

BILL ANALYSIS

C.S.H.B. 2962
By: Krusee
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The purpose of CSHB 2962 is to authorize the Texas Department of Transportation (department) and another public or private entity to pay shadow tolls for the purposes of reimbursing costs incurred by the department or another public or private entity to construct, maintain, or operate a toll or nontoll facility on the state highway system. The legislation additionally authorizes the payment of shadow tolls to compensate a regional tollway authority, regional mobility authority, or a county acting under Chapter 284, Transportation Code, for certain costs incurred by that entity to maintain a state highway that is converted to a toll facility of that entity, or to reimburse the department for all or a portion of the costs incurred by the department to design, construct, or maintain a state highway converted to a toll facility of a regional tollway authority, regional mobility authority, or a county acting under Chapter 284, Transportation Code.

Shadow tolls are per vehicle amounts paid to the developer or operator of a highway by a third party such as the governmental entity that has jurisdiction over the highway and not by highway users. Shadow toll amounts can be based upon the type of vehicle and distance traveled.

Shadow tolls are not a financing source in themselves, but rather a payment approach that can employ a range of financing methods, innovative or traditional, and can permit a viable financing structure that fits the characteristics and needs of certain projects. The concept of shadow tolls is, therefore, particularly applicable to public/private partnerships.

The payment of shadow tolls can spread periodic or annual payments to an entity that constructs and/or operates a highway over a concession or franchise period. This can place the initial financing responsibility on the developer/operator rather than placing this burden on the governmental entity with jurisdiction over the project. Shadow tolls are typically paid to reimburse the developer/operator for the costs of constructing and operating the highway.

Shadow tolls can be an element of a highway finance plan in which a public or private sector developer/operator accepts the obligation to construct and operate a highway and the risk that traffic volume of that highway will reach a certain level. However, the traffic levels are typically not impaired by real tolls or toll increases. In exchange, the public or private sector developer/operator receives periodic shadow toll payments in place of, or in addition to, real tolls paid by users.

The state greatly needs to increase its transportation expenditures to meet rising highway demand and maintenance needs. This legislation seeks to increase funds available for transportation expenditures without raising taxes or fees.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Transportation commission in SECTION 1 (Subchapter E, Chapter 222, Section 222.104(2)(f), Transportation Code) of this bill.

ANALYSIS

CSHB 2962 Adds Section 222.104, Transportation Code to do the following:

Adds Subsection (a) to define “shadow toll” to mean a per vehicle fee or per vehicle mile fee that is measured by the number of vehicles using a highway.

Adds Subsection (b) to authorize the department to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.

Adds Subsection (c) to authorize the department to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to the department as reimbursement for the department's construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the public or private entity.

Adds Subsection (d) to authorize the department to enter into an agreement with a regional tollway authority, regional mobility authority, or a county acting under Chapter 284, Transportation Code, that provides for: (1) the payment of shadow tolls to an authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway converted to a toll facility of the authority or county that the department estimates it would have incurred had the highway not been converted; or

(2) the payment by an authority or county of shadow tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, construct, and maintain a state highway or a portion of a state highway converted to a toll facility of the authority or county.

Adds Subsection (e) to authorize the department or another public entity to use any available funds for the purpose of making a shadow toll payment.

Adds Subsection (f) to authorize the Texas Transportation Commission to promulgate rules necessary to implement Section 222.104, including establishing criteria for determining the amount of shadow tolls paid under that section, and allocating traffic risk.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original in that the substitute is a Legislative Council draft.