

SUBJECT: Creating the Texas Mobility Fund to finance highway construction

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Alexander, Hawley, Hamric, Hill, Noriega, Pickett, Swinford
0 nays
2 absent — Y. Davis, Edwards

SENATE VOTE: On final passage, March 15 — voice vote (Fraser recorded nay)

WITNESSES: For — Eric Altman, J.P. Morgan Chase; Bob Barnes, TEX-21 and Motran; Gary Bushell, Alliance for I-69 Texas, Corpus Christi Chamber of Commerce, and U.S. 190 Coalition; Linda Harper-Brown, TEX-21 and City of Irving; Judge Lee Jackson, Dallas County and Dallas Regional Mobility Coalition; Martha Noell, Weslaco Chamber of Commerce; Rad Richardson, Sherman Chamber of Commerce; Mayor Windy Sitton, City of Lubbock and Ports-to-Plains Coalition; Greg Solomon, Burleson Area Chamber of Commerce and Texas Association of Business and Chambers of Commerce; Vic Suhm, North Texas Commission; Jerry Turner; Michael White, Greater Houston Partnership; *Registered but did not testify:* Anderson Bynam; Spencer Chambers, Texas Association of Business and Chambers of Commerce; Richard Cron, Office of Harris County Judge Robert Eckels; Les Findeisen, Texas Motor Transportation Association; David C. Finklea, Alliance for I-69 Texas and Greater Houston Partnership; Mayor Elizabeth G. Flores, City of Laredo; Joe A. Garcia, Texas Border Infrastructure Coalition; Jorge A. Garza, Salomon, Smith, Barney; Hector Gutierrez, City of El Paso; Sandy Hentges, Greater Austin Chamber of Commerce; Shanna Igo, Texas Municipal League; Jodie Lee Jiles, Greater Houston Partnership; Judge Cyndi Taylor Krier, Bexar County; Donald Lee, Texas Conference of Urban Counties; Kenneth A. Mayfield, Dallas County Commissioners Court; James McCarley, Dallas Regional Mobility Coalition; Joe Paniagua, Fort Worth City Council; Tony Privett, City of Lubbock; Carroll G. Robinson, Houston City Council; Mayor Fidel R. Rul Jr., City of Alice; Mayor Kathy Seei, City of Frisco and TEX-21; Linda Sickels, Trinity Industries; Jay Stewart, Hance, Scarborough, and Wright; Laura Uribarri, Greater El Paso

Chamber of Commerce; Sally Velasquez, Webb, Willacy, and Zapata counties; Larry Zacharias, City of Richardson

Against — None

On — Glenn Gadbois, Texas Citizen Fund; John W. Johnson and Ric Williamson, Texas Transportation Commission; *Registered but did not testify*: Lawrence Olsen, Texas Good Roads Association

BACKGROUND: Art. 3, sec. 49 of the Texas Constitution prohibits state debt, generally requiring that voters approve bonded indebtedness before the state may incur it. Art. 8, sec. 7-a dedicates three-fourths of net motor-fuel tax revenue to the State Highway Fund (Fund 6), which also receives revenue from motor-vehicle registration fees and sales taxes on lubricants. Money in Fund 6 may be appropriated only for specific highway-related purposes.

DIGEST: CSSB 4 would create the Texas Mobility Fund to be held by the comptroller and managed and administered by the Texas Transportation Commission (TTC) through the Texas Department of Transportation (TxDOT).

The fund could be used to issue bonds or credit agreements to finance acquisition, construction, maintenance, reconstruction, and expansion of state highways and other mobility projects with useful lives of at least 10 years, including design expenditures and right-of-way purchases; public toll roads and other public transportation projects; refunding or canceling outstanding obligations; creating debt-service reserves; paying issuance costs; and paying interest for up to two years.

The TTC could create reserves and subfunds where appropriate and could issue long- or short-term obligations, but bond maturities could not exceed 30 years. The comptroller would have to certify that the mobility fund contained at least 110 percent of the money necessary to pay principal and interest on all obligations issued each year. This certification would have to be based on economic data, forecasting methods, and reliable projections. The TTC could hire independent consultants to make additional projections and could agree to further restrictions on the issuance of obligations.

The attorney general would have to approve the legality of any obligations

and credit agreements issued in connection with the fund. Fund obligations approved by the attorney general would be considered incontestable. Should revenue or money in the fund be insufficient to cover obligations and credit agreements, the TTC could pledge the state's full faith and credit for payment.

The fund's balance could be invested in the same instruments authorized for investment by the State Highway Fund. The TTC could limit but not expand the types of eligible investments. Investment income would be deposited into the fund subject to protecting the tax-exempt status of interest on obligations. The TTC could use excess fund money not otherwise obligated for any of the fund's authorized purposes.

CSSB 4 would take effect if and when the Legislature and voters approved the constitutional amendment proposed by SJR 16 by Shapiro, authorizing the creation of the Texas Mobility Fund, and only if SB 342 by Shapiro, setting forth procedures for TxDOT's participation in toll projects, was enacted and became law. If either measure failed, CSSB 4 would have no effect.

**SUPPORTERS
SAY:**

Texas' traditional "pay-as-you-go" approach to highway finance has been overtaken by reality. The phenomenal growth in Texas' population has led to more vehicle miles traveled, greater traffic congestion, clogged borders, deficient rural roads, and many unsafe bridges. Demand has far outstripped capacity as spending has lagged. Texas never will catch up unless it prepares itself to innovate, as allowed by CSSB 4.

Highways are the only major long-term capital projects for which the state does not borrow money. That policy no longer is defensible in the face of burgeoning needs, lost economic opportunities, and reduced quality of life. Cities and counties routinely finance road and street projects with bonds, and the state should use this financing tool as well, subject to appropriate constraints.

The Texas Mobility Fund would supplement federal and state highway revenue without jeopardizing either. It would provide both flexibility and structure, allowing spending on a variety of transportation projects while keeping the fund secure. The balance would be used primarily to leverage

highway bonds, which would enable projects to begin sooner and would lessen the impact of construction inflation. The interest earned would allow pursuit of other projects.

The Legislature and TxDOT, not Congress, would control the revenue stream, creating greater security and reducing risk. The fund could not be raided; appropriations would be automatic.

It would be up to the Legislature to dedicate revenue to the mobility fund, either through greater efficiencies, increased appropriations, or new sources. However, it is important to establish the fund now as a policy statement until adequate funding can be found and implemented. In the meantime, enactment of SB 342 would provide some funding from excess toll-road revenue and unexpended or unobligated appropriations to the Texas Turnpike Authority.

OPPONENTS
SAY:

Borrowing money by issuing bonds would make highways more expensive because of debt service, underwriting, and issuance costs. It would drain precious resources away from the task of providing transportation and would tie up revenue that could be used on other projects. Bonding would not generate new money for highways; it merely would reallocate it and commit it for the future. Over-commitment would limit Texas' ability to meet unforeseen needs. This scenario could threaten the soundness of the state's debt structure.

Currently, the state lacks the resources to make bonding viable soon enough to make a sizeable dent in its transportation crisis. The Legislature either should find sufficient money in general revenue or should raise the gasoline tax, the closest thing to a user fee for motorists.

CSSB 4 would not address one of the most persistent problems in highway funding: equity. It would provide no formula or empirical criteria on which to base the distribution of funds. This could lead to a continuation of disparity in funding of projects across the state.

For a lesson in how bonding can go horribly awry, Texans need look no further than the federal Superconducting Supercollider near Waxahachie. Even what appears to be the most reliable of funding sources can be subject to a political and economic turnaround.

OTHER
OPPONENTS
SAY:

It would be pointless to create a fund with no revenue, not unlike opening a bank account with no deposit. The Legislature should postpone this idea until it is prepared to finance it.

Texans need more money for roads now, not empty promises to be fulfilled sometime later. Borrowing against an almost-sure thing, like federal highway funds, would provide a quicker and more meaningful infusion of capital than waiting for a budget surplus that may never come or a tax hike that is not going to happen.

CSSB 4 would not give the TTC enough guidance on how to implement the mobility fund to bring about creative solutions to transportation problems. As these problems worsen, Texas will need more integration of various modes of transportation to form effective mobility strategies. TxDOT primarily is a road-construction contracting agency, and it remains to be seen whether TxDOT can think “outside the box.”

NOTES:

The Senate engrossed version of SB 4 would have authorized bonding for projects with useful lives of at least five years, rather than at least 10 years. It would not have required the attorney general to approve the obligations’ legality. The Senate version would have allocated unspecified general or miscellaneous revenue to the fund and was contingent only on approval of the associated constitutional amendment.

SJR 16, which would propose amending the Constitution to authorize creation of the Texas Mobility Fund, is on today’s Constitutional Amendments Calendar. SB 342, setting forth procedures for TxDOT’s participation in toll projects, is on today’s Major State Calendar.

SB 342 would authorize TTC to create regional tollway authorities, which would transfer to the Texas Mobility Fund any toll revenue exceeding debt service and operation, maintenance, or expansion costs. SB 342 also would transfer to the fund all unspent and unobligated appropriations and other funds under the control of the Texas Turnpike Authority board, which would be abolished by the bill, if SB 4, creating the fund, takes effect.