

SUBJECT: Optional evaluation of state highways for development as toll projects

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Pickett, Phillips, Callegari, Y. Davis, Harper-Brown, McClendon, Merritt, T. Smith, W. Smith

0 nays

2 absent — Dunnam, Guillen

WITNESSES: For — None

Against — None

On — Mark Tomlinson, Texas Department of Transportation

BACKGROUND: Texas Transportation Commission Minute Order #109519, adopted December 18, 2003, provides that controlled-access mobility projects, including projects that would add new lanes, in any phase of development or construction must be evaluated for possible tolling.

DIGEST: HB 2557 would amend ch. 201 of the Transportation Code to prohibit the Texas Transportation Commission from requiring that each highway project proposed or in development be evaluated for possible development as a toll road.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY: HB 2557 would help restore a fair evaluation process to new highway projects that are under review for possible development. In 2003, the Texas Transportation Commission adopted an order requiring that each “controlled-access mobility project,” which includes the vast majority of new roads and lanes on the state highway system, be reviewed for possible development as toll projects. This requirement places a heavy bias toward developing highways with tolls and is an inefficient use of state resources,

since many new highway construction projects clearly are not suitable for development as toll roads.

The bill would not prevent the Texas Department of Transportation (TxDOT) from evaluating new highway projects for tolling, and therefore would not interfere with the agency's ability to determine the most effective means to leverage scarce public funds. However, it would prohibit TxDOT from automatically evaluating each and every new project for possible development as a toll road.

Further restricting TxDOT's ability to review new highways for possible development as toll roads could have a significant impact on the state's ability to make informed decisions about funding critical infrastructure. The best strategy for regulating the state's ability to develop toll roads would be to revise the statutes regarding comprehensive development agreements that the state uses to lease the rights to develop and operate toll roads. The purpose of HB 2557 is to reverse a short-sighted decision, so that highway projects may receive an honest feasibility review.

**OPPONENTS
SAY:**

HB 2557 would not restrict TxDOT from evaluating any or all new mobility projects for development as toll roads. While the bill would seek to reverse the requirement that TxDOT evaluate all new construction for tolling, it likely would not end the practice the agency has adopted of vigorously promoting the development of new highways and expanded lanes as toll roads. While the bill would be a step in the right direction, it should be modified to contain stronger provisions restricting TxDOT's ability to promote the development of new toll roads.

NOTES:

The companion bill, SB 2158 by Shapiro, has been referred to the Senate Transportation and Homeland Security Committee.