

By: Krusee (Senate Sponsor - Staples) H.B. No. 2704  
(In the Senate - Received from the House May 10, 2005;  
May 12, 2005, read first time and referred to Committee on  
Transportation and Homeland Security; May 23, 2005, reported  
favorably by the following vote: Yeas 6, Nays 0; May 23, 2005, sent  
to printer.)

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

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

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

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

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

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

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

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

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

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

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

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

(g) An agreement under this section must provide that a municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

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

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

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

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

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

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

(c) A public entity shall:

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

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

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

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

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

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