

By: Smith of Harris

H.B. No. 3917

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation and administration of the Texas Local
3 Participation Transportation Program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 403, Government Code, is amended by
6 adding Subchapter O to read as follows:

7 SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

8 Sec. 403.351. DEFINITIONS. In this section:

9 (1) "Department" means the Texas Department of
10 Transportation.

11 (2) "Fund" means the Texas local participation
12 transportation fund.

13 (3) "Local project sponsor" means:

14 (A) a municipality;

15 (B) a county, including a county acting under
16 Chapter 284, Transportation Code;

17 (C) a regional mobility authority under Chapter
18 370, Transportation Code; or

19 (D) a regional tollway authority under Chapter
20 366, Transportation Code.

21 (4) "Program" means the Texas Local Participation
22 Transportation Program created under this subchapter.

23 (5) "Project" means a tolled or non-tolled facility:

24 (A) authorized under Section 222.104,

1 Transportation Code; and

2 (B) sponsored by a local project sponsor.

3 (6) "Total project cost" in connection with a project
4 means the estimated costs of:

5 (A) planning, environmental assessment,
6 regulatory permitting and compliance, design, construction,
7 construction oversight and inspection, right-of-way acquisition,
8 utility relocation, program management, legal services, and
9 financial advisory services; and

10 (B) financing, but only to the extent financing
11 costs relate to the securitization of amounts received from the
12 fund and received under an agreement made under Section 222.104,
13 Transportation Code.

14 Sec. 403.352. TEXAS LOCAL PARTICIPATION TRANSPORTATION
15 FUND. (a) The Texas local participation transportation fund is a
16 dedicated account in the general revenue fund.

17 (b) The fund is composed of:

18 (1) money transferred to the fund at the direction of
19 the legislature;

20 (2) gifts and grants contributed to the fund;

21 (3) interest and earnings received from investments of
22 money in the fund; and

23 (4) money repaid by a local project sponsor under a
24 loan made under this subchapter.

25 (c) Money in the fund may be used only for the
26 administration of this subchapter and may not be appropriated for
27 any other purpose.

1 (d) Sections 403.095 and 404.071 do not apply to the fund.

2 Sec. 403.353. GIFTS AND GRANTS. The comptroller may solicit
3 and accept gifts and grants to the fund. A gift or grant to the fund
4 may be used in the same manner as other money in the fund, subject to
5 any limitation or requirement placed on the gift or grant by the
6 donor or granting entity.

7 Sec. 403.354. RULEMAKING AUTHORITY. The comptroller may
8 adopt rules relating to the implementation of the program and any
9 other rules necessary to accomplish the purposes of this
10 subchapter.

11 Sec. 403.355. TEXAS LOCAL PARTICIPATION TRANSPORTATION
12 PROGRAM. (a) The comptroller shall administer a program to
13 encourage local project sponsors to participate in the delivery of
14 eligible projects by providing the sponsors disbursements from the
15 fund.

16 (b) In administering the program, the comptroller shall
17 develop a process for certifying the eligibility of projects
18 nominated by local project sponsors for disbursements from the
19 fund. The process must require a local project sponsor to submit a
20 request for certification that includes:

21 (1) a description of the benefits anticipated to
22 result from the project, including the impact on:

23 (A) local economic development and
24 diversification;

25 (B) congestion on public highways, future
26 mobility needs of this state, and the development or expansion of
27 transportation in the state;

1 (C) safety to the traveling public; and

2 (D) air quality;

3 (2) a description of local support for the project and
4 any known local public opposition;

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

8 (4) a commitment by the local project sponsor to
9 comply with all state or federal laws.

10 (c) In addition to information provided under Subsection
11 (b), a request for certification must contain:

12 (1) sufficient information to determine that the local
13 project sponsor is an entity eligible to receive funding under this
14 subchapter;

15 (2) a specific description of the project, including
16 project limits and connections with other transportation
17 facilities;

18 (3) identification of the scope of work to be
19 completed and a detailed estimate of total project costs;

20 (4) a commitment that the local project sponsor
21 intends to enter into an agreement for development of the project
22 under Section 222.104, Transportation Code; and

23 (5) a proposed plan for funding the project that:

24 (A) is in compliance with Subsection (d); and

25 (B) specifically identifies the contribution of
26 local sources to the total project cost.

27 (d) An eligible project may not receive more than 50 percent

1 of the total project cost from the fund.

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

9 Sec. 403.357. ADMINISTRATION OF PROGRAM. In administering
10 the program the comptroller shall:

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

15 (2) establish guidelines for disbursements from the
16 fund that link disbursements with proposed project development and
17 completion schedules submitted under Section 403.355(b)(3); and

18 (3) establish guidelines and protocols for use by the
19 department in certifying that a project for which a request for
20 certification is submitted is not inconsistent with existing and
21 planned improvements to the state highway system.

22 Sec. 403.358. PROJECT CERTIFICATION. (a) If the comptroller
23 finds that a project for which a request for certification is
24 submitted is eligible for disbursements from the fund, the
25 comptroller shall:

26 (1) issue a certification to the local project sponsor
27 to begin negotiations with the department under Section 222.104,

1 Transportation Code; and

2 (2) provide the department, based on the type of
3 projects that will most effectively meet the economic development
4 needs of this state, with guidelines that the department shall
5 follow in advancing projects authorized under Section 222.104,
6 Transportation Code, and negotiating agreements for projects under
7 that section, so that projects may be certified under this
8 subchapter as eligible for funding, including guidelines on:

9 (A) prescribing the roles and responsibility of
10 the parties for all significant work to be performed;

11 (B) delegating to the local project sponsor, to
12 the maximum extent permitted by law, the full responsibility for
13 project development;

14 (C) requiring a local project sponsor to meet
15 state design criteria, construction specifications, and contract
16 administration procedures unless the department grants an
17 exception; and

18 (D) defining the maximum total funds available
19 for the project in consideration of the total project costs and the
20 money available in the fund.

21 (b) A project for which a certification is issued under this
22 section does not require further approval by the department under
23 Section 222.104, Transportation Code, before an agreement may be
24 made.

25 Sec. 403.359. FUND DISBURSEMENTS. (a) After a project is
26 certified under this subchapter, the comptroller may make
27 disbursements from the fund to a local project sponsor in the form

1 of a grant or loan in accordance with guidelines established under
2 Section 403.357(2).

3 (b) The comptroller may not make a disbursement from the
4 fund for a project until there is a signed agreement under Section
5 222.104, Transportation Code, that is consistent with Section
6 403.358(a)(2).

7 Sec. 403.360. FEES. In connection with each application
8 for certification of a project under this subchapter, the
9 comptroller shall impose and collect from the local project sponsor
10 an application fee in an amount sufficient to cover the costs
11 incurred by the comptroller in administering this subchapter.

12 SECTION 2. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.