

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1747  
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Transportation  
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Committee Report (Substituted)

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

The state's increased revenue can directly be attributed to the increased production of the oil and gas industry.

The accelerated road degradation in several of the counties throughout the state in recent years has been attributed to the unexpected increased vehicle traffic due to the exploration of oil/gas. These roads were not intended to sustain the heavy trucks that are used in this process. County road and bridge budgets are not sufficiently funded to routinely maintain the roads, and counties are left with severe damage directly related to the energy exploration and production. The county roads in these areas need an immediate solution and a sustainable long-term plan dedicated to those areas that have created the surplus our state has benefited from.

C.S.S.B. 1747 amends current law relating to funding and donations for county transportation projects, including projects of county energy transportation reinvestment zones.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 6 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 256, Transportation Code, by adding Subchapter C, as follows:

#### **SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND FOR COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES**

Sec. 256.101. DEFINITIONS. Defines "fund," "transportation infrastructure project," "weight tolerance permit," and "well completion" in this subchapter.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND. (a) Provides that the transportation infrastructure fund (fund) is a dedicated fund in the state treasury outside the general revenue fund. Provides that the fund consists of money appropriated or transferred to the credit of the fund by the legislature and any interest or other return from investment of money in the fund.

(b) Authorizes money in the fund to be appropriated only to the Texas Department of Transportation (TxDOT) for the purposes of this subchapter.

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

Sec. 256.103. GRANT PROGRAM. (a) Requires TxDOT to administer a grant program under this subchapter to make grants for transportation infrastructure projects located in county energy transportation reinvestment zones if the fund has a positive balance.

(b) Requires that grants distributed during a fiscal year be allocated among county energy transportation reinvestment zones as follows:

(1) one-fifth according to weight tolerance permits, determined by the ratio of weight tolerance permits issued in the preceding fiscal year for the county that designated the county energy transportation reinvestment zone to the total number of weight tolerance permits issued in the state in that fiscal year, as determined by the Texas Department of Motor Vehicles;

(2) one-fifth according to oil and gas production taxes, determined by the ratio of oil and gas production taxes collected by the comptroller of public accounts of the State of Texas (comptroller) in the preceding fiscal year in the county that designated the county energy transportation reinvestment zone to the total amount of oil and gas production taxes collected in the state in that fiscal year, as determined by the comptroller; and

(3) three-fifths according to well completions, determined by the ratio of well completions in the preceding fiscal year in the county that designated the county energy transportation reinvestment zone to the total number of well completions in the state in that fiscal year, as determined by the Railroad Commission of Texas.

Sec. 256.104. GRANT APPLICATION PROCESS. (a) Requires the board of directors of a county energy transportation reinvestment zone or jointly administered zones, in applying for a grant under this subchapter, to:

(1) provide the road condition report described by Section 251.018 made by the county or counties that designated a county energy transportation reinvestment zone for the previous two years; and

(2) submit to TxDOT a plan that describes the scope of the transportation infrastructure project or projects to be funded by the grant using best practices for prioritizing the projects, provides for matching funds as required by Section 256.105, and meets any other requirements imposed by TxDOT.

(b) Requires TxDOT, in reviewing grant applications under this subchapter, to:

(1) seek other potential sources of funding to maximize resources available for the transportation infrastructure projects to be funded by grants under this subchapter; and

(2) consult related transportation planning documents to improve project efficiency and work effectively in partnership with counties.

(c) Requires TxDOT, except as otherwise provided by this subsection, to review a grant application before the 31st day after the date TxDOT receives the application. Authorizes TxDOT to act on an application not later than the 60th day after the date TxDOT receives the application if TxDOT provides notice of the extension to the board of directors that submitted the application.

Sec. 256.105. MATCHING FUNDS. Requires that matching funds from a tax increment account be provided in an amount equal to at least 10 percent of the amount of the grant to be eligible to receive a grant under the program.

Sec. 256.106. PROGRAM ADMINISTRATION. (a) Requires a board of directors that makes a second or subsequent application for a grant from TxDOT under this subchapter to:

(1) provide TxDOT with a copy of a report filed under Section 256.009; and

(2) certify that all previous grants are being spent in accordance with the plan submitted under Section 256.104.

(b) Authorizes TxDOT to use a portion of the money in the fund, not to exceed one percent of the amount deposited into the fund in the preceding fiscal year, to administer this subchapter.

SECTION 2. Amends Subchapter E, Chapter 222, Transportation Code, by adding Sections 222.1071 and 222.1072, as follows:

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES.

(a) Requires a county to determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment as provided in Section 222.107(a) (relating to setting forth the amount of a county's tax increment for a year, the captured appraisal value of real property taxable by a county for a year, and the tax increment base of a county) for a county transportation reinvestment zone.

(b) Authorizes a county, after determining that an area is affected by oil and gas exploration and production activities and would benefit from funding under Chapter 256, by order or resolution of the commissioners court:

(1) to designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more transportation infrastructure projects, as that term is defined by Section 256.101, located in the zone; and

(2) to jointly administer a county energy transportation reinvestment zone with a contiguous county energy transportation reinvestment zone formed by another county, as provided by Subsection (1).

(c) Requires a commissioners court to comply with all applicable laws in the application of this chapter.

(d) Requires a commissioners court, not later than the 30th day before the date the commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, to hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. Authorizes an interested person at the hearing to speak for or against the designation of the zone, its boundaries, the joint administration of a zone in another county, or the use of tax increment paid into the tax increment account.

(e) Requires that notice of the hearing and the intent to create a zone be published, not later than the seventh day before the date of the hearing, in a newspaper having general circulation in the county.

(f) Requires that the order or resolution designating an area as a county energy transportation reinvestment zone:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution designating an area and that the base year shall be the year of passage of the order or resolution designating an area or some year in the future;

(3) designate the base year for purposes of establishing the tax increment base of the county;

(4) establish an ad valorem tax increment account for the zone or provide for the establishment of a joint ad valorem tax increment account, if applicable;

(5) name the board of directors for the zone or the county's directors on a joint board of directors, as applicable, as provided by Section 222.1072; and

(6) if two or more counties are designating a zone for the same transportation infrastructure project or projects, include a finding that the project or projects will benefit the property and residents located in the zone and the creation of the zone will serve a public purpose of the local government.

(g) Provides that compliance with the requirements of this section constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

(h) Authorizes the county, from taxes collected on property in a zone, to pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004 (Community and Economic Development Programs in Certain Counties), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;

(i) Authorizes the board of directors to:

(1) use money in the tax increment account to provide matching funds under Section 256.105 and funding for one or more transportation infrastructure projects located in the zone; and

(2) apply for grants under Subchapter C, Chapter 256.

(j) Prohibits tax increment paid into a tax increment account from being pledged as security for bonded indebtedness.

(k) Provides that a county energy transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated unless extended by an act of the zone's board of directors. Prohibits the extension from exceeding five years.

(l) Authorizes the commissioners courts of two or more counties that have designated a county energy transportation reinvestment zone under this section for the same transportation infrastructure project or projects to enter into an agreement to provide for the joint administration of the zones. Authorizes the agreement to provide for:

(1) the creation of a board of directors to oversee the zones, including the implementation of a transportation infrastructure project or projects in the zones;

(2) the establishment of a joint tax increment account for the zones;

(3) the commitment of each participating county to transfer the tax increment, or the portion of the increment dedicated to a transportation infrastructure project, to an account subject to the joint administration; and

(4) to the extent legally permitted, the pledge or assignment of the tax increment to a county developing a transportation infrastructure project or providing funding for a transportation infrastructure project.

Sec. 222.1072. BOARD OF DIRECTORS OF COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONE. (a) Sets forth the composition of the board of directors of a county energy transportation reinvestment zone, except as provided by Subsection (b).

(b) Provides that county energy transportation reinvestment zones that are jointly administered are governed by a single joint board of directors for the zones. Provides that a joint board of directors under this subsection consists of members appointed under Subsection (a) for each zone to be jointly administered.

(c) Prohibits a director from receiving compensation for service on the board or reimbursement for expenses incurred in performing services as a director.

SECTION 3. Amends Section 222.110, Transportation Code, by amending Subsections (a) and (h) and adding Subsection (i), as follows:

(a) Defines "transportation reinvestment zone" in this section. Makes nonsubstantive changes.

(h) Authorizes the hearing required under Subsection (g) (relating to requiring the governing body to hold a public hearing on the designation of the sales tax increment) to be held in conjunction with a hearing held under Section 222.106(e) (relating to requiring the governing body to hold a public hearing on the designation of a transportation reinvestment zone), 222.107(e) (relating to requiring the commissioners court to hold a public hearing on the creation of a transportation reinvestment zone), or 222.1071(d) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106 (Municipal Transportation Reinvestment Zones), 222.107 (County Transportation Reinvestment Zones), or 222.1071 also designates a sales tax increment under Subsection (b) (relating to authorizing the governing body of a municipality or county to determine the portion or amount of tax increment generated from the sales and use taxes imposed by a municipality in a certain ordinance or order).

(i) Authorizes the sales and use taxes to be deposited into the tax increment account established by a county energy transportation reinvestment zone or zones under this section, notwithstanding Subsection (e), to be disbursed from the account only to provide:

(1) matching funds under Section 256.105; and

(2) funding for one or more transportation infrastructure projects located in a zone.

SECTION 4. Amends Subchapter A, Chapter 251, Transportation Code, by adding Sections 251.018 and 251.019, as follows:

Sec. 251.018. ROAD REPORTS. Requires that a road condition report made by a county that is operating under a system of administering county roads under Chapter 252 (Systems of County Road Administration) or a special law, including a report made under Section 251.005 (Commissioner's Road Report), include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained.

Sec. 251.019. DONATIONS. (a) Authorizes a commissioners court to accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county.

(b) Authorizes a county operating under the county road department system on September 1, 2013, to use the authority granted under this section without holding

a new election under Section 252.301 (Adoption of County Road Department System).

(c) Requires a county that accepts donations under this section to execute a release of liability in favor of the entity donating the labor, money, or other property.

SECTION 5. Amends Section 256.009(a), Transportation Code, as follows:

(a) Requires the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor, not later than January 30 of each year, to file a report with the comptroller that includes an account of how, if the county designated a county energy transportation reinvestment zone, money paid into a tax increment account for the zone or from an award under Subchapter C was spent and a description, including location, of any new roads constructed in whole or in part with the money paid into a tax increment account for the zone or from an award under Subchapter C if the county designated a county energy transportation reinvestment zone. Makes nonsubstantive changes.

SECTION 6. Requires TxDOT to adopt rules implementing Subchapter C, Chapter 256, Transportation Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. Effective date: September 1, 2013.