

SUBJECT: Allowing the creation of transportation reinvestment zones for any project

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Pickett, Phillips, Callegari, Guillen, Harper-Brown, McClendon, Merritt, T. Smith, W. Smith

0 nays

2 absent — Y. Davis, Dunnam

SENATE VOTE: On final passage, May 1 — 31-0

WITNESSES: No public hearing

BACKGROUND: HB 3588 by Krusee, enacted by the 78th Legislature in 2003, established a pass-through financing system for transportation projects. Under the pass-through system, public or private entities may construct state highway projects and receive funding from the Texas Department of Transportation (TxDOT) upon completion of the project. Pass-through tolls are negotiated incremental payments to the entities building a road and are based on the new road's traffic volume. The toll payments are made as if being collected from motorists by the operators upon completion of the project.

SB 1266 by Brimer, enacted by the 80th Legislature in 2007, established transportation reinvestment zones for municipalities and counties that enter into pass-through tolling agreements with TxDOT. Transportation reinvestment zones allow a county or municipality to capture a portion of any increased property tax revenue that results from a new road project, then use the revenues to finance the project.

DIGEST: CSSB 2378 would allow a county or municipality to establish a transportation reinvestment zone for any transportation project, including a passenger or freight rail facility, ferry, pedestrian or bicycle facility, intermodal hub, or transit system. The bill would make conforming statutory changes to reflect the expanded range of projects eligible for transportation reinvestment zones, and to add the goal of improving property as a purpose for designating a reinvestment zone.

If any part of a project was subject to TxDOT oversight, the county or municipality could request that the agency delegate to it full responsibility for the project, though TxDOT could take any action the department felt necessary to comply with federal highway funding requirements. If the project would be part of the state highway system, it would have to comply with state design criteria unless given a specific exemption by TxDOT.

A municipality or county could contract with and pledge funds to a public or private entity to develop or otherwise improve a road in a transportation reinvestment zone, and could not rescind a contract to pay an entity that owed a bond or security debt until those debts were satisfied. The area of the reinvestment zone could not be reduced if the change would affect any outstanding bonds or other obligations used to fund the project.

An ordinance or other law designating a transportation reinvestment zone would have to designate the base year used to establish a tax increment in the municipality or county that established the zone. The portion of the increment specified by a municipality would have to be used to fund the transportation project for which the reinvestment zone was designated or for aesthetic improvements within the zone. Remaining funds from the increment could be used for other purposes.

The bill would authorize a county to assess the cost of a road development project against property within the transportation reinvestment zone. A property assessment within the zone could be paid in installments according to established procedures, but an installment could not exceed the value of any existing authorized tax abatement.

A county or municipality could not be penalized with a reduction in transportation funding due to the establishment of a transportation reinvestment zone. Any funds that TxDOT had designated for a project prior to a reinvestment zone's establishment could not be reduced solely because of the zone's establishment, nor could funds for TxDOT districts be reduced due to the designation of a reinvestment zone within a district.

**SUPPORTERS
SAY:**

CSSB 2378 would enhance local governments' ability to designate transportation reinvestment zones and provide them another financing tool to expand and improve the transportation options in their communities. By allowing a county or municipality to designate a reinvestment zone for projects other than roads, this bill could encourage the development of

mass transit or pedestrian and bicycle systems and help reduce traffic congestion.

The bill also would provide assurances to public and private entities seeking to develop transportation projects that a county or municipality could not rescind certain agreements related to a reinvestment zone and could not reduce the size of a zone if the change would affect any pre-committed revenue.

While raising the motor fuels tax may be a worthy idea for increasing transportation funding, that idea has been rejected in recent legislative sessions. Fears that this bill could result in reduced federal reimbursements are unfounded. The federal government has demonstrated its support for the alternative financing of highway projects. The current federal law regarding highway reimbursements is scheduled to expire later this year, and could be revised to allow local governments to establish transportation reinvestment zones.

**OPPONENTS
SAY:**

CSSB 2378 would do little to address the larger problems facing the state's transportation funding system. Because transportation reinvestment zones likely would be established on a limited and local basis, increasing their number would do little to help the state fund statewide transportation projects on a long-term basis. Texas instead should increase or index to inflation its motor fuels tax.

Encouraging the designation of more transportation reinvestment zones also would expand the use of property taxes to fund transportation projects, and could encourage properties within a zone to be appraised at a higher value.

This bill also could jeopardize transportation reimbursements from the federal government. While the bill states that no TxDOT funding could be reduced as the result of these reinvestment zones, current federal law allows for penalties to states that authorize local transportation entities to assume responsibility for roads that the state's transportation department otherwise would be responsible for maintaining.

**OTHER
OPPONENTS
SAY:**

CSSB 2738 could lead to more toll roads being constructed in place of other road projects. Toll roads are a form of double-taxation and place an additional financial burden on citizens who must pay a fee for the right to travel to a necessary destination.

NOTES:

The substitute differs from the bill as filed by requiring TxDOT to delegate responsibility for a transportation project if requested by a municipality or county and by allowing TxDOT to take any action the department felt necessary to comply with federal requirements to receive federal-aid highways funds even if responsibility for a project had been ceded to a local government, and by authorizing transportation reinvestment zone funding to be used for aesthetic improvements within the reinvestment zone.

The companion bill, HB 1810 by Pickett, passed the House by 130-5 on May 8 and was referred to the Senate Administration Committee on May 12.