SUBJECT: Funding for county energy transportation reinvestment zones

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 11 ayes — Keffer, Crownover, Burnam, Canales, Craddick, Dale, P. King, Lozano, Paddie, R. Sheffield, Wu

0 nays

SENATE VOTE: On final passage, April 23 — 31-0

WITNESSES: For — Darryl Fowler, Eagle Ford Shale Coalition of Counties: Dewitt, Gonzales, Live Oak, McMullen, and Karnes; Jody Richardson, TxOGA; Joel Rodriguez, Jr., La Salle County; Bill Stevens, Texas Alliance of Energy Producers; Sally Velasquez, Frio County; (*Registered but did not testify*: Rene Benavidez, La Salle County; Teddy Carter, Texas Independent Producers and Royalty Owners Association; Robert Flores, Texas Association of Mexican-American Chambers of Commerce; Norman Garza, Jr., Texas Farm Bureau; Duane Gordy, Community Development Education Foundation; Hugo Gutierrez, Marathon Oil; Adam Haynes, Chesapeake Energy; David Holt, Permian Basin Petroleum Association; Mark Mendez, Tarrant County Commissioners Court; Marissa Patton, Texas and Southwestern Cattle Raisers Association; Paul Sugg, Texas Association of Counties)

Against — None

DIGEST: **Transportation infrastructure fund.** CSSB 1747 would establish a state transportation infrastructure fund (TIF) to administer a grant program for county energy transportation reinvestment zones (CETRZ) to alleviate degradation to roads, bridges, and other infrastructure caused by oil and gas exploration. The fund would be dedicated in the state treasury and consist of federal grants, state matching funds, money appropriated by the legislature, gifts and grants, fees paid into the fund, and investment earnings on the money deposited in the fund. The money could only be used for the purposes defined in the bill.

Grant program. The Texas Department of Transportation (TxDOT) would administer a grant program for infrastructure projects in a county with one or more energy CETRZs, provided that the TIF had a positive balance. TxDOT would develop criteria for awarding grants that would include:

- the amount of oil and gas production and related activity in the county, including well refracturing, well completions, and drilling of disposal wells;
- the county's safety needs;
- the county's traffic level;
- the county's pavement and bridge conditions;
- the weight tolerance permits issued for the county; and
- geographic distribution of grant funds through the oil and gas regions of the state.

Counties would apply for a grant by submitting to TxDOT the resolution creating the CETRZ, a detailed plan on the scope of the county's projects, certification of the county's matching funds, and certification that the county did not reduce transportation infrastructure funding by more than 25 percent of the average it spent on infrastructure in the three years prior to the grant application.

In the grant request review process, TxDOT would encourage the use of other resources and seek to work efficiently with counties. TxDOT would review application within the first 31 days after submission and would act on the application no later than 60 days after its receipt.

Counties would have to provide at least 10 percent in matching funds for a given project, unless TxDOT determined that the county was economically disadvantaged, in which case it would have to provide 5 percent in matching funds.

A county that applied for a second grant would have to provide its annual report to the comptroller detailing how it spent state-allocated transportation funds in the prior year, certify that prior a grant was spent for its intended purpose, and account for the grant usage — including the amount spent on administrative costs.

TxDOT could use one half of 1 percent of the amount deposited into the fund to administer the provisions governing grants to counties, not to exceed $500,000.

County energy transportation reinvestment zones. CSSB 1747 would allow a county to designate an area as a CETRZ and promote one or more infrastructure projects in the area. Counties could determine the amount of a tax increment in an area that it concluded was affected by oil and gas production and would benefit from TIF money.

A commissioners court would have to pledge all the captured appraised value of the real estate in the CETRZ to infrastructure projects and comply with TxDOT regulations on CETRZ funding. The commissioners court would have to hold and publicize a public hearing on the CETRZ where interested parties could speak for or against it.

The order designating an area as an CETRZ would have to describe the zone’s boundaries, take immediate effect, and establish an ad valorem tax increment account for the zone. A zone designated by multiple counties covering the same project would have to include a finding showing the projects’ benefits, public purpose, and responsibilities of each county with regard to each project.

Counties could set aside an ad valorem tax account for the CETRZ equal to the amount of the tax increment minus any amounts allocated through the Property Development and Tax Abatement Act and other county community and economic development programs. Counties could use money from the tax increment to apply for grants, certify matching funds required to establish an CETRZ, or fund transportation projects. Counties could use 5 percent of grant money for the administration of a CETRZ up to $500,000 and enter into an joint administration agreement for a shared project with another county. Counties could not use money from a tax increment as security for bonded indebtedness.

A CETRZ would end after 10 years unless it was extended by the county commissioners, which could continue the CETRZ for maximum of five additional years. Any money remaining from the tax increment after the life of the CETRZ would be transferred to a road-and-bridge fund for the county.

Each county would create an advisory board for its CETRZ to be eligible to apply for TIF money. The advisory board would be appointed by the county judge and approved by the county commissioners court. The advisory board would include three local oil and gas company representatives and two public members, none of whom could be compensated for their participation. Jointly administered zones would be advised by a single joint board.

A county commissioners road condition report would have to include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained. The county auditor would have to file a report with the comptroller giving an account of how money from a tax increment account designated to an CETRZ was spent and describing any new roads constructed with the money.

County commissioners could accept donations of labor, money, or other property to aid in infrastructure maintenance or construction, provided that it gave a liability release to the donor.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSSB 1747 would address the transportation infrastructure and resulting safety needs affecting the areas in the state affected by oil and gas exploration traffic in a financially responsible way that would provide immediate relief to counties where roads have been directly damaged from oil and gas traffic. With the many economic benefits that have come from Texas' increased oil and gas exploration, these activities have had a severe impact on transportation infrastructure. Many counties are struggling to maintain their roads, and safety issues have become a chief concern along with damage done to roads and equipment.

The grant program the bill would establish would direct TxDOT to create criteria to ensure that grants to counties were proportional to their oil-and-gas activities and came with high levels of financial and results-based accountability.

The bill would not appropriate new funds but would establish a state fund for the purpose of distributing grants to counties. There is funding for the project in the supplemental appropriations bill (HB 1025 by Pitts), and this bill would create the mechanism to provide immediate relief to counties where the roads have been affected by increased energy production, while also creating a long-term tool that county governments could use to repair their roads.

OPPONENTS

According to the Legislative Budget Board, the bill would cost the state $2

SAY:

million per fiscal biennium to capitalize the TIF. In addition, allowing local governments to commit a portion of property taxes to transportation projects would commit resources that otherwise would be available for schools, police, fire protection, parks, and other important priorities.

Establishing additional transportation reinvestment zones would represent an expansion of the troublesome practice of using local property taxes to fund transportation projects that the state should be contributing more to fix. Oil and gas exploration has buoyed the entire state economy, and severance taxes have filled the Rainy Day Fund while counties have been stuck with the check for roads.

OTHER OPPONENTS SAY:

The increased funding that would result from a property tax increment would be insufficient to fund the widespread damage to county roads that were not intended to bear the sort of traffic that comes with oil and gas exploration. A bigger appropriation from the Rainy Day Fund would be necessary to meet infrastructure needs that will only grow.

Energy companies should be expected to pay more directly for the roads they are consuming. The Legislature should consider implementing some sort of cost-sharing arrangement that would appropriately distribute the burden between local government and the oil and gas companies causing the damage.

NOTES:

The Legislative Budget Board estimates that CSSB 1747 would have a negative impact of $2 million on general revenue related funds in fiscal 2014-15, based on the assumption that the Legislature would appropriate $1 million each year to capitalize the TIF.