

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 23, 2007

TO: Honorable Wayne Smith, Chair, House Committee on County Affairs

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

IN RE: HB1892 by Smith, Wayne (Relating to the authority of certain counties and other entities with respect to certain transportation projects.), **Committee Report 1st House, Substituted**

It is assumed the fiscal implications to the state would depend on the number of counties and the number of projects that would use state right-of-way owned by TxDOT without payment and, therefore, cannot be determined at this time.

The bill would amend the Transportation Code to clarify that payments received by the Texas Department of Transportation (TxDOT) or the Texas Transportation Commission (TTC) under a comprehensive development agreement shall be expended on certain projects in the same department district as the project or facilities to which the payments are attributable. The bill would specify that a county is the entity that has the primary responsibility for the financing, construction, and operation of a toll project located in the county.

The bill would require TTC or TxDOT to provide a county the first option to finance, construct, or operate a portion of a toll project in the county before TTC or TxDOT could enter into a contract for those purposes. The bill would authorize a county to exercise the powers of a regional mobility authority in connection with certain projects and would give a county the same authority granted to TxDOT to enter into a comprehensive development agreement. The bill would authorize a county's plans for certain transportation projects to provide for and permit the use of state and federal funds and specifies that a plan is not subject to approval, supervision, or regulation by TTC or TxDOT.

The bill would grant a county all powers of TxDOT related to the development of a Trans-Texas Corridor project if a county requests or is requested by TxDOT to participate in the project. The bill would authorize a county to use state highway right-of-way or access to the state highway system regardless of when or how the right-of-way or access was acquired. The bill would specify that TxDOT or the TTC may not require payment for the right-of-way or access, except to reimburse TxDOT or TTC for costs incurred or to be incurred by a third-party, including the federal government, as a result of the use by the county.

TxDOT indicates that the state's federal highway funding could be jeopardized under certain provisions of the bill, and it is assumed federal penalties could accrue depending on the number and scope of projects in violation of federal requirements. Currently, TxDOT is the state administrative entity granted authority by the federal government to oversee or conduct environmental and design and build reviews for any major roadway receiving federal aid or intersecting a federal-aid highway or a transit system subsidized by the federal government.

The bill would take effect immediately upon receiving a vote of two-thirds of all members elected to each house; otherwise it would take effect September 1, 2007.

Local Government Impact

It is assumed that a county or local government corporation would participate in the acquisition, creation, administration, financing, construction, improvement, maintenance, and/or operation of a toll project only if sufficient funds were available. Counties would see savings for these projects from not having to pay TxDOT for use of state highway right-of-way or access to the state highway system, but the savings, if any, would depend on the size of the local body, the size and type of projects constructed, and the nature of the any agreements entered into with TxDOT.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, SD, DB, MW, TG, KJG