

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB312 by Nichols (Relating to the continuation and functions of the Texas Department of Transportation; authorizing an increase in rates charged for the use of state aircraft to provide for the acquisition of replacement aircraft.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB312, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2019.

The table below includes the estimated impact to the State Highway Fund revenue that is anticipated to result from the cessation of toll collection on State Highway 255. In addition, the bill would result in an indeterminate positive impact to the State depending on the amount of funds contributed by the Department of Transportation for participation in the costs of local or private toll projects and the terms and conditions for the repayment of those funds.

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
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i>
2018	(\$1,940,620)
2019	(\$1,957,063)
2020	(\$1,973,507)
2021	(\$1,996,169)
2022	(\$2,036,396)

Fiscal Analysis

The bill would continue the Texas Department of Transportation (TxDOT) for 12 years, until September 1, 2029.

The bill would amend the Transportation Code to require TxDOT to include in its long-term plan for statewide passenger rail additional analyses on the effects of each proposed passenger rail system on road connectivity and statewide transportation planning.

The bill would require TxDOT to develop and display on its website a statewide transportation plan dashboard that communicates to the public the transportation system strategies, goals, and other performance measures included in the statewide transportation plan, and TxDOT's progress in meeting the system strategies, goals, and other performance measures. The bill would require TxDOT to semiannually publish on its website a project schedule and budget status report on all highway construction projects by district that have been completed.

The bill would require TxDOT to conduct an analysis on the effect of funding allocations made in the Unified Transportation Program (UTP) and project selection decisions on accomplishing goals described in the statewide transportation plan and provide this analysis and the department's methodology to metropolitan planning organizations (MPO), the public, and members of the Texas Transportation Commission (TTC), and publish the information on the TxDOT website.

The bill would require TxDOT to develop performance measures for each TxDOT district's project portfolio, track and report district performance, and review and evaluate project development activities in each district's project portfolio.

The bill would require TTC to adopt rules governing TxDOT's process for allowing MPOs direct access to information systems and software.

The bill would require the TTC by rule to require a hearing for projects that substantially change the layout or function of a connecting roadway or existing facility.

The bill would require the TTC to adopt rules to develop and implement a schedule of liquidated damages for highway improvement contracts that include criteria for identifying projects that have a significant impact on the traveling public and require TxDOT to calculate specific liquidated damages that reflect the true cost of travel delays for those identified projects. The bill would require TTC to adopt rules to develop a contractor performance evaluation tool that allows for the review and modification of a contractor's bidding capacity for competitively bid highway improvement contracts.

The bill would amend the Transportation Code to require the TTC to require the repayment of any money spent by TxDOT for participation in the costs of a toll facility of a public or private entity.

The bill would require a local toll project entity (including a regional tollway authority, a regional mobility authority, and a county toll road authority) to repay TxDOT any money contributed by TxDOT as participation in the cost of the entity's toll projects. A toll project entity would not be required to repay funds held in a toll project subaccount created under §228.012 or funds approved by the TTC without the requirement for repayment subject to an agreement between TxDOT and the entity on the terms of the department's contribution. The changes in law made by the bill would apply only to a loan, grant, or other contribution made by TxDOT or TTC on or after the effective date of the bill.

The bill would require, if a proposed state highway system improvement requires a highway closure, to coordinate the highway closure by communicating directly with public officials from municipalities affected by the closure to avoid any adverse economic impact on the municipalities during periods of increased travel on the state highway system or periods of high economic activity. The bill would require a contract for a proposed state highway improvement that requires the closing of a highway to include a provision identifying the days on which the highway may not be closed. The bill would require TxDOT to submit an annual report detailing all highway closures during the specified time periods and the estimated economic impact of those closures.

The bill would require TxDOT to design, construct, and erect highway markers to assign memorial designations on certain road segments on the state highway system, subject to Transportation Code §225.021(c).

The bill would amend the Transportation Code to make various changes to the fee structure and toll enforcement provisions for non-payment of tolls. The bill would cap administrative fees for nonpayment of tolls at \$6 and not more than \$48 in a 12-month period. The bill would repeal the misdemeanor offense for not paying a toll and \$250 fine and, instead, establish a civil penalty of up to \$25. The bill would remove TxDOT's authority to use certain remedies for habitual toll violators provided in Subchapter C, Chapter 372.

The bill would require TxDOT to allow free use of a TxDOT toll project by school buses.

The bill would amend Transportation Code §228.201 to repeal the authority for the TxDOT to operate or transfer a nontolled high-occupancy vehicle (HOV) lane as a toll project.

The bill would amend Chapter 228 of the Transportation Code to prohibit the Texas Department of Transportation (TxDOT) from operating any part of State Highway 255 in Webb County as a toll project.

The bill would require TxDOT to maintain the portion of Loop 375 in El Paso County known as the Cesar Chavez Freeway as part of the state highway system without tolls if the Camino Real Regional Mobility Authority votes to remove tolls from the facility.

The bill would amend Chapter 455 of the Transportation Code to require TxDOT implement a state safety oversight program for rail fixed guideway public transportation systems in Texas in accordance with 49 U.S.C. Section 5329. The bill would require TxDOT, in consultation with the Federal Transit Administration, to determine an appropriate staffing level for the state safety oversight program. The bill would require the Texas Transportation Commission to adopt rules to implement the program no later than March 1, 2019.

The bill would amend Chapter 550 of the Transportation Code to require local law enforcement agencies to submit crash reports to TxDOT electronically, effective September 1, 2019. The bill would repeal the requirement for vehicle operators to submit crash reports to TxDOT.

The bill would amend Chapter 2205 to require TxDOT to include in its long-range aircraft fleet plan an analysis of the impact of including capital recovery costs in the rates TxDOT charges for interagency services. The bill would authorize TxDOT to adopt rates for interagency aircraft services that include capital recovery costs in addition to the direct cost of services if TxDOT's long-range plan analysis finds that including capital recovery costs is a practicable fleet replacement strategy. The bill would require the capital recovery portion of the rates to be deposited to a separate account in the State Highway Fund, which could be used only for acquisition of aircraft for the pool operated by TxDOT.

The bill would take effect on September 1, 2017.

Methodology

The bill would prohibit TxDOT from operating State Highway 255 as a toll project. Pursuant to Chapter 228 of the Transportation Code, toll revenue from the project is deposited to the State Highway Fund (SHF). For the purpose of this analysis, it is assumed TxDOT would cease toll collection on the project beginning in fiscal year 2018 pursuant to the enactment of the legislation. Based on the analysis of TxDOT, it is assumed the bill would result in a revenue loss to the SHF of approximately \$2.0 million each fiscal year beginning in fiscal year 2018 and continuing beyond fiscal year 2022. The estimated revenue losses to the SHF are included in the table above.

The TTC is currently authorized, but not required, to require the repayment of money contributed by TxDOT for participation in the costs of a public or private toll project. If required by TTC, money repaid to TxDOT is required to be deposited to the fund from which the expenditure was made. Based on the information provided by TxDOT, it is assumed requiring the repayment of money contributed by TxDOT to a toll project entity would result in a positive impact to transportation funding. Because the amount of money that may be contributed by TxDOT on or after the effective date of the bill and the terms and conditions established by the TTC for repayment of that money is not known, the revenue gain to the State from any amounts required to be repaid to TxDOT cannot be estimated.

TxDOT reports that the amendment to Transportation Code §228.201 could prohibit currently planned projects that include the removal of HOV lanes and addition of high-occupancy toll lanes. Based on LBB's analysis of TxDOT, it is assumed any costs or duties associated with implementing this provision of the bill would be absorbed within the agency's current highway planning and construction resources.

TxDOT anticipates that implementation of the toll billing process changes required by the bill would require changes to its current toll operations system agreement and automated systems. Based on LBB's analysis of TxDOT, it is assumed any direct costs or duties associated with implementing the provisions of the bill could be absorbed within existing resources.

TxDOT reports that bond agreements for certain toll projects owned and operated by TxDOT, such as the Central Texas Turnpike System, require waived toll fees to be repaid to the toll system. This analysis assumes any costs associated reimbursing waived tolls for eligible school buses could be absorbed within the agency's existing resources.

Based on the analysis of TxDOT and the Sunset Advisory Commission (SAC), it is assumed the provisions of the bill requiring the electronic submission of crash reports from law enforcement agencies would result in an annual savings to the State Highway Fund (SHF) of approximately

\$1,025,000 beginning in fiscal year 2020 for contract data entry services and the costs of one full-time-equivalent (FTE) in current staff time needed to process paper reports. Also based on the analysis of TxDOT and SAC, it is assumed elimination of the vehicle operator's crash report would reduce the need for staff resources equivalent to 1.0 FTE, resulting in annual savings to the SHF of approximately \$46,000 beginning in fiscal year 2018. It is assumed any SHF savings resulting from these provisions of the bill would be reallocated to other highway safety programs and projects within TxDOT.

Based on the information provided by TxDOT and SAC, it is assumed the inclusion of travel delay costs in the calculation of liquidated damages for highway contracts would result in a positive fiscal impact. Because the amount of project-specific liquidated damages that may be calculated and assessed is not known, the fiscal impact cannot be estimated. Based on the information provided by SAC, it is assumed the positive fiscal impact would not be significant.

TxDOT indicates that the amendments to Chapter 455 of the Transportation Code would add investigation and enforcement authority to its current state safety oversight program responsibilities in accordance with current federal laws and regulations. TxDOT receives federal grant funding at an 80-20 federal/state match to fund the administration of the current state safety oversight program. Based on LBB's analysis of the information provided by TxDOT, it is assumed any additional costs or duties associated with implementing these provisions of the bill could be absorbed within the agency's current resources.

It is assumed TxDOT would adopt interagency aircraft services rates that include capital recovery costs only if the agency determines that it would be an effective fleet replacement strategy and not have a negative impact on customer utilization costs. If TxDOT were to adopt capital recovery rates, it is assumed the incremental rates charged would result in an insignificant positive fiscal impact to the SHF.

Based on the analysis of TxDOT, it is assumed any costs or duties associated with implementing other provisions of the bill could be absorbed within the agency's existing resources.

Local Government Impact

According to information provided by the Alamo Regional Mobility Authority, Cameron County Regional Mobility Authority, Camino Real Regional Mobility Authority, Central Texas Regional Mobility Authority, Grayson County Regional Mobility Authority, North East Texas Regional Mobility Authority, and Webb County-City of Laredo Regional Mobility Authority, the bill would have a negative fiscal impact to local toll project entities due to the prohibition of grants from state funds. Without additional grant aid, local toll project entities would likely see a decrease in revenue, which could result in increased overall project costs.

According to the Fort Bend Grand Parkway Toll Road Authority, the bill could impact improvement funding if certain segments of the Grand Parkway between FM-1093 and I-10 are not tolled.

Source Agencies: 116 Sunset Advisory Commission, 601 Department of Transportation

LBB Staff: UP, AG, EH, TG