HOUSE RESEARCH ORGANIZATION bill analysis | 4/8/2015 | HB 122 Pickett (CSHB 122 by Martinez)

SUBJECT:	Eliminating Texas Mobility Fund's borrowing ability
COMMITTEE:	Transportation — committee substitute recommended
VOTE:	9 ayes — Pickett, Martinez, Y. Davis, Harless, Israel, Murr, Paddie, Phillips, Simmons 0 nays 3 absent — Burkett, Fletcher, McClendon
WITNESSES:	For — Terri Hall, Texas TURF & Texans for Toll-free Highways; Don Dixon Against — None On — John Thompson, Brazos Transit District; Jeff Heckler, STAR TRANSIT; James Bass, Texas Department of Transportation
BACKGROUND:	Voter approval of Proposition 15 in 2001 added Article III, Section 49-k to the Texas Constitution to create the Texas Mobility Fund. The fund, administered by the Texas Transportation Commission, allows for the issuance of debt obligations to finance the construction and maintenance of Texas roadways and other mobility projects. Its ending balance in fiscal 2014 was $364.2 million. In addition to bond proceeds, the Texas Mobility Fund receives revenue from driver's license fees, vehicle inspection fees, and other administrative fees, as well as bond subsidies from the federal government.
DIGEST:	CSHB 122 would end the ability of the Texas Mobility Fund to issue bonds and would place conditions on the future use of money within the fund. The Texas Transportation Commission would be required to use money in the fund not committed to servicing existing debt for the following purposes:

- to pay for the construction and maintenance of state highways, other than toll roads, that have an expected life of at least 10 years without material repair;
- to create debt service accounts;
- to pay interest on bonds for not longer than two years; and
- to refund or cancel outstanding obligations.

This 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, 2015.

SUPPORTERS SAY:

CSHB 122 would bring common sense to highway funding by eliminating the issuance of bonds from the Texas Mobility Fund and instead requiring that its funds be used to wind down debt and eventually pay for roads without the costs associated with borrowing. Taking on bond debt to finance road construction and maintenance was necessary 15 years ago when money was tight and the state had no other way to build needed roads. Now that cash is available to pay for roads directly, Texas should begin the process of paying down existing bond debt and return to the traditional “pay-as-you-go” method of funding roads.

Voter approval of Proposition 1 in November 2014 amended the Texas Constitution to allocate to the State Highway Fund (Fund 6) one-half of the general revenue derived from oil and gas production taxes that formerly was transferred to the rainy day fund. Now that this revenue is available for roads, there is less need to finance road construction and maintenance with debt, which costs the state much more in the long run.

Since the creation of the Texas Mobility Fund in 2001, Texas has accumulated significant debt liabilities. While these bonds are secured through future revenue, the principal of the debt continues to grow. In fiscal 2014, the state spent more than $359 million from the fund on debt service, which is nearly half of the $730 million it spent on transportation projects and maintenance.

The bill would save considerable money in the future by restricting debt now. TxDOT estimates that the early repayment of outstanding variable-rate mobility fund bonds would save $339 million in interest costs over the life of those bonds. Moreover, by not issuing the additional $900 million in bonds under its current authorization, the department estimates that it would save $1.15 billion in interest fees and other servicing costs over the life of these 30-year bonds.

Debt service has become a significant cost to TxDOT as the Texas Mobility Fund continues to accumulate debt. Already, more than three quarters of money in the fund goes to debt service, and this proportion will only increase in the future. This has negative implications for state's ability to construct and maintain roads necessary to accommodate population and economic growth in Texas. Today, the Texas Transportation Commission makes the minimum payment while continuing to borrow up to the limit. The bill would impose the fiscal discipline necessary to address this problem by cutting up the credit card and paying down the debt in larger chunks.

The Legislature should exercise more control over the Texas Mobility Fund because too much of its money has been taken from road users and applied to other projects, such as toll roads and mass transit. The bill would be a step toward winding down the fund and ensuring that its money was used in the future to retire debt and pay for non-tolled roads on a cash basis.

Although some mass transit agencies have used money from the Texas Mobility Fund in the past, many of these agencies mostly need funding for operational costs or for buses, neither of which is eligible to receive Texas Mobility Fund money under current law.

OPPONENTS SAY:

CSHB 122 would tie the hands of the Texas Transportation Commission and could impede the completion of future transportation projects. Although it may make sense in today's favorable economic climate to pay for Texas roads with cash rather than borrowed money, eliminating the authority to issue bonds through the Texas Mobility Fund could interfere with TxDOT's ability to construct roads in the future when oil and gas revenues might not be sufficient to fill the Fund 6 coffers.

Texas voters acknowledged the need for some borrowing ability to finance road construction and maintenance when they voted to create the Texas Mobility Fund in 2001. Although the state now has cash on hand to build roads on a pay-as-you-go basis, a growing population of Texans will need more roads in the future, and TxDOT might need to borrow money for this purpose in leaner times. The bill would remove an important tool in the road funding toolbox by eliminating the ability to borrow money through the Texas Mobility Fund.

Although reducing the debt is a wise idea in principle, abruptly cutting off the bonding authority of the Texas Mobility Fund would constrain transportation funding and planning for both rural areas and metropolitan planning authorities. Existing projects at the proposal stage would need to be reworked. Mobility funds often are used to plug holes in funding for projects that largely receive money from other sources.

Because the conditions for using money from the Texas Mobility Fund are more flexible than those for using money from the Texas Highway Fund, mass transit agencies request mobility funds for system expansions and upgrades. These funds also help Texas draw down federal dollars for mass transit because they are included in the local contribution under federal funding formulas. By reducing the amount of money available to support mass transit projects, the bill could impede the ability of state and local authorities to address the transportation needs of a growing population that increasingly may need to rely on mass transit.

OTHER OPPONENTS SAY:

While ending borrowing authority through the Texas Mobility Fund is a good idea, CSHB 122 should be amended to allow TxDOT to refinance debt in the fund. This would allow Texans to get even more value from the state funds that would be used to retire debt and eventually pay for new roads.

NOTES:

The Legislative Budget Board's fiscal note for CSHB 122 indicates it would have no impact on general revenue funds in fiscal 2016-17 or beyond. The fiscal note assumes that the bill would not allow TxDOT to refinance debt in the Texas Mobility Fund, resulting in estimated bond repayment costs of $146.8 million in fiscal 2017 and $236.7 million in fiscal 2019. In alternating years, the fund would experience savings due to reduced debt service payments, including an estimated $5.3 million in fiscal 2018 and $14 million in fiscal 2020.

CSHB 122 differs from the original in that the bill as filed would have required the Texas Transportation Commission to use uncommitted money in the fund for any purpose for which obligations were issued under Transportation Code, ch. 201, subch. M ("Obligations for certain highway and mobility projects") or to repay debt service on:

- TxDOT short-term notes and loans (Texas Constitution, Art. 3, Sec. 49-m);
- highway tax and revenue anticipation notes (Art. 3, Sec. 49-n); and
- general obligation bonds and other credit agreements supported by Texas highway improvement funds (Art. 3, Sec. 49-p).

The author plans to offer a floor amendment that would allow the Texas Transportation Commission to refinance debt in the Texas Mobility Fund. Under the amendment, the commission could issue obligations to refund outstanding obligations to provide savings to the state. It also could refund outstanding variable rate obligations and renew or replace credit agreements relating to these obligations. The floor amendment also would strike Section 2 of the bill and renumber subsequent sections.