

BILL ANALYSIS

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Transportation & Homeland Security
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The current federal funding system for transportation does not provide enough flexibility to Texas and other states regarding tools to deliver needed transportation projects faster and more efficiently.

Federal funding for highway, highway safety, and transit programs is included in a surface transportation bill passed by Congress every six years; the most recent such bill, the Transportation Equity Act for the 21st Century (TEA-21), expired in 2003 and was followed by a series of short-term extensions to ensure a steady stream of funding to the states.

The 109th Congress is debating legislation to reauthorize TEA-21 to provide federal transportation funding to states over the next six years, and it is critically important to include provisions encompassing Texas' priorities for flexible transportation financing and project delivery.

These priorities, which could significantly advance the transportation system in Texas, include increased flexibility with regard to design-build contracting, multimodal transportation project environmental review, interstate tolling, toll credit calculation, bond financing, the federal Borders and Corridors Program, the delivery of federal funds, and right-of-way acquisition.

A top Texas priority for TEA-21 reauthorization legislation is a provision to remove federal restrictions on state procurement processes and allow a state highway contractor to perform environmental review as well as design and construction under a single design-build contract, which the Texas Department of Transportation (TxDOT) currently uses to combine design and construction of state highway projects into one contract, as opposed to the traditional approach of having separate contracts for each sequential project phase.

Another priority is allowing states to take a concurrent and segmented approach to environmental reviews so that they could begin environmental and design work on one part of a multimodal transportation project--which could involve transit systems, toll roads, highway facilities, and other modes of transportation--at the same time that construction begins on another segment of the project.

TxDOT also prioritizes eliminating federal restrictions on tolling interstate highways and on the use of toll revenues; additional state options for interstate tolling would significantly expand Texas' ability to address congestion and mobility issues more effectively.

Priorities also include amending the current toll credit calculation and providing states with greater flexibility in using toll credits to finance projects; while it is useful that states can apply the value of certain highway expenditures funded with toll revenues toward the required state match on projects receiving federal funds, the credit should be calculated on a pro rata basis that takes into account the state level of financial investment in a project funded by toll revenues.

Authorizing the use of private activity bonds for a broad range of surface transportation projects is another priority; currently, highway, rail, and intermodal surface projects, which provide a convenient transition from one mode of travel to another, are ineligible for private sector investment.

The increasing level of truck traffic at Texas ports of entry is the reason behind prioritizing realignment of the federal Borders and Corridors Program; over time, this program has evolved

away from its core functions of promoting national economic growth in relation to international trade and facilitating the safe movement of people and goods across U.S. borders.

If Texas receives designation as a pilot state for a proposed federal program to test a performance-based management approach to the delivery of federal funds, our state could manage federal-aid transportation programs, including Interstate Maintenance, National Highway System, Surface Transportation, and Highway Safety Improvement, as a single block grant.

Texas' transportation priorities to accelerate project delivery also include allowing states to use federal funds to pay options to property owners for potential acquisition of right-of-way, similar to normal right-of-way acquisition.

Not only is Texas' highway capacity falling behind demand, its rail infrastructure lags in efficiency as well; the ability to dedicate a portion of federal highway funds to relocate rail outside of cities and to support rail improvements would have a significant impact on the free flow of traffic and safer movement of hazardous material.

Other states occasionally run the risk of allowing their contract authority for U.S. Federal Highway Administration programs to lapse due to an inability to obligate those funds before they expire; states that have available nonfederal funds can provide financial assistance to these states by purchasing their unused contract authority, thereby increasing federal funds.

RESOLVED

That the 79th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to include in TEA-21 reauthorization legislation provisions encompassing Texas' priorities for flexible transportation financing and project delivery; these provisions should include but are not limited to:

- (1) allowing design-build authority for contractors to include environmental review, design, and construction of a project under a single contract;
- (2) allowing concurrent environmental review for multimodal transportation projects;
- (3) providing options for tolling interstate highways in Texas (within any limitations of state law);
- (4) implementing a pro rata toll credit calculation;
- (5) allowing private activity bonds for transportation projects;
- (6) realigning the Borders and Corridors Program;
- (7) including Texas in the surface transportation system performance pilot program;
- (8) expanding options for federal reimbursement for right-of-way acquisition;
- (9) allowing states to dedicate a portion of federal highway funds to relocate rail outside of cities and to support rail improvements; and
- (10) allowing states to purchase unused contract authority for U.S. Federal Highway Administration programs from other states.

That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.