

BILL ANALYSIS

C.S.S.B. 263
By: Carona
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the November 2007 election, the people of Texas approved a constitutional amendment to allow the Texas Department of Transportation to issue general obligation bonds for highway improvement projects. However, the enabling legislation for that constitutional amendment failed to pass during the 80th Legislature.

C.S.S.B. 263 authorizes the issuance of general obligation bonds by the Texas Transportation Commission to fund state highway improvement projects. The bill also sets forth certain limits on the principal amount of the bonds and the use of the proceeds of the bonds and authorizes the commission to enter into credit agreements relating to the bonds.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 263 amends the Transportation Code to authorize the Texas Transportation Commission by order or resolution to issue general obligation bonds for highway improvement project purposes and prohibits the aggregate principal amount of the bonds from exceeding \$5 billion, as specified by the Texas Constitution. The bill authorizes the commission to enter into credit agreements relating to the bonds and provides that a credit agreement entered into may be secured by and payable from the same sources as the bonds. The bill defines "improvement" to include the design, acquisition, construction, and major maintenance of a highway, and the acquisition of highway rights-of-way. The bill defines "bonds" and "credit agreement."

C.S.S.B. 263 requires the bonds to be executed in the form, on the terms, and in the denominations, and to bear interest and be issued in installments, as prescribed by the commission, and to mature not later than 30 years after their dates of issuance, subject to any refundings or renewals. The bill authorizes the bonds to be issued in multiple series and issues from time to time and to include any provision the commission determines appropriate and in the interest of the state. The bill grants the commission any power necessary or appropriate to carry out the bill's provisions or to implement provisions of the Texas Constitution regarding the commission and Texas highway improvement funds, including each power granted to other governmental units or agencies authorized to issue bonds or to a nonprofit corporation by the Public Security Procedures Act and provisions relating to refunding bonds and obligations for certain public improvements. The bill requires the bonds, the record of the proceedings that authorize the bonds, and any related credit agreement to be submitted to the attorney general for approval as to their legality. The bill requires the attorney general to approve the bonds if the attorney general finds that the bonds will be issued in accordance with the bill's provisions and other applicable law. The bill establishes that after payment by the purchasers of the bonds in accordance with the terms of sale and the execution and delivery of any related credit agreement, the bonds and the related credit agreement are incontestable for any cause. The bill authorizes bonds to be issued for one or more of the following purposes: to pay all or part of the costs of a

highway improvement project; to pay the costs of administering a project authorized under the bill, the cost or expense of the issuance of the bonds, or all or part of a payment owed or to be owed under a credit agreement; to provide money, for deposit to the credit of the Texas Transportation Revolving Fund or a similar revolving fund authorized by law, to be used to make loans for highway improvement projects as provided by law; and to provide money to be used to finance projects authorized by pass-through toll provisions. The bill prohibits proceeds from the sale of the bonds from being spent or used for a purpose authorized by the bill unless the legislature has appropriated the proceeds.

C.S.S.B. 263 requires 10 percent of the proceeds from the sale of the bonds to be used for the sole purpose of financing projects authorized by pass-through toll provisions. The bill requires those dedicated bond proceeds to be deposited to the credit of a separate account in the general revenue fund created for the deposit of money to be used to finance projects authorized by pass-through toll provisions. The bill requires the comptroller of public accounts to pay the principal of the bonds as the bonds mature and the interest as it becomes payable and to pay any costs related to the bonds that become due, including a payment under a credit agreement. The bill requires the commission to make a good faith effort to recruit women and minorities who are in the private sector to underwrite the issuance of bonds under the bill.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 263 differs from the original by specifying that the term "improvement" includes the design of a highway, the acquisition of a highway, the construction of a highway, the major maintenance of a highway, and the acquisition of highway rights-of-way, whereas the original specifies that that term includes acquisition of the highway, construction, reconstruction, and major maintenance, including any necessary design, and the acquisition of rights-of-way. The substitute adds a provision not in the original additionally authorizing bonds to be issued for the purpose of providing money to be used to finance projects authorized by pass-through toll provisions. The substitute adds provisions not in the original requiring 10 percent of bond proceeds to be used to finance pass-through toll projects, and requiring the Texas Transportation Commission to make a good faith effort to recruit certain individuals to underwrite the bonds.

C.S.S.B. 263 removes a provision included in the original establishing that the bill does not make an appropriation and that the bill takes effect only if a specific appropriation for the implementation of the bill is provided in a general appropriations act of the 81st Legislature, Regular Session, 2009, and makes conforming changes.

C.S.S.B. 263 differs from the original in nonsubstantive ways by using language reflective of certain bill drafting conventions.