

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 17, 2005

TO: Honorable Todd Staples, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB2704 by Krusee (Relating to the construction, maintenance, or operation of toll or nontoll projects or facilities.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would add Section 791.033 to the Government Code to authorize a local government to enter into and make payments under an agreement with another local government for various activities related to a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or within the boundaries of an adjacent local government as a continuation of the project or facility. The Texas Department of Transportation (TxDOT) would be required to approve an agreement. Any improvements to a facility on the state highway system that are funded at the local level would provide a savings to the state, except those improvements funded or partially funded through an agreement between the local government and TxDOT. The agency indicates that any fiscal impact would be insignificant.

The bill would add Chapter 1479 to Subtitle I, Title 9 of the Government Code to authorize Texas counties to issue bonds to construct, maintain, or operate toll or non-toll projects or facilities on the Texas highway system. The bill would authorize counties to issue bonds, with a maximum maturity of 40 years, to fund the design, development, construction, maintenance, operation, extension, or improvement of a toll or non-toll project or facility on the state highway system in the county, or as a continuation of the project or facility in adjacent counties. The bill would authorize the county to pledge, for the payment of bonds issued pursuant to the new chapter, revenues from any available source, including payments received under agreements with TxDOT, and including pass-through toll agreements.

Current statute does not allow counties to issue bonds to construct, maintain, or operate toll or non-toll facilities on the state highway system. However, current law does allow a private or public entity to construct state highway projects and be repaid by TxDOT, using any available funds, through the pass-through toll method. A pass-through toll is defined in statute as a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using the highway. A pass-through toll agreement can be used on non-tolled or tolled roads. Under provisions of the bill, counties could issue bonds for transportation facility projects on the state highway system and could pledge revenues from any source, including pass-through toll agreements with TxDOT, to pay the bonds. TxDOT assumes the agency would experience an increase in pass-through toll applications as a result of implementation of the provisions of the bill, but that the agency could absorb an increase in related workload using existing resources.

The bill would amend Chapter 222, Transportation Code, to require TxDOT to delegate the full responsibility for design, bidding, and construction to a municipality, county, regional mobility authority, or regional tollway authority with whom TxDOT has entered into a pass-through toll agreement. The bill would require the municipality, county, regional mobility authority, or regional tollway authority to meet TxDOT's design criteria, construction specifications, and contract administration procedures unless granted an exception by TxDOT.

The bill would authorize a municipality, county, regional mobility authority, or regional tollway authority to contract with a private entity to act as an agent in the design, financing, construction, maintenance, or operation of a facility under Section 222.104(b), Transportation Code, or the maintenance of a state highway converted to a toll facility under Section 222.104(c), Transportation Code, relating to pass-through toll agreements with TxDOT. Based on the analysis of TxDOT, it is assumed the duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated as a result of requirements within Section 791.033, Government Code, because the local governments would have funding options available to cover costs associated with implementation.

It is assumed that costs to local governmental entities for implementing the changes to Chapter 222, Transportation Code, would vary depending on the size of the local entity, the size and type of projects constructed, and the nature of the pass-through toll agreements entered into with TxDOT.

The overall cost implications to the counties as a result of implementing Chapter 1479, Government Code, would depend on the timing and amounts of county bond issuances and the extent, if any, of the use of pass-through agreements.

Source Agencies: 601 Department of Transportation, 304 Comptroller of Public Accounts

LBB Staff: JOB, SR, DLBa, MW