

BILL ANALYSIS

C.S.H.B. 2802
By: Pickett
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas and other states are facing serious financial challenges in responding to identified transportation needs. Texas' population has increased significantly over the last 25 years, as has the use of Texas roads. However, road capacity has not increased at a similar rate, compounding the state's transportation needs. Recognizing the shortfall in traditional funding for transportation, the Texas Legislature passed, and voters approved, constitutional amendments providing for the issuance of bonds for highway projects known as Proposition 12 bonds and Proposition 14 bonds. Voters also approved the creation of the Texas Mobility Fund for mobility improvement projects.

C.S.H.B. 2802 seeks to build on these accomplishments by authorizing the use of the Texas Mobility Fund as a revolving fund in order to provide loans to public entities for needed state highway projects, publicly owned toll road projects, and other public transportation projects, thereby expediting the delivery of those projects. The bill also authorizes the Texas Department of Transportation to provide loans to public entities from the proceeds of Proposition 12 and Proposition 14 bonds for needed highway improvement projects, effectively providing an additional source of revenue for increasing the state's road capacity.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2802 amends the Transportation Code, in provisions governing obligations secured by the Texas Mobility Fund, the issuance of bonds secured by the state highway fund, and the issuance of general obligation bonds for highway improvement projects, to authorize the obligations or bonds, as appropriate, to be issued to make loans to public entities, including a transportation corporation created under the Texas Transportation Corporation Act, for public mobility improvement projects, state highway improvement projects, or highway improvement projects. The bill requires the Texas Transportation Commission to determine the terms and conditions of repayment, including the interest rate to be charged, and requires the Texas Department of Transportation (TxDOT) to deposit all amounts received from repayment of a loan in the Texas Mobility Fund or the state highway fund or a subaccount in the state infrastructure bank, as appropriate. The bill authorizes a public entity authorized by law to construct, maintain, or finance a highway improvement project, toll road project, or public transportation project to borrow money from the Texas Mobility Fund or TxDOT, as appropriate, and to enter into any agreement relating to receiving the loan.

C.S.H.B. 2802 requires money borrowed by a public entity from the Texas Mobility Fund or from TxDOT through a loan financed by the proceeds of bonds secured by the state highway fund or general obligation bonds for highway improvement projects to be segregated from other funds under the control of the public entity and provides that the money may be used only for

certain purposes described by provisions of law. The bill authorizes a public entity, to provide for the repayment of a loan, to pledge revenues or income from any available source; pledge, levy, and collect any taxes, subject to any constitutional limitation; or pledge any combination of revenues, income, and taxes. The bill establishes that its provisions are wholly sufficient authority for a public entity to borrow money as authorized by the bill's provisions and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

C.S.H.B. 2802 includes state revenue that is dedicated or appropriated for deposit to the Texas Mobility Fund among the money in the fund from which obligations for certain highway and mobility projects are payable. The bill authorizes the commission to create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary and removes the qualification that the purposes are in connection with the issuance of obligations. The bill adds money or revenues that the commission pledges or otherwise commits for the purposes of the fund, including loan repayments, receipts from credit agreements, and money received or to be received from the federal government, along with uncommitted fund balances, to the money that can be considered by the comptroller of public accounts in certifying that the amount of money in the fund will meet certain requirements relating to the repayment of long-term and short-term obligations of the fund.

C.S.H.B. 2802 prohibits the proceeds of bonds and other public securities issued under provisions relating to the issuance of bonds secured by the state highway fund from being used for any purpose other than any costs related to the bonds and other public securities and the purposes described by provisions of law, rather than the purposes for which revenues are dedicated under certain provisions of the Texas Constitution.

C.S.H.B. 2802, in provisions relating to the issuance of general obligation bonds for highway improvement projects, authorizes the commission at any time during a biennium to issue bonds or other public securities, and enter into related credit agreements, up to the aggregate amount of general obligation bond proceeds appropriated for that biennium, notwithstanding any estimate in an appropriations act relating to amounts expected to be expended in a fiscal year during that biennium.

C.S.H.B. 2802 requires the commission to require a public entity operating a toll facility in which TxDOT is participating to agree to share project revenue with TxDOT on terms and conditions approved by the commission as an alternative to repaying TxDOT. The bill specifies that provisions relating to sharing project revenue as an alternative to repaying TxDOT apply only to money loaned by TxDOT on or after the effective date of the bill. The bill requires payments other than money repaid to TxDOT in connection with an expenditure made under cost participation provisions to be deposited to the credit of the fund from which the expenditure was made. The bill authorizes loan repayments and revenue sharing and other payments received by TxDOT in connection with an expenditure made under cost participation provisions to be used by the commission or TxDOT to finance the construction, maintenance, or operation of tolled or nontolled transportation projects on state highways in any location in Texas.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2802 omits provisions included in the original relating to investment and uses of money in the Texas Mobility Fund.

C.S.H.B. 2802 contains provisions not included in the original relating to the use of obligations secured by the Texas Mobility Fund, bonds secured by the state highway fund, and general

obligation bonds for highway improvement projects to make loans to public entities for mobility improvement projects, state highway improvement projects, and highway improvement projects.

C.S.H.B. 2802 contains provisions not included in the original relating to the authority to issue obligations from the Texas Mobility Fund, the proceeds of bonds secured by the state highway fund, and the issuance of general obligation bonds for highway improvement projects. The substitute contains provisions not included in the original relating to the Texas Department of Transportation's cost participation in a toll facility.

C.S.H.B. 2802 differs from the original by making its provisions effective on passage, or, if it does not receive the necessary vote, September 1, 2011, whereas the original makes its provisions effective September 1, 2011.