

1-1 By: Carona S.B. No. 1383  
1-2 (In the Senate - Filed March 5, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Transportation and Homeland  
1-4 Security; April 17, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 April 17, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1383 By: Carona

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation and administration of the Texas Local  
1-11 Participation Transportation Program.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 403, Government Code, is amended by  
1-14 adding Subchapter O to read as follows:

1-15 SUBCHAPTER O. TEXAS LOCAL PARTICIPATION TRANSPORTATION PROGRAM

1-16 Sec. 403.351. DEFINITIONS. In this subchapter:

1-17 (1) "Commission" means the Texas Transportation  
1-18 Commission.

1-19 (2) "Department" means the Texas Department of  
1-20 Transportation.

1-21 (3) "Fund" means the Texas local participation  
1-22 transportation fund.

1-23 (4) "Local project sponsor" means:

1-24 (A) a municipality;

1-25 (B) a county, including a county acting under  
1-26 Chapter 284, Transportation Code;

1-27 (C) a regional mobility authority under Chapter  
1-28 370, Transportation Code; or

1-29 (D) a regional tollway authority under Chapter  
1-30 366, Transportation Code.

1-31 (5) "Program" means the Texas Local Participation  
1-32 Transportation Program created under this subchapter.

1-33 (6) "Project" means a tolled or non-tolled facility:

1-34 (A) authorized under Section 222.104,  
1-35 Transportation Code; and

1-36 (B) sponsored by a local project sponsor.

1-37 (7) "Total project cost" in connection with a project  
1-38 means the estimated costs of:

1-39 (A) planning, environmental assessment,  
1-40 regulatory permitting and compliance, design, construction,  
1-41 construction oversight and inspection, right-of-way acquisition,  
1-42 utility relocation, program management, legal services, and  
1-43 financial advisory services; and

1-44 (B) financing, but only to the extent financing  
1-45 costs relate to the securitization of amounts received from the  
1-46 fund.

1-47 Sec. 403.352. TEXAS LOCAL PARTICIPATION TRANSPORTATION  
1-48 FUND. (a) The Texas local participation transportation fund is a  
1-49 dedicated account in the general revenue fund.

1-50 (b) The fund is composed of:

1-51 (1) money transferred to the fund at the direction of  
1-52 the legislature;

1-53 (2) gifts and grants contributed to the fund;

1-54 (3) interest and earnings received from investments of  
1-55 money in the fund; and

1-56 (4) money repaid by a local project sponsor under a  
1-57 loan made under this subchapter.

1-58 (c) Money from the state highway fund may not be transferred  
1-59 to the fund.

1-60 (d) Money in the fund may be used only for the  
1-61 administration of the program and may not be appropriated for any  
1-62 other purpose.

1-63 (e) Sections 403.095 and 404.071 do not apply to the fund.

2-1 Sec. 403.353. GIFTS AND GRANTS. The comptroller may  
 2-2 solicit and accept gifts and grants to the fund. A gift or grant to  
 2-3 the fund may be used in the same manner as other money in the fund,  
 2-4 subject to any limitation or requirement placed on the gift or grant  
 2-5 by the donor or granting entity.

2-6 Sec. 403.354. RULEMAKING AUTHORITY. The comptroller may  
 2-7 adopt rules and guidelines relating to the comptroller's  
 2-8 responsibilities under this subchapter.

2-9 Sec. 403.355. TEXAS LOCAL PARTICIPATION TRANSPORTATION  
 2-10 PROGRAM. (a) The comptroller shall administer a program to  
 2-11 encourage local project sponsors to participate in the delivery of  
 2-12 eligible projects by providing the sponsors financial assistance  
 2-13 from the fund.

2-14 (b) In administering the program, the comptroller shall  
 2-15 develop a process for certifying the eligibility of projects  
 2-16 nominated by local project sponsors for financial assistance from  
 2-17 the fund and for certifying that a project promotes economic  
 2-18 development and diversification in the area in which the project is  
 2-19 located. The process must require a local project sponsor to submit  
 2-20 a request for certification that includes:

2-21 (1) a description of the anticipated impact of the  
 2-22 project on local economic development and diversification;

2-23 (2) a proposed schedule for the development and  
 2-24 completion of the project, including an estimate of the date on  
 2-25 which the project will be open to traffic;

2-26 (3) sufficient information to determine that the  
 2-27 applicant is a local project sponsor eligible to receive funding  
 2-28 under this subchapter;

2-29 (4) a specific description of the project, including  
 2-30 project limits and connections with other transportation  
 2-31 facilities;

2-32 (5) identification of the scope of work to be  
 2-33 completed and a detailed estimate of total project costs, developed  
 2-34 after coordination with the department concerning the scope and  
 2-35 design criteria for the project;

2-36 (6) documentation demonstrating that the project is  
 2-37 included in the unified transportation program approved by the  
 2-38 commission and any applicable transportation plan for the area in  
 2-39 which the project is located;

2-40 (7) evidence that a copy of the request for  
 2-41 certification submitted to the comptroller was also submitted to  
 2-42 the department; and

2-43 (8) a proposed plan for funding the project that:

2-44 (A) is in compliance with Subsection (c); and

2-45 (B) specifically identifies the contribution of  
 2-46 local sources to the total project cost.

2-47 (c) An eligible project may not receive more than 50 percent  
 2-48 of the total project cost from the fund.

2-49 Sec. 403.356. DETERMINATION OF CONTRIBUTION. For purposes  
 2-50 of determining the amount contributed by local sources to the total  
 2-51 project cost under Section 403.355, a local project sponsor may  
 2-52 include, as applicable, funds on hand, ad valorem taxes, local  
 2-53 option taxes or fees dedicated to the project, economic development  
 2-54 grants, other project-specific gifts and grants, and, if the  
 2-55 project is planned as a toll facility, toll revenues.

2-56 Sec. 403.357. ADMINISTRATION OF PROGRAM. In administering  
 2-57 the program the comptroller shall:

2-58 (1) prepare an annual report projecting the amount of  
 2-59 funding available based on estimates of future deposits to the fund  
 2-60 and of money to be repaid to the fund by local project sponsors  
 2-61 under loans made under this subchapter; and

2-62 (2) establish guidelines for disbursements from the  
 2-63 fund that link disbursements with proposed project development and  
 2-64 completion schedules submitted under Section 403.355(b)(2).

2-65 Sec. 403.358. PROJECT CERTIFICATION. If the comptroller  
 2-66 finds that a project for which a request for certification is  
 2-67 submitted is eligible for financial assistance from the fund and  
 2-68 that the project promotes economic development and diversification  
 2-69 in the area in which the project is located, the comptroller shall

3-1 issue a certification to the local project sponsor to begin  
3-2 negotiations with the department under Section 222.104,  
3-3 Transportation Code. The certification must identify the maximum  
3-4 total funds available for the project in consideration of the total  
3-5 project costs and the money available in the fund.

3-6 Sec. 403.359. FUND DISBURSEMENTS. (a) The disbursement of  
3-7 funds by the comptroller is subject to the department's  
3-8 certification that the project is consistent with the unified  
3-9 transportation program and any applicable transportation plan for  
3-10 the area in which the project is located, and that the project may  
3-11 be effectively integrated with the state highway system.

3-12 (b) After a project is certified under Section 403.358 and  
3-13 Subsection (a), the comptroller may make disbursements from the  
3-14 fund to a local project sponsor in the form of a grant or loan in  
3-15 accordance with guidelines established under Section 403.357(2).

3-16 (c) The comptroller may not make a disbursement from the  
3-17 fund for a project until there is a signed agreement under Section  
3-18 222.104, Transportation Code. The department may not be required  
3-19 under the signed agreement to contribute any funding toward the  
3-20 cost of the project.

3-21 (d) The comptroller may make disbursements from the fund to  
3-22 reimburse the portion of total project costs composed of funds  
3-23 contributed from local sources. The payment shall be made in the  
3-24 same manner as a pass-through toll payment made under Section  
3-25 222.104, Transportation Code.

3-26 Sec. 403.360. PROJECT DEVELOPMENT. An agreement negotiated  
3-27 under Section 222.104, Transportation Code, for a project that  
3-28 receives funding under this subchapter must:

3-29 (1) prescribe the roles and responsibilities of the  
3-30 parties for all significant work to be performed; and

3-31 (2) provide that a local project sponsor is required  
3-32 to meet state design criteria, construction specifications, and  
3-33 contract administration procedures unless the department grants an  
3-34 exception.

3-35 Sec. 403.361. FEES. In connection with each application  
3-36 for certification of a project under this subchapter, the  
3-37 comptroller shall impose and collect from the local project sponsor  
3-38 an application fee in an amount sufficient to cover the costs  
3-39 incurred by the comptroller in administering this subchapter.

3-40 SECTION 2. This Act takes effect immediately if it receives  
3-41 a vote of two-thirds of all the members elected to each house, as  
3-42 provided by Section 39, Article III, Texas Constitution. If this  
3-43 Act does not receive the vote necessary for immediate effect, this  
3-44 Act takes effect September 1, 2009.

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