HOUSE
RESEARCH
ORGANIZATION bill analysis 5/11/2011

HB 629
Pickett

SUBJECT: Authorizing sales and use taxes for transportation reinvestment zones

COMMITTEE: Transportation — favorable, without amendment

VOTE: 10 ayes — Phillips, Darby, Bonnen, Y. Davis, Fletcher, Harper-Brown, Lavender, Martinez, McClendon, Rodriguez

0 nays

1 absent — Pickett

WITNESSES: For — Gary Bushell, Alliance For I-69 Texas (*Registered, but did not testify:* Jim Barron, Yoakum County; Victor Boyer, San Antonio Mobility Coalition, Inc; Brian O'Reilly, Alamo RMA, Central Texas RMA, Cameron County RMA, Camino Real RMA, Grayson County RMA, North East Texas RMA; Vic Suhm, Transportation Advocates of Texas, Inc., Tarrant Regional Transportation Coalition; Duane Wilson, North San Antonio Chamber)

Against — Terri Hall, Texas TURF, Texans for Accountable Government, Central Texas Republican Liberty Caucus

BACKGROUND: In 2003, the 78th Legislature enacted HB 3588 by Krusee, which established the pass-through system for financing highway construction. 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 building a road and are based on traffic volume on the new road. The payments are made as if tolls were being collected from motorists (even though they are not) by the operators upon project completion.

The 80th Legislature in 2007 enacted SB 1266 by Brimer, which established transportation reinvestment zones for municipalities and counties that enter into a pass-through financing agreement with TxDOT. Under the bill, municipalities and counties may dedicate to a transportation reinvestment zone a tax increment from property taxes collected in the zone yearly. For a municipality or county establishing a transportation investment zone:

- a *tax increment* is the amount of property taxes assessed for one year on the *captured appraised value* of real property in the zone;
- the *captured appraised value* is the total appraised value of all real property in a zone for the year minus the entity's *tax increment base*; and
- the *tax increment base* of a local entity is the total appraised value of all real property located in a zone for the year in which the zone was designated.

DIGEST:

HB 629 would allow the governing body of a municipality or county to dedicate incremental sales and use taxes to a transportation reinvestment zone. A local government would deposit the designated sales taxes into a tax increment account. Sales and use taxes deposited into the tax increment account could be spent only to pay for projects authorized through existing statutes governing transportation reinvestment zones and to satisfy bonds and other obligations incurred for those projects.

A local government could enter into an agreement with the comptroller to administer sales tax payments from the reinvestment zone. The increment a county deposited would not be considered as sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate.

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 629 would expand local governments' ability to dedicate funds for transportation projects through transportation reinvestment zones. The bill would allow local entities to increase the types of taxes that could be designated in a zone, and, in combination with related legislation that the House recently approved, would provide a robust financing tool to expand and improve transportation options for local communities.

Under current law, reinvestment zones — which allow a local government to dedicate tax revenue generated by an increase in property values around a transportation project to pay for the costs associated with developing the project — are confined to highway projects funded by a pass-through financing agreement with TxDOT. A pass-through financing agreement allows a local government to pay the development costs of a road project and then seek reimbursement from TxDOT based on the estimated number of vehicles that travel on the road.

Two related legislative initiatives, HB 563 and HJR 63, both by Pickett, would broaden local governments' ability to establish reinvestment zones for transportation projects. If those measures were enacted, local governments would be able to establish zones for any transportation project, and both municipalities and counties could dedicate to the zone increased property values associated with the development of the transportation project.

HB 629 would further boost local governments' ability to leverage a tax increment to finance transportation projects by allowing them to dedicate sales and use taxes collected in a zone. Additional revenue available in the form of sales and use taxes — in addition to the property taxes authorized in current law — would allow local governments to leverage more bonds for projects and would add financial stability that would reduce risk and therefore financing costs. The bill would not under any circumstances allow an increase of the sales tax rate in the zone and would not authorize any other tax increases for the public.

The bill, along with the related measures that the House already has passed, would take critical steps to provide another transportation financing option to local governments in an era of increasing congestion and declining resources for transportation from the state and federal government. Enhancing reinvestment zones statewide would allow local governments to maximize available resources without tax increases. Enabling local governments to fully use all the resources at their command is necessary to confront the great transportation challenges that face Texas.

Although property values in a zone may increase as a result of economic development stemming from a transportation project, no property is taxed at a higher rate due to its inclusion in a reinvestment zone. In a context of fixed state and federal funds for transportation projects, the Legislature must pursue all options available for developing transportation projects.

OPPONENTS SAY:

CSHB 563 would continue the state's piecemeal approach to transportation funding without addressing core issues, such as the ongoing diversions of motor fuels taxes away from road construction and a motor fuels tax that has been declining in relative value since 1991. Expanding the taxes that could be dedicated through reinvestment zones would not provide any additional state revenue to local entities and would further a long-standing precedent of evading difficult decisions about transportation funding for the state.

Expanding the potential taxes that would be dedicated in a reinvestment zone would represent an expansion of the troubling practice of using local taxes to fund transportation projects that should be funded by the state. Dedicating sales and use taxes in these zones to other purposes would be a questionable use of this revenue and would divert scarce local sales revenue away from other pressing needs. Taxes for highway construction and maintenance should be tied to vehicles and highway users, not local sales and property taxes that have no bearing on transportation.

NOTES:

HB 563 by Pickett, which would expand the use of transportation reinvestment zones in counties, passed the House by 138-5 on March 31 and was reported favorably, as substituted, by the Senate Transportation and Homeland Security Committee on May 9.

HJR 63 by Pickett, which would provide the constitutional authorization necessary for counties to participate in dedicated taxing zones, was adopted by the House by 133-11 on May 5 and has been referred to the Senate Intergovernmental Relations Committee.