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FISCAL IMPACT REPORT

SPONSOR: M.P. Garcia DATE TYPED: 03/08/03 HB 586/aHTC/aHJC
 SHORT TITLE: Use of Automated Enforcement Systems SB _____
 ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Department of Public Safety (DPS)
 Attorney General (AG)
 Administrative Office of the District Attorneys (AODA)
 State Highway and Transportation Department (SHTD)

No Response

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee strikes the House Transportation Committee amendment number one. This action undoes the restriction on the use of automated enforcement systems to Class A counties with populations greater than 300,000.

Synopsis of HTC Amendment

The House Transportation Committee amendment makes technical adjustments to House Bill 586.

- The amendment restricts use of automated enforcement systems to **Class A counties with populations greater than 300,000.**
- The amendment restricts use of automated enforcement systems to **intersections and school zones.** (The original bill provided for use of the systems on highways as well.)

- The amendment clarifies that a violator has the option of accepting a penalty assessment or **appearing in court**.

TECHNICAL ISSUES

For purposes of clarity, the language of the first amendment should be inserted after “citations” rather than after “agency.” (page 1, line 19)

Synopsis of Original Bill

House Bill 586 amends the Motor Vehicle Code, authorizing state or local law enforcement agencies to use automated enforcement systems to issue citations for motor vehicle code or ordinance violations.

The bill defines automated enforcement systems, authorizes local authorities to use them at intersections, in school zones and on highways, and mandates the Motor Vehicle Division prepare a uniform traffic citation for use in conjunction with these systems. The bill provides for a court appearance or for payment of a penalty assessment in cases where automated enforcement systems are used.

The Motor Vehicle Division shall prescribe the form, content and procedure for issuing and processing uniform automated enforcement system citations.

Significant Issues

The Attorney General (AG) notes that is unclear whether the sudden use of the automated enforcement system unconstitutionally infringes on a citizen’s “due process” and “right to notice” regarding a new law enforcement practice. In an effort to address this concern, the California Legislature required that citizens receive warnings rather than citations during the first 30 days of use of the system. AG also notes that federal law prohibits public access to motor vehicle information and that the California Legislature, in an effort to address this concern, has required that the owner and/or driver of the vehicle are the only private citizens who have access to the photographs. (Naumchik, Steven, Photographic Enforcement of Red Lights, 30 McGeorge Law Review 833 (1999)).

AG reports that some municipalities have argued they have the sole authority to handle and set policies for traffic violations. In Commerce City v. Colorado, 40 P.3d 1273 (Colo. 2002), the Colorado Supreme Court rejected this argument on grounds that this area of law is a mixed state and municipal issue. AG suggests this bill may prompt a similar argument based on the language on page 9, lines 11-14, where the state is empowered to prescribe the “procedures by which the citation may be issued....”

AG notes that a number of procedural components will need to be worked out. These include:

- Which photographs are taken and given to the driver and/or owner of the car,
- What to do if the owner of car states he was not the driver,
- Where signs must be posted notifying the public of the machines,

- Whether the photographs can be made available to other parties,
- Whether it is a violation if the state improperly discloses the photographs to an unauthorized private party,
- Whether the machines will be used only for red-light violations or for other violations as well and
- Whether public notification should include television and newspaper advertisements.

The Administrative Office of the District Attorneys (AODA) indicates that difficulties may ensue in identifying drivers of particular vehicles, effectively making it unconstitutional to issue an arrest warrant for failure to appear at an initial court hearing.

Because this state does not require front license plates, it will be difficult to identify vehicles.

DPS notes that the bill does not delineate who will monitor compliance of penalty assessments submitted or court compliance for violators who contest citations.

FISCAL IMPLICATIONS

AODA notes that, because there are no law enforcement officers on the scene in cases involving automated enforcement systems, it is unclear who will appear in court to prove guilt in any given case. AODA indicates that a custodian of records could testify to support the case and lay an adequate foundation for admission of the photographic proof of guilt; however the state will need to establish a system whereby a custodian of record will be in a position to testify and be available for a multitude of court appearances. AODA notes that as a practical matter, numerous custodians would be required in light of the size of the state and number of traffic citations that will be issued.

Although the bill includes no provisions for certification, authorization, maintenance and repair of equipment, there is a significant cost associated with these activities. DPS indicates that in order to manage automated enforcement systems, the department will require more data entry personnel, technicians to repair and maintain the cameras or sensors and related hardware and software.

Depending upon the extent to which automated enforcement systems are used, overall law enforcement costs have the potential to decrease. In the long run, if these systems can efficiently perform a portion of the traffic enforcement currently carried out by law enforcement officers, at the same time saving agencies time (and overtime), a cost savings may ensue.

TECHNICAL ISSUES

AODA notes that the language in Section 66-8-123 and Section 66-8-124 (disallowing arrest for motor vehicle code violations except by uniformed police officers) should be amended to include provisions for automated enforcement systems.

DPS notes that the definition for “automated enforcement system” references a “standard traffic-control device” which is not defined.

JCF/njw:sb