SUBJECT: Authorizing a roadway bond program for border colonias

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 7 ayes — Averitt, Denny, Hopson, Marchant, Menendez, Pitts, Wise

0 nays

2 absent — Solomons, Grusendorf

SENATE VOTE: On final passage, April 18 — 28-2 (Fraser, Staples)

WITNESSES: For — None

Against — None

On — Danette Rich, Governor's Office; *Registered but did not testify*: Michael Behrens, Texas Department of Transportation; Judith Porras, Texas Public Finance Authority

BACKGROUND: The Texas Constitution, Art. 3, sec. 49 prohibits state debt, requiring the Legislature to submit proposals to authorize general obligation bonds backed by the state's credit to the voters for the their approval, usually by constitutional amendment. Sec. 49-j limits maximum annual state debt to 5 percent of the annual average amount of non-dedicated general revenue for the three preceding fiscal years.

Colonias are rural residential subdivisions located in unincorporated areas of counties, typically with few amenities or utilities and little infrastructure.

DIGEST: CSSJR 37 would propose amending the Constitution to add Art. 2, sec. 49-l, allowing the Legislature to authorize the creation of a roadway bond program for colonias along the Texas-Mexico border. Lawmakers could allow the governor to authorize the Texas Public Finance Authority (TPFA) to issue up to $175 million in general obligation bonds or notes or to make related credit agreements. The proceeds could be used only to assist border counties with access road projects (including drainage) to connect colonias to existing public roads. Part of the bond proceeds and interest also could be spent for administrative costs and for payments on credit agreements. General revenue appropriations would have to be made annually to cover unpaid principal and interest due each fiscal year, including on credit agreements.

The Texas Transportation Commission (TTC), in consultation with the governor, could determine what constituted a border colonia for purposes of selecting counties and projects that could receive assistance.

The proposal would be presented to the voters at an election on November 6, 2001. The ballot proposal would read: "The constitutional amendment authorizing the issuance of state general obligation bonds and notes to provide financial assistance to counties for roadway projects to serve border colonias."

SUPPORTERS SAY:

As many as 800 colonias may exist along the Texas-Mexico border. Many of the residents originally were victimized by unscrupulous developers who did not provide or arrange for adequate infrastructure. While progress has been made in addressing some of the colonias' water, sewage and utility problems, access to and from colonias remains problematic. For example, many colonias roads are unpaved and inaccessible by school buses. Continued neglect would allow the situation to deteriorate as population grows and traffic increases, exacerbated by the effects of new rules adopted under the North American Free Trade Agreement.

Although they have upgraded some main roads, border counties do not have the resources to meet the huge infrastructure needs of colonias. By financing grants through low-interest bonds backed by the state's credit, CSSJR 37 would give these counties an incentive to develop local solutions to access problems. This approach would make the greatest impact soonest. Waiting to "pay as you go," as Texas does for highways, would be tantamount to doing nothing for colonias.

Roads in colonias are in a state of bureaucratic limbo. Because the roads are on private property, counties are not responsible for them. They are ineligible for conventional funding through the Texas Department of Transportation (TxDOT) because they are not part of the state road system. But TxDOT's expertise in transportation-related grant program administration is needed to give strategic coordination to what is a regional problem beyond the scope of individual counties. Requiring the TTC to consult with the governor on the criteria for assistance, as the enabling bill, SB 1296 by Lucio would require, would ensure a fair and equitable selection and distribution process.

Appropriating the $30 million that could be available for this purpose in the general appropriations bill would leverage an estimated $175 million in bonds based on a projected return ratio of almost 6:1. At an average cost of $90,000 per mile, about 2,000 miles of road could be built. That would be a significant improvement, providing a good start toward making colonias more livable and lifting its residents out of poverty.

Colonias are no more flood-prone than any other area of the Lower Rio Grande Valley. Relocating colonias residents would be unfeasible, and the costs of doing so would far exceed those of improving infrastructure.

OPPONENTS SAY:

Bonding for roads is and always will be a bad idea. Interest and other costs make bonded roads more expensive and mortgage future funds that cannot be spent on other priorities. Like families and businesses, government should wait until it can afford projects and should not spend beyond its means.

Because colonias often are located in difficult, flood-prone terrain below sea level, an extensive network of access roads for these areas would be prohibitively expensive and possibly short-lived. These factors would make them less attractive to bond investors, possibly resulting in higher interest rates. No comprehensive study exists to give taxpayers an idea of how many roads or how much money would be needed to provide adequate access to colonias. Even supporters admit that 2,000 miles of new or improved roads would not come close to rectifying this deplorable situation. The bill makes no mention of who would perform long-term maintenance and pay for related costs. As a result, the proposed road expenditures could prove to be a case of throwing good money after bad. The state could use its limited resources better by relocating the colonias residents to more habitable locales.

The program proposed by CSSJR 37 would favor one area of the state over others and would neglect other needy Texans. Underserved areas with inadequate roads are not limited to the Texas-Mexico border.

OTHER OPPONENTS SAY:

TxDOT primarily contracts to build highways, not residential and access roads. The Governor's Office or the Texas Department of Housing and Community Affairs could grant money directly to counties more efficiently. In fairness, the proposed program should be broadened to include similar communities across the state, rather than only in one geographic area.

NOTES:

The Senate-engrossed version of SJR 37 would have allowed the TPFA to make bond enhancement agreements rather than credit-related agreements. Unlike the committee substitute, the Senate version would not have authorized the issuance of notes. The substitute would allow credit agreement payments to be made from bond and note proceeds and interest.

SB 1296 by Lucio set on today's General State Calendar, is the enabling legislation for CSSJR 37.

Article 11 of the Senate-approved version of SB 1 by Ellis, the general appropriations bill for fiscal 2002-03, contains a rider that would appropriate $30 million to TxDOT to pay debt service on bonds issued under this program, contingent on approval of SJR 37 and SB 1296.