

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 471  
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Infrastructure Development and Security  
5/23/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The state comptroller's review of the Texas Department of Transportation (TxDOT) in January 2001 recommended that TxDOT be given the authority to borrow funds on a short-term basis, either from the state treasury or from outside capital markets, in order to allow TxDOT to manage its cash position more aggressively.

C.S.H.B. 471 authorizes the Texas Transportation Commission to authorize TxDOT to borrow money from the state treasury or any other source for transportation-related projects.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 3 (Section 222.003, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 201, Transportation Code, by adding Section 201.115, as follows:

Sec. 201.115. BORROWING MONEY. (a) Authorizes the Texas Transportation Commission (TTC) to borrow money from any source to carry out the functions of the Texas Department of Transportation (TxDOT).

(b) Authorizes a loan under this section to be in the form of an agreement, note, contract, or other form as determined by TTC and to contain any provisions TTC considers appropriate, except the term of the loan may not exceed two years, the amount of the loan, combined with any amounts outstanding on other loans under this section, may not exceed the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan, and the loan may not create general obligation of the state and is payable only as authorized by legislative appropriation.

(c) Provides that if the commission borrows money by the issuance of notes, the notes shall be issued in accordance with the requirements of Subchapter N, except that the maturity limitations in Subsection (b) supersede the maturity limitations in Section 201.963.

(d) Provides that, notwithstanding Section 222.001, money in the state highway fund may be used to repay a loan under this section, if appropriated by the legislature for that purpose.

SECTION 2. Amends Chapter 201, Transportation Code, by adding Subchapter N, as follows:

#### **SUBCHAPTER N. HIGHWAY TAX AND REVENUE ANTICIPATION NOTES**

Sec. 201.961. DEFINITIONS. Defines: "committee," "credit agreement," and "notes."

Sec. 201.962. NOTES AUTHORIZED; COMMITTEE APPROVAL. (a) Authorizes

TTC, in anticipation of a temporary cash flow shortfall in the state highway fund during any fiscal year, subject to the approval of the cash management committee (committee), to issue, sell, and deliver tax and revenue anticipation notes on behalf of the state.

(b) Requires TTC, before issuing the notes, to submit to the committee a state highway fund cash flow shortfall forecast containing a detailed report of estimated revenue and expenditures. Authorizes the committee, based on the forecast, to approve the issuance of notes in an amount not to exceed the maximum temporary cash flow shortfall forecast.

Sec. 201.963. ISSUANCE OF NOTES. (a) Authorizes TTC, consistent with the committee's determination under Section 201.962, to issue, sell, and deliver the notes.

(b) Provides that notes issued under this subchapter are not debts of the state and may be used only to make up a temporary shortfall in the state highway fund's cash flow. Provides that all notes must mature and be paid in full during the fiscal biennium in which they were issued.

(c) Requires that, except as otherwise provided by this subsection, the proceeds of the notes be deposited in a special fund in the state treasury known as the highway tax and revenue anticipation note fund. Requires that, notwithstanding any other provision of law, depository interest be credited to the fund. Requires TxDOT to transfer the net proceeds from the fund to the state highway fund as necessary to pay authorized expenditures. Authorizes the comptroller to invest funds in the highway tax and revenue anticipation note fund as authorized under Section 404.024, Government Code. Provides that proceeds of a credit agreement may be deposited as provided by the order authorizing the credit agreement.

(d) Authorizes TTC to exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371, Government Code, to the extent not inconsistent with this subchapter. Provides that the notes are not subject to review by the Bond Review Board but are subject to review and approval by the attorney general as provided by Chapter 1371, Government Code. Authorizes the comptroller, on request, to assist TTC with the issuance of notes under this subchapter.

(e) Provides that TTC is an authorized issuer under Chapter 1201, Government Code, and that chapter applies to notes authorized by this subchapter.

(f) Authorizes amounts in the highway tax and revenue anticipation note fund to be pledged to secure the payment of the notes and performance of obligations under credit agreements relating to the notes and to be used to pay issuance costs and required rebates to the federal government.

Sec. 201.964. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES. (a) Requires TxDOT periodically to transfer cash received in the state highway fund to the highway tax and revenue anticipation note fund to ensure the timely payment of the notes.

(b) Requires TxDOT, on payment of all outstanding notes, rebates to the federal government, and costs of issuance, to transfer to the state highway fund any amounts remaining in the highway tax and revenue anticipation note fund. Provides that if amounts credited to the highway tax and revenue anticipation note fund are insufficient to pay principal, any premium, interest, issuance costs, and any required rebate to the federal government, amounts in the state highway fund are available for appropriation by the legislature to make those payments.

SECTION 3. Amends Subchapter A, Chapter 222, Transportation Code, by adding Section 222.003, as follows:

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND. (a) Authorizes TTC to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) Prohibits the aggregate principal amount of the bonds and other public securities that are issued from exceeding \$10 billion. Authorizes TTC to only issue bonds or other public securities in an aggregate principal amount of not more than \$1 billion each year.

(c) Requires proceeds from the sale of bonds and other public securities issued under this section to be used to fund state highway improvement projects. Authorizes proceeds to be used only to provide certain funding.

(d) Defines "Texas Highway Trunk System."

(e) Requires TTC, of the aggregate principal amount of bonds and other public securities that may be issued under this section, to issue bonds or other public securities in an aggregate principal amount of \$2 billion to fund projects eligible under Subsection (c)(1)(D). Requires TTC by rule to prescribe criteria for selecting projects eligible for funding under this section. Requires TTC, in establishing criteria for projects eligible under Subsection (c)(1)(D), to consider accident data, traffic volume, payment geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

(f) Prohibits the proceeds of bonds and other public securities issued under this section from being used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. Prohibits the proceeds of bonds and other public securities issued under this section from being used for the construction of a state highway or other facility on the Trans-Texas Corridor. Defines "Trans-Texas Corridor."

(g) Authorizes TTC to enter into credit agreements, as defined by Chapter 1371, Government Code, relating to the bonds and other public securities authorized by this section. Authorizes the agreements to be secured by and payable from the same sources as the bonds and other public securities.

(h) Provide that all laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to the issuing of bonds and other public securities and the entering into of credit agreements under this section.

(i) Authorizes the proceeds of bonds and other public securities issued under this section to be used to pay certain debts.

(j) Prohibits bonds and other public securities and credit agreements authorized by this section from having a principal amount or terms that, at the time the bonds or other public securities are issued or the agreements entered into, are expected by TTC to cause annual expenditures with respect to the obligations to exceed 10 percent of the amount deposited to the credit of the state highway fund in the immediately preceding year.

(k) Authorizes bonds and other public securities issued under this section to be sold in such manner and subject to such terms and provisions as set forth in the order authorizing their issuance, and requires such bonds and other public securities to mature not later than 20 years after their dates of issuance, subject to any refunding or renewals.

(l) Requires the comptroller to withdraw from the state highway fund and forward

at the direction of TTC to another person the amounts as determined by TTC to permit certain timely payments.

(m) Prohibits TTC from funding a project unless TTC makes a formal finding by minute order that the funding of the project will satisfy the requirements of Subsection (c).

SECTION 4. Provides that, for the fiscal biennium beginning September 1, 2003, TxDOT is appropriated all money deposited in the highway tax and revenue anticipation note fund for the purposes specified in Subchapter N, Chapter 201, Transportation Code, as added by this Act, during that biennium. Provides that, to the extent that money deposited into the highway tax and revenue anticipation note fund is insufficient to pay the principal of, any premium or interest on, or costs of issuance relating to the notes, and rebates to the federal government, TxDOT is appropriated from the state highway fund the amounts necessary for the full repayment of all principal of, any premium or interest on, or costs of issuance relating to the notes, and rebates to the federal government.

SECTION 5. (a) Provides that SECTIONS 1 and 3 of this Act takes effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, providing for authorization of the borrowing of money on a short-term basis by a state transportation agency for transportation-related projects, and the issuance of bonds and other public securities secured by the state highway fund takes effect. Provides that if that amendment is not approved by the voters, SECTIONS 1 and 3 of this Act have no effect.

(b) Provides that SECTIONS 2 and 4 of this Act take effect September 1, 2003.