

BILL ANALYSIS

Senate Research Center

H.B. 2704
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Transportation & Homeland Security
5/19/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

During the 78th Legislature, Regular Session, 2001, H.B. 3588 was passed. H.B. 3588 authorized local governmental entities to finance a transportation project and be paid back over time by TxDOT through pass-through tolls. The effect is that that local governmental entities may finance a project themselves in order to have the project built more quickly than TxDOT's pay-as-you-go system. The local government is then paid back by TxDOT based on the number of vehicles using the facility.

H.B. 2704 assists in the implementation of pass-through tolling by granting local governments, either directly or through a local government corporation, the ability to issue bonds secured by pass-through tolls.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 791, Government Code, by adding Section 791.033, as follows:

Sec. 791.033. **CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE FACILITIES ON STATE HIGHWAY SYSTEM.** (a) Defines "state highway system."

(b) Authorizes a local government to enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) Requires an agreement under this section to be approved by the Texas Department of Transportation (TxDOT).

(d) Authorizes a local government to make payments, notwithstanding Section 791.011(d), through certain methods.

(e) Prohibits the term of an agreement under this section from exceeding 40 years.

(f) Requires any election required to permit action under this section to be held in conformance with the Election Code or other law applicable to the local government.

(g) Authorizes a county or municipality, in connection with an agreement under this section, to exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371 (Obligations For Certain Public Improvements).

(h) Provides that this section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a local government without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. Requires this section to prevail to the extent of any conflict of inconsistency between this section and any other law. Authorizes a local government to use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 2. Amends Subtitle I, Title 9, Government Code, by adding Chapter 1479, as follows:

CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON STATE HIGHWAY SYSTEM

Sec. 1479.001. DEFINITION. Defines "state highway system."

Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) Authorizes a county to issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

(b) Authorizes a county to pledge certain revenue or pledge, levy, and collect certain taxes to provide for the payment of bonds issued under this section.

(c) Requires any election required to permit action under Subsection (b) to be held in conformance with the Election Code or other law applicable to the county.

(d) Authorizes a county that issues bonds under this section to exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(e) Requires a bond issued under this section to mature not later than 40 years after its date of issuance.

(f) Provides that this section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a county without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. Requires this section to prevail to the extent of any conflict of inconsistency between this section and any other law. Authorizes a county to use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 3. Amends Section 222.104, Transportation Code, by adding Subsection (f)-(h), as follows:

(f) Authorizes TxDOT, to the maximum extent permitted by law, to delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with whom TxDOT enters into an agreement under this section.

(g) Requires an agreement under this section to provide that a municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless TxDOT grants an exception.

(h) Provides that an agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for TxDOT reviews or approvals

in a manner that will, to the maximum extent possible, expedite the development of the project.

SECTION 4. Amends Subchapter E, Chapter 222, Transportation Code, by adding Section 222.1045, as follows:

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) Defines "public entity."

(b) Authorizes a public entity to contract with a private entity to act as the public entity's agent in certain situations.

(c) Sets forth certain requirements for a public entity.

(d) Requires a private entity selected to comply with Chapter 1001 (Engineers), Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) Authorizes a public entity to assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity.

SECTION 5. Effective date: upon passage or September 1, 2005.