

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1669
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides for the creation and operation of regional mobility authorities (RMAs) and authorizes RMAs to study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects. The powers and duties of RMAs are set forth in various provisions of the Transportation Code.

C.S.S.B. 1669 redefines "surplus revenue," and "transportation project." The bill includes payment obligations of an RMA under a contract or agreement as part of the cost of acquisition, construction, extension, or improvement of a transportation project. C.S.S.B. 1669 authorizes an RMA, through its board of directors, to participate in the state travel management program administered by the comptroller of public accounts; borrow money from or enter into a loan agreement or other arrangement with the Texas Department of Transportation, the Texas Transportation Commission, or any other public or private entity; and authorizes an RMA to pledge revenues or funds to the payment of obligations under a contract or agreement authorized by Chapter 370 (Regional Mobility Authorities), Transportation Code. The bill also makes certain requirements and authorizations regarding tolling services and revenues for any public or private entity, including an RMA.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 370.003(12) and (14), Transportation Code, to redefine "surplus revenue" and "transportation project."

SECTION 2. Amends Section 370.004(a), Transportation Code, to provide that the cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes the cost of payment obligations of a regional mobility authority (RMA) under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project. Makes a nonsubstantive change.

SECTION 3. Amends Sections 370.033(a), (f), and (g), Transportation Code, as follows:

(a) Authorizes an RMA, through its board of directors, to participate in the state travel management program administered by the comptroller of public accounts (comptroller) for the purpose of obtaining reduced airline fares and reduced travel agent fees, provided that the comptroller is authorized to charge an RMA a fee not to exceed the costs incurred by the comptroller in providing services to the authority; and borrow money from or enter into a loan agreement or other agreement with the state infrastructure bank, the Texas Department of Transportation (TxDOT), the Texas Transportation Commission (TTC), or any other public or private entity.

(f) Authorizes a contract or agreement under this subsection to contain terms and conditions as are authorized to be approved by an RMA, including payment obligations of the governmental entity and the RMA.

(g) Provides that payments to be made to an RMA under a contract or agreement described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract.

SECTION 4. Amends Subchapter B, Chapter 370, Transportation Code, by adding Section 370.040, as follows:

Sec. 370.040. TOLL COLLECTION. (a) Defines "tolling services."

(b) Requires an RMA to provide, for reasonable compensation, tolling services for a toll project in the geographic boundaries of the RMA, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the RMA or another entity. Requires that nothing contained in this section restrict an authority from agreeing to additional tolling services in an agreement described by Subsection (d). Requires that any such additional tolling services be subject to the same provisions that apply to tolling services under this section.

(c) Prohibits an RMA from providing financial security, including a cash collateral account, for the performance of tolling services it provides under this section if the RMA determines that providing security could restrict the amount or increase the cost of bonds or other debt obligations the RMA may subsequently issue under this chapter, or the RMA is not reimbursed its cost of providing the security.

(d) Requires an RMA, before providing tolling services for a toll project under this section, to enter into a written agreement that sets out the terms and conditions for the tolling services to be provided and the terms of compensation for those services.

(e) Provides that toll revenues are the property of the entity that is entitled to the revenues under a tolling services agreement for the toll project, regardless of who holds or collects the revenues. Provides that toll revenues that are held or collected by an authority under a tolling services agreement that are not the property of the authority are not subject to a claim adverse to the authority or a lien on or encumbrance against property of the authority. Provides that toll revenues that are the property of the authority are not subject to a claim adverse to any other entity or a lien on or encumbrance against property of any other entity.

(f) Authorizes an RMA to agree in a tolling services agreement that its right and obligation to provide services for that toll project under this section are subject to termination for default, and that after any such termination, this section no longer applies to that toll project.

(g) Authorizes any public or private entity, including an RMA or TxDOT, to agree to fund a cash collateral account for the purpose of providing funds that may be withdrawn as provided in the tolling services agreement because of an authority's failure to make any payment as required by the tolling services agreement. Provides that an authority's written commitment to fully or partially fund a cash collateral account conclusively evidences its determination that the commitment does not violate Subsection (c). Authorizes TxDOT to expend money from any available source for this purpose.

(h) Authorizes Subsection (b) to be waived by the RMA under a written agreement between the RMA and the entity developing the toll project.

SECTION 5. Amends Sections 370.071(a) and (b), Transportation Code, as follows:

(a) Authorizes an RMA to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to the preparation and issuance of bonds for a proposed

transportation project by pledging to the payment of the bonds or a loan agreement the proceeds from the sale of other bonds.

(b) Requires that money spent under this section for a proposed transportation project be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project, unless the transportation projects are or become part of a system under Section 370.034 (Establishment of Transportation Systems).

SECTION 6. Amends Section 370.072(c), Transportation Code, to authorize that money in the feasibility study be used only to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to certain activities.

SECTION 7. Amends Section 370.073(a), Transportation Code, to authorize one or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state to pay all or part of the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to certain activities.

SECTION 8. Amends Section 370.113(a), Transportation Code, to provide that the principal of, interest on, and any redemption premium on bonds issued by an RMA are payable solely from payments made under an agreement with TTC, TxDOT, or other governmental entity as authorized by this chapter, rather than provided by Subchapter G (Participation in Financing, Construction, and Operation of Transportation Projects); and the proceeds of the sale of other bonds. Makes a nonsubstantive change.

SECTION 9. Amends Section 370.114, Transportation Code, as follows:

Sec. 370.114. EFFECT OF LIEN. (a) Provides that a lien on or a pledge of revenue from a transportation project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter or an agreement entered into under this chapter is enforceable at the time of payment for and delivery of the bond or on the effective date of the agreement.

(b) Requires that a copy of any bond resolution be maintained in the regular records of the RMA. Deletes existing text providing that a bond resolution is not required to be recorded except in the regular records of the RMA.

SECTION 10. Amends Section 370.172, Transportation Code, by amending Subsection (b) and adding Subsection (k), as follows:

(b) Requires that tolls, fees, fares, or other charges be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an RMA's transportation project, together with other revenue of the transportation project provides revenue sufficient to pay any other payment obligations of an RMA under a contract or agreement authorized under this chapter. Makes a nonsubstantive change.

(k) Authorizes an RMA, notwithstanding any other provision of this chapter to the contrary, to pledge all or any part of its revenues and any other funds available to the RMA to the payment of any obligations of the RMA under a contract or agreement authorized by this chapter.

SECTION 11. Amends Section 370.173(c), Transportation Code, to authorize an RMA to use money in the revolving fund to borrow money and issue bonds, promissory notes, or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter.

SECTION 12. Amends Section 370.177, Transportation Code, by adding Subsection (1), to provide that in addition to the other powers and duties provided by this chapter, with regard to its toll collection and enforcement powers for its turnpike projects or other toll projects developed,

financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the RMA or another entity, an RMA has the same powers and duties as TxDOT under Chapter 228 (State Highway Toll Projects), a county under Chapter 284 (Causeways, Bridges, Tunnels, Turnpikes, Ferries, and Highways in Certain Counties), and a regional tollway authority under Chapter 366 (Regional Tollway Authorities).

SECTION 13. Amends Sections 370.251(a) and (b), Transportation Code, as follows:

(a) Requires the commissioners court of a county that is subsequently added to an RMA to appoint at least one director to the board.

(b) Requires that the appointment of additional directors from a county subsequently added to an RMA or from a county of an RMA that contains an operating transportation project of an RMA be by a process unanimously agreed to by the commissioners courts of all the counties of the RMA. Deletes existing text requiring, unless the commissioners courts of the counties of the RMA unanimously agree otherwise, the commissioners court of each county of an RMA that contains an operating transportation project of the RMA to appoint one additional director.

SECTION 14. Amends Section 370.303, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (b-1) and (g), as follows:

(a) Authorizes a governmental entity, rather than a governmental entity other than a nonprofit corporation, consistent with the Texas Constitution, to issue bonds, notes, or other obligations or enter into and make payments under agreements with an RMA in connection with the financing, acquisition, construction, or operation of, rather than with an RMA to acquire, construct, maintain, or operate a transportation project, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by an RMA and make payments under any related credit agreements.

(b) Authorizes a governmental entity, in addition to the powers provided by Subsection (a), to the extent constitutionally permitted, to agree with an RMA to create a transportation reinvestment zone under Subchapter E (Toll Facilities), Chapter 222 (Funding and Federal Aid); or collect and remit to an RMA taxes, fees, or assessments collected for purposes of developing transportation projects. Makes nonsubstantive changes.

(b-1) Authorizes an agreement under Subsection (b) to include a means for a local governmental entity to pledge or otherwise provide funds for a transportation project that benefits the governmental entity to be developed by the RMA.

(g) Authorizes an agreement under this section to contain repayment or reimbursement obligations of an RMA.

SECTION 15. Amends Section 370.304, Transportation Code, to authorize an RMA to enter into any contract, loan agreement, or other agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION 16. Amends Section 371.051(a), Transportation Code, as added by Chapter 103 (H.B. 570), Acts of the 80th Legislature, Regular Session, 2007, to prohibit a toll project entity from using certain information, for purposes other than those related to toll collection, toll collection enforcement, and toll project development and operation and law enforcement purposes on request by a law enforcement agency, rather than on request by a law enforcement agency, subject to Section 228.058(d) (repealed by Acts 2007, 80th Leg.). Makes a nonsubstantive change.

SECTION 17. Repealer: Section 370.317(d) (relating to an agreement under this section between a local government and a private entity being required to be approved by TxDOT), Transportation Code.

SECTION 18. Effective date: upon passage or September 1, 2009.