

By: Baxter

H.B. No. 2237

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain prerequisites for the Texas Department of
3 Transportation or a regional mobility authority to construct or
4 finance a new toll project or convert a segment of a free state
5 highway to a toll project.

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

7 SECTION 1. Subchapter C, Chapter 361, Transportation Code,
8 is amended by adding Section 361.1015 to read as follows:

9 Sec. 361.1015. FEASIBILITY STUDY REQUIRED. The department
10 may not determine to undertake a turnpike project under Section
11 361.101 unless:

12 (1) the department conducts or authorizes a
13 feasibility study; and

14 (2) the study determines that the proposed project is
15 financially viable.

16 SECTION 2. Subchapter E, Chapter 361, Transportation Code,
17 is amended by adding Sections 361.181 and 361.182 to read as
18 follows:

19 Sec. 361.181. EXPENDITURES FOR FEASIBILITY STUDIES. (a)
20 Notwithstanding Section 361.179 or any other provision of this
21 chapter to the contrary, the department may pay the expenses of
22 studying the cost and feasibility and any other expenses relating
23 to the preparation and issuance of turnpike revenue bonds for a
24 proposed turnpike project by:

1 (1) using available revenue derived from an existing
2 transportation project;

3 (2) borrowing money and issuing bonds or entering into
4 a loan agreement payable out of available revenue anticipated to be
5 derived from the operation of an existing turnpike project; or

6 (3) pledging to the payment of the bonds or a loan
7 agreement available revenue anticipated to be derived from the
8 operation of turnpike projects or revenue available to the
9 authority from another source.

10 (b) The department's use of a financing method is subject to
11 the prior approval of the commission.

12 (c) Money spent under this section for a proposed turnpike
13 project must be reimbursed to the turnpike project from which the
14 money was spent from the proceeds of turnpike revenue bonds issued
15 for the construction of the proposed project.

16 Sec. 361.182. FEASIBILITY STUDY FUND. (a) The department
17 may maintain a feasibility study fund. The fund is a revolving fund
18 held in trust by a banking institution chosen by the department or,
19 at the discretion of the commission, in trust in the state treasury
20 outside the general revenue fund. The fund shall be kept separate
21 from the money for any turnpike project.

22 (b) The department may transfer an amount from a surplus
23 fund established for a turnpike project to the feasibility study
24 fund if the remainder of the surplus fund after the transfer is not
25 less than any minimum amount required by the trust agreement to be
26 retained for that project.

27 (c) Money in the feasibility study fund may be used only to

1 pay the expenses of studying the cost and feasibility and any other
2 expenses relating to:

3 (1) the preparation and issuance of turnpike revenue
4 bonds for the construction of a proposed turnpike project;

5 (2) the financing of the improvement, extension, or
6 expansion of an existing turnpike project; and

7 (3) private participation, as authorized by
8 Subchapter I, in the financing of a proposed turnpike project, the
9 refinancing of an existing turnpike project, or the improvement,
10 extension, or expansion of a turnpike project.

11 (d) The department must authorize a feasibility study,
12 subject to the prior approval of the commission.

13 (e) Money spent under Subsection (c) for a proposed turnpike
14 project must be reimbursed from the proceeds of turnpike revenue
15 bonds issued for, or other proceeds that may be used for, the
16 construction, improvement, extension, expansion, or operation of
17 the project.

18 (f) For a purpose described by Subsection (c), the
19 department may borrow money and issue promissory notes or other
20 interest-bearing evidences of indebtedness payable out of its
21 feasibility study fund, pledging money in the fund or to be placed
22 in the fund.

23 SECTION 3. Sections 362.0041(a) and (g), Transportation
24 Code, are amended to read as follows:

25 (a) Except as provided in Subsection [~~Subsections~~] (d) [~~and~~
26 ~~(g)~~], the commission may by order convert a segment of the free
27 state highway system to a toll facility if:

1 (1) it determines that the conversion will improve
2 overall mobility in the region or is the most feasible and economic
3 means to accomplish necessary expansion, improvements, or
4 extensions to that segment of the state highway system; and

5 (2) the conversion is approved by:

6 (A) the commissioners court of each county in
7 which the segment is located; and

8 (B) a majority of the voters in each county in
9 which the segment is located, at a county election called for that
10 purpose by the commissioners court.

11 (g) For the purposes of this section, a segment is a segment
12 of the free state highway system if the department has used public
13 money, including money from the state highway fund, the Texas
14 mobility fund, or money from an agreement with a local governmental
15 entity, to pay for:

16 (1) the actual acquisition, construction,
17 improvement, extension, or expansion of the highway;

18 (2) acquisition of real property, rights-of-way,
19 property rights, easements, or interests; or

20 (3) placement of the highway in operation and expenses
21 related to the initial operation of the highway. [The commission
22 may only convert a segment of the state highway system under this
23 section if the conversion is approved by the commissioners court of
24 each county within which the segment is located.]

25 SECTION 4. The heading to Section 370.035, Transportation
26 Code, is amended to read as follows:

27 Sec. 370.035. [~~CONVERSION AND~~] TRANSFER OF CONVERTED STATE

1 HIGHWAY SYSTEM PROJECTS.

2 SECTION 5. Section 370.035(a), Transportation Code, is
3 amended to read as follows:

4 (a) The commission by order may [~~convert a segment of the~~
5 ~~free state highway system to a turnpike project and~~] transfer [~~that~~
6 ~~segment~~] to an authority a segment of the free state highway system
7 converted to a turnpike project under Section 362.0041[~~r~~] or [~~may~~
8 ~~transfer~~] an existing turnpike project that is part of the state
9 highway system, whether previously tolled or not, to an authority
10 if:

11 (1) the commission determines that the proposed
12 transfer is an integral part of the region's overall plan to improve
13 mobility in the region;

14 (2) the commission determines that the public has a
15 reasonable alternative route on nontoll roads;

16 (3) the authority agrees to assume all liability and
17 responsibility for the maintenance and operation of the turnpike
18 project on its transfer; and

19 (4) the transfer is approved by the governor.

20 SECTION 6. Subchapter C, Chapter 370, Transportation Code,
21 is amended by adding Section 370.074 to read as follows:

22 Sec. 370.074. FEASIBILITY STUDY REQUIRED. An authority may
23 not begin construction on a turnpike project unless:

24 (1) the authority conducts or authorizes a feasibility
25 study; and

26 (2) the study determines that the proposed project is
27 financially viable.

1 SECTION 7. Section 362.0041(b), Transportation Code, is
2 repealed.

3 SECTION 8. If any provision of this Act or its application
4 to any person or circumstance is held invalid, the invalidity does
5 not affect other provisions or applications of this Act that can be
6 given effect without the invalid provision or application, and to
7 this end the provisions of this Act are severable.

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2005.