

1-1 By: Pickett, et al. (Senate Sponsor - Nichols) H.B. No. 563
1-2 (In the Senate - Received from the House April 4, 2011;
1-3 April 14, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 9, 2011, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 9, Nays 0; May 9, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 563 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 and that the base year shall be the year of
1-45 passage of the ordinance or some year in the future;

1-46 (3) assign a name to the zone for identification, with
1-47 the first zone designated by a municipality designated as
1-48 "Transportation Reinvestment Zone Number One, (City or Town, as
1-49 applicable) of (name of municipality)," and subsequently
1-50 designated zones assigned names in the same form, numbered
1-51 consecutively in the order of their designation;

1-52 (4) designate the base year for purposes of
1-53 establishing the tax increment base of the municipality;

1-54 (5) establish a [~~an ad valorem~~] tax increment account
1-55 for the zone; and

1-56 (6) [~~5~~] contain findings that promotion of the
1-57 transportation project will cultivate the improvement,
1-58 development, or redevelopment of the zone.

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

2-1 Chapter 311, Tax Code.

2-2 (i) All or the portion specified by the municipality of the
 2-3 money deposited to a tax increment account must be used to fund the
 2-4 transportation project for which the zone was designated, as well
 2-5 as aesthetic improvements within the zone. Any remaining money
 2-6 deposited to the tax increment account may be used for other
 2-7 purposes as determined by the municipality [~~Money deposited to a~~
 2-8 ~~tax increment account must be used to fund projects authorized~~
 2-9 ~~under Section 222.104, including the repayment of amounts owed~~
 2-10 ~~under an agreement entered into under that section)].~~

2-11 (i-1) The governing body of a municipality may contract with
 2-12 a public or private entity to develop, redevelop, or improve a
 2-13 transportation project in a transportation reinvestment zone and
 2-14 may pledge and assign all or a specified amount of money in the tax
 2-15 increment account to that entity. After a pledge or assignment is
 2-16 made, if the entity that received the pledge or assignment has
 2-17 itself pledged or assigned that amount to secure bonds or other
 2-18 obligations issued to obtain funding for the transportation
 2-19 project, the governing body of the municipality may not rescind its
 2-20 pledge or assignment until the bonds or other obligations secured
 2-21 by the pledge or assignment have been paid or discharged.

2-22 (i-2) To accommodate changes in the limits of the project
 2-23 for which a reinvestment zone was designated, the boundaries of a
 2-24 zone may be amended at any time, except that property may not be
 2-25 removed or excluded from a designated zone if any part of the tax
 2-26 increment account has been assigned or pledged directly by the
 2-27 municipality or through another entity to secure bonds or other
 2-28 obligations issued to obtain funding of the project, and property
 2-29 may not be added to a designated zone unless the governing body of
 2-30 the municipality complies with Subsections (e) and (g).

2-31 (j) Except as provided by Subsections (i-1) and
 2-32 ~~[Subsection]~~ (k), a transportation reinvestment zone terminates on
 2-33 December 31 of the year in which the municipality completes
 2-34 ~~[complies with]~~ a contractual requirement, if any, that included
 2-35 the pledge or assignment of all or a portion of money deposited to a
 2-36 tax increment account or the repayment of money owed under an ~~[the]~~
 2-37 agreement for development, redevelopment, or improvement of the
 2-38 project for ~~[under Section 222.104 in connection with]~~ which the
 2-39 zone was designated.

2-40 (k) A transportation reinvestment zone terminates on
 2-41 December 31 of the 10th year after the year the zone was designated,
 2-42 if before that date the municipality has not entered into a contract
 2-43 described in Subsection (i-1) or otherwise not used the zone for the
 2-44 purpose for which it was designated.

2-45 (l) Any surplus remaining in a tax increment account on
 2-46 termination of a zone may be used for other purposes as determined
 2-47 by ~~[transportation projects of]~~ the municipality ~~[in or outside of~~
 2-48 ~~the zone]~~.

2-49 SECTION 3. The heading to Section 222.107, Transportation
 2-50 Code, is amended to read as follows:

2-51 Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES ~~[+~~
 2-52 ~~TAX ABATEMENTS, ROAD UTILITY DISTRICTS]~~.

2-53 SECTION 4. Section 222.107, Transportation Code, is amended
 2-54 by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l)
 2-55 and adding Subsections (h-1) and (k-1) to read as follows:

2-56 (b) This section applies only to a county in which a
 2-57 transportation project is to be developed ~~[the commissioners court~~
 2-58 ~~of which intends to enter into a pass-through toll agreement with~~
 2-59 ~~the department]~~ under Section 222.104.

2-60 (c) The commissioners court of the county, after
 2-61 determining that an area is unproductive and underdeveloped and
 2-62 that action under this section would further the purposes described
 2-63 by Section 222.105, by order or resolution may designate a
 2-64 contiguous geographic area in the jurisdiction of the county to be a
 2-65 transportation reinvestment zone to promote a transportation
 2-66 project ~~[described by Section 222.104 that cultivates development~~
 2-67 ~~or redevelopment of the area]~~ and for the purpose of abating ad
 2-68 valorem taxes or granting other relief from taxes imposed by the
 2-69 county on real property located in the zone.

3-1 (e) Not later than the 30th day before the date the
 3-2 commissioners court proposes to designate an area as a
 3-3 transportation reinvestment zone under this section, the
 3-4 commissioners court must hold a public hearing on the creation of
 3-5 the zone, its benefits to the county and to property in the proposed
 3-6 zone, and the abatement of ad valorem taxes or the grant of other
 3-7 relief from ad valorem taxes imposed by the county on real property
 3-8 located in the zone. At the hearing an interested person may speak
 3-9 for or against the designation of the zone, its boundaries, or the
 3-10 abatement of or the relief from county taxes on real property in the
 3-11 zone. Not later than the seventh day before the date of the
 3-12 hearing, notice of the hearing and the intent to create a zone must
 3-13 be published in a newspaper having general circulation in the
 3-14 county.

3-15 (f) The order or resolution designating an area as a
 3-16 transportation reinvestment zone must:

3-17 (1) describe the boundaries of the zone with
 3-18 sufficient definiteness to identify with ordinary and reasonable
 3-19 certainty the territory included in the zone;

3-20 (2) provide that the zone takes effect immediately on
 3-21 adoption of the order or resolution and that the base year shall be
 3-22 the year of passage of the order or resolution or some year in the
 3-23 future; [and]

3-24 (3) assign a name to the zone for identification, with
 3-25 the first zone designated by a county designated as "Transportation
 3-26 Reinvestment Zone Number One, County of (name of county)," and
 3-27 subsequently designated zones assigned names in the same form
 3-28 numbered consecutively in the order of their designation; and

3-29 (4) designate the base year for purposes of
 3-30 establishing the tax increment base of the county.

3-31 (h) The commissioners court by order or resolution may enter
 3-32 into an agreement with the owner of any real property located in the
 3-33 transportation reinvestment zone to abate all or a portion of the ad
 3-34 valorem taxes or to grant other relief from the taxes imposed by the
 3-35 county on the owner's property in an amount not to exceed the amount
 3-36 calculated under Subsection (a)(1) for that year. All abatements
 3-37 or other relief granted by the commissioners court in a
 3-38 transportation reinvestment zone must be equal in rate. In the
 3-39 alternative, the commissioners court by order or resolution may
 3-40 elect to abate a portion of the ad valorem taxes or otherwise grant
 3-41 relief from the taxes imposed by the county on all real property
 3-42 located in the zone. In any ad valorem tax year, the total amount of
 3-43 the taxes abated or the total amount of relief granted under this
 3-44 section may not exceed the amount calculated under Subsection
 3-45 (a)(1) for that year, less any amounts allocated under previous
 3-46 agreements, including agreements under Chapter 381, Local
 3-47 Government Code, or Chapter 312, Tax Code.

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

4-1 obligations issued to obtain funding for the transportation
 4-2 project, the commissioners court of the county may not rescind its
 4-3 pledge or assignment until the bonds or other obligations secured
 4-4 by the pledge or assignment have been paid or discharged. Any
 4-5 amount received from installment payments of the assessments not
 4-6 pledged or assigned in connection with the transportation project
 4-7 may be used for other purposes associated with the transportation
 4-8 project or in the zone.

4-9 (i) In the alternative, to ~~to~~ assist the county in
 4-10 developing a transportation project ~~[authorized under Section~~
 4-11 ~~222.104]~~, if authorized by the commission under Chapter 441, a road
 4-12 utility district may be formed under that chapter that has the same
 4-13 boundaries as a transportation reinvestment zone created under this
 4-14 section.

4-15 (k) A road utility district formed as provided by Subsection
 4-16 (i) may enter into an agreement ~~[with the county to assume the~~
 4-17 ~~obligation, if any, of the county]~~ to fund development of a project
 4-18 ~~[under Section 222.104]~~ or to repay funds owed to the department
 4-19 ~~[under Section 222.104]~~. Any amount paid for this purpose is
 4-20 considered to be an operating expense of the district. Any taxes
 4-21 collected by the district that are not paid for this purpose may be
 4-22 used for any district purpose.

4-23 (k-1) To accommodate changes in the limits of the project
 4-24 for which a reinvestment zone was designated, the boundaries of a
 4-25 zone may be amended at any time, except that property may not be
 4-26 removed or excluded from a designated zone if any part of the
 4-27 assessment has been assigned or pledged directly by the county or
 4-28 through another entity to secure bonds or other obligations issued
 4-29 to obtain funding of the project, and property may not be added to a
 4-30 designated zone unless the commissioners court of the county
 4-31 complies with Subsections (e) and (f).

4-32 (l) Except as provided by Subsection (m), a tax abatement
 4-33 agreement entered into under Subsection (h), or an order or
 4-34 resolution on the abatement of taxes or the grant of relief from
 4-35 taxes under that subsection, terminates on December 31 of the year
 4-36 in which the county completes any contractual requirement that
 4-37 included the pledge or assignment of assessments ~~[of money]~~
 4-38 collected under this section.

4-39 SECTION 5. Subchapter E, Chapter 222, Transportation Code,
 4-40 is amended by adding Sections 222.108, 222.109, and 222.110 to read
 4-41 as follows:

4-42 Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER
 4-43 TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in
 4-44 Sections 222.106(b) and 222.107(b) that a transportation
 4-45 reinvestment zone be established in connection with a project under
 4-46 Section 222.104, a municipality or county may establish a
 4-47 transportation reinvestment zone for any transportation project.
 4-48 If all or part of the transportation project is subject to oversight
 4-49 by the department, at the option of the governing body of the
 4-50 municipality or county, the department, to the extent permitted by
 4-51 law, shall delegate full responsibility for the development,
 4-52 design, letting of bids, and construction of the project, including
 4-53 project inspection, to the municipality or county. After assuming
 4-54 responsibility for a project under this subsection, a municipality
 4-55 or county shall enter into an agreement with the department that
 4-56 prescribes:

4-57 (1) the development process;
 4-58 (2) the roles and responsibilities of the parties; and
 4-59 (3) the timelines for any required reviews or
 4-60 approvals.

4-61 (b) Any portion of a transportation project developed under
 4-62 Subsection (a) that is on the state highway system or is located in
 4-63 the state highway right-of-way must comply with applicable state
 4-64 and federal requirements and criteria for project development,
 4-65 design, and construction, unless the department grants an exception
 4-66 to the municipality or county.

4-67 (c) The development, design, and construction plans and
 4-68 specifications for the portions of a project described by
 4-69 Subsection (b) must be reviewed and approved by the department

5-1 under the agreement entered into under Subsection (a).

5-2 (d) In this section, "transportation project" has the
5-3 meaning assigned by Section 370.003.

5-4 Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or
5-5 county may not be penalized with a reduction in traditional
5-6 transportation funding because of the designation and use of a
5-7 transportation reinvestment zone under this chapter. Any funding
5-8 from the department committed to a project before the date that a
5-9 transportation reinvestment zone is designated may not be reduced
5-10 because the transportation reinvestment zone is designated in
5-11 connection with that project.

5-12 (b) The department may not reduce any allocation of
5-13 traditional transportation funding to any of its districts because
5-14 a district contains a municipality or county that contains a
5-15 transportation reinvestment zone designated under this chapter.

5-16 Sec. 222.110. SALES TAX INCREMENT. (a) In this section,
5-17 "sales tax base" for a transportation reinvestment zone means the
5-18 amount of sales and use taxes imposed by a municipality under
5-19 Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax
5-20 Code, as applicable, attributable to the zone for the year in which
5-21 the zone was designated under this chapter.

5-22 (b) The governing body of a municipality or county may
5-23 determine, in an ordinance or order designating an area as a
5-24 transportation reinvestment zone or in an ordinance or order
5-25 adopted subsequent to the designation of a zone, the portion or
5-26 amount of tax increment generated from the sales and use taxes
5-27 imposed by a municipality under Section 321.101(a), Tax Code, or by
5-28 a county under Chapter 323, Tax Code, attributable to the zone,
5-29 above the sales tax base, to be used as provided by Subsection (e).
5-30 Nothing in this section requires a municipality or county to
5-31 contribute sales tax increment under this subsection.

5-32 (c) A county that designates a portion or amount of sales
5-33 tax increment under Subsection (b) must establish a tax increment
5-34 account. A municipality or county shall deposit the designated
5-35 portion or amount of tax increment under Subsection (b) to the
5-36 entity's respective tax increment account.

5-37 (d) Before pledging or otherwise committing money in the tax
5-38 increment account under Subsection (c), the governing body of a
5-39 municipality or county may enter into an agreement, under
5-40 Subchapter E, Chapter 271, Local Government Code, to authorize and
5-41 direct the comptroller to:

5-42 (1) withhold from any payment to which the
5-43 municipality or county may be entitled the amount of the payment
5-44 into the tax increment account under Subsection (b);

5-45 (2) deposit that amount into the tax increment
5-46 account; and

5-47 (3) continue withholding and making additional
5-48 payments into the tax increment account until an amount sufficient
5-49 to satisfy the amount due has been met.

5-50 (e) The sales and use taxes to be deposited into the tax
5-51 increment account under this section may be disbursed from the
5-52 account only to:

5-53 (1) pay for projects authorized under Section 222.104,
5-54 including the repayment of amounts owed under an agreement entered
5-55 into under that section; and

5-56 (2) notwithstanding Sections 321.506 and 323.505, Tax
5-57 Code, satisfy claims of holders of tax increment bonds, notes, or
5-58 other obligations issued or incurred for projects authorized under
5-59 Section 222.104.

5-60 (f) The amount deposited by a county to a tax increment
5-61 account under this section is not considered to be sales and use tax
5-62 revenue for the purpose of property tax reduction and computation
5-63 of the county tax rate under Section 26.041, Tax Code.

5-64 SECTION 6. Sections 222.106(h), (i), (j), (k), and (l) and
5-65 222.107(h), (i), (k), and (l), Transportation Code, as amended by
5-66 this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and
5-67 (k-1), 222.108, and 222.109, Transportation Code, as added by this
5-68 Act, apply to a transportation reinvestment zone that is governed
5-69 by those sections designated before the effective date of this Act.

6-1 SECTION 7. This Act takes effect September 1, 2011.

6-2 * * * * *