

SUBJECT: Dedicating a portion of Rainy Day Fund revenue to transportation

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 23 ayes — Pitts, Sylvester Turner, Ashby, Bell, G. Bonnen, Crownover, Darby, S. Davis, Dukes, Giddings, Howard, Hughes, S. King, Longoria, Márquez, Muñoz, Orr, Otto, Patrick, Perry, Price, Raney, Ratliff

1 nay — Carter

3 absent — Gonzales, McClendon, Zerwas

SENATE VOTE: On final passage, June 18 — 30 - 0

WITNESSES: For — George DeMontrond and Max Jones, The Greater Houston Partnership; Rider Scott, Dallas Regional Mobility Coalition; A.J. Widacki, Transportation Advocacy Group; (*Registered, but did not testify*: Victor Boyer, Self; San Antonio Mobility Coalition, Inc.; Gary Bushell, Alliance for I 69 Texas and US 190 Gulf Coast Strategic Highway Coalition; C. Brian Cassidy, Alamo RMA, Camino Real RMA, Cameron County RMA, Central Texas RMA, Grayson County RMA, and North East Texas RMA; Deece Eckstein, Travis County Commissioners Court; Les Findeisen, Texas Motor Transportation Association; Stephen Minick, Texas Association of Business; Seth Mitchell and Luis Saenz, Bexar County; Jennifer Newton, AGC of Texas; Lawrence Olsen, Texas Good Roads Association; Craig Pardue, Dallas County; Beth Ann Ray, Austin Chamber of Commerce; Shawna Russell, The Fort Worth Transportation Authority; Chris Shields, The Greater San Antonio Chamber of Commerce; Steve Stagner, American Council of Engineering Companies of Texas; Ray Sullivan, HNTB; Michael Vasquez, Texas Conference of Urban Counties)

Against — None

On — Phillip Ashley, Texas Comptroller of Public Accounts; Ted Melina Raab, Texas AFT; Phil Wilson, Texas Department of Transportation; (*Registered, but did not testify*: James Bass, Texas Department of Transportation; John Heleman, Texas Comptroller of Public Accounts)

BACKGROUND: Art. 3, sec. 49-g of the Texas Constitution establishes the Economic Stabilization Fund, which was ratified by voters in 1988. The fund, also known as the Rainy Day Fund, receives general revenue equivalent to 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal 1987. Additionally, the comptroller must transfer one-half of any unencumbered balance remaining in the General Revenue Fund at the end of a fiscal biennium to the Rainy Day Fund.

The amount in the Rainy Day Fund may not exceed 10 percent of the total amount of general revenue deposited during the preceding biennium.

DIGEST: SJR 2 would direct the comptroller to allocate to the State Highway Fund (Fund 6) one-half of the general revenue currently transferred to the Rainy Day Fund. The comptroller would reduce or withhold allocations to Fund 6 as necessary to maintain an anticipated balance of \$6 billion in the Rainy Day fund after constitutionally required transfers.

Revenue transferred to Fund 6 could be used only for constructing, maintaining, and acquiring rights-of-way for public roadways. SJR 2 would allow Fund 6 funds, aside from amounts transferred under its provisions, to be used to repay the principal and interest on \$5 billion in general obligation bonds for highway improvement projects authorized in 2007 (Proposition 12).

The proposal would be presented to the voters at an election on Tuesday, November 5, 2013. The ballot proposal would read: “The constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, and to authorize the payment of the principal and interest on certain highway improvement bonds from other money deposited to the state highway fund.”

If approved by voters, SJR 2 would take effect January 1, 2014, and would apply to a revenue transfer under the bill on or after that date.

SUPPORTERS SAY: SJR 2 would take a key step toward securing critical funding for transportation projects in Texas. While far from a cure-all, the proposed resolution would present a politically viable means to secure a portion of the funding Texas needs to maintain roadway congestion at current levels,

given population and economic growth. Although many options for highway funding have been discussed in the past three legislative sessions, these have not proved politically feasible.

SJR 2 would generate an estimated \$880 million for public highways in fiscal 2015, increasing to \$1.1 billion in fiscal 2018. This steady revenue stream would send a message to citizens, crediting bureaus, and businesses that the state is serious about financing critical transportation infrastructure.

Dedicated funding stream for public roads. SJR 2 would dedicate an additional, much-needed funding stream to constructing and maintaining public roads. If approved, the amendment would represent a sharp departure from relying on debt and toll roads as primary mechanisms for funding highways. The amendment would make use of expected increases in oil and gas severance tax remissions to both increase funding for highways and retain a solid reserve.

Texas since 2001 has relied on enhanced authority to issue bonds, borrowing from public and private interests, and concessions payments from private comprehensive development agreements (CDAs) to build and maintain toll roads. These approaches, while an important part of the highway funding mix, will not by themselves be able to meet the growing demands the state is placing on transportation infrastructure.

As of fiscal 2013, TxDOT had used a total of \$13 billion in bond authorization, with \$4.9 billion in authorized bonds yet to be used. Issuing these bonds will cost the state \$32.5 billion in total debt service. The agency's main bond programs — State Highway Fund bonds, Texas Mobility Fund bonds, and general obligation highway bonds — are, for all intents and purposes, exhausted.

The ongoing crisis in highway funding in Texas has been delayed several years — first by federal American Revitalization Act funds, and second by a \$5 billion general obligation bond appropriation made in fiscal 2009 and 2011. These infusions may have helped put off the transportation funding crisis a few years, but one-time measures are no remedy for terminal ills.

One time infusions do little to instill confidence that the Legislature is willing and able to make tough policy decisions to provide the infrastructure necessary for vibrant business activity, national and

international trade, and a superior quality of life. SJR 2 would enable voters to show they are serious about increasing funding for critical infrastructure.

Credit rating. Contrary to claims otherwise, dedicating a revenue stream for key transportation infrastructure would help the state retain its strong credit rating. Instead of looking at a particular number or percentage, credit rating bureaus look for a balance between maintaining a healthy amount in reserve for unexpected events and using reserve funds for critical needs such as infrastructure and water. SJR 2 would strike this balance by appropriating funds for transportation only when there was a substantial balance in reserve for emergencies.

Public approval. If SJR 2 were enacted by the Legislature, it still would need to be approved by a majority of Texans in November. This would provide a valuable opportunity to educate the public about the conditions of the state's roads and the need for enhanced funding for transportation infrastructure. Given that those who would be involved in promoting the initiative would be supporters of transportation funding, they would have a vested interest in ensuring that the public did not get the false impression that the measure would wholly satisfy the state's transportation funding needs.

Six billion dollar floor. While SJR 2 would authorize a dedicated funding stream for transportation projects, it also would ensure a minimum balance in the Rainy Day Fund was available to respond to natural disasters and fiscal emergencies. Establishing a floor would be an important recognition of the widespread agreement among citizens and credit bureaus that the state should retain a sufficient balance in reserve for unforeseen events. While some have argued a floor between \$3 billion and \$5 billion would be ample, the \$6 billion floor proposed in SJR 2 appropriately would err on the side of ensuring the state had a robust balance in reserve before allocating any money to Fund 6.

The \$6 billion floor is preferable to an amount determined by a percentage, because the fixed amount would provide greater predictability — an important factor in transportation finance — while presenting a clear figure that would help voters decide whether to support or oppose the measure. Any benefits of a floor based on a percentage would be significantly outweighed by the inherent confusion and uncertainty of an ever-changing figure. The fixed \$6 billion floor, while not perfect, is the

best option among the alternatives.

Although it likely would not be possible to make long-term predictions of available transportation revenue, this would not stop the funds from being used to finance critical road projects. TxDOT in recent years and on several occasions has proved able to commit significant, one-time cash infusions even when it lacked data for advance planning.

OPPONENTS
SAY:

SJR 2, while an interesting concept, would not provide a solution to the state's serious, ongoing highway funding shortage.

No additional revenue. Because the proposed amendment would not authorize the collection of any additional revenue, in effect it would take money out of one fiscal pocket and move it to another. While this might not cause problems in times of plenty, it could create some difficult choices in trying fiscal times. There was strong resistance during the 83rd Legislature's regular session to allowing the Rainy Day Fund to drop below a certain amount, generally perceived to be about \$6 billion. Reluctance to drain the account below that base level, coupled with the 50 percent dedication to highways proposed in SJR 2, could leave the Legislature with effectively little to spend for emergency purposes.

Prioritizing transportation. The amendment would dedicate funds to transportation that are now available for general purpose spending, including core priorities such as public education. The state has needs in many areas of priority, and dedicating funds only to transportation would have the effect of elevating transportation above all other needs. This preference would become salient in the event that the state experienced another fiscal downturn and lawmakers were forced to choose to fund other priorities with less in reserve.

In addition, the dedication to transportation would reduce the likelihood that the state would reach the Rainy Day Fund ceiling of 10 percent of the total amount of general revenue deposited during the preceding biennium, after which that revenue would otherwise be made available for general-purpose spending.

False impressions. SJR 2, which would have to be approved by voters, could create the impression among the general public that this measure would be a remedy for the state's transportation funding woes. Because the measure would require a statewide vote, there likely would be a lot of

campaigning about the need to fund transportation. It would be difficult to campaign to achieve success for the measure at the polls without also spreading the false notion that this measure would cure transportation funding ills. If SJR 2 were to pass, it would risk creating the same false expectations for transportation funding as the Texas Lottery did for funding public education.

Credit rating. A strong balance in the Rainy Day Fund has been a great asset to the state, helping it retain a strong credit rating through the recession. Any measure that reduced the state's savings account could directly or indirectly harm its credit rating down the road by leaving less revenue in reserve for emergencies.

OTHER
OPPONENTS
SAY:

While SJR 2 is a necessary measure to secure dedicated funding to transportation, the \$6 billion floor for allocation is arbitrary and would create other problems.

Planning problems. Establishing a floor of \$6 billion would mean that transportation planners could not count on receiving any Rainy Day funds more than a year or two into the future, because the receipt of those funds would depend on unpredictable factors, such as legislative appropriations for emergencies. As currently drafted, SJR 2 would create a dedicated but not a reliable source of funding for transportation.

De facto minimum balance. If SJR 2 were approved with the \$6 billion minimum floor in the Constitution, it would likely set a *de facto* minimum balance for the Rainy Day Fund. If approved, there would be great hesitation to drain the account below \$6 billion and a strong incentive for advocates of transportation funding to keep it above that amount. Establishing a *de facto* minimum balance for the Rainy Day Fund could significantly reduce flexibility during a fiscal squeeze.

Percentage would be superior. Identifying a fixed dollar amount of \$6 billion would be problematic. Fixed amounts are subject to long-term depreciation caused by natural inflationary tendencies. In 20 years, for example, the fixed amount would have a much different effect than it has now. A much better option would be to base the floor on a percentage of revenue that would be subject to biennial variations.

NOTES:

The LBB estimates the proposed amendment would dedicate \$878.6 million for Fund 6 in 2015, \$932.4 million in fiscal 2016, \$986.2 million

in fiscal 2017, and \$1.1 billion in fiscal 2018. The corresponding losses to the Rainy Day Fund would exceed the gains to Fund 6 due to a loss of projected interest earnings.

The LBB estimates the cost to the state for publishing the resolution would be \$108,921.