

## **BILL ANALYSIS**

Senate Research Center  
82R1767 TRH-D

S.B. 363  
By: Ogden  
Transportation & Homeland Security  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, surplus toll revenues from toll projects operated by the Texas Department of Transportation (TxDOT), regional toll authorities, and regional mobility authorities may be used to pay for other toll projects in the region. This leads to the collection of tolls long after a toll project has been paid for. Current law does not address the length of time a toll project entity is authorized to collect tolls on a toll project.

This bill removes provisions from the Transportation Code that allow the use of surplus toll revenue collected from one transportation project to pay for another. Once the acquisition and construction costs of a toll project have been paid for, the project becomes part of the Texas highway system and the collection of tolls on the project must cease.

As proposed, S.B. 363 amends current law relating to the cessation of tolls by toll project entities in certain circumstances.

### **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 228.0111(g), Transportation Code, as follows:

(g) Provides that a local toll project entity has the first option to develop, finance, construct, and operate a toll project under the terms and conditions established under Subsection (e) (relating to the relationship between a local toll project entity and Texas Department of Transportation). Provides that a local toll project entity, other than a regional mobility authority under Chapter 370 (Regional Mobility Authorities), has six months after the date that the market valuation is mutually approved under Subsection (f) (relating to the market valuation of a toll project entity) to decide whether to exercise the option. Requires the metropolitan planning organization for the region in which the project is located, for a project proposed to be located within the boundaries of a regional mobility authority under Chapter 370, after the market valuation is final under Subsection (f), to determine whether the toll project should be developed using the business terms incorporated in the market valuation. Provides that if the metropolitan planning organization determines that the toll project should be developed using the business terms in the market valuation, the regional mobility authority has six months after the date the metropolitan planning organization decides whether to exercise the option to develop the project. Requires that the local toll project entity, after exercising the option and within two years after the date on which all environmental requirements necessary for the development of the toll project are secured and all legal challenges to development are concluded and if a local toll project entity exercises the option with respect to a toll project entity under this subsection:

(1) enter into a contract for the construction of the toll project; and

(2) either commit to make a payment into a toll project subaccount in an amount equal to the value of the toll project as determined by the market valuation, to be used by the Texas Department of Transportation (TxDOT) to finance the construction of additional transportation projects in the region in which the toll project is located; or commit to construction, within the period agreed to by the local toll project entity and TxDOT, additional transportation projects in the region in which the toll project is located with estimated construction costs equal to the market valuation of the toll project. Deletes existing text requiring that a toll project entity enter into a contract for the construction of the toll project, and for a regional mobility authority under Chapter 370, commit to using for a period to be agreed upon by TxDOT and the authority, all surplus revenue from the toll project for the purpose authorized by Section 370.174(b) (relating to the use of surplus revenue on other transportation projects) in an amount equal to the valuation of the project. Makes a nonsubstantive change.

SECTION 2. Amends Section 228.012(a), Transportation Code, as follows:

(a) Requires TxDOT to create a separate account in the state highway fund to hold payments received by TxDOT under a comprehensive development agreement and payments received under Sections 228.0111(g)(2) and (i)(2) (relating to toll project contracts). Deletes existing text requiring TxDOT to create a separate account in the state highway fund to hold surplus revenue of a toll project or system.

SECTION 3. Amends Section 228.053(f), Transportation Code, as follows:

(f) Requires that the revenue and disbursements for each toll project or system be kept separately. Prohibits the revenue from one project being used to pay the costs of another project except as authorized by Section 228.0055 (Use of Contract Payments and Other Revenue), rather than Sections 228.0055 and 228.006 (Use of Surplus Revenue).

SECTION 4. Amends Section 228.104(a), Transportation Code, to delete existing text providing that surplus revenue of another project or system as authorized by Section 228.006 is a source from which the principal of, interest on, and any redemption premium on bonds issued by the Texas Transportation Commission (TTC) under this subchapter are payable and to make nonsubstantive changes.

SECTION 5. Amends Section 228.105, Transportation Code, to delete existing text authorizing toll revenue bonds issued by TTC, notwithstanding any other provisions of this chapter, to be payable from and secured by surplus revenue of another toll project or system as authorized by Section 228.006, and to make nonsubstantive changes.

SECTION 6. Amends Section 366.113(a), Transportation Code, as follows:

(a) Provides that the principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely, from certain sources, including money derived from any other source available to the authority, other than money derived from a turnpike project that is not part of the same system or money derived from a different system. Deletes existing text providing an exception authorizing the use of money derived from a turnpike project to the extent that the surplus revenue of a turnpike project or system has been pledged for that purpose.

SECTION 7. Amends Section 370.113(a), Transportation Code, as follows:

(a) Provides that the principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from, certain sources, including money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a transportation project or system, other than a turnpike project, has been pledged for that purpose.

SECTION 8. Amends Subchapter B, Chapter 372, Transportation Code, by adding Section 372.054, as follows:

Sec. 372.054. CESSATION OF TOLLS. Provides that a toll project becomes a part of the state highway system and requires TTC to maintain the project without tolls when the costs of acquisition and construction of the project have been paid and:

(1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid by the issuer of the bonds or another person with the consent or approval of the issuer; or

(2) a sufficient amount for the payment of all bonds and interest on the bonds to maturity has been set aside by the issuer of the bonds or another person with the consent or approval of the issuer in a trust fund held for the benefit of the bondholders.

SECTION 9. Repealer: Section 228.006 (Use of Surplus Revenue), Transportation Code.

Repealer: Section 228.109(d) (relating to authorizing surplus revenue to be used for a transportation or air quality project), Transportation Code.

Repealers: Sections 284.008(c) (relating to projects without tolls) and (d) (relating to powers of TTC), Transportation Code.

Repealer: Section 366.003(9-a) (relating to defining "surplus revenue"), Transportation Code.

Repealer: Section 366.037 (Other Highway Projects), Transportation Code.

Repealer: Section 366.175 (Use of Surplus Revenue), Transportation Code.

SECTION 10. Effective date: upon passage or September 1, 2011.