

BILL ANALYSIS

C.S.S.B. 2378
By: Nichols
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since 2003, local governments have used new and innovative methods for delivering much needed transportation infrastructure to their jurisdictions. Current law authorizes local governments to take control of transportation projects through the pass-through finance program. Pass-through financing allows the Texas Department of Transportation to delegate to cities and counties the authority to finance the costs and oversee the construction of needed local road projects and to be reimbursed by the state for those costs over a period of time. This can accelerate the delivery of a project to a community by many years.

S.B. 1266, 80th Legislature, Regular Session, 2007, gave cities and counties which intended to complete a pass-through finance project the option of designating an area adjacent to the road project as a transportation reinvestment zone. Through a transportation reinvestment zone the sponsoring entity is allowed to capture a portion of the property tax revenues resulting from the increased property values that occur as a result of the new road project. These captured revenues can be used to provide needed financing for the project. By designating an area as a transportation reinvestment zone and entering into a pass-through finance agreement, a local government can take control of its transportation needs, accelerate the construction of needed projects, determine the best method of delivery, and develop a plan for financing of the project.

C.S.S.B. 2378 amends the Transportation Code to provide clarification to the provisions relating to transportation reinvestment zones.

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. 2378 amends the Transportation Code to add provisions that relate to a municipal transportation reinvestment zone, county transportation reinvestment zone, or to both types of zones.

Municipal Transportation Reinvestment Zone

C.S.S.B. 2378 adds to the requirements for an ordinance designating an area as a municipal transportation reinvestment zone that it must contain findings that a transportation project will cultivate the improvement of the zone. The bill establishes that the amount the municipality must pay into the tax increment account for the zone is the tax increment produced by the municipality in connection with a zone to be less any amount allocated under previous agreements, including agreements relating to municipal planning and development and tax increment financing. The bill requires all or the portion specified by the municipality of the money deposited to a tax increment account to be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone, rather than to fund pass-through

toll projects, including the repayment of amounts owed under a pass-through toll agreement. The bill authorizes any remaining money deposited to the tax increment account to be used for other purposes as determined by the municipality. The bill authorizes the governing body of the municipality to contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and to pledge and assign all or a specified amount of money in the tax increment account to that entity. The bill provides that after a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

C.S.S.B. 2378 provides that except for requirements relating to a pledge or assignment of all or a specified amount of money in a tax increment account to a public or private entity to develop, redevelop, or improve a transportation project, a municipal transportation reinvestment zone terminates on December 31 of the year in which the municipality completes a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an agreement for development, redevelopment, or improvement of the project for which the zone was designated. The bill provides that a municipal transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone or otherwise has not used the zone for the purpose for which it was designated. The bill authorizes any surplus remaining in a tax increment account on termination of a municipal transportation reinvestment zone to be used for other purposes as determined by the municipality.

County Transportation Reinvestment Zone

C.S.S.B. 2378 authorizes a county transportation reinvestment zone to be designated for the purpose of granting other relief from taxes, in addition to granting relief from property taxes and makes conforming changes to provisions requiring a public hearing on the creation of a zone. The bill authorizes the commissioners court by order or resolution to enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the property taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated as the county's tax increment for that year. The bill provides for the total amount of any taxes abated or relief granted by the county to be less any amount allocated under previous agreements, including agreements relating to county development and growth and tax increment financing.

C.S.S.B. 2378 authorizes a county, to further the development of the transportation project for which the transportation reinvestment zone was designated, to assess all or part of the cost of the transportation project against property within the zone. The bill authorizes the assessment against each property in the zone to be levied and payable in installments in the same manner as provided by provisions relating to an assessment roll, levy of an assessment, and interest on an assessment, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under an agreement with a property owner in the zone. The bill authorizes the county to elect to adopt and apply certain provisions of the Public Improvement District Assessment Act to the assessment of costs and the issuance of bonds by the county to pay the costs of a transportation project.

C.S.S.B. 2378 authorizes the commissioners court of the county to contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and to pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. The bill provides that

after a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. The bill authorizes any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project to be used for other purposes associated with the transportation project or in the zone. The bill authorizes a road utility district to assist a county in the development of a transportation project, rather than a pass-through toll project. The bill authorizes the road utility district to enter into an agreement to fund the development of a project or to repay funds owed to the Texas Department of Transportation (TxDOT), rather than an agreement with the county to assume the obligation, if any, of the county to fund a pass-through toll project or to repay funds owed to TxDOT for a pass-through toll project.

C.S.S.B. 2378 provides that a tax abatement agreement, or an order or resolution on the abatement of taxes or the grant of relief from taxes, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments collected under provisions relating to county transportation reinvestment zones.

Municipal or County Transportation Reinvestment Zone

C.S.S.B. 2378 includes facilitating the improvement of property among the purposes of a municipal or county transportation reinvestment zone. The bill establishes that provisions relating to both types of zones apply only to a municipality or county, respectively, in which a pass-through toll project is to be developed, rather than to a municipality or county that intends to enter into a pass-through toll agreement with TxDOT. The bill removes language describing a transportation project in a municipal or county transportation reinvestment zone as a pass-through toll project that cultivates development or redevelopment of the area. The bill requires the ordinance, or order or resolution, respectively, designating a zone to designate the base year for purposes of establishing the tax increment base for the zone.

C.S.S.B. 2378 authorizes the boundaries of a municipal or county transportation reinvestment zone to be amended at any time to accommodate changes in the limits of the project for which the zone was designated, and it prohibits property from being removed or excluded from a designated zone if any part of the tax increment account or assessment, respectively, has been assigned or pledged directly by the municipality or county or through another entity to secure bonds or other obligations issued to obtain funding of the project. The bill prohibits property from being added to a designated zone unless the appropriate governing entity complies with provisions relating to the designation of a transportation reinvestment zone.

C.S.S.B. 2378 authorizes a municipality or county to establish a transportation reinvestment zone for any transportation project, notwithstanding the requirement in law that a transportation reinvestment zone be established in connection with a pass-through toll project. The bill requires TxDOT, if all or part of a transportation project is subject to oversight by TxDOT and at the option of the governing body of the municipality or county, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project oversight and inspection, to the municipality or county provided that the Texas Transportation Commission or TxDOT may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable Texas to receive federal-aid highway funds. The bill requires a transportation project that is on the state highway system to comply with state design criteria unless TxDOT grants an exception to the municipality or county. The bill defines "transportation project."

C.S.S.B. 2378 prohibits a municipality or county from being penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone. The bill prohibits any funding from TxDOT identified for a project before the

date that a transportation reinvestment zone is designated from being reduced because the transportation reinvestment zone is designated in connection with that project. The bill prohibits TxDOT from reducing any allocation of traditional transportation funding to any TxDOT districts because a district contains a municipality or county that contains a transportation reinvestment zone.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 2378 requires, rather than authorizes as in the original, the Texas Department of Transportation (TxDOT) to delegate full responsibility for a transportation project in a transportation reinvestment zone to a municipality or county at the option of the municipality or county if all or part of the project is subject to oversight by TxDOT. The substitute adds a provision not included in the original to condition this requirement of delegating full responsibility on the Texas Transportation Commission or TxDOT being able to take any action necessary to comply with requirements for federal-aid highway funds. The substitute differs from the original by including aesthetic improvements within the zone among the authorized uses of funding in a municipal or county transportation reinvestment zone.