



Legislative Study Group

Texas House of Representatives

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LSG Floor Report For July 2, 2009

HB 1 (Pitts | Pickett)

Caption: Relating to certain sources of revenue for the funding of highways and transportation projects.

Appropriations

Recommendation: Favorable w/ Concern

Contact: 512-463-0524

In 2007, voters approved Proposition 12, allowing TxDOT to issue up to \$5 billion in bonds for highway improvement. The Regular Session's General Appropriations Act, SB 1, appropriated \$2 billion of bond proceeds: \$1 billion for new construction and purchase of rights-of-way and \$1 billion to initially fund the Texas Transportation Revolving Fund (TTRF). However, the enabling legislation was not enacted. HB 1 serves as the enabling legislation.

HB 1 creates a revolving fund. \$1 billion in seed money is appropriated to start the fund. This revolving fund would continually provide financial assistance to public entities (cities, counties, TxDOT, et cetera) for highway improvement projects, specifically public toll roads, by using its assets to enhance the credit standing of those entities or to make direct loans on road projects. The Fund can periodically package the financial assistance debts and sell them as securities on the private investment market – leveraging money in the Fund by issuing revenue bonds.

The TTRF is to be held in the Texas Treasury Safekeeping Trust Company (TTSTC) and to be administered by the TTC through TxDOT. It is designed to help public entities obtain financing for transportation projects during the current economic crisis and instability in equity and credit markets. Further, municipal bond access and project financial feasibility may require some degree of state-level support to ensure the project is sound from a financial and credit standpoint.

HB 1 also allows TTC to issue general obligation bonds to pay the costs for highway improvement projects, the cost of administering such projects, the cost or expense of the issuance of the bonds or payment owed under a credit agreement and to provide money for deposit in the TTRF or similar revolving fund created by the Legislature. Highway improvement projects include the acquisition, construction, reconstruction, major maintenance and design of highways and purchase of rights-of-way. The proceeds of these bonds may not be expended unless appropriated by the Legislature.

Initial capital for TTRF operation is provided by \$1 billion in Prop 12 bond proceeds. If appropriated by the Legislature, TTC may deposit proceeds of issued bonds, money provided by TTC from the State Highway Fund, excess money from the Texas Mobility Fund and other direct appropriations into the TTRF. In addition, TTC may issue, sell and deliver fund revenues to provide money for TTRF.

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TTRF may use such funds to provide financial assistance to a public entity (cities, counties, et cetera), including TxDOT, for a transportation project by making loans, including through the purchase of obligations of a public entity; providing liquidity or credit enhancement, including through an agreement to loan to or purchase bonds, notes or other obligations from an entity; serving as a reserve fund in connection with debt financing by an entity; providing capitalized interest for debt financing by an entity or providing a guarantee of payment of the cost of operations and maintenance of a transportation project.

Public entities receiving financial assistance from TTRF may provide for repayment by pledging revenues or income from any source; pledging, levying and collecting any taxes (within existing limits) or pledging a combination of such. TTC may require that revenue from a tolled highway project be shared between the entity and TxDOT rather than repay the financial assistance. TxDOT must deposit in TTRF all amounts received from repayment or a share of revenues from a tolled highway improvement project.

TTC may sell any TTRF loans via a competitive bidding process and must deposit the proceeds of the sale in the Fund. Such sales must be approved by the Attorney General.

The public entity must repay loans to bondholders. The State is not obligated to repay loans that are sold and the loans are not a debt or pledge of faith and credit of the State. TTC may require a public entity to raise taxes (within existing limits) to repay loans. This provides comfort for bond purchasers/holders. TTC may issue fund revenue bonds on behalf of the State and TxDOT. Further, a public entity and TxDOT may waive sovereign immunity to suits enforcing any of their obligations under a financial assistance agreement. This provides additional comfort for bond purchasers/holders

Proceeds from TTRF bonds may be used to finance other funds or accounts relating to the bonds or credit agreements, including a debt service reserve fund and pay costs of issuance. Remaining proceeds must be deposited in the Fund and invested and used to provide financial assistance to a public entity, including TxDOT, for costs of a transportation project. Thus, the second generation of financial assistance will be financed by repayment of principal and interest on loans and any future legislative appropriations.

The TTRF will be a fund held in the TTSTC. The TTSTC will hold and invest the assets of the TTRF with direction by the TTC. The TTC must annually report to the Governor, Lieutenant Governor and LBB the amounts and sources of money deposited in the TTRF, investments and their returns, loans and other financial assistance made from the fund, the status of any defaults and details of any transportation project for which assistance was received from the fund. Such details must include the identity of the highway affected by the project and the degree to which the project is designed to reduce congestion, improve traffic safety and enhance connectivity.

TTC is given rulemaking authority to establish eligibility and prioritization criteria for entities and transportation projects applying for financial assistance from the Fund, specify the method for setting terms and conditions for providing and repayment of financial assistance from the Fund and establish procedures for the sale of loans. TxDOT may not receive more favorable terms than other parties who make requests for funds from TTRF. TTC must appoint a Rules Advisory Committee to advise TxDOT and the Commission on developing such rules. The Committee must include one or more members representing a local toll project entity.

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HB 1 amends TxDOT Rider 60 to clarify contingent appropriations made in SB 1 relating to the issuance of \$1 billion in general obligation bonds for new construction and purchase of rights-of-way and \$1 billion to fund the creation of TTRF.

Concern:

No pension/retirement fund money should be used to fund the TTRF or otherwise pay for road projects.

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HB 2 (Isett | McCall | Harper-Brown | McReynolds | Brown, Fred)

Caption: Relating to the governmental entities subject to the sunset review process.

State Affairs

Recommendation: Favorable

Contact: 512-463-0524

HB 2 is a safety net bill for agencies set to expire before the Legislature meets again in 2011. This bill moves sunset dates for six agencies from 2009 to 2011 to avoid their termination. The six agencies include the Texas Department of Insurance, Transportation, Office of Public Insurance Council, State Affordable Housing Corporation, Equine Research Account Advisory Committee and the Texas Racing Commission.

Additional changes are made to the sunset schedule in order to more efficiently balance and organize the workload of the Sunset Commission

The following agencies sunset reviews were moved from **2013 to 2011**: State Soil and Water Conservation Board; Coastal Coordination Council; State Board of Examiners for Speech-Language Pathology and Audiology; State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; Texas Commission on Environmental Quality; Texas Water Development Board; On-Site Wastewater Treatment Research Council; and the Railroad Commission of Texas.

Under this legislation the state of Texas's natural resource and environmental agencies will come up for review in the next legislative session. HB 2 directs the Sunset Commission to conduct a special-purpose review of the Electric Reliability Council of Texas (ERCOT) as part of the commission's review of the Public Utility Commission (PUC) for the 82nd legislature, including their compliance with the requirements placed on them by the legislature and the PUC. Currently, ERCOT and the Capital Metropolitan Transportation Authority must finance their own reviews and this legislation contains language allowing the agencies to cover their costs.

The State Board of Examiners for Speech-Language Pathology and Audiology as well as the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments were moved up in the process because their reviews have been postponed in previous legislative sessions. If their reviews

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continued as scheduled without the passage of this legislation they would not be up for review by the legislature for over 20 years.

The following agencies sunset reviews were moved from **2011 to 2013**: Texas Emancipation Juneteenth Cultural and Historical Commission; Texas Lottery Commission; Texas Board of Criminal Justice and Texas Department of Criminal Justice (includes the Board of Pardons and Paroles); Health and Human Services Commission; Tax Division, State Office of Administrative Hearings; Texas Health Services Authority; Department of State Health Services; Department of Family and Protective Services; Texas Council for Developmental Disabilities; Governor's Committee on People with Disabilities; Department of Assistive and Rehabilitative Services; Department of Aging and Disability Services; and Office of Firefighters' Pension Commissioner.

The review of the Health & Human Service agencies (DARS, DADS, DSHS, DFPS) was moved back to 2013 in order to balance the workload of the Sunset Commission to make room for ERCOT and the natural resource and environmental agencies.

The sunset report on the transfer of procurement powers and duties from the Texas Facilities Commission to the Comptroller has been moved back from 82nd to 83rd Legislature. The sunset review date of the Texas Council on Purchasing from People with Disabilities is scheduled to be completed by September 1, 2013 instead of 2015.

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