

SUBJECT: Allowing creation of transportation reinvestment zones for any project

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Phillips, Darby, Y. Davis, Fletcher, Harper-Brown, Lavender, Martinez, Pickett, Rodriguez

0 nays

2 absent — Bonnen, McClendon

WITNESSES: For — Brian Cassidy, Central Texas Regional Mobility Authority (RMA), Alamo RMA, Grayson County RMA, Cameron County RMA, North East Texas RMA, Camino Real RMA, PTP; Duane Gordy, Cherokee Development (*Registered, but did not testify*: Brandon Aghamalian, City of El Paso; Jim Allison, County Judges and Commissioners Association of Texas; Mark Borskey, Texas Motor Transportation Association; Victor Boyer and Rider Scott, Transportation Advocates of Texas; Victor Boyer, San Antonio Mobility Coalition, Inc.; Carlos Contreras, City of San Antonio; Rudy Garza, City of Corpus Christi; Darrin Hall, City of Houston; Jeff Heckler, Public Finance Investment Corporation; Shanna Igo, Texas Municipal League; Dennis Kearns, BNSF Railway; Jim Lewis, County Judge and Commissioner of Texas; Mark Mendez, Tarrant County Commissioners Court; Lawrence Olsen, Texas Good Roads/Transportation Association; T.J. Patterson, City of Fort Worth; Brinton Payne, Fort Worth Chamber of Commerce; Paul Sugg, Texas Association of Counties; Vic Suhm, Tarrant Regional Transportation Coalition; Michael Vasquez, Texas Conference of Urban Counties)

Against — None

On — Amadeo Saenz, Texas Department of Transportation; Don Dixon

BACKGROUND: In 2003, the 78th Legislature enacted HB 3588 by Krusee, which established the pass-through system for financing highway construction. Pass-through financing allows public or private entities to construct state highway projects and receive payment from the Texas Department of Transportation (TxDOT) following completion of the project. Pass-through “tolls” are negotiated payments made incrementally to the entities

building a road and are based on traffic volume on the new road. The payments are made as if tolls were being collected from motorists (though they are not) by the operators upon project completion.

The 80th Legislature in 2007 enacted SB 1266 by Brimer, which established transportation reinvestment zones for municipalities and counties that enter into a pass-through financing agreement with TxDOT. Under the bill, municipalities and counties may dedicate to a transportation reinvestment zone a *tax increment* from property taxes collected in the zone yearly. For a municipality or county establishing a transportation investment zone:

- a *tax increment* is the amount of property taxes assessed for one year on the *captured appraised value* of real property in the zone;
- the *captured appraised value* is the total appraised value of all real property in a zone for the year minus the entity's *tax increment base*; and
- the *tax increment base* of a local entity is the total appraised value of all real property located in a zone for the year in which the zone was designated.

DIGEST:

CSHB 563 would allow a municipality or county to establish a transportation reinvestment zone for any transportation project, including a highway improvement, passenger or freight rail facility, ferry, airport, pedestrian or bicycle facility, intermodal hub, or transit system. The bill would make conforming changes to state law to reflect the expanded range of transportation projects eligible for reinvestment zones. It also would apply to previously designated transportation reinvestment zones.

A municipality or county could contract with a public or private entity to develop or otherwise improve a transportation project in a reinvestment zone and could pledge funds from the zone to that entity. A municipality or county could not rescind a pledge of funds to an entity that owed a debt on bonds or other obligations until those debts were satisfied. The boundaries of a zone could be adjusted as needed, but the area of a zone could not be reduced if the change might affect any outstanding bonds or other obligations used to fund the project. Any property added to the zone would have to abide by existing procedures for designating a zone.

An ordinance or other law designating a reinvestment zone would have to designate the base year used to establish a tax increment in the

municipality or county. The bill would restrict the portion of the increment specified to be used in funding the transportation project, as well as aesthetic improvements within the zone. The municipality or county could use the remaining funds from the increment for other purposes.

A county could assess the cost of a road development project against property within the zone. An assessment of property in the zone could be paid in installments following established procedures, but an installment could not exceed the value of a tax abatement authorized under existing law. A county could apply procedures in current law governing public improvement districts for the purposes of assessing value and issuing bonds for the cost of the project in the zone.

If any part of the project were subject to TxDOT oversight, the agency would have to delegate to the municipality or county full responsibility for the development of the project at their request and to the extent that doing so was permitted by law. A municipality or county that assumed responsibility for a project would have to reach an agreement with TxDOT over the development process, each party's responsibilities, and timelines for approvals. If the project was on the state highway system, it would have to comply with state and federal development and design criteria unless TxDOT made a specific exception. TxDOT would have to review and approve a project on the state highway system.

A municipality or county could not be penalized with a reduction in traditional transportation funds due to the establishment of a transportation reinvestment zone. Funds that TxDOT designated for a project prior to the establishment of a reinvestment zone could not be reduced due to the designation of the zone. Funds for TxDOT districts similarly could not be reduced due to the establishment of a reinvestment zone by a municipality or county in the district.

The bill would take effect September 1, 2011.

SUPPORTERS
SAY:

CShB 563 would enhance local governments' ability to designate transportation reinvestment zones and thereby provide an important financing tool to expand and improve transportation options for local communities. The bill would be a logical progression in the use of reinvestment zones for transportation projects. Under current law, reinvestment zones — which allow a local government to dedicate tax revenue generated by an increase in property values around a transportation project to pay for the costs associated with developing the project — are confined to only highway projects funded by a pass-through financing agreement with TxDOT.

A pass-through financing agreement allows a local government to pay the development costs of a road project and then seek reimbursement from TxDOT based on the estimated number of vehicles that travel on the road. CShB 563 would broaden local governments' ability to establish reinvestment zones for transportation projects. Under the bill, cities would capture revenue from increased property values associated with the development of a transportation project. Counties would accomplish this through a different mechanism — by abating taxes within a zone and creating a corresponding road district to capture future additional revenue equal to the abated county tax.

The bill would take critical steps to provide another transportation financing option to local governments in an era of increasing congestion and declining resources for transportation from the state and federal government. While raising motor fuels taxes may be a more far-reaching approach to securing additional funding for highways, it is not at present economically or politically feasible. In a context of fixed state and federal funds for transportation projects, the Legislature must pursue all options available for developing transportation projects.

CShB 563 would clarify and update existing laws on reinvestment zones and would make assurances that a government could neither rescind certain agreements attached to a zone nor modify a zone if the proposed change had an impact on pre-committed revenue. These changes would help ensure the viability of reinvestment zones and reassure parties seeking to develop a highway project in such a zone.

Expanding the use of reinvestment zones statewide would allow local governments to maximize available resources without tax increases. Despite some claims, the bill would not authorize a tax increase directly or

indirectly. Although property values in a zone may increase as a result of economic development stemming from a transportation project, no property is taxed at a higher rate due to its inclusion in a reinvestment zone.

Allowing a county or municipality to designate a reinvestment zone for a wide variety of transportation projects would maximize tools available to local governments to reduce congestion, including roads, rail, mass transit, and pedestrian and bicycle mobility projects. Enabling local governments to fully use all the resources at their command is necessary to confront the great transportation challenges that face Texas.

Claims that CSHB 563 could promote toll projects are misguided. The bill actually would prevent the expansion of toll roads by providing a viable avenue for building public, non-tolled roads. Expanded reinvestment zones could tap a revenue stream that is independent of tolls but that nonetheless could be used to secure bonds and other financing. Providing an alternative financing option would allow strapped local governments to develop new roads without using financing associated with tolls.

OPPONENTS
SAY:

CSHB 563 would continue the state's piecemeal approach to transportation funding without addressing the core issue facing the state — a motor fuels tax that has been declining in relative value since 1991. Finance zones would not provide any additional state revenue to local entities and would further a long-standing precedent of evading difficult decisions about transportation funding for the state. Reinvestment zones likely would be used on a limited basis — there are currently only a handful in existence — in select areas and would not address statewide highway funding shortfalls.

Increasing opportunities to establish reinvestment zones also would represent an expansion of the troubling practice of using property taxes to fund transportation projects. This is a questionable use of property taxes — which are problematic and antiquated in themselves — and could create an incentive to increase appraisals of property in the zone. Further, the increment dedicated to paying the costs of transportation projects is diverted away from other pressing local needs.

OTHER
OPPONENTS
SAY:

CSHB 563 would not restrict toll projects from being funded through the use of a transportation reinvestment zone. As such, the bill could create more opportunities for the state and local governments to push a policy of

constructing new roads as toll projects. Toll roads are an unfair form of double taxation and place burdens on taxpayers to pay often unreasonable sums for the right to travel to necessary destinations. The bill should be amended specifically to exclude toll roads from eligible projects funded through reinvestment zones.

NOTES:

The committee substitute would apply the provisions in the bill to previously designated transportation reinvestment zones.

The substitute also would modify language governing the role of TxDOT in approving transportation projects that local entities initiated through reinvestment zones. The substitute added a requirement that local entities reach an agreement with TxDOT over aspects of the project's development and required projects on the state highway system to be reviewed and approved by the agency.

HJR 63 by Pickett, a related proposed constitutional amendment that would authorize the Legislature to permit a county to issue bonds or notes to finance the development of an unproductive area and to pledge increases in property taxes for debt service on bonds, was reported favorably, without amendment, by the Ways and Means Committee on March 28.

The 81st Legislature during the 2009 regular session considered HB 1801 by Pickett and SB 2378 by Nichols, which would have expanded the use of transportation reinvestment zones beyond pass-through financing arrangements. HB 1810 passed the House, but died in the Senate, while SB 2378 passed the Senate, but died in the House.