

1-1 By: Pickett, et al. (Senate Sponsor - Lucio) H.B. No. 471  
1-2 (In the Senate - Received from the House May 1, 2003;  
1-3 May 6, 2003, read first time and referred to Committee on  
1-4 Infrastructure Development and Security; May 24, 2003, reported  
1-5 adversely, with favorable Committee Substitute by the following  
1-6 vote: Yeas 7, Nays 0; May 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 471 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the borrowing of money and the issuance of notes and  
1-11 bonds and other public securities secured by the state highway fund  
1-12 by the Texas Transportation Commission; making an appropriation.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter C, Chapter 201, Transportation Code,  
1-15 is amended by adding Section 201.115 to read as follows:

1-16 Sec. 201.115. BORROWING MONEY. (a) The commission may  
1-17 borrow money from any source to carry out the functions of the  
1-18 department.

1-19 (b) A loan under this section may be in the form of an  
1-20 agreement, note, contract, or other form as determined by the  
1-21 commission and may contain any provisions the commission considers  
1-22 appropriate, except:

1-23 (1) the term of the loan may not exceed two years;

1-24 (2) the amount of the loan, combined with any amounts  
1-25 outstanding on other loans under this section, may not exceed the  
1-26 average monthly revenue deposited to the state highway fund for the  
1-27 12 months preceding the month of the loan; and

1-28 (3) the loan may not create general obligation of the  
1-29 state and is payable only as authorized by legislative  
1-30 appropriation.

1-31 (c) If the commission borrows money by the issuance of  
1-32 notes, the notes shall be issued in accordance with the  
1-33 requirements of Subchapter N, except that the maturity limitations  
1-34 in Subsection (b) supersede the maturity limitations in Section  
1-35 201.963.

1-36 (d) Notwithstanding Section 222.001, money in the state  
1-37 highway fund may be used to repay a loan under this section, if  
1-38 appropriated by the legislature for that purpose.

1-39 SECTION 2. Chapter 201, Transportation Code, is amended by  
1-40 adding Subchapter N to read as follows:

1-41 SUBCHAPTER N. HIGHWAY TAX AND REVENUE ANTICIPATION NOTES

1-42 Sec. 201.961. DEFINITIONS. In this subchapter:

1-43 (1) "Committee" means the cash management committee  
1-44 described in Section 404.122, Government Code.

1-45 (2) "Credit agreement" has the meaning assigned by  
1-46 Section 1208.001, Government Code.

1-47 (3) "Notes" means tax and revenue anticipation notes  
1-48 issued under this subchapter. The term includes any obligation  
1-49 under a credit agreement.

1-50 Sec. 201.962. NOTES AUTHORIZED; COMMITTEE APPROVAL. (a) In  
1-51 anticipation of a temporary cash flow shortfall in the state  
1-52 highway fund during any fiscal year, the commission, subject to the  
1-53 approval of the committee, may issue, sell, and deliver tax and  
1-54 revenue anticipation notes on behalf of the state.

1-55 (b) Before issuing the notes, the commission shall submit to  
1-56 the committee a state highway fund cash flow shortfall forecast  
1-57 containing a detailed report of estimated revenue and expenditures.  
1-58 Based on the forecast, the committee may approve the issuance of  
1-59 notes in an amount not to exceed the maximum temporary cash flow  
1-60 shortfall forecast.

1-61 Sec. 201.963. ISSUANCE OF NOTES. (a) The commission,  
1-62 consistent with the committee's determination under Section  
1-63 201.962, may issue, sell, and deliver the notes.

2-1 (b) Notes issued under this subchapter are not debts of the  
 2-2 state and may be used only to make up a temporary shortfall in the  
 2-3 state highway fund's cash flow. All notes must mature and be paid  
 2-4 in full during the fiscal biennium in which they were issued.

2-5 (c) Except as otherwise provided by this subsection, the  
 2-6 proceeds of the notes shall be deposited in a special fund in the  
 2-7 state treasury known as the highway tax and revenue anticipation  
 2-8 note fund. Notwithstanding any other provision of law, depository  
 2-9 interest shall be credited to the fund. The department shall  
 2-10 transfer the net proceeds from the fund to the state highway fund as  
 2-11 necessary to pay authorized expenditures. The comptroller may  
 2-12 invest funds in the highway tax and revenue anticipation note fund  
 2-13 as authorized under Section 404.024, Government Code. Proceeds of  
 2-14 a credit agreement may be deposited as provided by the order  
 2-15 authorizing the credit agreement.

2-16 (d) The commission may exercise the powers granted to the  
 2-17 governing body of an issuer in connection with the issuance of  
 2-18 obligations under Chapter 1371, Government Code, to the extent not  
 2-19 inconsistent with this subchapter. The notes are not subject to  
 2-20 review by the Bond Review Board but are subject to review and  
 2-21 approval by the attorney general as provided by Chapter 1371,  
 2-22 Government Code. On request, the comptroller may assist the  
 2-23 commission with the issuance of notes under this subchapter.

2-24 (e) The commission is an authorized issuer under Chapter  
 2-25 1201, Government Code, and that chapter applies to notes authorized  
 2-26 by this subchapter.

2-27 (f) Amounts in the highway tax and revenue anticipation note  
 2-28 fund may be pledged to secure the payment of the notes and  
 2-29 performance of obligations under credit agreements relating to the  
 2-30 notes and may be used to pay issuance costs and required rebates to  
 2-31 the federal government.

2-32 Sec. 201.964. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES.

2-33 (a) The department periodically shall transfer cash received in the  
 2-34 state highway fund to the highway tax and revenue anticipation note  
 2-35 fund to ensure the timely payment of the notes.

2-36 (b) On payment of all outstanding notes, rebates to the  
 2-37 federal government, and costs of issuance, the department shall  
 2-38 transfer to the state highway fund any amounts remaining in the  
 2-39 highway tax and revenue anticipation note fund. If amounts  
 2-40 credited to the highway tax and revenue anticipation note fund are  
 2-41 insufficient to pay principal, any premium, interest, issuance  
 2-42 costs, and any required rebate to the federal government, amounts  
 2-43 in the state highway fund are available for appropriation by the  
 2-44 legislature to make those payments.

2-45 SECTION 3. Subchapter A, Chapter 222, Transportation Code,  
 2-46 is amended by adding Section 222.003 to read as follows:

2-47 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY  
 2-48 FUND. (a) The commission may issue bonds and other public  
 2-49 securities secured by a pledge of and payable from revenue  
 2-50 deposited to the credit of the state highway fund.

2-51 (b) The aggregate principal amount of the bonds and other  
 2-52 public securities that are issued may not exceed \$10 billion. The  
 2-53 commission may only issue bonds or other public securities in an  
 2-54 aggregate principal amount of not more than \$1 billion each year.

2-55 (c) Proceeds from the sale of bonds and other public  
 2-56 securities issued under this section shall be used to fund state  
 2-57 highway improvement projects. Proceeds may be used only to  
 2-58 provide:

2-59 (1) funding for projects that:

2-60 (A) allow the department to draw down additional  
 2-61 federal-aid highway funds;

2-62 (B) are eligible for expedited contracting under  
 2-63 Subchapter C, Chapter 223;

2-64 (C) facilitate, for the purpose of reducing  
 2-65 unemployment or underemployment, the retention of businesses in  
 2-66 this state or the ability to provide an incentive for new businesses  
 2-67 to locate in this state;

2-68 (D) reduce accidents or correct or improve  
 2-69 hazardous locations on the state highway system; or

3-1 (E) are included in the Texas Highway Trunk  
 3-2 System; or

3-3 (2) short-term financing of turnpike project costs  
 3-4 that are incurred before the project is open to traffic and begins  
 3-5 generating revenue, if the commission determines that issuing  
 3-6 short-term bonds will reduce total project costs.

3-7 (d) In this section, "Texas Highway Trunk System" means a  
 3-8 rural network of four-lane or better divided roadways that will  
 3-9 serve as a principal connector of all Texas cities with over 20,000  
 3-10 population, as well as major ports and points of entry.

3-11 (e) Of the aggregate principal amount of bonds and other  
 3-12 public securities that may be issued under this section, the  
 3-13 commission shall issue bonds or other public securities in an  
 3-14 aggregate principal amount of \$2 billion to fund projects eligible  
 3-15 under Subsection (c)(1)(D). The commission by rule shall prescribe  
 3-16 criteria for selecting projects eligible for funding under this  
 3-17 section. In establishing criteria for projects eligible under  
 3-18 Subsection (c)(1)(D), the commission shall consider accident data,  
 3-19 traffic volume, pavement geometry, and other conditions that can  
 3-20 create or exacerbate hazardous roadway conditions.

3-21 (f) The proceeds of bonds and other public securities issued  
 3-22 under this section may not be used for any purpose other than any  
 3-23 costs related to the bonds and other public securities and the  
 3-24 purposes for which revenues are dedicated under Section 7-a,  
 3-25 Article VIII, Texas Constitution. The proceeds of bonds and other  
 3-26 public securities issued under this section may not be used for the  
 3-27 construction of a state highway or other facility on the  
 3-28 Trans-Texas Corridor. For purposes of this section, the  
 3-29 "Trans-Texas Corridor" means the statewide system of multimodal  
 3-30 facilities under the jurisdiction of the department that is  
 3-31 designated by the commission, notwithstanding the name given to  
 3-32 that corridor.

3-33 (g) The commission may enter into credit agreements, as  
 3-34 defined by Chapter 1371, Government Code, relating to the bonds and  
 3-35 other public securities authorized by this section. The agreements  
 3-36 may be secured by and payable from the same sources as the bonds and  
 3-37 other public securities.

3-38 (h) All laws affecting the issuance of bonds and other  
 3-39 public securities by governmental entities, including Chapters  
 3-40 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to  
 3-41 the issuing of bonds and other public securities and the entering  
 3-42 into of credit agreements under this section.

3-43 (i) The proceeds of bonds and other public securities issued  
 3-44 under this section may be used to:

3-45 (1) finance other funds relating to the public  
 3-46 security, including debt service reserve and contingency; and

3-47 (2) pay the cost or expense of the issuance of the  
 3-48 public security.

3-49 (j) Bonds and other public securities and credit agreements  
 3-50 authorized by this section may not have a principal amount or terms  
 3-51 that, at the time the bonds or other public securities are issued or  
 3-52 the agreements entered into, are expected by the commission to  
 3-53 cause annual expenditures with respect to the obligations to exceed  
 3-54 10 percent of the amount deposited to the credit of the state  
 3-55 highway fund in the immediately preceding year.

3-56 (k) Bonds and other public securities issued under this  
 3-57 section may be sold in such manner and subject to such terms and  
 3-58 provisions as set forth in the order authorizing their issuance,  
 3-59 and such bonds and other public securities must mature not later  
 3-60 than 20 years after their dates of issuance, subject to any  
 3-61 refundings or renewals.

3-62 (1) The comptroller shall withdraw from the state highway  
 3-63 fund and forward at the direction of the commission to another  
 3-64 person the amounts as determined by the commission to permit timely  
 3-65 payment of:

3-66 (1) the principal of and interest on the bonds and  
 3-67 other public securities that mature or become due; and

3-68 (2) any cost related to the bonds and other public  
 3-69 securities that become due, including payments under credit

4-1 agreements.

4-2 (m) The commission may not fund a project unless the  
4-3 commission makes a formal finding by minute order that the funding  
4-4 of the project will satisfy the requirements of Subsection (c).

4-5 SECTION 4. For the fiscal biennium beginning September 1,  
4-6 2003, the Texas Department of Transportation is appropriated all  
4-7 money deposited in the highway tax and revenue anticipation note  
4-8 fund for the purposes specified in Subchapter N, Chapter 201,  
4-9 Transportation Code, as added by this Act, during that biennium. To  
4-10 the extent that money deposited into the highway tax and revenue  
4-11 anticipation note fund is insufficient to pay the principal of, any  
4-12 premium or interest on, or costs of issuance relating to the notes,  
4-13 and rebates to the federal government, the department is  
4-14 appropriated from the state highway fund the amounts necessary for  
4-15 the full repayment of all principal of, any premium or interest on,  
4-16 or costs of issuance relating to the notes, and rebates to the  
4-17 federal government.

4-18 SECTION 5. (a) Sections 1 and 3 of this Act take effect on  
4-19 the date on which the constitutional amendment proposed by the 78th  
4-20 Legislature, Regular Session, 2003, providing for authorization of  
4-21 the borrowing of money on a short-term basis by a state  
4-22 transportation agency for transportation-related projects and the  
4-23 issuance of bonds and other public securities secured by the state  
4-24 highway fund takes effect. If that amendment is not approved by the  
4-25 voters, Section 1 and 3 of this Act have no effect.

4-26 (b) Sections 2 and 4 of this Act take effect September 1,  
4-27 2003.

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