HOUSE RESEARCH ORGANIZATION bill analysis | 5/26/2009 | SJR 18 Ogden (Pickett)

SUBJECT: Authorizing the dedication of sales tax in transportation finance zones

COMMITTEE: Transportation — favorable, without amendment

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

0 nays

2 absent — Dunnam, McClendon

SENATE VOTE: On final passage, April 17 — 25–3 (Seliger, Van de Putte, Watson)

WITNESSES: For — (*Registered, but did not testify:* John Carpenter, Dallas Regional Mobility Coalition; Monty Wynn, Texas Municipal League)

Against — None

BACKGROUND: The Texas Mobility Fund (TMF), created in 2001, is established and regulated in the Texas Constitution and further restricted by state statutes. The Legislature designated the TMF as a mechanism through which the Texas Transportation Commission may borrow funds from public and private interests and may issue bonds for the design, construction, reconstruction, acquisition, and expansion of state highways and to help fund publicly owned toll roads. Bonds and debt obligations are secured by the revenue deposited to the TMF and by the state of Texas. Before issuing more bonds from the TMF, the comptroller must certify that the fund has available revenue equal to at least 110 percent of the amount necessary to pay principal and interest due yearly for the term of the proposed bonds.

DIGEST: SJR 18 would amend Art. 3, sec. 49-k of the Texas Constitution establishing the Texas Mobility Fund to authorize the Legislature to allow the Texas Transportation Commission to designate an area adjacent to an existing or proposed state highway as a transportation finance zone. The commission would have to issue or propose to issue TMF bonds for the construction, reconstruction, or expansion of the highway.

The amendment would authorize the Legislature to dedicate state sales and use taxes to the TMF for a sale completed within a transportation finance zone. Funds collected within the finance zone could be deposited into a separate account in the TMF and used to pay the principal and interest of bonds used to fund the highway improvement in the zone. The designation of a transportation finance zone would have to be approved by the Legislature, which could limit the funds that could be deposited to the credit of the fund in a fiscal year.

The proposal would be presented to the voters at an election on Tuesday, November 3, 2009. The ballot proposal would read: “The constitutional amendment authorizing the legislature to permit the Texas Transportation Commission, subject to legislative review and approval, to designate the area adjacent to a state highway project as a transportation finance zone and dedicating the proceeds of the state sales and use taxes imposed in a transportation finance zone to the Texas Mobility Fund for certain purposes.”

SUPPORTERS SAY:

SJR 18 would authorize an innovative means of financing highway projects by allowing the Legislature to dedicate sales tax collected in transportation finance zones adjacent to highways in order to finance bonds issued to build or expand improvements. The bill would provide the state an expanded range of highway finance options to employ in the midst of a serious highway funding crisis. Sales taxes collected in the zone would be limited in scope and amount by the Legislature. The enabling legislation for the bill, SB 505 by Ogden, would have capped deposits to the Texas Mobility Fund from sales taxes collected in the zone at $250 million. The Legislature could additionally limit the range of taxes affected by the zone and the conditions for designating a zone.

Authorizing expanded revenue streams to secure TMF bonds, which by current estimates will be exhausted by the end of fiscal 2010-11, to construct highway projects would make available a limited but important source of funding for highway improvements. The state motor fuels tax has been declining in relative value since 1991, and the original 20-cent tax per gallon is now equal to only about 13 cents in inflation-adjusted dollars. Moreover, demands on the state’s transportation infrastructure have been steadily increasing. The 2030 Committee, charged by the TTC (TTC) with reviewing funding needs for highway maintenance, including bridges, for urban mobility and rural mobility and safety and for other transportation needs, reported that the state’s highway network would require $313 billion in improvements between 2009 and 2030 — or about $14.2 billion a year.

Despite multiple attempts since 2001, no legislation supporting an increase in the statewide motor fuels tax has mustered the votes to pass a house of the Legislature. Urban transportation systems in some metropolitan areas have become so congested as to have a demonstrable affect on residents' quality of life, health, and ability to conduct business. Texas is a major domestic and international trade hub and a national center of commerce. Maintaining safe and reliable transportation is critical to the long-term economic vitality of the state.

Allowing for the selective dedication of additional funds to the TMF would speed up highway projects, thus alleviating traffic congestion, enhancing productivity, improving safety, and reducing negative economic and social impacts that stem from inadequate highway infrastructure. Improving mobility sooner rather than later would aid economic development and job creation in the midst of an economic recession.

OPPONENTS SAY:

SJR 18 would provide the legislative authorization to obligate general revenue appropriations to the Texas Mobility Fund that the state cannot afford to spend on debt service to finance highway construction and maintenance. Texas has a longstanding policy of funding transportation projects principally through dedicated funds. Diverting sales and uses taxes—which could include the general sales tax, motor vehicle sales tax, sales taxes on boats and boat motors, fireworks taxes, and potentially the hotel occupancy tax —from general revenue to paying the debt service on TMF bonds would mean reduced general revenue available to future legislatures for other spending priorities. Texas should continue to pay for the highway construction it can afford through existing means, rather than diverting scarce general revenue needed for critical programs and purposes.

Diverting sales and use tax revenue to the TMF could limit the state's ability to meet other needs through general revenue. Highway projects should be paid for through the State Highway Fund and with bonds borrowed through transportation-related funds that are secured only with revenue from motor fuels taxes and vehicle registration fees, and thus from those who use state roads. It would not be in the state's best interest to commit general revenue that could be used for other urgent state needs, such as education and children's health insurance, to finance highway projects.

Other avenues for transportation funding currently are available to the state. The recent federal Recovery Act included about $2.7 billion in appropriations for a variety of transportation projects in the state. This funding has offset the need for any immediate measures to secure additional highway funding. There also are many options available to pursue private-public partnerships for the development of toll projects. Toll roads are an ideal solution to transportation financing shortfalls, since they impose a direct user fee only on those that use them and secure financing — and thus initiate construction —much faster than conventional transportation projects.

OTHER OPPONENTS SAY:

SJR 18 would continue the state's piecemeal approach to providing transportation funding without addressing the core issue facing the state — a motor fuels tax that has been declining in relative value since 1991. The transportation finance zone authorized by the bill the would not address statewide highway funding shortfalls, which represent the most significant obstacle to adequate highway construction and maintenance. The state needs to address the core issue facing highway funding and increase or index to inflation the motor fuels tax, preferably both. Creating additional financing options for specific state highway projects would be another diversion from this necessary step.

NOTES:

The enabling legislation, SB 505 by Ogden, passed the Senate by 30-1 (Seliger) on May 7 and was reported favorably, without amendment, by the House Transportation Committee on May 20. The bill would allow TTC to designate an area within two miles on either side of a state highway as a transportation finance zone and deposit certain taxes collected in the zone, up to $250 million, into the Texas Transportation Revolving Fund.

The Legislative Budget Board estimates that, based on an analysis by the comptroller, the amendment could result in a significant loss of general revenue and an increase in Texas Mobility Fund revenue, depending on the number of transportation finance zones approved by the Legislature.