

BILL ANALYSIS

C.S.H.B. 13
By: Pickett
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties believe that the recent passage of Proposition 1 by a significant margin indicates that the general public is supportive of increasing funding for transportation projects across Texas. The parties contend that while additional funding is crucial to the state's continued economic success, there must be increased accountability to ensure taxpayer dollars are wisely spent. The parties assert that the state should not increase debt that will be paid off by future generations until increased accountability is assured. C.S.H.B. 13 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Transportation Commission in SECTIONS 1 and 4 of this bill.

ANALYSIS

C.S.H.B. 13 amends the Transportation Code to require the Texas Transportation Commission, not later than October 1, 2015, to initiate a process to review certain funding categories and funding allocation formulas adopted under statutory provisions relating to the unified transportation program. The bill requires the review process to include an effort by the Texas Department of Transportation (TxDOT) to seek the collective input of all planning organizations in Texas and defines "planning organization" as a metropolitan planning organization or, for an area that is not within the boundaries of a metropolitan planning organization, the TxDOT district that serves the area. The bill requires TxDOT to convene meetings as necessary to facilitate discussions among planning organizations that will result in a consensus recommendation among a majority of the planning organizations as to updated funding categories and funding allocation formulas. The bill requires the commission, not later than May 1, 2016, to adopt rules implementing updated funding categories and funding allocation formulas and, to the extent that the adopted categories or funding allocation formulas differ from the consensus recommendations of the planning organizations, to provide a detailed written explanation for the differences to be made available on the TxDOT website. These provisions relating to the update of transportation funding categories and allocation formulas expire September 1, 2017.

C.S.H.B. 13 requires each planning organization to develop a 10-year transportation plan for the use of the funding allocated to the region, defined as the area for which the planning organization develops plans under the unified transportation program. The bill requires TxDOT to assist the planning organizations by providing in a timely manner such information as is reasonably

requested by the planning organizations. The bill requires the plan to identify certain items as applicable to the planning organization and the funding of transportation projects in the region. The bill requires the first four years of the plan to be developed to meet the transportation improvement plan requirements of certain federal laws, as applicable. The bill requires the TxDOT district for an area that is not within the boundaries of a metropolitan planning organization to develop the 10-year transportation plan with input from municipal and county elected officials and transportation officials in the region.

C.S.H.B. 13 requires TxDOT's chief financial officer, not later than September 1 of each odd-numbered year, to prepare and publish a cash flow forecast for a period of not less than 10 years. The bill requires the forecast to identify the aggregate amount of all sources of funding available for eligible transportation projects, the amount previously committed to eligible transportation projects based on actions of the commission, the amount not committed to projects but that TxDOT anticipates allocating during the forecast period through funding allocation formulations adopted under the unified transportation program, the amount TxDOT anticipates allocating during the forecast period through discretionary decisions of the commission, and the sources of all funds projected to be available during the forecast period, including bond proceeds, and an estimation of debt service payments associated with the bond proceeds. The bill requires the first two years of the forecast to be based on the appropriation of funds in the General Appropriations Act for TxDOT for that biennium.

C.S.H.B. 13 requires each planning organization to select projects in its region and prioritize them using project selection criteria developed by the planning organization and requires a planning organization's project selection criteria to include consideration of certain specified factors. The bill requires the applicable TxDOT district for an area not located within the boundaries of a metropolitan planning organization to select projects and prioritize them with input from municipal and county elected officials and transportation officials using the project selection criteria. The bill requires TxDOT to compile the project selections of the planning organizations to develop the statewide transportation plan in accordance with federal law.

C.S.H.B. 13 requires the commission, before transferring funds between funding categories by any method outside the established funding allocation formulas or before transferring funds subject to discretion of TxDOT, to hold a public hearing on the transfer of those funds. The bill requires the commission, not later than the 30th day before the date of a hearing, to provide a written explanation of the transfer, including the need and justification for the deviation from the formula allocation or use of discretionary funds.

C.S.H.B. 13 authorizes the commission, if money from the general revenue fund or state highway fund is appropriated to TxDOT for the state fiscal biennium beginning September 1, 2015, in an amount that exceeds the appropriation from those funds to TxDOT for the previous fiscal biennium, or if a constitutional amendment providing additional money to TxDOT is adopted, to use the additional money to finance projects that would otherwise be financed using proceeds from general obligation bonds or the sale and issuance of bonds and other public securities secured by the state highway fund. The bill requires the commission to determine whether the unused proceeds from such bonds may be used to finance projects, in addition to those allocated funding under the unified transportation program, that reduce congestion, increase capacity, reduce tolls, or promote safety and requires the commission to adopt rules establishing criteria for projects to be considered eligible for such financing. The bill requires the commission, not later than the 30th day before the date the commission authorizes the use of additional revenue or bond proceeds, to hold a public meeting to consider that authorization. These provisions relating to the use of additional revenue and bond proceeds expire September 1, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 13 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 201.943(a) and (l), Transportation Code, are amended to read as follows:

No equivalent provision.

(a) Subject to Subsections (e), (f), ~~and~~ (g), and (l), the commission by order or resolution may issue obligations in the name and on behalf of the state and the department and may enter into credit agreements related to the obligations. The obligations may be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. The obligations may be issued on and may have the terms and provisions the commission determines appropriate and in the interests of the state. The obligations may be issued as long-term obligations, short-term obligations, or both. The latest scheduled maturity of an issue or series of obligations may not exceed 30 years.

(l) Obligations may not be issued under this section or Section 49-k, Article III, Texas Constitution, after August 31, 2015 ~~[if the commission or the department requires that toll roads be included in a regional mobility plan in order for a local authority to receive an allocation from the fund].~~ This subsection expires August 31, 2017.

SECTION 2. Section 222.003, Transportation Code, is amended by adding Subsections (l) and (m) to read as follows:

No equivalent provision.

(l) Bonds or other public securities may not be issued under this section or Section 49-n, Article III, Texas Constitution, as proposed by H.J.R. 28, 78th Legislature, Regular Session, 2003, after August 31, 2015. This subsection expires August 31, 2017.

(m) The commission may use any constitutionally allowable source of funding to supplant funding previously obligated under this section or Section 49-n, Article III, Texas Constitution, as proposed by H.J.R. 28, 78th Legislature, Regular

Session, 2003. This subsection expires August 31, 2017.

SECTION 3. Section 222.004, Transportation Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) Bonds may not be issued under this section or Section 49-p, Article III, Texas Constitution, after August 31, 2015. This subsection expires August 31, 2017.

(k) The commission may use any constitutionally allowable source of funding to supplant funding previously obligated under this section or Section 49-p, Article III, Texas Constitution. This subsection expires August 1, 2017.

No equivalent provision.

SECTION 4. Section 201.809, Transportation Code, is amended by adding Subsections (e) through (j) to read as follows:

(e) The department shall develop and implement, and the commission shall approve, a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all department goals and objectives established by the legislature and the commission.

(f) The department shall develop and implement performance metrics and performance measures as part of:

(1) the review of strategic planning in the statewide transportation plan, metropolitan transportation plans, rural transportation plans, and unified transportation program;

(2) the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and

(3) the evaluation of project delivery for projects in the department's letting schedule.

(g) The department shall use and the commission shall review performance metrics and measures to:

(1) assess how well the transportation system is operating;

(2) provide the department, legislature, stakeholders, and public with information to support decisions;

(3) assess the effectiveness and efficiency

No equivalent provision.

of transportation projects and service delivery; and

(4) demonstrate transparency and accountability.

(h) The department shall develop and implement, and the commission shall approve, specific performance metrics and measures for sustainable objectives, including:

(1) congestion reduction;

(2) safety enhancements;

(3) expansion of economic opportunity;

(4) preservation of the value of existing transportation assets;

(5) cost efficiency of the department's operations;

(6) project procurement, delivery, and final cost; and

(7) enhancements in public participation in the infrastructure planning process.

(i) The requirement for the department to develop and implement a performance-based planning and programming process does not replace or alter the requirement of the department to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. The department may not rely on its requirement to report budgetary performance measures as satisfying the requirements imposed under this section.

(j) The department shall develop and implement monthly and annual reporting schedules for all performance metrics and measures required under this section.

SECTION 5. Subchapter P, Chapter 201, Transportation Code, is amended by adding Sections 201.999 and 201.9991 to read as follows:

Sec. 201.999. PRIORITIZATION OF PROJECTS BY LOCAL TRANSPORTATION ENTITIES AND DEPARTMENT DISTRICTS. (a) The department shall work with all local transportation entities in the state to develop and adopt uniform guidelines governing the funding prioritization of the entities' transportation projects.

(b) The department shall recommend to the commission uniform guidelines to be adopted under Subsection (a) and implemented by all local transportation

No equivalent provision.

entities and department districts.

(c) In making recommendations under Subsection (b), the department shall consider:

(1) the time frame in which a project is needed;

(2) the feasibility of a project, including the availability of rights-of-way, funding support, and the ability to plan, design, and construct the project in a reasonable period of time;

(3) the viability of a project, including whether the project is a comprehensive solution with a measurable outcome; and

(4) all criteria established by the commission for prioritization of projects.

(d) In prioritizing projects, each local transportation entity and department district shall include projects that meet short-term and long-term needs of the entity's jurisdiction.

(e) The commission shall by rule adopt uniform standards established under this section.

(f) Using the uniform standards established under this section, each local transportation entity and department district shall submit to the department the funding prioritization for transportation projects in the entity's jurisdiction.

Sec. 201.9991. PRIORITIZATION OF PROJECTS BY DEPARTMENT AND APPROVED BY COMMISSION. (a) The department shall prioritize and the commission shall approve projects included in the unified transportation program in order to provide financial assistance under this chapter.

(b) The department shall establish and the commission shall approve an overall performance-based process for setting category funding levels in the department's unified transportation program. The department shall consider a zero-based budget approach to address safety, maintenance, congestion, connectivity, economic development, and other needs.

(c) The department shall establish and the commission shall approve a point system for prioritization of projects for which financial assistance is sought from the commission. The project evaluation criteria must take into consideration the department's strategic goals as approved by the commission. The system must include a standard for the

department to apply in determining how to take into account the diverse needs of the state so as to fairly allocate funding to all regions of the state.

(d) The department may not recommend and the commission may not approve a deviation from the department's selection of projects for funding of more than 10 percent of the current biennial budget of the department.

(e) In awarding points to projects, the department shall give priority to projects that:

(1) address safety, maintenance, congestion mitigation, and connectivity;

(2) provide assistance to urban and rural populations;

(3) provide regional balance;

(4) meet a high percentage of the infrastructure needs of a community;

(5) have available funding;

(6) are able to begin without significant delay; and

(7) include public participation in the planning process and public support for the project.

(f) In addition to criteria under Subsection (e), in prioritizing projects the department shall consider:

(1) the local contribution to be made to construct the project;

(2) the financial capacity of the entity responsible for the project to repay the obligation if the assistance is in the form of a loan;

(3) the ability to timely leverage state financial support with local and federal funding;

(4) whether there is an emergency need for the project;

(5) whether all preliminary planning and design work associated with the project necessary to reasonably predict cost, construction period, and benefits of the project have been completed;

(6) whether all rights-of-way and easements necessary to begin construction have been acquired or approved;

(7) the start date for and certainty of the beginning of project construction;

(8) the demonstrated or projected impact on the community; and

(9) the priority given the project by the applicable local transportation entity under Section 201.999.

No equivalent provision.

SECTION 1. Subchapter P, Chapter 201, Transportation Code, is amended by adding Sections 201.9901 and 201.9902 to read as follows:

Sec. 201.9901. DEFINITIONS. In this subchapter:

(1) "Planning organization" means:

(A) a metropolitan planning organization;
or

(B) for an area that is not within the boundaries of a metropolitan planning organization, the department district that serves the area.

(2) "Region" means the area for which a planning organization develops plans under this subchapter.

(3) "Transportation official" means an official in a political subdivision who has responsibility for planning and implementation of transportation projects.

Sec. 201.9902. UPDATE TO TRANSPORTATION FUNDING CATEGORIES AND ALLOCATION FORMULAS. (a) Not later than October 1, 2015, the commission shall initiate a process to review the categories and formulas adopted under Sections 201.991(b)(2) and 201.996.

(b) The review process must include an effort by the department to seek the collective input of all planning organizations in the state. The department shall convene meetings as necessary to facilitate discussions among planning organizations that will result in a consensus recommendation among a majority of the planning organizations as to updated funding categories and funding allocation formulas.

(c) Not later than May 1, 2016, the commission shall adopt rules implementing updated funding categories and funding allocation formulas. To the extent that the adopted categories or funding allocation formulas differ from the consensus recommendations of the planning organizations, the commission must provide a detailed written explanation for the differences. The explanation must be made available on the department's Internet website.

(d) This section expires September 1, 2017.

No equivalent provision.

SECTION 2. Subchapter P, Chapter 201, Transportation Code, is amended by adding Sections 201.9911, 201.9921, 201.9931, and 201.9932 to read as follows:

Sec. 201.9911. PLANNING ORGANIZATION 10-YEAR PLAN.

(a) Each planning organization shall develop a 10-year transportation plan for the use of the funding allocated to the region. The department shall assist the planning organizations by providing in a timely manner such information as is reasonably requested by the planning organizations.

(b) The plan must identify the items described by Section 201.993(d) as applicable to the planning organization and the funding of transportation projects in the region.

(c) The first four years of the plan shall be developed to meet the transportation improvement plan requirements of 23 U.S.C. Section 134 or 135, as applicable.

(d) For an area that is not within the boundaries of a metropolitan planning organization, the department district shall develop the 10-year transportation plan with input from municipal and county elected officials and transportation officials in the region.

Sec. 201.9921. TEN-YEAR CASH FLOW PROJECTION.

(a) Not later than September 1 of each odd-numbered year, the department's chief financial officer shall prepare and publish a cash flow forecast for a period of not less than 10 years.

(b) The forecast must identify:

(1) the aggregate amount of all sources of funding available for eligible transportation projects;

(2) the amount previously committed to eligible transportation projects based on actions of the commission;

(3) the amount not committed to projects but that the department anticipates allocating during the forecast period through formulas adopted under Section 201.996;

(4) the amount the department anticipates allocating during the forecast period through discretionary decisions of the commission; and

(5) the sources of all funds projected to be available during the forecast period, including bond proceeds, and an estimation of debt service payments associated with the bond proceeds.

(c) The first two years of the forecast must be based on the appropriation of funds in the General Appropriations Act for the department for that biennium.

Sec. 201.9931. PLANNING ORGANIZATION PROJECT SELECTION AND PRIORITIZATION.

(a) Each planning organization shall select projects in its region and prioritize them using the criteria developed under Section 201.9932.

(b) For an area not located within the boundaries of a metropolitan planning organization, the applicable department district shall select projects and prioritize them with input from municipal and county elected officials and transportation officials using the criteria developed under Section 201.9932.

(c) The department shall compile the project selections of the planning organizations to develop the statewide transportation plan in accordance with 23 U.S.C. Section 135.

Sec. 201.9932. PROJECT SELECTION CRITERIA. Each planning organization shall develop its own project selection criteria, which must include consideration of:

(1) projected improvements to congestion and safety;

(2) projected effects on economic development opportunities for residents of the region;

(3) available funding, including locally generated funding;

(4) effects on the environment, including air quality;

(5) socioeconomic effects; and

(6) any other factors deemed appropriate by the planning organization.

No equivalent provision.

SECTION 3. Section 201.996, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Before transferring funds between categories by any method outside the established formulas or before transferring funds subject to discretion of the department, the commission shall hold a public hearing on the transfer of those funds. Not later than the 30th day before the date of a hearing held under this section, the commission shall provide a written explanation of the transfer, including the

need and justification for the deviation from the formula allocation or use of discretionary funds.

No equivalent provision.

SECTION 4. Subchapter P, Chapter 201, Transportation Code, is amended by adding Section 201.9961 to read as follows:

Sec. 201.9961. USE OF ADDITIONAL REVENUE AND BOND PROCEEDS FOR CERTAIN PROJECTS. (a) If money from the general revenue fund or state highway fund is appropriated to the department for the state fiscal biennium beginning September 1, 2015, in an amount that exceeds the appropriation from those funds to the department for the previous fiscal biennium, or if a constitutional amendment providing additional money to the department is adopted, the commission may use the additional money to finance projects that would otherwise be financed using proceeds from:

(1) the sale and issuance of bonds and other public securities secured by the state highway fund under Section 49-n, Article III, Texas Constitution, as proposed by H.J.R. 28, 78th Legislature, Regular Session, 2003; or

(2) general obligation bonds issued under Section 49-p, Article III, Texas Constitution.

(b) The commission shall determine whether the unused proceeds from bonds described by Subsection (a) may be used to finance projects, in addition to those allocated funding under Section 201.996, that reduce congestion, increase capacity, reduce tolls, or promote safety. The commission shall adopt rules establishing criteria for projects to be considered eligible for financing under this subsection.

(c) Not later than the 30th day before the date the commission authorizes the use of money under this section, the commission shall hold a public meeting to consider that authorization.

(d) This section expires September 1, 2017.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not

SECTION 5. Same as introduced version.

receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.