

By: Carona

S.B. No. 1383

A BILL TO BE ENTITLED

AN ACT

relating to the creation and administration of the Texas Local Participation Transportation Program.

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

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

SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

Sec. 403.351. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Transportation Commission.

(2) "Department" means the Texas Department of Transportation.

(3) "Fund" means the Texas local participation transportation fund.

(4) "Local project sponsor" means:

(A) a municipality;

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

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

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

(5) "Program" means the Texas Local Participation Transportation Program created under this subchapter.

1           (6) "Project" means a tolled or non-tolled facility:

2                   (A) authorized under Section 222.104,  
3 Transportation Code; and

4                   (B) sponsored by a local project sponsor.

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

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

12                   (B) financing, but only to the extent financing  
13 costs relate to the securitization of amounts received from the  
14 fund.

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

18           (b) The fund is composed of:

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

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

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

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

26           (c) Money from the state highway fund may not be transferred  
27 to the fund.

1       (d) Money in the fund may be used only for the  
2 administration of the program and may not be appropriated for any  
3 other purpose.

4       (e) Sections 403.095 and 404.071 do not apply to the fund.

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

10       Sec. 403.354. RULEMAKING AUTHORITY. The comptroller may  
11 adopt rules and guidelines relating to the comptroller's  
12 responsibilities under this subchapter.

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

18       (b) In administering the program, the comptroller shall  
19 develop a process for certifying the eligibility of projects  
20 nominated by local project sponsors for financial assistance from  
21 the fund and for certifying that a project promotes economic  
22 development and diversification in the area in which the project is  
23 located. The process must require a local project sponsor to submit  
24 a request for certification that includes:

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

27               (2) a proposed schedule for the development and

1 completion of the project, including an estimate of the date on  
2 which the project will be open to traffic;

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

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

9 (5) identification of the scope of work to be  
10 completed and a detailed estimate of total project costs, developed  
11 after coordination with the department concerning the scope and  
12 design criteria for the project;

13 (6) documentation demonstrating that the project is  
14 included in the unified transportation program approved by the  
15 commission and any applicable transportation plan for the area in  
16 which the project is located;

17 (7) evidence that a copy of the request for  
18 certification submitted to the comptroller was also submitted to  
19 the department; and

20 (8) a proposed plan for funding the project that:  
21 (A) is in compliance with Subsection (c); and  
22 (B) specifically identifies the contribution of  
23 local sources to the total project cost.

24 (c) An eligible project may not receive more than 50 percent  
25 of the total project cost from the fund.

26 Sec. 403.356. DETERMINATION OF CONTRIBUTION. For purposes  
27 of determining the amount contributed by local sources to the total

1 project cost under Section 403.355, a local project sponsor may  
2 include, as applicable, funds on hand, ad valorem taxes, local  
3 option taxes or fees dedicated to the project, economic development  
4 grants, other project-specific gifts and grants, and, if the  
5 project is planned as a toll facility, toll revenues.

6 Sec. 403.357. ADMINISTRATION OF PROGRAM. In administering  
7 the program the comptroller shall:

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

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

15 Sec. 403.358. PROJECT CERTIFICATION. If the comptroller  
16 finds that a project for which a request for certification is  
17 submitted is eligible for financial assistance from the fund and  
18 that the project promotes economic development and diversification  
19 in the area in which the project is located, the comptroller shall  
20 issue a certification to the local project sponsor to begin  
21 negotiations with the department under Section 222.104,  
22 Transportation Code. The certification must identify the maximum  
23 total funds available for the project in consideration of the total  
24 project costs and the money available in the fund.

25 Sec. 403.359. FUND DISBURSEMENTS. (a) The disbursement of  
26 funds by the comptroller is subject to the department's  
27 certification that the project is consistent with the unified

1 transportation program and any applicable transportation plan for  
2 the area in which the project is located, and that the project may  
3 be effectively integrated with the state highway system.

4 (b) After a project is certified under Section 403.358 and  
5 Subsection (a), the comptroller may make disbursements from the  
6 fund to a local project sponsor in the form of a grant or loan in  
7 accordance with guidelines established under Section 403.357(2).

8 (c) The comptroller may not make a disbursement from the  
9 fund for a project until there is a signed agreement under Section  
10 222.104, Transportation Code. The department may not be required  
11 under the signed agreement to contribute any funding toward the  
12 cost of the project.

13 (d) The comptroller may make disbursements from the fund to  
14 reimburse the portion of total project costs composed of funds  
15 contributed from local sources. The payment shall be made in the  
16 same manner as a pass-through toll payment made under Section  
17 222.104, Transportation Code.

18 Sec. 403.360. PROJECT DEVELOPMENT. An agreement negotiated  
19 under Section 222.104, Transportation Code, for a project that  
20 receives funding under this subchapter must:

21 (1) prescribe the roles and responsibilities of the  
22 parties for all significant work to be performed; and

23 (2) provide that a local project sponsor is required  
24 to meet state design criteria, construction specifications, and  
25 contract administration procedures unless the department grants an  
26 exception.

27 Sec. 403.361. FEES. In connection with each application

1 for certification of a project under this subchapter, the  
2 comptroller shall impose and collect from the local project sponsor  
3 an application fee in an amount sufficient to cover the costs  
4 incurred by the comptroller in administering this subchapter.

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