HOUSE
RESEARCH
ORGANIZATION bill analysis 5/23/2009

SB 263
Carona, et al. (Pickett)
(CSSB 263 by Pickett)

SUBJECT: Authorizing the issuance of general obligation bonds for highways

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Pickett, Phillips, Callegari, Y. Davis, Guillen, Harper-Brown, McClendon, Merritt, T. Smith, W. Smith

0 nays

1 absent — Dunnam

SENATE VOTE: On final passage, April 22 — 30-0

WITNESSES: (*On House companion bill, HB 2116*:)
For — (*Registered, but did not testify:* John Carpenter, Dallas Regional Mobility Coalition; Vic Suhm, Tarrant Regional Transportation Coalition, North Texas Commission)

Against — None

On — Jose Hernandez, Texas Department of Transportation

BACKGROUND: In November 2007, voters approved Proposition 12 (SJR 64 by Carona), a constitutional amendment authorizing the Legislature to issue up to $5 billion in general obligation bonds for transportation purposes. The House-passed version of CSSB 1 includes a rider that would appropriate $20.2 million in general obligation bond proceeds to TxDOT on enactment of authorizing legislation for state highway improvement projects. In addition, $1.3 million in general revenue funds would pay for debt service on the bonds for fiscal 2010-11. The House-passed version includes $2.1 billion in general obligation bond proceeds in Article 11. The Senate-passed proposal would appropriate $2.0 billion in general revenue bond proceeds, contingent on authorizing legislation, and $100 million in general revenue funds for payment of debt service on the bonds.

In 2003, the 78th Legislature approved HB 3588 by Krusee, which established the pass-through financing system. Pass-through financing allows public or private entities to construct state highway projects and receive payment from the Texas Department of Transportation (TxDOT) following completion of the project. Pass-through "tolls" are negotiated payments made incrementally to the entities that built a road and are 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.

The 80th Legislature in 2007 enacted SB 1266 by Brimer, which established transportation reinvestment zones for counties and municipalities that enter into a pass-through tolling agreement with TxDOT.

Transportation Code, ch. 222 governs permissible uses of the State Highway Fund (Fund 6) and allows the Texas Transportation Commission (TTC) to issue bonds and other public securities secured by Fund 6.

DIGEST:

CSSB 263 would allow the Texas Transportation Commission to issue general obligation bonds to:

- pay for costs of a highway improvement project;
- finance a project completed under pass-through financing provisions;
- provide money to the credit of the Texas Transportation Revolving Fund or a similar revolving fund for loans for highway improvement projects; and
- cover administrative costs for authorized projects, to pay costs of issuing the bonds, or to make a payment due under a credit agreement.

Proceeds from the sale of general obligation bonds would be contingent on an appropriation from the Legislature. Ten percent of the proceeds from the general obligation bonds would have to be used for pass-through financing projects. Bond issuances could not exceed the total authorized in the Texas Constitution. Bonds and related records would have to be submitted to the attorney general for legal approval. The bill would define "improvement" as the design, acquisition, maintenance, and construction of a highway.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY:

SB 263 would allow the Texas Transportation Commission to issue general obligation bonds to generate revenue for desperately needed highway improvements, in conjunction with appropriations made in the conference committee report on CSSB 1. The legislation would authorize appropriations of general obligation bonds between $20 million and $2 billion for fiscal 2010-11, depending on final appropriations.

General-obligation bonds are another funding mechanism needed to finance the state's vital transportation infrastructure. The state motor fuels tax has been declining in relative value since 1991, and the original 20-cent tax per gallon is now equal to only about 13 cents in inflation-adjusted dollars. Moreover, demands on the state's transportation infrastructure have been steadily increasing. The 2030 Committee, charged by the Texas Transportation Commission (TTC) to review funding needs for highway maintenance, including bridges, for urban mobility and rural mobility and safety, and for other transportation needs, reported that the state's highway network would require $313 billion in improvements between 2009 and 2030 — or about $14.2 billion a year.

Despite multiple attempts since 2001, no legislation supporting an increase in the statewide motor fuels tax has mustered the votes to pass a house of the Legislature. The state needs alternative approaches to generating funding for transportation projects. While the Texas Constitution prohibits state-supported debt from exceeding 5 percent of uncommitted general revenue, state debt currently is well below that maximum at about 4 percent, leaving room for additional general obligation bonds backed by state general revenue. Issuing the bonds would not have a significant impact on the state's fiscal standing, and Texas still would have a low debt burden compared to other states.

Borrowing against future general revenue would speed up highway projects, thus alleviating traffic congestion, enhancing productivity, improving safety, and reducing negative economic and social impacts that stem from inadequate highway infrastructure. Improving mobility sooner rather than later would aid economic development and job creation in the midst of a national economic recession. Issuing the general obligation bonds soon would be critical in light of diminishing availability of Fund 6 revenue bonds and TMF bonds and in view of recent highway funding shortfalls.

OPPONENTS SAY:

CSSB 263 would provide the legislative authorization to obligate future general revenue appropriations the state cannot afford to spend on debt service to finance highway construction and maintenance. Texas has a longstanding policy of funding transportation projects solely through dedicated funds. Borrowing money for construction increases costs because interest must be paid on the bond proceeds and these costs are passed along to future taxpayers and legislatures. If all the general obligation bonds were issued over the next five years, debt service payments from general revenue would reach $359 million in fiscal 2015 to continue to 2044. This is a very significant sum of money with serious long-term implications for the taxpayers of the state. Texas should continue to pay for the highway construction it can afford, rather than obligate scarce general revenue and drive up the cost of already expensive projects by adding interest payments.

Adding even more debt would increase the general revenue needed for debt financing and could limit the state's ability to meet other needs. Highway projects should be paid for through Fund 6 and with bonds borrowed through transportation-related funds that are secured with revenue from motor fuels taxes and vehicle registration fees, and thus from those who use state roads. It would not be in the state's best interest to commit general revenue that could be used for other urgent state needs, such as education and human services, to pay for debt service for bonds to build highways.

OTHER OPPONENTS SAY:

SB 263 would continue the state's piecemeal approach to providing transportation funding without addressing the core issue facing the state — a motor fuels tax that has been declining in relative value since 1991. Expanding the practice of issuing bonds for highway improvements would not address long-term, structural highway funding shortfalls, which represent the most significant obstacle to adequate highway construction and maintenance. The state needs to address the core issue facing highway funding and increase or index to inflation the motor fuels tax, preferably both. Continuing the flawed policy of paying for highways with borrowed money would postpone and worsen transportation funding shortfalls in the future.

NOTES:

The House companion bill, HB 2116 by Pickett, was reported favorably, as substituted, by the Transportation Committee on April 28.

The Legislative Budget Board estimates that the bill would cost $131.9 million in general revenue funds for debt service in fiscal 2010-11. The LBB estimates the costs to general revenue would increase annually, reaching $317.5 million in fiscal 2014, assuming that $1 billion in general obligation bonds were issued each year, for a total of $5 billion through fiscal 2014.