HOUSE RESEARCH ORGANIZATION bill analysis | 5/22/2007 | SB 1795 Ogden (Kolkhorst)

SUBJECT: Increasing limits on issuance of bonds backed by the State Highway Fund

COMMITTEE: Transportation — favorable, without amendment

VOTE: 7 ayes — Krusee, Phillips, Haggerty, Harless, Hill, Macias, Murphy

0 nays

2 absent — Harper-Brown, Deshotel

SENATE VOTE: On final passage, April 3 — 30-0

WITNESSES: No public hearing.

BACKGROUND: Texas Constitution, art. 3, sec. 49-n, approved in 2003 (Proposition 14, HJR 28 by Pickett), allows the Legislature to authorize the Texas Transportation Commission (TTC) or its successor to issue bonds and other public securities and enter into agreements that are payable from revenue deposited to the credit of the State Highway Fund (Fund 6). HB 3588 by Krusee, enacted in 2003, added Transportation Code, sec. 222.003, allowing TTC to issue bonds in amounts no greater than:

- $3 billion in aggregate principal, of which $600 million must be spent on projects to reduce accidents or correct or improve hazardous locations on the state highway system; and
- $1 billion in annual aggregate principal.

DIGEST: SB 1795 would amend Transportation Code, sec. 222.003 to increase the limit on bonds TTC could issue to:

- $6 billion for the aggregate principal amount, of which $1.2 billion would have to be spent on projects reducing accidents or correcting or improving hazardous locations; and
- $1.5 billion for the annual aggregate principal amount.

The bill would take effect September 1, 2007.

SUPPORTERS SAY:

SB 1795 would help the state finance transportation projects over the next biennium. The state has an funding gap between transportation needs and available funding of at least $77 billion. TTC has been issuing bonds and allocating money to metropolitan planning organizations (MPOs) since it was first granted this authority in 2003, and this funding has proven to be an important source of funding for essential transportation projects.

TxDOT continues to have a sizeable project backlog, which is what first precipitated the need for bonding ability granted by voters with the approval of Proposition 14 in 2003. Predicting the timing and amount of federal funding is difficult and coupled with the seasonal nature of road construction have made it very difficult for the agency to budget in typical fashion. Voters approved the agency's new direction in 2001 with the approval of Proposition 15, which modified the state's longstanding "pay-as-you-go" policy for transportation funding, allowing transportation officials to borrow money to construct new roads instead of waiting to build until funding was appropriated.

Rapid population growth has led to more vehicle-miles traveled, greater traffic congestion, clogged border crossings, deficient rural roads, and many unsafe bridges. Demand has outstripped capacity while spending has lagged. Texas never will catch up with demand if it does not increase its ability to fund projects through usage of bonding authority. Borrowing against future revenue would speed up highway projects, thus alleviating traffic congestion, enhancing productivity, improving safety, and reducing opportunity costs, including forgone economic and social gains, due to lack of transportation infrastructure. Improving mobility sooner rather than later would aid economic development and job creation.

The state also has been relying on toll road contracts that would allow either private enterprise or state or local tolling authorities to build roads. The public model allows bonding backed by expected toll revenue. The private model allows businesses to enter into agreement with the state and make up-front payments in exchange for expected toll revenue. If SB 792 were to become law, this latter option would not be available for the next two years. SB 1795 would help fill the void left by a reduction in available options for funding for highway projects.

Highway revenue bonds are based on both state and federal revenue and are not subject to voter approval because the bonds are backed by Fund 6 money and not general revenue. An increase in the aggregate and annual limits on bond amounts in HB 3588 would leave TTC enough discretion and flexibility for bonding to have a significant impact on highway funding.

OPPONENTS SAY:

Short-term borrowing would require appropriations the state cannot afford to spend on interest, however low the rates. Borrowing would increase TxDOT's costs in terms of forgone interest earned on cash balances and interest charges for new borrowing. Trusting an agency that has not been forthright with the Legislature or the public regarding its expenditures and budgeting with even more money outside of the traditional appropriations process would be irresponsible.

Borrowing money for construction increases costs and passes them along to future taxpayers and legislatures. Texas should continue to pay for the amount of highway construction it can afford, rather than encumber scant resources and drive up the cost of already expensive projects. Adding even more debt would increase the amount of money needed for debt financing, which could limit TxDOT's ability to meet unforeseen needs.

At a time when skyrocketing gasoline prices could cause people to reduce how much they drive, it would be unwise to use bonding authority backed by Fund 6, which is heavily dependent on revenue from state and federal motor-fuel taxes. A significant decline in revenue to Fund 6 might require a general revenue bailout to allow the state both to make payments on the bonds and to meet other commitments from Fund 6.

The Legislature should not be providing TxDOT with the equivalent of a blank check but should instead be trying to find ways to make the agency more accountable. An April 2007 State Auditor's Office (SAO) report found TxDOT overstated its funding gap by $8.6 billion, finding its methodology might not be reliable for making policy or funding decisions.

OTHER OPPONENTS SAY:

Fund 6 already is spread too thin, and bonding would generate no new revenue. Revenue deposited into Fund 6 also is spent on the Department of Public Safety and, to a lesser extent, other state agencies. Rather than using strained resources to incur more debt, the state should put more money into Fund 6 by raising gas tax rates, vehicle registration fees, or both, or by dedicating other revenue streams to Fund 6, such as motor-vehicle sales taxes or vehicle inspection fees.

NOTES: The Legislative Budget Board anticipates SB 1795 will have no impact on general revenue during fiscal 2008-09. If TTC issued bonds of $1.5 billion from Fund 6 in both fiscal 2008 and 2009, it is estimated the overall reduction in Fund 6 for fiscal 2008-09 would be $390 million to cover costs of supporting debt service.

SB 792 by W. Smith, which incorporates the language of SB 1795, passed the House by 143-2 on May 17. The Senate has refused to concur with the House amendments and has requested a conference committee.