

BILL ANALYSIS

Senate Research Center
82R26859 E

C.S.H.B. 1112
By: Phillips (Nichols)
Transportation & Homeland Security
5/5/2011
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 the Regional Mobility Authority Act (Chapter 370 (Regional Mobility Authorities), Transportation Code) and other provisions of the Transportation Code.

C.S.H.B. 1112 amends current law relating to the authority and powers of regional mobility authorities.

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, as follows:

(12) Redefines "surplus revenue."

(14) Redefines "transportation project" to include, among other entities, a parking area, structure, or facility, or a collection device for parking fees; and improvements in a transportation reinvestment zone designated under Subchapter E (Toll Facilities), Chapter 222.

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, among other items, payment obligations of a regional mobility authority (authority) organized under this chapter or under Section 361.003, as that section existed before June 22, 2003, under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project.

SECTION 3. Amends Sections 370.003(a), (f), and (g), Transportation Code, as follows:

(a) Authorizes an authority, through its board, to, among other actions, 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 may charge the authority 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 arrangement 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 an authority to enter into a contract or agreement with TxDOT, subject to the transportation project being in the authority's area of jurisdiction. Authorizes a contract or agreement under this subsection to contain terms and conditions as may be

approved by an authority, including payment obligations of the governmental entity and the authority.

(g) Makes conforming changes.

SECTION 4. Amends Sections 370.071(a) and (b), Transportation Code, as follows:

(a) Authorizes an authority 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, among other means, 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 5. Amends Section 370.072(c), Transportation Code, to require that money in the feasibility study fund be used only to pay the expenses of, among other certain expenses, studying the cost and feasibility of a transportation project, and the design and engineering of a transportation project.

SECTION 6. Amends Section 370.073(a), Transportation Code, to make a conforming change.

SECTION 7. Amends Section 370.113(a), Transportation Code, to provide that the principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from, among other means, 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 from the proceeds of the sale of other bonds.

SECTION 8. 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 a contract or 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 contract or agreement; applies to each item on hand or subsequently received; applies without physical delivery of an item or other act; and is enforceable against any person having a claim, in tort, contract, or other remedy, against the applicable authority without regard to whether the person has notice of the lien or pledge.

(b) Requires that a copy of any bond resolution be maintained in the regular records of the authority.

SECTION 9. 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 authority's transportation project together with other revenue of the transportation project:

(1) provides revenue sufficient to pay, among other items, any other payment obligations of an authority under a contract or agreement authorized under this chapter; and

(2) creates reserves for a purpose listed under Subdivision (1).

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

SECTION 10. Amends Section 370.173(c), Transportation Code, to authorize the authority to use money in the revolving fund to, among other actions, borrow money and issue bonds, promissory notes, or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter.

SECTION 11. Amends Section 370.177, Transportation Code, by adding Subsection (l), 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 with the authority or another entity, an authority 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 12. Amends Sections 370.251(a) and (b), Transportation Code, as follows:

(a) Requires the commissioners court of a county that is subsequently added to the authority to appoint at least one director to the board of directors of a regional tollway authority.

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

SECTION 13. Amends Subchapter F, Chapter 370, Transportation Code, by adding Section 370.2511, as follows:

Sec. 370.2511. **BOARD OF DIRECTORS: CERTAIN AUTHORITIES.** (a) Provides that this section applies only to an authority created by a municipality.

(b) Authorizes the governing body of a municipality by order to establish the governing body as the board of directors of an authority.

(c) Requires the governor to designate one director to serve as the presiding officer of a board under this section.

(d) Provides that each director of a board under this section has equal status and is authorized to vote.

(e) Provides that the vote of a majority attending a board meeting is necessary for any action taken by a board under this section. Provides that if a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(f) Requires the governing body of a municipality that becomes the board of an existing authority under this section to by resolution provide for the transfer process that establishes the governing body as the board of the authority.

(g) Provides that if the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, Sections 370.251 (Board of Directors), 370.2515 (Board Composition Proposal by

Turnpike Authority), 370.252 (Prohibited Conduct for Directors and Employees), 370.2521 (Filing of Financial Statement by Director), 370.2522 (Applicability of Conflicts of Interest Law to Directors), 370.2523 (Applicability of Nepotism Laws), 370.253 (Surety Bonds), 370.254 (Removal of Director), and 370.255 (Compensation of Director) do not apply to the board.

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, to, consistent with the Texas Constitution, issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority in connection with the financing, acquisition construction or operation of, rather than to acquire, construct, maintain, or operate, a transportation project by an authority, 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 the authority and make payments under any related credit agreements. Authorizes the entity to impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

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

(b-1) Creates this subsection from existing text. 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 authority.

(g) Provides that an agreement under this section is authorized to contain repayment or reimbursement obligations of an authority.

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

SECTION 16. Repealer: Section 370.317(d) (relating to an agreement under this section between a local government and a private entity requiring approval by TxDOT), Transportation Code.

SECTION 17. Effective date: upon passage or September 1, 2011.