

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 563
By: Pickett et al. (Nichols)
Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 2003, local governments have been able to utilize 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. Typically, this can accelerate the delivery of a project to a community by many years.

In 2007, with the passage of S.B. 1266, the Texas Legislature authorized 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 (TRZ). Through a TRZ, 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. Those captured revenues can be used to provide needed financing support for the project. By designating an area as a TRZ and entering in a Pass-through financing agreement, a local government can take control of its transportation needs; accelerate the construction of needed projects; determine what the best method of delivery would be; and develop a plan for financing of the project, whether it be with its own sources of revenue or partnering with the private sector to finance and deliver the projects.

C.S.H.B. 563 amends current law relating to the purposes and designation of a transportation reinvestment zone.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 222.105, Transportation Code, to provide that the purposes of Sections 222.106 and 222.107 are to promote public safety; facilitate the improvement, development, or redevelopment of property; facilitate the movement of traffic; and enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104 (Pass-Through Tolls).

SECTION 2. Amends Section 222.106, Transportation Code, by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2), as follows:

(b) Provides that this section applies only to a municipality in which a transportation project is to be developed, rather than to a municipality the governing body of which intends to enter into an agreement with the Texas Department of Transportation (TxDOT), under Section 222.104.

(c) Authorizes the governing body of the municipality by ordinance, if the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, to designate a contiguous

geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project, rather than a transportation project described by Section 222.104 that cultivates development or redevelopment of the area.

(g) Requires that the ordinance designating an area as a transportation reinvestment zone:

- (1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;
- (2) provide that the zone takes effect immediately on passage of the ordinance and that the base year is required to be the year of passage of the ordinance or some year in the future;
- (3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;
- (4) designate the base year for purposes of establishing the tax increment base of the municipality;
- (5) establish a tax increment account, rather than an ad valorem tax increment account, for the zone; and
- (6) contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

Makes nonsubstantive changes.

(h) Requires the municipality, from taxes collected on property in a zone, to pay into the tax increment account for the zone the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, or Chapter 311 (Tax Increment Financing Act), Tax Code, rather than an amount equal to the tax increment produced by the municipality.

(i) Requires that all or the portion specified by the municipality of the money deposited to a tax increment account be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Authorizes any remaining money deposited to the tax increment account to be used for other purposes as determined by the municipality. Deletes existing text requiring that money deposited to a tax increment account be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section.

(i-1) Authorizes the governing body of a 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. Prohibits the governing body of the municipality, 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, from rescinding its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) Provides that the boundaries of a zone, to accommodate changes in the limits of the project for which a reinvestment zone was designated, may be amended at any time, except that property may not be removed or excluded from a designated zone if any part

of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) (relating to a public hearing prior to designating an area as a transportation reinvestment zone) and (g).

(j) Provides that except as provided by Subsections (i-1) and (k), rather than by Subsection (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes, rather than complies with, 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, rather than under the agreement under Section 222.104 in connection with which the zone was designated.

(k) Provides that a 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 described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Authorizes any surplus remaining in a tax increment account on termination of a zone to be used for other purposes as determined by the municipality, rather than for transportation projects of the municipality in or outside of the zone.

SECTION 3. Amends the heading to Section 222.107, Transportation Code, to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES.

SECTION 4. Amends Section 222.107, Transportation Code, by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1), as follows:

(b) Provides that this section applies only to a county in which a transportation project is to be developed, rather than a county the commissioners court of which intends to enter into a pass-through toll agreement with TxDOT, under Section 222.104.

(c) Authorizes the commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution to designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project, rather than a transportation project described by Section 222.104 that cultivates development or redevelopment of the area, and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Requires the commissioners court, not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, to hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. Authorizes an interested person, at the hearing, to speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone.

(f) Requires that the order or resolution designating an area as a transportation reinvestment zone:

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

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

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

(4) designate the base year for purposes of establishing the tax increment base of the county.

Makes a nonsubstantive change.

(h) 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 ad valorem 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 under Subsection (a)(1) (relating to the amount of a county's tax increment for a year) for that year. Requires that all abatements or other relief granted by the commissioners court in a transportation reinvestment zone be equal in rate. Authorizes the commissioners court by order or resolution, in the alternative, to elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. Prohibits the total amount of the taxes abated or the total amount of relief granted under this section, in any ad valorem tax year, from exceeding the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381 (County Development and Growth), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code.

(h-1) 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. Authorizes the assessment against each property in the zone to be levied and payable in installments in the same manner as provided by Sections 372.016 (Assessment Roll), 372.017 (Levy of Assessment), and 372.018 (Interest on Assessment; Lien), Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). Authorizes the county to elect to adopt and apply the provisions of Sections 372.015 (Determination of Assessment), 372.016, 372.017, 372.018, 372.019 (Supplemental Assessments), 372.020 (Reassessment), and 372.023 (Payment of Costs), Local Government Code, to the assessment of costs and Sections 372.024 (General Obligation and Revenue Bonds), 372.025 (Terms and Conditions of Bonds), 372.026 (Pledges), 372.027 (Refunding Bonds), 372.028 (Approval and Registration), 372.029 (Authorized Investments; Security), and 372.030 (Subchapter Not Exclusive), Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. 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. Prohibits the commissioners court of the county, 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, from rescinding its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Authorizes that any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project be used for other purposes associated with the transportation project or in the zone.

(i) Authorizes a road utility district, in the alternative, to assist the county in developing a transportation project, rather than a project authorized under Section 222.104, if authorized by the Texas Transportation Commission under Chapter 441 (Road Utility Districts), to be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section. Makes a nonsubstantive change.

(k) Authorizes a road utility district formed as provided by Subsection (i) to enter into an agreement to fund development of a project or to repay funds owed to TxDOT, rather than an agreement with the county to assume the obligation, if any, of the county to fund a project under Section 222.104, or to repay funds owed to TxDOT under Section 222.104.

(k-1) Authorizes the boundaries of a zone, to accommodate changes in the limits of the project for which a reinvestment zone was designated, to be amended at any time, except that property is prohibited from being removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property is prohibited from being added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Provides that except as provided by Subsection (m) (relating to termination of a transportation reinvestment zone), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments, rather than the pledge of money, collected under this section.

SECTION 5. Amends Subchapter E, Chapter 222, Transportation Code, by adding Sections 222.108, 222.109, and 222.110, as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Authorizes a municipality or county, notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, to establish a transportation reinvestment zone for any transportation project. Requires TxDOT, if all or part of the transportation project is subject to oversight by TxDOT, at the option of the governing body of the municipality or county, to the extent permitted by law, to delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. Requires a municipality or county, after assuming responsibility for a project under this subsection, to enter into an agreement with TxDOT that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and
- (3) the timelines for any required reviews or approvals.

(b) Requires that any portion of a transportation project developed under Subsection (a) that is on the state highway system or is located in the state highway right-of-way comply with applicable state and federal requirements and criteria for project development, design, and construction, unless TxDOT grants an exception to the municipality or county.

(c) Requires that the development, design, and construction plans and specifications for the portions of a project described by Subsection (b) be reviewed and approved by TxDOT under the agreement entered into under Subsection (a).

(d) Defines, in this section, "transportation project."

Sec. 222.109. REDUCTION PROHIBITED. (a) 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 under this chapter. Prohibits any funding from TxDOT committed to 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.

(b) Prohibits TxDOT from reducing any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

Sec. 222.110. SALES TAX INCREMENT. (a) Defines, in this section, "sales tax base."

(b) Authorizes the governing body of a municipality to determine, in an ordinance or order designating an area as a transportation reinvestment zone or in an ordinance or order adopted subsequent to the designation of a zone, the portion or amount of tax increment generated from the sales and use taxes imposed by a municipality under Section 321.101(a) (relating to approval by the majority of qualified voters for the adoption or repeal of a sales and use tax), Tax Code, or by a county under Chapter 323 (County Sales and Use Tax Act), Tax Code, attributable to the zone, above the sales tax base, to be used as provided by Subsection (e). Provides that nothing in this section requires a municipality or county to contribute sales tax increment under this subsection.

(c) Requires a county that designates a portion or amount of sales tax increment under Subsection (b) to establish a tax increment account. Requires a municipality or county to deposit the designated portion or amount of tax increment under Subsection (b) to the entity's respective tax increment account.

(d) Authorizes the governing body of a municipality or county, before pledging or otherwise committing money in the tax increment account under Subsection (c), to enter into an agreement, under Subchapter E (State Intercept to Increase Credit Rating), Chapter 271, Local Government Code, to authorize and direct the comptroller of public accounts to:

(1) withhold from any payment to which the municipality or county may be entitled the amount of the payment into the tax increment account under Subsection (b);

(2) deposit that amount into the tax increment account; and

(3) continue withholding and making additional payments into the tax increment account until an amount sufficient to satisfy the amount due has been met.

(e) Authorizes the sales and use taxes to be deposited into the tax increment account under this section to be disbursed from the account only to:

(1) pay for projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section; and

(2) notwithstanding Sections 321.506 (Use of Tax Revenue by Municipality) and 323.505 (Use of Tax Revenue), Tax Code, satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects authorized under Section 222.104.

(f) Provides that the amount deposited by a county to a tax increment account under this section is not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate under Section 26.041 (Tax Rate of Unit Imposing Additional Sales and Use Tax), Tax Code.

SECTION 6. Provides that Sections 222.106(h), (i), (j), (k), and (l) and 222.107(h), (i), (k), and (l), Transportation Code, as amended by this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and (k-1), 222.108, and 222.109, Transportation Code, as added by this Act, apply to a transportation reinvestment zone that is governed by those sections designated before the effective date of this Act.

SECTION 7. Effective date: September 1, 2011.