

- SUBJECT:** Modifying powers of regional mobility authorities
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 11 ayes — Phillips, Darby, Bonnen, Y. Davis, Fletcher, Harper-Brown, Lavender, Martinez, McClendon, Pickett, Rodriguez
- 0 nays
- WITNESSES:** For — Brian Cassidy, Alamo RMA, Central Texas RMA, Camino Real RMA, Cameron County RMA, Grayson County RMA, North East Texas RMA (*Registered, but did not testify:* Victor Boyer, San Antonio Mobility Coalition; Mike Heiligenstein, Central Texas RMA)
- Against — Melissa Cubria, Texas Public Interest Research Group; Terri Hall, Texas TURF, Texans for Accountable Government; Don Dixon; Paul Westmoreland
- On — John Barton, Texas Department of Transportation
- BACKGROUND:** Transportation Code, ch. 370 allows the Texas Transportation Commission to create a Regional Mobility Authority (RMA) at the request of one or more counties. The chapter establishes and assigns RMAs powers related to constructing, maintaining, and operating regional transportation projects. It also provides guidelines for assessing the feasibility of a transportation project and outlines financing options available to RMAs.
- Current law also states that if an RMA determines that it has surplus revenue from transportation projects, it must reduce tolls and spend the surplus revenue on other transportation projects in the counties the RMA serves or deposit the surplus revenue to the credit of the Texas Mobility Fund.
- DIGEST:** HB 1112 would modify a number of provisions governing RMAs, including definitions of key terms, assessment and collection of toll fees, operations of RMA boards, intergovernmental agreements, and other provisions.

Definitions. The bill would modify the definition of “surplus revenue” to include revenue that exceeded an RMA’s payment obligations under a contract or agreement for constructing, maintaining, and operating a transportation project. It would add to the definition of “transportation project” a parking area, parking structure, parking fee collection device, or improvement in a transportation reinvestment zone.

The bill also would amend the definition of construction costs to include an RMA’s payment obligations under a contract to construct, maintain, operate, or finance a transportation project.

Toll fees and revenue. The bill would add factors that an RMA may consider when setting tolls and any other payment obligations under a contract or agreement for constructing, maintaining, and operating transportation projects. RMAs would have the same toll collection and enforcement powers for their projects as current law grants to Texas Department of Transportation (TxDOT), regional tollway authorities and other tolling entities.

An RMA could pay debt service on bonds with proceeds from the sale of other bonds. An RMA could use existing revolving funds to issue bonds. The bill would add language stating that an RMA could pledge all or part of its revenues and other funds available to paying obligations for transportation projects.

RMA board. The bill would authorize the board of an RMA to borrow money from or sign a loan agreement with TxDOT, the Texas Transportation Commission, or any other public or private entity. The board of an RMA could participate in the state travel management program administered by the comptroller to purchase reduced airline fares and travel agent fees, provided the comptroller could recover costs by assessing a fee for the services.

The bill would allow the commissioners court of a county that is subsequently added to an RMA to appoint more than one director to an RMA board, provided that the commissioners courts of the other counties in the RMA agreed unanimously to the appointments.

Agreements. The bill would specify that an RMA entering into an agreement with a government entity could approve the terms and conditions of such an agreement, including payment obligations of each

party. A local government entity could agree with an RMA to create a transportation reinvestment zone and collect and transfer to an RMA any taxes or fees collected for developing a transportation project. The bill would delete a requirement that a local government wishing to enter an agreement with an RMA receive approval from TxDOT.

Other provisions. Statutes allowing RMAs to pay for feasibility studies would be amended to include in the studies costs for the design and engineering of a transportation project. RMAs could pay for a study through a pledge of bonds or a loan with the proceeds or sale of additional bonds. Money spent for a proposed transportation project for a feasibility study would have to be returned to the transportation project from which the money was spent unless the project was part of a formally designated transportation system under current law.

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, 2011.

**SUPPORTERS
SAY:**

HB 1112 would clarify statutory language that governs RMAs to address some legal obstacles that have arisen in recent years. The bill would make small statutory changes to expand and refine financing practices available to RMAs, add some minor powers for RMA boards, and grant greater flexibility in other areas of operation.

There was only one RMA in 2003, the Central Texas RMA, when the Legislature expanded RMA powers to grant more flexibility in generating revenue, such as with bonds, and to partner with TxDOT and other public and private entities to help address a growing mobility crisis. There are now eight RMAs in the state, each working with local entities such as counties, cities, and metropolitan planning organizations in their regions to address pressing transportation needs. Since RMAs are established and operated regionally, they are well equipped to focus on local transportation needs. TxDOT, on the other hand, must attend to statewide mobility problems with limited resources.

Most concerns about HB 1112 stem largely from a misunderstanding of what powers the bill would grant and a general distaste for toll roads and any entity involved in building and operating a toll project. Claims that the bill would allow “system financing” and would in effect authorize perpetual tolls are misplaced. First, RMAs already are allowed to engage

in system financing — in short, rolling revenue and debt associated with one transportation project into an agreement to develop another project in a different corridor — and this flexibility is key to obtaining beneficial financing arrangements for new projects.

Second, it is impossible to tell whether a road will need to sustain tolls 30 or more years in the future when the bond financing is satisfied for the project. If conditions permit, tolls on these projects may be dissolved if HB 1112 is enacted. But if financing is needed to sustain the safety and condition of the road, they could be continued. Predicting 30 years ahead is impossible, and for this reason RMAs need the flexibility to adapt tolling practices to meet changing mobility challenges.

Concerns about financial provisions that would allow bond proceeds to be used to satisfy debt service on other bond proceeds are also exaggerated. Financing transportation projects is a very complicated enterprise. Some financing arrangements mix short-term and long-term financing options to meet different funding needs for different stages of development. Granting more flexibility in financing arrangements would allow RMAs to engineer financing arrangements to obtain the most advantageous packages.

The bill would allow RMAs to use toll enforcement authority available to other tolling entities in the state to promote best practices in collection policies and would include parking lots, structures, and parking fee collection devices on the list of projects RMAs could construct. This would allow RMAs to fund a transportation project that supports mobility but is not an actual highway improvement, such as an airport parking lot. The provision that would allow RMA board members to participate in the state travel program would extend a benefit already afforded to local governments at no fiscal impact to the state.

**OPPONENTS
SAY:**

HB 1112 would expand already unjustified powers afforded to RMAs under current law. RMAs are not accountable to the public, since their boards may not include elected officials. Board officials are appointed by county commissioners courts, and board chairs are appointed by the governor, distancing these officials from voters enough to make them unaccountable to residents in the communities they serve. Many RMAs have fallen far short of expectations for improving mobility, and others have lost favor with the public they were established to serve — any measure to enhance their authority would perpetuate the abundant problems they pose.

HB 1112 would expand powers available to the state's eight RMAs and move in the direction of creating micro-versions of TxDOT with even less transparency and accountability than that department has exhibited in recent years. In particular, the bill would change definitions of "surplus revenue" and would broaden the factors used to set toll rates so that RMAs would be able to establish, in effect, perpetual tolls on roads they control. The bill also would expand "system financing," which would allow revenue from one highway corridor to be dedicated to financing another. If HB 1112 is enacted, these provisions would promote expanding networks of toll roads that likely would never revert to public, nontolled roads. The bill would also allow RMAs to use additional methods for toll collection that have proven highly problematic elsewhere in the state.

The bill would allow RMAs to adopt irresponsible spending practices, such as securing borrowed money with a payment from borrowed funds. This practice is reminiscent of the financial "smoke and mirrors" that wrought devastation in the financial sector and beyond in 2008. The bill also would remove from TxDOT oversight over approving agreements between local entities and RMAs, shaving off one of the few checks on RMA authority on the state level. RMAs would be given some authority that not even TxDOT possesses, such as the ability to collect fees on parking meters. Since there is no clear reason why RMA board members need to travel extensively through discounted rates, the travel program provided by the state should not be available to unelected officials.

Provisions to allow RMAs to participate in transportation reinvestment zones, which could have expanded uses if legislation already passed by the House (HB 563) is enacted, would expand the troubling practice of using property taxes to fund transportation projects. Reinvestment zones are a questionable use of property taxes —problematic and antiquated in themselves — and could create an incentive to increase appraisals of property and divert this revenue from other pressing local needs.

NOTES:

The companion bill, SB 581 by Nichols, has been scheduled for a hearing by the Senate Transportation and Homeland Security Committee today.