates that local government revenue would increase on an annual basis by approximately $4.1 million. Revenue from increasing the state traffic fine from $30 to $50 is expected to more than offset any loss associated with reducing the service fee from 5 to 4 percent.

The Texas Department of Motor Vehicles indicates that local entities would benefit from increased availability of funding for state grants from the ABTPA.

The Texas Municipal League estimates there may be a negative fiscal impact to cities in their municipal courts based on provisions of the bill, but the exact amount cannot be determined at this time.

The Texas Association of Counties does not anticipate a fiscal implication to counties.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety, 529 Health and Human Services Commission, 537 State Health Services, Department of

**LBB Staff:** WP, KK, JQ, MNa, LBO

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 10, 2019**

**TO:** Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

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

**IN RE:** **HB2048** by Zerwas (relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2048, Committee Report 1st House, Substituted: a positive impact of $9,928,928 through the biennium ending August 31, 2021. The General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 would experience a revenue gain of $6,826,000 through the biennium.

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:**

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2020 | $5,182,964 |
| 2021 | $4,745,964 |
| 2022 | $4,301,964 |
| 2023 | $3,850,964 |
| 2024 | $3,393,964 |

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

| Fiscal Year | Probable Savings/(Cost) from *General Revenue Fund* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund (Vendor Compensation)* 1 | Probable Savings/(Cost) from *General Revenue Fund (Appropriation to the Automobile Burglary and Theft Prevention Authority)* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund* 1 |
|---|---|---|---|---|
| 2020 | $14,279,551 | ($11,433,587) | ($19,441,000) | $21,778,000 |
| 2021 | $14,279,551 | ($11,433,587) | ($19,733,000) | $21,633,000 |
| 2022 | $14,279,551 | ($11,433,587) | ($20,029,000) | $21,485,000 |
| 2023 | $14,279,551 | ($11,433,587) | ($20,329,000) | $21,334,000 |
| 2024 | $14,279,551 | ($11,433,587) | ($20,634,000) | $21,182,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Trauma Facility And Ems* 5111 | Probable Revenue Gain/(Loss) from *Local Government* | Change in Number of State Employees from FY 2019 |
|---|---|---|---|
| 2020 | $2,976,000 | $4,076,000 | (43.0) |
| 2021 | $3,850,000 | $4,076,000 | (43.0) |
| 2022 | $4,738,000 | $4,076,000 | (43.0) |
| 2023 | $5,640,000 | $4,076,000 | (43.0) |
| 2024 | $6,555,000 | $4,076,000 | (43.0) |

**Fiscal Analysis**

The bill would repeal the Driver Responsibility Program (DRP) and eliminate the surcharges assessed on drivers convicted of certain driving offenses. The bill would forgive surcharges assessed on or before the effective date of the bill, and reinstate any driver's license suspended only because of a failure to pay a DRP surcharge.

The bill would amend the Health and Human Safety Code to remove provisions that allocate DRP surcharge revenue to the General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 (Account 5111) and the General Revenue Fund. The bill would remove references to the allocation of DRP surcharge and state traffic fine revenue to the Texas Mobility Fund No. 365 (TMF) that would occur if combined deposits to the General Revenue Fund from these sources in a fiscal year reach $250 million. Under the bill's provisions, if state traffic fine revenue exceeded $250 million in a fiscal year, the Comptroller of Public Accounts (CPA) would deposit the additional amount to the TMF.

The bill would increase the fee that motor vehicle insurance companies pay per motor vehicle year to the Automobile Burglary and Theft Prevention Authority (ABTPA) from $2 to $4, and change the allocation of the fee revenue. The bill would change the allocation of fee revenue to ABTPA from 50 percent to 20 percent and to the General Revenue fund from 50 percent to 20 percent. The remain 60 percent would be allocated to the Account 5111.

The bill would increase the state traffic fine from $30 to $50, reduce the amount retained by local governments that collect the fine as a service fee, and change the allocation of the state traffic fine between Account 5111 and the General Revenue Fund. The bill would decrease the service fee that may be retained by local governments from 5 to 4 percent, and change the allocation of state traffic fine receipts to Account 5111 from 33 percent to 20 percent and to the General Revenue

Fund from 67 percent to 80 percent.

The bill would establish, in addition to the fine prescribed for the specific offense, a fine of $3,000 for the first conviction of certain intoxicated driver offenses within a 36-month period; $4,500 for a second conviction in a 36-month period; and $6,000 if the person's blood, breath, or urine showed an alcohol concentration over a certain amount.

The new fines would be assessed once, rather than each year for a three-year period under DRP. The new fines would be collected by local governments and remitted to CPA on a quarterly basis. The bill would authorize local governments to retain a service fee equal to four percent of collections as well as interest accrued if the funds are remitted within the prescribed period. All funds remitted to the CPA would be deposited as follows: 80 percent to the General Revenue Fund and 20 percent to Account 5111.

This bill would take effect September 1, 2019.

Note: 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, 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.

## Methodology

According to CPA, the repeal of DRP surcharges would result in a $72.0 million loss to General Revenue for each fiscal year and a $69.2 million loss to Account 5111 for each fiscal year.

These revenue losses would be offset by three revenue sources: an increase in the ABTPA assessment on motor vehicle insurance companies from $2 to $4 per motor vehicle year, an increase in the state traffic fine from $30 to $50, and fines for convictions of driving while intoxicated (DWI).

According to CPA, the increase in the ABTPA assessment fee from $2 to $4 and allocation to Account 5111 would result in a gain of $58.3 million in fiscal year 2020 and $59.2 million in fiscal year 2021 to Account 5111. The reduction in allocation to General Revenue would result in a revenue loss of $9.7 million in fiscal year 2020 and $9.8 million in fiscal year 2021 to General Revenue. Under current law, revenue from the ABTPA assessment fee is undedicated General Revenue, although up to 50 percent may be appropriated to the ABTPA. In the Committee Substitute for House Bill 1 and the Committee Substitute for Senate Bill 1, the ABTPA is appropriated $12.8 million in each fiscal year of the 2020-21 biennium. The bill would require the appropriation of 20 percent of the ABTPA fee to the ABTPA, which would result in a cost of $19.4 million in fiscal year 2020 and $19.7 million in fiscal year 2021 to General Revenue.

The $50 state traffic fine, assuming no change in collection rate, and the adjustment of the allocation of the revenue derived from the fine between General Revenue and Account 5111 would result in a gain of $50.2 million per year for General Revenue and a gain of $507,187 million per year for Account 5111.

The new DWI fines and the adjusted allocation would generate an estimated $53.3 million each fiscal year for General Revenue and $13.3 million each year for Account 5111.

According the Texas Department of Transportation (TxDOT), the provision eliminating the potential for diversion of DRP and state traffic fine revenue from General Revenue to the TMF would have no fiscal impact, as the conditions required for that allocation have never been met.

The repeal of DRP would also eliminate DRP administration costs. According to LBB analysis, the total cost of administering DRP is an estimated $14.3 million per year or $28.6 million each biennium, including Department of Public Safety (DPS) program staff and operating costs ($2.8 million each fiscal year and 43.0 full-time equivalent positions), and compensation (an estimated $11.4 million each fiscal year) to the vendor that, among other things, collects the surcharges. However, the cost savings of the $11.4 million in vendor compensation is also considered a General Revenue loss, as that revenue is generated by additional vendor fees and is remitted to CPA before it is distributed to the vendor.

The aggregate impact of the bill's provisions for the 2020-21 biennium is a positive impact of $9.9 million for General Revenue and a gain of $6.8 million for Account 5111.

## Technology

DPS indicates that they would require contractors to provide programming support to modify the Driver License System and discontinue the DRP assessment of surcharges. Based on the LBB's analysis of DPS, these activities could be accomplished with existing resources.

## Local Government Impact

Based on the increase in the state traffic fine, assuming no change in compliance rates, and the new 4 percent service fee for collecting the new fines for DWI related offenses, CPA estimates that local government revenue would increase on an annual basis by approximately $4.1 million. Revenue from increasing the state traffic fine from $30 to $50 is expected to more than offset any loss associated with reducing the service fee from 5 to 4 percent.

The Texas Department of Motor Vehicles indicates that local entities would benefit from increased availability of funding for state grants from the ABTPA.

The Texas Municipal League estimates there may be a negative fiscal impact to cities in their municipal courts based on provisions of the bill, but the exact amount cannot be determined at this time.

The Texas Association of Counties does not anticipate a fiscal implication to counties.

**Source Agencies:** 304 Comptroller of Public Accounts, 405 Department of Public Safety
**LBB Staff:** WP, LBO, JQ, MNa

# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

**April 2, 2019**

**TO:** Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

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

**IN RE:** **HB2048** by Zerwas (Relating to the repeal of the driver responsibility program and the amount and allocation of state traffic fine funds; eliminating program surcharges; authorizing and increasing criminal fines; increasing a fee.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2048, As Introduced: a negative impact of ($28,511,025) through the biennium ending August 31, 2021. The General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 would experience a revenue gain of $45,117,000 through the biennium.

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:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|---|---|
| 2020 | ($14,110,989) |
| 2021 | ($14,400,036) |
| 2022 | ($14,844,036) |
| 2023 | ($15,294,036) |
| 2024 | ($15,752,036) |

### All Funds, Five-Year Impact:

| Fiscal Year | Probable Savings/(Cost) from *General Revenue Fund* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund - Vendor Compensation* 1 | Probable Savings/(Cost) from *General Revenue Fund (Appropriation to the Automobile Burglary and Theft Prevention Authority)* 1 | Probable Revenue Gain/(Loss) from *General Revenue Fund* 1 |
|---|---|---|---|---|
| 2020 | $14,130,598 | ($11,433,587) | ($19,441,000) | $2,633,000 |
| 2021 | $14,279,551 | ($11,433,587) | ($19,733,000) | $2,487,000 |
| 2022 | $14,279,551 | ($11,433,587) | ($20,029,000) | $2,339,000 |

| | | | | |
|---|---|---|---|---|
| 2023 | $14,279,551 | ($11,433,587) | ($20,329,000) | $2,189,000 |
| 2024 | $14,279,551 | ($11,433,587) | ($20,634,000) | $2,036,000 |

| Fiscal Year | Probable Revenue Gain/(Loss) from *Trauma Facility And Ems* 5111 | Probable Revenue Gain/(Loss) from *Local Government* | Change in Number of State Employees from FY 2019 |
|---|---|---|---|
| 2020 | $22,121,000 | $4,076,000 | (43.0) |
| 2021 | $22,996,000 | $4,076,000 | (43.0) |
| 2022 | $23,884,000 | $4,076,000 | (43.0) |
| 2023 | $24,785,000 | $4,076,000 | (43.0) |
| 2024 | $25,700,000 | $4,076,000 | (43.0) |

## Fiscal Analysis

The bill would repeal the Driver Responsibility Program (DRP) and eliminate the surcharges assessed on drivers convicted of certain driving offenses. The bill would forgive surcharges assessed on or before the effective date of the bill, and reinstate any driver's license suspended only because of a failure to pay a DRP surcharge.

The bill would amend the Health and Human Safety Code to remove provisions that allocate DRP surcharge revenue to the General Revenue-Dedicated Designated Trauma Facility and Emergency Medical Services Account No. 5111 (Account 5111) and the General Revenue Fund. The bill would remove references to the allocation of DRP surcharge and state traffic fine revenue to the Texas Mobility Fund No. 365 (TMF) that would occur if combined deposits to the General Revenue Fund from these sources in a fiscal year reach $250 million. Under the bill's provisions, if state traffic fine revenue exceeded $250 million in a fiscal year, the Comptroller of Public Accounts (CPA) would deposit the additional amount to the TMF.

The bill would increase the fee that motor vehicle insurance companies pay per motor vehicle each year to the Automobile Burglary and Theft Prevention Authority (ABTPA) from $2 to $4, and change the allocation of the fee revenue. The bill would change the allocation of fee revenue to ABTPA from 50 percent to 20 percent and to the General Revenue fund from 50 percent to 20 percent. The remaining 60 percent would be allocated to the Account 5111.

The bill would increase the state traffic fine from $30 to $50, reduce the amount retained by local governments that collect the fine as a service fee, and change the allocation of the state traffic fine between Account 5111 and the General Revenue Fund. The bill would decrease the service fee that may be retained by local governments from 5 to 4 percent, and change the allocation of state traffic fine receipts to Account 5111 from 33 percent to 30 percent and to the General Revenue Fund from 67 percent to 70 percent.

The bill would establish, in addition to the fine prescribed for the specific offense, a fine of $3,000 for the first conviction of certain intoxicated driver offenses within a 36-month period; $4,500 for a second conviction in a 36-month period; and $6,000 if the person's blood, breath, or urine showed an alcohol concentration over a certain amount.

The new fines would be assessed once, rather than each year for a three-year period under DRP. The new fines would be collected by local governments and remitted to CPA on a quarterly basis. The bill would authorize local governments to retain a service fee equal to four percent of collections as well as interest accrued if the funds are remitted within the prescribed period. All funds remitted to the CPA would be deposited as follows: 70 percent to the General Revenue Fund and 30 percent to Account 5111.

This bill would take effect September 1, 2019.

Note: 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 in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, 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.

**Methodology**

According to CPA, the repeal of DRP surcharges would result in a $72.0 million loss to General Revenue for each fiscal year and a $69.2 million loss to Account 5111 for each fiscal year.

These revenue losses would be partially offset by three revenue sources: an increase in the ABTPA assessment on motor vehicle insurance companies from $2 to $4 per motor vehicle year, an increase in the state traffic fine from $30 to $50, and fines for convictions of driving while intoxicated (DWI).

According to CPA, the increase in the ABTPA assessment fee from $2 to $4 and allocation to Account 5111 would result in a gain of $58.3 million in fiscal year 2020 and $59.2 million in fiscal year 2021 to Account 5111. The reduction in allocation to General Revenue would result in a revenue loss of $9.7 million in fiscal year 2020 and $9.8 million in fiscal year 2021 to General Revenue. Under current law, revenue from the ABTPA assessment fee is undedicated General Revenue, although up to 50 percent may be appropriated to the ABTPA. The bill would require the appropriation of 20 percent of the ABTPA fee to the ABTPA, which would result a cost of $19.4 million in fiscal year 2020 and $19.7 million in fiscal year 2021 to General Revenue.

The $50 state traffic fine, assuming no change in collection rate, and the adjustment of the allocation of the revenue derived from the fine between General Revenue and Account 5111 would result in a gain of $37.7 million per year for General Revenue and a gain of $13.0 million per year for Account 5111.

The new DWI fines and the adjusted allocation would generate an estimated $46.6 million each fiscal year for General Revenue and $20.0 million each year for Account 5111.

According the Texas Department of Transportation (TxDOT), the provision eliminating the potential for diversion of DRP and state traffic fine revenue from General Revenue to the TMF would have no fiscal impact, as the conditions required for that allocation have never been met.

The repeal of DRP would also eliminate DRP administration costs. According to LBB analysis, the total cost of administering DRP is an estimated $14.3 million per year or $28.6 million each biennium, including Department of Public Safety (DPS) program staff and operating costs ($2.8 million each fiscal year and 43.0 full-time equivalent positions), and compensation (an estimated $11.4 million each fiscal year) to the vendor that, among other things, collects the surcharges. However, the cost savings of the $11.4 million in vendor compensation is also considered a General Revenue loss, as that revenue is generated by additional vendor fees and is remitted to CPA before it is distributed to the vendor.

The aggregate impact of the bill's provisions for the 2020-21 biennium is a negative impact of $28.5 million for General Revenue and a gain of $45.1 million for Account 5111.

DPS indicates that they would require contractors to provide programming support to modify the Driver License System and discontinue the DRP assessment of surcharges. Based on the LBB's analysis of DPS, these activities could be accomplished by utilizing existing resources.

**Technology**

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**Local Government Impact**

Based on the increase in the state traffic fine, assuming no change in compliance rates, and the new 4 percent service fee for collecting the new fines for DWI related offenses, CPA estimates that local government revenue would increase on an annual basis by approximately $4.1 million. Revenue from increasing the state traffic fine from $30 to $50 is expected to more than offset any loss associated with reducing the service fee from 5 to 4 percent.

The Texas Department of Motor Vehicles indicates that local entities would benefit from increased availability of funding for state grants from the ABTPA.

The Texas Municipal League estimates there may be a negative fiscal impact to cities in their municipal courts based on provisions of the bill, but the exact amount cannot be determined at this time.

The Texas Association of Counties does not anticipate a fiscal implication to counties.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 601 Department of Transportation, 608 Department of Motor Vehicles

**LBB Staff:** WP, LBO, JQ, MNa, AF