

By: Krusee

H.B. No. 2704

A BILL TO BE ENTITLED

AN ACT

relating to the construction, maintenance, or operation of toll or nontoll projects or facilities.

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

SECTION 1. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.033 to read as follows:

Sec. 791.033. CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE FACILITIES ON STATE HIGHWAY SYSTEM. (a) In this section, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

(b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) An agreement under this section must be approved by the Texas Department of Transportation.

(d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may:

(1) pledge revenue from any available source,

1 including payments received under an agreement with the Texas
2 Department of Transportation under Section 222.104, Transportation
3 Code;

4 (2) pledge, levy, and collect taxes to the extent
5 permitted by law; or

6 (3) provide for a combination of Subdivisions (1) and
7 (2).

8 (e) The term of an agreement under this section may not
9 exceed 40 years.

10 (f) Any election required to permit action under this
11 section must be held in conformance with the Election Code or other
12 law applicable to the local government.

13 (g) In connection with an agreement under this section, a
14 county or municipality may exercise any of the rights and powers
15 granted to the governing body of an issuer under Chapter 1371.

16 (h) This section is wholly sufficient authority for the
17 execution of agreements, the pledge of revenues, taxes, or any
18 combination of revenues and taxes, and the performance of other
19 acts and procedures authorized by this section by a local
20 government without reference to any other provision of law or any
21 restriction or limitation contained in those provisions, except as
22 specifically provided by this section. To the extent of any
23 conflict or inconsistency between this section and any other law,
24 this section shall prevail and control. A local government may use
25 any law not in conflict with this section to the extent convenient
26 or necessary to carry out any power or authority, expressed or
27 implied, granted by this section.

SECTION 2. Subtitle I, Title 9, Government Code, is amended by adding Chapter 1479 to read as follows:

CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON
STATE HIGHWAY SYSTEM

Sec. 1479.001. DEFINITION. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) A county may issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

(b) To provide for the payment of bonds issued under this section, a county may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes subject to any constitutional limitation; or

(3) provide for a combination of Subdivisions (1) and (2).

(c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law applicable to the county.

1 (d) A county that issues bonds under this section may
2 exercise any of the rights and powers granted to the governing body
3 of an issuer under Chapter 1371.

4 (e) A bond issued under this section must mature not later
5 than 40 years after its date of issuance.

6 (f) This section is wholly sufficient authority for the
7 issuance of bonds, the pledge of revenues, taxes, or any
8 combination of revenues and taxes, and the performance of other
9 acts and procedures authorized by this section by a county without
10 reference to any other provision of law or any restriction or
11 limitation contained in those provisions, except as specifically
12 provided by this section. To the extent of any conflict or
13 inconsistency between this section and any other law, this section
14 shall prevail and control. A county may use any law not in conflict
15 with this section to the extent convenient or necessary to carry out
16 any power or authority, expressed or implied, granted by this
17 section.

18 SECTION 3. Section 222.104, Transportation Code, is amended
19 by adding Subsections (f)-(h) to read as follows:

20 (f) To the maximum extent permitted by law, the department
21 may delegate the full responsibility for design, bidding, and
22 construction, including oversight and inspection, to a
23 municipality, county, regional mobility authority, or regional
24 tollway authority with whom the department enters into an agreement
25 under this section.

26 (g) An agreement under this section must provide that a
27 municipality, county, regional mobility authority, or regional

1 tollway authority is required to meet state design criteria,
2 construction specifications, and contract administration
3 procedures unless the department grants an exception.

4 (h) An agreement under this section should prescribe the
5 roles and responsibilities of the parties and establish time frames
6 for any department reviews or approvals in a manner that will, to
7 the maximum extent possible, expedite the development of the
8 project.

9 SECTION 4. Subchapter E, Chapter 222, Transportation Code,
10 is amended by adding Section 222.1045 to read as follows:

11 Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a)
12 In this section, "public entity" means a municipality, county,
13 regional mobility authority, or regional tollway authority.

14 (b) A public entity may contract with a private entity to
15 act as the public entity's agent in:

16 (1) the design, financing, maintenance, operation, or
17 construction, including oversight and inspection, of a toll or
18 nontoll facility under Section 222.104(b); or

19 (2) the maintenance of a state highway or a portion of
20 a state highway subject to an agreement under Section 222.104(c).

21 (c) A public entity shall:

22 (1) select a private entity under Subsection (b) on
23 the basis of the private entity's qualifications and experience;
24 and

25 (2) enter into a project development agreement with
26 the private entity.

27 (d) A private entity selected shall comply with Chapter

1 1001, Occupations Code, and all laws related to procuring
2 engineering services and construction bidding that are applicable
3 to the public entity that selected the private entity.

4 (e) A public entity may assign the public entity's right to
5 payment of pass-through tolls under Section 222.104(b) or (c) to
6 the private entity.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2005.