

BILL ANALYSIS

Senate Research Center
81R4514 MTB-F

S.B. 1383
By: Carona
Transportation & Homeland Security
3/31/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Several incentives for local governments to participate in delivering transportation projects in Texas have been authorized in recent years by the legislature. As local governments become more aware of these options, programs like pass-through financing and transportation reinvestment zones have been embraced by these jurisdictions as meaningful methods of delivery for critically needed transportation projects. Unfortunately no state or federal revenue is currently dedicated specifically for these local participation programs.

Despite the willingness of local governments to provide significant resources and commit their local revenue to deliver these projects, appropriated funding to support these important programs has not been authorized.

As proposed, S.B. 1383 establishes a fund in the state treasury, dedicated to the purpose of encouraging local participation in transportation projects. The bill authorizes the comptroller of public accounts (comptroller) to prepare an annual projection of the amount of funding available for the project, and to define criteria for local government participation in the fund. S.B. 1383 authorizes the comptroller to create a process and develop criteria for the Texas Department of Transportation (TxDOT) to certify that projects applying for potential access to the fund are eligible for participation and consistent with the existing and planned state highway system. The bill also requires the comptroller's office to issue to the applicant local government entity a certification with relevant and necessary information for the local government to begin to negotiate with TxDOT the amount and terms of the funding agreement. S.B. 1383 requires the comptroller to develop criteria to give TxDOT clear direction on how projects certified as eligible for participation in the fund are required to be treated and how agreements are to be negotiated.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 403.354, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 403, Government Code, by adding Subchapter O, as follows:

SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

Sec. 403.351. DEFINITIONS. Defines "department," "fund," "local project sponsor," "program," "project," and "total project cost."

Sec. 403.352. TEXAS LOCAL PARTICIPATION TRANSPORTATION FUND. (a) Provides that the Texas local participation transportation fund (fund) is a dedicated account in the general revenue fund.

(b) Sets forth the composition of the fund.

(c) Authorizes money in the fund to be used only for the administration of this subchapter and prohibits the fund from being appropriated for any other purpose.

(d) Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments) do not apply to the fund.

Sec. 403.353. GIFTS AND GRANTS. Authorizes the comptroller of public accounts (comptroller) to solicit and accept gifts and grants to the fund. Authorizes a gift or grant to the fund to be used in the same manner as other money in the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

Sec. 403.354. RULEMAKING AUTHORITY. Authorizes the comptroller to adopt rules relating to the implementation of the Texas Local Participation Transportation Program (program) and any other rules necessary to accomplish the purposes of this subchapter.

Sec. 403.355. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM.

(a) Requires the comptroller to administer a program to encourage local project sponsors to participate in the delivery of eligible projects by providing the sponsors disbursements from the fund.

(b) Requires the comptroller, in administering the program, to develop a process for certifying the eligibility of projects nominated by local project sponsors for disbursements from the fund. Requires that the process require a local project sponsor to submit a request for certification that includes:

(1) a description of the benefits anticipated to result from the project, including the impact on local economic development and diversification; congestion on public highways, future mobility needs of this state, and the development or expansion of transportation in the state; safety to the traveling public; and air quality;

(2) a description of local support for the project and any known local public opposition;

(3) a proposed schedule for the development and completion of the project, including an estimate of the date on which the project will be open to traffic; and

(4) a commitment by the local project sponsor to comply with all state or federal laws.

(c) Requires that a request for certification, in addition to information provided under Subsection (b), contain:

(1) sufficient information to determine that the local project sponsor is an entity eligible to receive funding under this subchapter;

(2) a specific description of the project, including project limits and connections with other transportation facilities;

(3) identification of the scope of work to be completed and a detailed estimate of total project costs;

(4) a commitment that the local project sponsor intends to enter into an agreement for development of the project under Section 222.104 (Pass-Through Tolls), Transportation Code; and

(5) a proposed plan for funding the project that is in compliance with Subsection (d), and specifically identifies the contribution of local sources to the total project cost.

(d) Prohibits an eligible project from receiving more than 50 percent of the total project cost from the fund.

Sec. 403.356. DETERMINATION OF CONTRIBUTION. Authorizes a sponsor, for purposes of determining the amount contributed by local sources to the total project cost under Section 403.355, to include, as applicable, funds on hand, ad valorem taxes, local option taxes or fees dedicated to the project, economic development grants, other project specific gifts and grants, and, if the project is planned as a toll facility, toll revenues.

Sec. 403.357. ADMINISTRATION OF PROGRAM. Requires the comptroller, in administering the program, to:

- (1) prepare an annual report projecting the amount of funding available based on estimates of future deposits to the fund and of money to be repaid to the fund by local project sponsors under loans made under this subchapter;
- (2) establish guidelines for disbursements from the fund that link disbursements with proposed project development and completion schedules submitted under Section 403.355(b)(3); and
- (3) establish guidelines and protocols for use by the Texas Department of Transportation (TxDOT) in certifying that a project for which a request for certification is submitted is not inconsistent with existing and planned improvements to the state highway system.

Sec. 403.358. PROJECT CERTIFICATION. (a) Requires the comptroller, if the comptroller finds that a project for which a request for certification is submitted is eligible for disbursements from the fund, to:

- (1) issue a certification to the local project sponsor to begin negotiations with TxDOT under Section 222.104, Transportation Code; and
- (2) provide TxDOT, based on the type of projects that will most effectively meet the economic development needs of this state, with guidelines that TxDOT must follow in advancing projects authorized under Section 222.104, Transportation Code, and negotiating agreements for projects under that section, so that projects may be certified under this subchapter as eligible for funding, including certain guidelines.

(b) Provides that a project for which a certification is issued under this section does not require further approval by TxDOT under Section 222.104, Transportation Code, before an agreement may be made.

Sec. 403.359. FUND DISBURSEMENTS. (a) Authorizes the comptroller, after a project is certified under this subchapter, to make disbursements from the fund to a local project sponsor in the form of a grant or loan in accordance with guidelines established under Section 403.357(2).

(b) Prohibits the comptroller from making a disbursement from the fund for a project until there is a signed agreement under Section 222.104, Transportation Code, that is consistent with Section 403.358(a)(2).

Sec. 403.360. FEES. Requires the comptroller, in connection with each application for certification of a project under this subchapter, to impose and collect from the local project sponsor an application fee in an amount sufficient to cover the costs incurred by the comptroller in administering this subchapter.

SECTION 2. Effective date: upon passage or September 1, 2009.