

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 27, 2011

TO: Honorable Larry Phillips, Chair, House Committee on Transportation

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

IN RE: SB1420 by Hinojosa (Relating to the continuation and functions of the Texas Department of Transportation; providing penalties.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1420, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

The bill would re-appropriate in fiscal year 2012 any unobligated balance of any appropriations made to the Texas Department of Transportation for the 2010-11 biennium related to programs that would be transferred to the Department of Motor Vehicles.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Hwy Beautification Act</i> 71	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6
2012	(\$619,000)	\$619,000
2013	(\$628,000)	\$628,000
2014	(\$637,000)	\$637,000
2015	(\$647,000)	\$647,000
2016	(\$657,000)	\$657,000

Fiscal Analysis

The bill would amend provisions in the Transportation Code regarding the continuation and functions of the Texas Department of Transportation (TxDOT). The bill would extend the sunset abolition date for TxDOT to September 1, 2015. The bill would require TxDOT to submit a financial audit prepared by an independent certified public accountant along with the required agency report to the Sunset Advisory Commission prior to Sunset review.

The bill would authorize the Texas Transportation Commission (commission) to appoint an Inspector General who reports to the commission. The bill would prescribe the duties and responsibilities of the Inspector General.

The bill would amend requirements regarding the Statewide Transportation Plan (plan) to specify that the plan would cover a period of 20 years, be updated every four years, and be developed using funding assumptions for long-range planning developed in coordination with metropolitan planning organizations.

The bill would require TxDOT to establish a project information reporting system that makes all of TxDOT's transportation plans accessible and searchable on the TxDOT website. The bill would specify the information that must be contained in the reporting system. The bill would require TxDOT to conduct an annual review of the benchmarks and timelines of each project included in transportation plans to determine the completion rates of these projects.

The bill would require TxDOT to create a transportation expenditure reporting system and a policy for public involvement and report on comments received regarding environmental impact statements through this process. The information from these systems and reports would be required to be made available on TxDOT's website. The bill would require TxDOT to report annually on the attainment status of state transportation goals and a list of projects designated as major transportation projects. The bill would require the commission to specify formulas for allocating funds by rule and update these formulas at least every four years.

Under the provisions of the bill, each department district would be required to develop a formatted work program that contains all projects proposed for implementation during a four-year period. The bill would require the work program to be published on the department's website and in appropriate media.

The bill would amend Section 202.021, Transportation Code, to authorize the commission to waive payment for highway right-of-way no longer needed for a state highway purpose that is transferred to a governmental entity if the governmental entity assumes or has assumed jurisdiction, control, and maintenance of the right-of-way for public road purposes. The bill would require a grant transferring the right-of-way to include a provision that would automatically revert the property to the state if the right-of-way ceases to be used for public road purposes.

The bill would remove the requirement for TxDOT to publish notifications for bids on TxDOT contracts in newspapers, and authorizes the agency to determine an effective method for providing notification of bids.

The bill would authorize TxDOT to enter into a design-build contract that uses a competitive procurement process that considers best value for a nontolled highway project.

The bill would require money received from Highway Beautification Fees to State Highway Fund 0006 rather than the General Revenue-Dedicated Texas Highway Beautification Fund Account. The commission would be required to use this money to administer the regulation of outdoor advertising in addition to the Highway Beautification program.

The bill would authorize the commission to impose an administrative penalty against a person who violates Transportation Code, Chapter 391 (Highway Beautification on Interstate and Primary Systems and Certain Roads) in lieu of a suit to collect a penalty. The bill sets forth certain requirements that must be met before an administrative penalty is imposed, restricts the amount of the administrative penalty that may be imposed, and directs revenue from these penalties to the credit of the State Highway Fund No. 0006.

The commission would be required to establish, by rule, procedures for accepting and resolving written complaints related to outdoor advertising and outdoor signs on rural roads. TxDOT would be required to keep an information file about complaints that the department has the authority to resolve.

The bill would add sections to the Transportation Code to require the commission to issue a license to certain persons to erect or maintain an off-premise sign on a rural road and to erect or maintain outdoor advertising under Texas Transportation Code, Chapter 391 (Highway Beautification on Interstate and Primary Systems and Certain Roads). The bill authorizes the commission to set the amount of a license fee based on the number of off-premise signs owned by a license applicant and

creates a misdemeanor offense punishable by a fine within limits specified by the bill for erecting or maintaining an off-premise sign on a rural road without a license.

The bill would amend the Transportation Code to transfer the powers, duties, functions, programs, and activities of the TxDOT relating to oversized and overweight vehicles under Chapters 621, 622, and 623 to the Texas Department of Motor Vehicles (DMV) no later than January 1, 2012. The bill would also require the transfer to include all TxDOT funds, personnel, furniture, computers, and other property associated with the powers, duties, functions, programs, and activities relating to oversized and overweight. The bill would transfer and re-appropriate to DMV any unobligated and unexpended balance of any appropriations made to TxDOT for the state fiscal biennium ending August 31, 2011 (2010-11 biennium) for the transferred programs in fiscal year 2012. The bill would authorize DMV to enter into a memorandum of understanding (MOU) with a state agency, including TxDOT, if the board of the DMV determines the MOU is necessary or appropriate to implement the changes to the Transportation Code made by the bill. The MOU may provide for (1) the provision of office space, utilities, and other facility services, (2) the need for TxDOT full-time-equivalent positions to provide support services; and (3) the transfer of information technology to effectuate the transfer of functions from TxDOT to DMV.

The bill would take effect on September 1, 2011.

Methodology

The provisions of the bill would require fees currently deposited to the General Revenue-Dedicated Highway Beautification Account No. 71 to be deposited to State Highway Fund 6. Based on the analysis of the Comptroller's office, it is assumed the provisions of the bill would result in a revenue loss of \$619,000 to the Account No. 71 and an equal revenue gain to the State Highway Fund (Fund 6); and similar revenue losses to Account No. 71 and gains and gains to Fund 6 would continue each year thereafter as indicated in the tables above.

Based on the information provided by TxDOT and Sunset Advisory Commission Staff, it is assumed removal of requirements for TxDOT to post contract bid announcements in local newspapers would result in savings to the State Highway Fund. For the purposes of this analysis, it is assumed any savings realized from this provision of the bill would be reallocated by TxDOT for other transportation planning purposes and to implement the provisions of the bill; and, therefore, any potential costs savings are not reflected in the tables above.

Based on the analysis of TxDOT and the General Land Office, it is assumed provisions of the bill relating to the authority of the commission to waive payment for the transfer of right-of-way to a governmental entity for public road purposes would not result in a significant fiscal impact to the State.

Based on information provided by TxDOT, it is assumed that 116 FTEs and approximately \$8 million in funding each year related to TxDOT's oversized/overweight vehicle programs would be transferred to DMV. It is assumed any unobligated and unexpended TxDOT appropriations from the 2010-11 state fiscal biennium relating to the transferred programs would be re-appropriated to the DMV and would be used to cover any additional transition costs.

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

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 with or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.094, 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.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 601 Department of Transportation, 608 Department of Motor Vehicles

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