

BILL ANALYSIS

S.B. 1383
By: Carona
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Several incentives for local governments to participate in delivering transportation projects in Texas have been authorized in recent years by the legislature. As local governments become more aware of these options, programs like pass-through financing and transportation reinvestment zones have been embraced by these jurisdictions as meaningful methods of delivery for critically needed transportation projects. Unfortunately no state or federal revenue is currently dedicated specifically for these local participation programs.

Despite the willingness of local governments to provide significant resources and commit their local revenue to deliver these projects, appropriated funding to support these important programs has not been authorized.

S.B. 1383 relates to the creation and administration of the Texas Local Participation Transportation Program.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 403.354, Government Code) of this bill.

ANALYSIS

SECTION 1. Amends Chapter 403, Government Code, by adding Subchapter O, as follows:

SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

Sec. 403.351. DEFINITIONS. Defines "commission," "department," "fund," "local project sponsor," "program," "project," and "total project cost."

Sec. 403.352. TEXAS LOCAL PARTICIPATION TRANSPORTATION FUND. (a) Provides that the Texas local participation transportation fund (fund) is a dedicated account in the general revenue fund.

(b) Sets forth the composition of the fund.

(c) Prohibits money from the state highway fund from being transferred to the fund.

(d) Provides that money in the fund may be used only for the administration of the Texas Local Participation Transportation Program (program) and may not be appropriated for any other purpose.

(e) Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments) do not apply to the fund.

Sec. 403.353. GIFTS AND GRANTS. Authorizes the comptroller of public accounts (comptroller) to solicit and accept gifts and grants to the fund. Authorizes a gift or grant to the fund to be used in the same manner as other money in the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

Sec. 403.354. RULEMAKING AUTHORITY. Authorizes the comptroller to adopt rules and guidelines relating to the comptroller's responsibilities under this subchapter.

Sec. 403.355. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM.

(a) Requires the comptroller to administer a program to encourage local project sponsors to participate in the delivery of eligible projects by providing the sponsors financial assistance from the fund.

(b) Requires the comptroller, in administering the program, to develop a process for certifying the eligibility of projects nominated by local project sponsors for financial assistance from the fund and for certifying that a project promotes economic development and diversification in the area in which the project is located. Requires that the process require a local project sponsor to submit a request for certification that includes:

(1) a description of the anticipated impact of the project on local economic development and diversification;

(2) a proposed schedule for the development and completion of the project, including an estimate of the date on which the project will be open to traffic;

(3) sufficient information to determine that the applicant is a local project sponsor eligible to receive funding under this subchapter;

(4) a specific description of the project, including project limits and connections with other transportation facilities;

(5) identification of the scope of work to be completed and a detailed estimate of total project costs, developed after coordination with the Texas Department of Transportation (TxDOT) concerning the scope and design criteria for the project;

(6) documentation demonstrating that the project is included in the unified transportation program approved by the Texas Transportation Commission and any applicable transportation plan for the area in which the project is located;

(7) evidence that a copy of the request for certification submitted to the comptroller was also submitted to TxDOT; and

(8) a proposed plan for funding the project that is in compliance with Subsection (c), and specifically identifies the contribution of local sources to the total project cost.

(c) Prohibits an eligible project from receiving more than 50 percent of the total project cost from the fund.

Sec. 403.356. DETERMINATION OF CONTRIBUTION. Authorizes a sponsor, for purposes of determining the amount contributed by local sources to the total project cost under Section 403.355, to include, as applicable, funds on hand, ad valorem taxes, local option taxes or fees dedicated to the project, economic development grants, other project specific gifts and grants, and, if the project is planned as a toll facility, toll revenues.

Sec. 403.357. ADMINISTRATION OF PROGRAM. Requires the comptroller, in administering the program, to:

(1) prepare an annual report projecting the amount of funding available based on estimates of future deposits to the fund and of money to be repaid to the fund by local project sponsors under loans made under this subchapter; and

(2) establish guidelines for disbursements from the fund that link disbursements with proposed project development and completion schedules submitted under Section 403.355(b)(2).

Sec. 403.358. **PROJECT CERTIFICATION.** Requires the comptroller, if the comptroller finds that a project for which a request for certification is submitted is eligible for disbursements from the fund and that the project promotes economic development and diversification in the area in which the project is located, to issue a certification to the local project sponsor to begin negotiations with TxDOT under Section 222.104, Transportation Code. Requires the certification to identify the maximum total funds available for the project in consideration of the total project costs and the money available in the fund.

Sec. 403.359. **FUND DISBURSEMENTS.** (a) Provides that the disbursement of funds by the comptroller is subject to TxDOT's certification that the project is consistent with the unified transportation program and any applicable transportation plan for the area in which the project is located, and that the project is authorized to be effectively integrated with the state highway system.

(b) Authorizes the comptroller, after a project is certified under Section 403.358 and Subsection (a), to make disbursements from the fund to a local project sponsor in the form a grant or a loan in accordance with guidelines established under Section 403.357(2).

(c) Prohibits the comptroller from making a disbursement from the fund for a project until there is a signed agreement under Section 222.104 (Pass-Through Tolls), Transportation Code. Prohibits TxDOT from being required under the signed agreement to contribute any funding toward the cost of the project.

(d) Authorizes the comptroller to make disbursements from the fund to reimburse the portion of total project costs composed of funds contributed from local sources. Requires that the payment be made in the same manner as a pass-through toll payment made under Section 222.104, Transportation Code.

Sec. 403.360. **PROJECT DEVELOPMENT.** Requires that an agreement negotiated under Section 222.104, Transportation Code, for a project that receives funding under this subchapter prescribe the roles and responsibilities of the parties for all significant work to be performed, and provide that a local project sponsor is required to meet state design criteria, construction specifications, and contract administration procedures unless TxDOT grants an exception.

Sec. 403.361. **FEES.** Requires the comptroller, in connection with each application for certification of a project under this subchapter, to impose and collect from the local project sponsor an application fee in an amount sufficient to cover the costs incurred by the comptroller in administering this subchapter.

SECTION 2. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

September 1, 2009