

SUBJECT: Allowing bonds by counties secured by pass-through toll revenue

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Krusee, Phillips, Hamric, Callegari, Casteel, Hill, West
0 nays
2 absent — Deshotel, Flores

WITNESSES: For — None
Against — None
On — Amadeo Saenz, Texas Department of Transportation

BACKGROUND: HB 3588 by Krusee, enacted by the 78th Legislature, created pass-through toll agreements, which allow public or private entities to construct state highway projects and receive repayment from TxDOT following completion of the project. Pass-through tolls, also known as “shadow tolls,” are negotiated payments made incrementally to the constructing entities based on traffic volume on the new road. The payments are made as if tolls were being collected from motorists by the operators upon project completion.

Pass-through toll agreements can be used on both non-tolled or tolled roadways. In some instances, the arrangement works in reverse, as a local government entity pays the “tolls” in exchange for TxDOT’s financing the road construction.

DIGEST: CSHB 2705 would authorize counties to issue bonds in order to finance toll or non-toll highway projects. The bill would allow counties to issue bonds against any available revenue source, including taxes or revenue pledged by TxDOT through a pass-through toll agreement. CSHB 2705 would require that all principal and interest on bonds be repaid within a 40-year period.

The bill would take immediate effect if passed by a two-thirds record vote of the membership of each house. Otherwise it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 2704 would allow counties to leverage bonds through pass-through toll agreements with TxDOT. Pass-through tolls are innovative finance tools that allow parties with available cash to move forward with transportation projects knowing that the costs will be repaid over time, which can accelerate the financing of lower-priority transportation projects.

The bill would allow counties to issue bonds without relying on property tax revenue to back them up. The issuance of bonds against property taxes can negatively affect a county's debt. Instead, under a pass-through agreement, TxDOT would pledge a stream of revenue to repay the bonds issued.

The pass-through "toll" is not an actual toll that motorists pay. It is a fee the state pays per vehicle or per vehicle-mile to local governments or local entities that have assumed the burden of financing road improvements. Individual motorists who use the roadway do not necessarily pay a toll. Instead, the charge for use of the road is "passed through" to the state. Pass-through toll financing can be used to fund both toll and non-toll transportation projects on the state highway system.

Toll roads are necessary as a strategy to relieve congestion, especially given the limited funds currently available for transportation projects in Texas. Currently, TxDOT estimates that the state is able to finance only one-third of its transportation needs. Toll roads provide a viable alternative to the outdated "pay-as-you go" method of financing transportation projects.

**OPPONENTS
SAY:**

CSHB 2705 would facilitate the further proliferation of toll roads around the state at the expense of motorists who essentially pay a double tax — once at the pump and again at the tollbooth — yet have experienced scant relief from traffic congestion. The line between tolls as a source of financing and tolls as a source of revenue becomes more blurred with each toll-related proposal.

NOTES:

The committee substitute differs from the original bill in that it is a Legislative Council draft.

A related bill, HB 2704 by Krusee, which would allow local governments to enter into an agreement to pledge the revenue stream from a pass-through toll agreement with TxDOT in order to issue bonds for transportation projects, passed the House on May 9.