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H.B. No. 471

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the borrowing of money and the issuance of notes by the  
3 Texas Transportation Commission; making an appropriation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter C, Chapter 201, Transportation Code,  
6 is amended by adding Section 201.115 to read as follows:

7 Sec. 201.115. BORROWING MONEY. (a) The commission may  
8 borrow money from any source to carry out the functions of the  
9 department.

10 (b) A loan under this section may be in the form of an  
11 agreement, note, contract, or other form as determined by the  
12 commission and may contain any provisions the commission considers  
13 appropriate, except:

14 (1) the term of the loan may not exceed two years;

15 (2) the amount of the loan, combined with any amounts  
16 outstanding on other loans under this section, may not exceed the  
17 average monthly revenue deposited to the state highway fund for the  
18 12 months preceding the month of the loan; and

19 (3) the loan may not create general obligation of the  
20 state and is payable only as authorized by legislative  
21 appropriation.

22 (c) If the commission borrows money by the issuance of  
23 notes, the notes shall be issued in accordance with the  
24 requirements of Subchapter N, except that the maturity limitations

1 in Subsection (b) supersede the maturity limitations in Section  
2 201.963.

3 (d) Notwithstanding Section 222.001, money in the state  
4 highway fund may be used to repay a loan under this section, if  
5 appropriated by the legislature for that purpose.

6 SECTION 2. Chapter 201, Transportation Code, is amended by  
7 adding Subchapter N to read as follows:

8 SUBCHAPTER N. HIGHWAY TAX AND REVENUE ANTICIPATION NOTES

9 Sec. 201.961. DEFINITIONS. In this subchapter:

10 (1) "Committee" means the cash management committee  
11 described in Section 404.122, Government Code.

12 (2) "Credit agreement" has the meaning assigned by  
13 Section 1208.001, Government Code.

14 (3) "Notes" means tax and revenue anticipation notes  
15 issued under this subchapter. The term includes any obligation  
16 under a credit agreement.

17 Sec. 201.962. NOTES AUTHORIZED; COMMITTEE APPROVAL. (a) In  
18 anticipation of a temporary cash flow shortfall in the state  
19 highway fund during any fiscal year, the commission, subject to the  
20 approval of the committee, may issue, sell, and deliver tax and  
21 revenue anticipation notes on behalf of the state.

22 (b) Before issuing the notes, the commission shall submit to  
23 the committee a state highway fund cash flow shortfall forecast  
24 containing a detailed report of estimated revenue and expenditures.  
25 Based on the forecast, the committee may approve the issuance of  
26 notes in an amount not to exceed the maximum temporary cash flow  
27 shortfall forecast.

1       Sec. 201.963. ISSUANCE OF NOTES. (a) The commission,  
2 consistent with the committee's determination under Section  
3 201.962, may issue, sell, and deliver the notes.

4       (b) Notes issued under this subchapter are not debts of the  
5 state and may be used only to make up a temporary shortfall in the  
6 state highway fund's cash flow. All notes must mature and be paid  
7 in full during the fiscal biennium in which they were issued.

8       (c) Except as otherwise provided by this subsection, the  
9 proceeds of the notes shall be deposited in a special fund in the  
10 state treasury known as the highway tax and revenue anticipation  
11 note fund. Notwithstanding any other provision of law, depository  
12 interest shall be credited to the fund. The department shall  
13 transfer the net proceeds from the fund to the state highway fund as  
14 necessary to pay authorized expenditures. The comptroller may  
15 invest funds in the highway tax and revenue anticipation note fund  
16 as authorized under Section 404.024, Government Code. Proceeds of  
17 a credit agreement may be deposited as provided by the order  
18 authorizing the credit agreement.

19       (d) The commission may exercise the powers granted to the  
20 governing body of an issuer in connection with the issuance of  
21 obligations under Chapter 1371, Government Code, to the extent not  
22 inconsistent with this subchapter. The notes are not subject to  
23 review by the Bond Review Board but are subject to review and  
24 approval by the attorney general as provided by Chapter 1371,  
25 Government Code. On request, the comptroller may assist the  
26 commission with the issuance of notes under this subchapter.

27       (e) The commission is an authorized issuer under Chapter

1 1201, Government Code, and that chapter applies to notes authorized  
2 by this subchapter.

3 (f) Amounts in the highway tax and revenue anticipation note  
4 fund may be pledged to secure the payment of the notes and  
5 performance of obligations under credit agreements relating to the  
6 notes and may be used to pay issuance costs and required rebates to  
7 the federal government.

8 Sec. 201.964. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES.

9 (a) The department periodically shall transfer cash received in the  
10 state highway fund to the highway tax and revenue anticipation note  
11 fund to ensure the timely payment of the notes.

12 (b) On payment of all outstanding notes, rebates to the  
13 federal government, and costs of issuance, the department shall  
14 transfer to the state highway fund any amounts remaining in the  
15 highway tax and revenue anticipation note fund. If amounts  
16 credited to the highway tax and revenue anticipation note fund are  
17 insufficient to pay principal, any premium, interest, issuance  
18 costs, and any required rebate to the federal government, amounts  
19 in the state highway fund are available for appropriation by the  
20 legislature to make those payments.

21 SECTION 3. For the fiscal biennium beginning September 1,  
22 2003, the Texas Department of Transportation is appropriated all  
23 money deposited in the highway tax and revenue anticipation note  
24 fund for the purposes specified in Subchapter N, Chapter 201,  
25 Transportation Code, as added by this Act, during that biennium. To  
26 the extent that money deposited into the highway tax and revenue  
27 anticipation note fund is insufficient to pay the principal of, any

1 premium or interest on, or costs of issuance relating to the notes,  
2 and rebates to the federal government, the department is  
3 appropriated from the state highway fund the amounts necessary for  
4 the full repayment of all principal of, any premium or interest on,  
5 or costs of issuance relating to the notes, and rebates to the  
6 federal government.

7 SECTION 4. (a) Section 1 of this Act takes effect on the  
8 date on which the constitutional amendment proposed by the 78th  
9 Legislature, Regular Session, 2003, providing for authorization of  
10 the borrowing of money on a short-term basis by a state  
11 transportation agency for transportation-related projects takes  
12 effect. If that amendment is not approved by the voters, Section 1  
13 of this Act has no effect.

14 (b) Sections 2 and 3 of this Act take effect September 1,  
15 2003.