

BILL ANALYSIS

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C.S.S.B. 2378
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 2003, local governments have been able to utilize new and innovative methods for delivering much needed transportation infrastructure to their jurisdictions. Current law authorizes local governments to take control of transportation projects through the pass-through finance program. Pass-through financing allows the Texas Department of Transportation to delegate to cities and counties the authority to finance the costs and oversee the construction of needed local road projects and to be reimbursed by the state for those costs over a period of time. Typically this can accelerate the delivery of a project to a community by many years.

S.B. 1266, 80th Legislature, 2007, gave cities and counties which intended to complete a pass-through finance project the option of designating an area adjacent to the road project as a transportation reinvestment zone. Through a transportation reinvestment zone the sponsoring entity is allowed to capture a portion of the property tax revenues resulting from the increased property values that occur as a result of the new road project. Those captured revenues can be used to provide needed financing support for the project. By designating an area as a transportation reinvestment zone and entering into a pass-through finance agreement, a local government can take control of its transportation needs; accelerate the construction of needed projects; determine the best method of delivery; and develop a plan for financing of the project, whether with its own sources of revenue or by partnering with the private sector to finance and/or deliver the projects.

C.S.S.B. 2378 amends the Transportation Code to provide clarification to the provisions relating to transportation reinvestment zones that were enacted into law by S.B. 1266, 80th Legislature, 2007.

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 Section 222.105, Transportation Code, to provide that, among other things, the purposes of Sections 222.106 and 222.107 are to facilitate the improvement, development, or redevelopment of property.

SECTION 2. Amends Section 222.106, Transportation Code, by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1), and (i-2), as follows:

(b) Provides that this section applies only to a municipality in which a transportation project is to be developed under Section 222.104 (Pass-through Tolls). Deletes existing text providing that this section applies only to a municipality the governing body of which intends to enter into an agreement with the Texas Department of Transportation (TxDOT) under Section 222.104.

(c) Authorizes the governing body of the municipality by ordinance, if the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, to designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment

zone (zone) to promote a transportation project, rather than a transportation project described by Section 222.104 that cultivates development or redevelopment of the area.

(g) Requires the ordinance designating an area as a zone to designate the base year for purposes of establishing the tax increment base of the municipality and contain findings that promote of the transportation project will cultivate the improvement, development, or redevelopment of the zone. Makes nonsubstantive changes.

(h) Requires the municipality, from taxes collected on property in a zone, to pay into increment account for the zone the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 381 (County Development and Growth), Local Government Code, or Chapter 311 (Tax Increment Financing Act), Tax Code, rather than pay into the tax increment account for the zone an amount equal to the tax increment produced by the municipality.

(i) Requires all or the portion specified by the municipality of the money deposited to a tax increment account to be used to fund the transportation project for which the zone was designated. Authorizes any remaining money deposited to the tax increment account to be used for other transportation projects or for improvements in the zone. Deletes existing text requiring money deposited to a tax increment account to be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section. Makes nonsubstantive changes.

(i-1) Authorizes the governing body of a municipality to contract with a public or private entity to develop, redevelop, or improve a transportation project in a zone and to pledge and assign all or a specified amount of money in the tax increment account to that entity. Prohibits the governing body of the municipality, after a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtained funding for the transportation project, from rescinding its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) Authorizes the boundaries of a zone, to accommodate changes in the scope of the project for which a reinvestment zone was designated, to be amended at any time, except that property is prohibited from being removed or excluded from a designated zone if any part of the tax increment has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and prohibits property from being added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Provides that except as provided by Subsections (i-1) and (k), rather than Subsection (k), a zone terminates on December 31 of the year in which the municipality completes, rather than complies with, a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an agreement for development, redevelopment, or improvement of the project for which the zone was designated, rather than the agreement under Section 222.104 in connection with which the zone was designated.

(k) Provides that a zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Authorizes any surplus remaining in a tax increment account on termination of a zone to be used for other purposes as determined by the municipality, rather than used for transportation projects of the municipality in or outside of the zone.

SECTION 3. Amends the heading to Section 222.107, Transportation Code, to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES.

SECTION 4. Amends Section 222.107, Transportation Code, by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1), as follows:

(b) Provides that this section applies only to a county in which a transportation project is to be developed, rather than a county the commissioners court of which intends to enter into a pass-through toll agreement with the department, under Section 222.104.

(c) Authorizes the commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution to designate a contiguous geographic area in the jurisdiction of the county to be a zone to promote a transportation project, rather than a transportation project described by Section 222.104 that cultivates development or redevelopment of the area, and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county or real property located in the zone.

(e) Authorizes the commissioners court, not later than the 30th day before the date the commissioners court proposes to designate an area as a zone under this section, to hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county or real property located in the zone. Authorizes an interested person, at the hearing, to speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Requires notice of the hearing and the intent to create a zone, not later than the seventh day before the date of the hearing, to be published in a newspaper having general circulation in the county.

(f) Requires the order or resolution designating an area as a zone to designate the base year for purposes of establishing the tax increment base of the county.

(h) Authorizes the commissioners court by order or resolution to enter into an agreement with the owner of any real property located in the zone to abate all or a portion of the ad valorem taxes or to grant relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. Requires all abatements or other relief granted by the commissioners court in a zone to be equal in rate. Authorizes the commissioners court by order or resolution, in the alternative, to elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. Prohibits the total amount of the taxes abated or the total amount of relief granted under this section, in any ad valorem tax year, from exceeding the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381 (County Development and Growth), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code.

(h-1) Authorizes a county, to further the development of the transportation project for which the zone was designated, to assess all or part of the cost of the transportation project against property within the zone. Authorizes the assessment against each property in the zone to be levied and payable in installments in the same manner as provided by Section 372.016 (Assessment Roll), 372.017 (Levy of Assessment), and Section 372.018 (Interest on Assessment; Lien), Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). Authorizes the county to elect to adopt and apply the provisions of Sections 372.015 (Determination of Assessment), 372.016 (Assessment Roll), 372.017 (Levy of Assessment), 372.018 (Interest on Assessment; Lien), 372.019 (Supplemental Assessments), 372.020 (Reassessment), and 372.023 (Payment of Costs), Local Government Code, to the assessment of costs and Sections 372.024 (General Obligation and Revenue Bonds), 372.025, (Terms and Conditions of Bonds), 372.026 (Pledges), 372.027 (Refunding Bonds), 372.028 (Approval and Registration), 372.029 (Authorized Investments; Security), 372.030 (Subchapter Not Exclusive), Local Government Code, to the issuance of bonds by the county to pay the cost of a

transportation project. Authorizes the commissioners court of the county to contract with a public or private entity to develop, redevelop, or improve a transportation project in the zone and to pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. Prohibits the commissioners court of the county, after a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, from rescinding its pledge or assignment until bonds or other obligations secured by the pledge or assignment have been paid or discharged. Authorizes any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project to be used for other purposes associated with the transportation project or in the zone.

(i) Authorizes a road utility district, in the alternative, to assist the county in developing a transportation project, if authorized by the Texas Transportation Commission under Chapter 441 (Road Utility Districts), rather than authorized under Section 222.104, to be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) Authorizes a road utility district formed as provided by Subsection (i) to enter into an agreement to fund development of a project or to repay funds owed to TxDOT, rather than to enter into an agreement with the county to assume the obligation, if any, of the county to fund a project under Section 222.104 or to repay funds owed to TxDOT under Section 222.104. Provides that any amount paid for this purpose is considered to be an operating expense of the district. Authorizes any taxes collected by the district that are not paid for this purpose to be used for any district purpose.

(k-1) Authorizes the boundaries of a zone, to accommodate changes in the scope of the project for which a reinvestment zone was designated, to be amended at any time, except that property is prohibited from being removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property is prohibited from being added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (f).

(l) Provides that except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments, rather than pledge of money, collected under this section.

SECTION 5. Amends Subchapter E, Chapter 222, Transportation Code, by adding Sections 222.108 and 222.109, as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Authorizes a municipality or county, notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a zone be established in connection with a project under Section 222.104, to establish a zone for any transportation project. Authorizes TxDOT, if all or part of the transportation project is subject to oversight by TxDOT, at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection, to the municipality or county.

(b) Requires that a transportation project developed under Subsection (a) that is on the state highway system comply with state design criteria unless TxDOT grants an exception to the municipality or county.

(c) Defines "transportation project."

Sec. 222.109. REDUCTION PROHIBITED. (a) Prohibits a municipality or county from being penalized with a reduction in traditional transportation funding because of the designation and use of a zone under this chapter. Prohibits any funding from TxDOT identified for a project before the date that a zone is designated from being reduced because the zone is designated in connection with that project.

(b) Prohibits TxDOT from reducing any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a zone designated under this chapter.

SECTION 6. Effective date: September 1, 2009.