

1-1 By: Nichols S.B. No. 2378
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 14, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 14, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2378 By: Nichols

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

1-10 relating to the purposes and designation of a transportation
1-11 reinvestment zone.

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

1-13 SECTION 1. Section 222.105, Transportation Code, is amended
1-14 to read as follows:

1-15 Sec. 222.105. PURPOSES. The purposes of Sections 222.106
1-16 and 222.107 are to:

1-17 (1) promote public safety;

1-18 (2) facilitate the improvement, development, or
1-19 redevelopment of property;

1-20 (3) facilitate the movement of traffic; and

1-21 (4) enhance a local entity's ability to sponsor a
1-22 transportation project authorized under Section 222.104.

1-23 SECTION 2. Section 222.106, Transportation Code, is amended
1-24 by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l)
1-25 and adding Subsections (i-1) and (i-2) to read as follows:

1-26 (b) This section applies only to a municipality in which a
1-27 transportation project is to be developed [~~the governing body of~~
1-28 ~~which intends to enter into an agreement with the department]~~ under
1-29 Section 222.104.

1-30 (c) If the governing body determines an area to be
1-31 unproductive and underdeveloped and that action under this section
1-32 will further the purposes stated in Section 222.105, the governing
1-33 body of the municipality by ordinance may designate a contiguous
1-34 geographic area in the jurisdiction of the municipality to be a
1-35 transportation reinvestment zone to promote a transportation
1-36 project [~~described by Section 222.104 that cultivates development~~
1-37 ~~or redevelopment of the area~~].

1-38 (g) The ordinance designating an area as a transportation
1-39 reinvestment zone must:

1-40 (1) describe the boundaries of the zone with
1-41 sufficient definiteness to identify with ordinary and reasonable
1-42 certainty the territory included in the zone;

1-43 (2) provide that the zone takes effect immediately on
1-44 passage of the ordinance;

1-45 (3) assign a name to the zone for identification, with
1-46 the first zone designated by a municipality designated as
1-47 "Transportation Reinvestment Zone Number One, (City or Town, as
1-48 applicable) of (name of municipality)," and subsequently
1-49 designated zones assigned names in the same form, numbered
1-50 consecutively in the order of their designation;

1-51 (4) designate the base year for purposes of
1-52 establishing the tax increment base of the municipality;

1-53 (5) establish an ad valorem tax increment account for
1-54 the zone; and

1-55 (6) [~~(5)~~] contain findings that promotion of the
1-56 transportation project will cultivate the improvement,
1-57 development, or redevelopment of the zone.

1-58 (h) From taxes collected on property in a zone, the
1-59 municipality shall pay into the tax increment account for the zone
1-60 [~~an amount equal to~~] the tax increment produced by the
1-61 municipality, less any amount allocated under previous agreements,
1-62 including agreements under Chapter 380, Local Government Code, or
1-63 Chapter 311, Tax Code.

2-1 (i) All or the portion specified by the municipality of the
 2-2 money deposited to a tax increment account must be used to fund the
 2-3 transportation project for which the zone was designated. Any
 2-4 remaining money deposited to the tax increment account may be used
 2-5 for other purposes as determined by the municipality [~~Money~~
 2-6 ~~deposited to a tax increment account must be used to fund projects~~
 2-7 ~~authorized under Section 222.104, including the repayment of~~
 2-8 ~~amounts owed under an agreement entered into under that section)].~~

2-9 (i-1) The governing body of a municipality may contract with
 2-10 a public or private entity to develop, redevelop, or improve a
 2-11 transportation project in a transportation reinvestment zone and
 2-12 may pledge and assign all or a specified amount of money in the tax
 2-13 increment account to that entity. After a pledge or assignment is
 2-14 made, if the entity that received the pledge or assignment has
 2-15 itself pledged or assigned that amount to secure bonds or other
 2-16 obligations issued to obtain funding for the transportation
 2-17 project, the governing body of the municipality may not rescind its
 2-18 pledge or assignment until the bonds or other obligations secured
 2-19 by the pledge or assignment have been paid or discharged.

2-20 (i-2) To accommodate changes in the limits of the project
 2-21 for which a reinvestment zone was designated, the boundaries of a
 2-22 zone may be amended at any time, except that property may not be
 2-23 removed or excluded from a designated zone if any part of the tax
 2-24 increment account has been assigned or pledged directly by the
 2-25 municipality or through another entity to secure bonds or other
 2-26 obligations issued to obtain funding of the project, and property
 2-27 may not be added to a designated zone unless the governing body of
 2-28 the municipality complies with Subsections (e) and (g).

2-29 (j) Except as provided by Subsections (i-1) and
 2-30 [Subsection] (k), a transportation reinvestment zone terminates on
 2-31 December 31 of the year in which the municipality completes
 2-32 [complies with] a contractual requirement, if any, that included
 2-33 the pledge or assignment of all or a portion of money deposited to a
 2-34 tax increment account or the repayment of money owed under an [the]
 2-35 agreement for development, redevelopment, or improvement of the
 2-36 project for [under Section 222.104 in connection with] which the
 2-37 zone was designated.

2-38 (k) A transportation reinvestment zone terminates on
 2-39 December 31 of the 10th year after the year the zone was designated,
 2-40 if before that date the municipality has not entered into a contract
 2-41 described in Subsection (i-1) or otherwise not used the zone for the
 2-42 purpose for which it was designated.

2-43 (l) Any surplus remaining in a tax increment account on
 2-44 termination of a zone may be used for other purposes as determined
 2-45 by [transportation projects of] the municipality [in or outside of
 2-46 the zone].

2-47 SECTION 3. The heading to Section 222.107, Transportation
 2-48 Code, is amended to read as follows:

2-49 Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[+
 2-50 TAX ABATEMENTS, ROAD UTILITY DISTRICTS].

2-51 SECTION 4. Section 222.107, Transportation Code, is amended
 2-52 by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l)
 2-53 and adding Subsections (h-1) and (k-1) to read as follows:

2-54 (b) This section applies only to a county in which a
 2-55 transportation project is to be developed [the commissioners court
 2-56 of which intends to enter into a pass-through toll agreement with
 2-57 the department] under Section 222.104.

2-58 (c) The commissioners court of the county, after
 2-59 determining that an area is unproductive and underdeveloped and
 2-60 that action under this section would further the purposes described
 2-61 by Section 222.105, by order or resolution may designate a
 2-62 contiguous geographic area in the jurisdiction of the county to be a
 2-63 transportation reinvestment zone to promote a transportation
 2-64 project [described by Section 222.104 that cultivates development
 2-65 or redevelopment of the area] and for the purpose of abating ad
 2-66 valorem taxes or granting other relief from taxes imposed by the
 2-67 county on real property located in the zone.

2-68 (e) Not later than the 30th day before the date the
 2-69 commissioners court proposes to designate an area as a

3-1 transportation reinvestment zone under this section, the
 3-2 commissioners court must hold a public hearing on the creation of
 3-3 the zone, its benefits to the county and to property in the proposed
 3-4 zone, and the abatement of ad valorem taxes or the grant of other
 3-5 relief from ad valorem taxes imposed by the county on real property
 3-6 located in the zone. At the hearing an interested person may speak
 3-7 for or against the designation of the zone, its boundaries, or the
 3-8 abatement of or the relief from county taxes on real property in the
 3-9 zone. Not later than the seventh day before the date of the
 3-10 hearing, notice of the hearing and the intent to create a zone must
 3-11 be published in a newspaper having general circulation in the
 3-12 county.

3-13 (f) The order or resolution designating an area as a
 3-14 transportation reinvestment zone must:

3-15 (1) describe the boundaries of the zone with
 3-16 sufficient definiteness to identify with ordinary and reasonable
 3-17 certainty the territory included in the zone;

3-18 (2) provide that the zone takes effect immediately on
 3-19 adoption of the order or resolution; ~~and~~

3-20 (3) assign a name to the zone for identification, with
 3-21 the first zone designated by a county designated as "Transportation
 3-22 Reinvestment Zone Number One, County of (name of county)," and
 3-23 subsequently designated zones assigned names in the same form
 3-24 numbered consecutively in the order of their designation; and

3-25 (4) designate the base year for purposes of
 3-26 establishing the tax increment base of the county.

3-27 (h) The commissioners court by order or resolution may enter
 3-28 into an agreement with the owner of any real property located in the
 3-29 transportation reinvestment zone to abate all or a portion of the ad
 3-30 valorem taxes or to grant other relief from the taxes imposed by the
 3-31 county on the owner's property in an amount not to exceed the amount
 3-32 calculated under Subsection (a)(1) for that year. All abatements
 3-33 or other relief granted by the commissioners court in a
 3-34 transportation reinvestment zone must be equal in rate. In the
 3-35 alternative, the commissioners court by order or resolution may
 3-36 elect to abate a portion of the ad valorem taxes or otherwise grant
 3-37 relief from the taxes imposed by the county on all real property
 3-38 located in the zone. In any ad valorem tax year, the total amount
 3-39 of the taxes abated or the total amount of relief granted under this
 3-40 section may not exceed the amount calculated under Subsection
 3-41 (a)(1) for that year, less any amounts allocated under previous
 3-42 agreements, including agreements under Chapter 381, Local
 3-43 Government Code, or Chapter 312, Tax Code.

3-44 (h-1) To further the development of the transportation
 3-45 project for which the transportation reinvestment zone was
 3-46 designated, a county may assess all or part of the cost of the
 3-47 transportation project against property within the zone. The
 3-48 assessment against each property in the zone may be levied and
 3-49 payable in installments in the same manner as provided by Sections
 3-50 372.016-372.018, Local Government Code, provided that the
 3-51 installments do not exceed the total amount of the tax abatement or
 3-52 other relief granted under Subsection (h). The county may elect to
 3-53 adopt and apply the provisions of Sections 372.015-372.020 and
 3-54 372.023, Local Government Code, to the assessment of costs and
 3-55 Sections 372.024-372.030, Local Government Code, to the issuance of
 3-56 bonds by the county to pay the cost of a transportation project.
 3-57 The commissioners court of the county may contract with a public or
 3-58 private entity to develop, redevelop, or improve a transportation
 3-59 project in the transportation reinvestment zone and may pledge and
 3-60 assign to that entity all or a specified amount of the revenue the
 3-61 county receives from installment payments of the assessments for
 3-62 the payment of the costs of that transportation project. After a
 3-63 pledge or assignment is made, if the entity that received the pledge
 3-64 or assignment has itself pledged or assigned that amount to secure
 3-65 bonds or other obligations issued to obtain funding for the
 3-66 transportation project, the commissioners court of the county may
 3-67 not rescind its pledge or assignment until the bonds or other
 3-68 obligations secured by the pledge or assignment have been paid or
 3-69 discharged. Any amount received from installment payments of the

4-1 assessments not pledged or assigned in connection with the
4-2 transportation project may be used for other purposes associated
4-3 with the transportation project or in the zone.

4-4 (i) In the alternative, to ~~to~~ assist the county in
4-5 developing a transportation project ~~[authorized under Section~~
4-6 ~~222.104]~~, if authorized by the commission under Chapter 441, a road
4-7 utility district may be formed under that chapter that has the same
4-8 boundaries as a transportation reinvestment zone created under this
4-9 section.

4-10 (k) A road utility district formed as provided by Subsection
4-11 (i) may enter into an agreement ~~[with the county to assume the~~
4-12 ~~obligation, if any, of the county]~~ to fund development of a project
4-13 ~~[under Section 222.104]~~ or to repay funds owed to the department
4-14 ~~[under Section 222.104]~~. Any amount paid for this purpose is
4-15 considered to be an operating expense of the district. Any taxes
4-16 collected by the district that are not paid for this purpose may be
4-17 used for any district purpose.

4-18 (k-1) To accommodate changes in the limits of the project
4-19 for which a reinvestment zone was designated, the boundaries of a
4-20 zone may be amended at any time, except that property may not be
4-21 removed or excluded from a designated zone if any part of the
4-22 assessment has been assigned or pledged directly by the county or
4-23 through another entity to secure bonds or other obligations issued
4-24 to obtain funding of the project, and property may not be added to a
4-25 designated zone unless the governing body of the municipality
4-26 complies with Subsections (e) and (f).

4-27 (l) Except as provided by Subsection (m), a tax abatement
4-28 agreement entered into under Subsection (h), or an order or
4-29 resolution on the abatement of taxes or the grant of relief from
4-30 taxes under that subsection, terminates on December 31 of the year
4-31 in which the county completes any contractual requirement that
4-32 included the pledge or assignment of assessments ~~[of money]~~
4-33 collected under this section.

4-34 SECTION 5. Subchapter E, Chapter 222, Transportation Code,
4-35 is amended by adding Sections 222.108 and 222.109 to read as
4-36 follows:

4-37 Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER
4-38 TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in
4-39 Sections 222.106(b) and 222.107(b) that a transportation
4-40 reinvestment zone be established in connection with a project under
4-41 Section 222.104, a municipality or county may establish a
4-42 transportation reinvestment zone for any transportation project.
4-43 If all or part of the transportation project is subject to oversight
4-44 by the department, at the option of the governing body of the
4-45 municipality or county, the department may delegate full
4-46 responsibility for the development, design, letting of bids, and
4-47 construction of the project, including project oversight and
4-48 inspection, to the municipality or county.

4-49 (b) A transportation project developed under Subsection (a)
4-50 that is on the state highway system must comply with state design
4-51 criteria unless the department grants an exception to the
4-52 municipality or county.

4-53 (c) In this section, "transportation project" has the
4-54 meaning assigned by Section 370.003.

4-55 Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or
4-56 county may not be penalized with a reduction in traditional
4-57 transportation funding because of the designation and use of a
4-58 transportation reinvestment zone under this chapter. Any funding
4-59 from the department identified for a project before the date that a
4-60 transportation reinvestment zone is designated may not be reduced
4-61 because the transportation reinvestment zone is designated in
4-62 connection with that project.

4-63 (b) The department may not reduce any allocation of
4-64 traditional transportation funding to any of its districts because
4-65 a district contains a municipality or county that contains a
4-66 transportation reinvestment zone designated under this chapter.

4-67 SECTION 6. This Act takes effect September 1, 2009.

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