

By: Phillips

H.B. No. 1112

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority and powers of regional mobility
3 authorities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 370.003(12) and (14), Transportation
6 Code, are amended to read as follows:

7 (12) "Surplus revenue" means revenue that exceeds:

8 (A) an authority's debt service requirements for
9 a transportation project, including the redemption or purchase
10 price of bonds subject to redemption or purchase as provided in the
11 applicable bond proceedings;

12 (A-1) an authority's payment obligations under a
13 contract or agreement authorized by this chapter;

14 (B) coverage requirements of a bond indenture for
15 a transportation project;

16 (C) costs of operation and maintenance for a
17 transportation project;

18 (D) cost of repair, expansion, or improvement of
19 a transportation project;

20 (E) funds allocated for feasibility studies; and

21 (F) necessary reserves as determined by the
22 authority.

23 (14) "Transportation project" means:

24 (A) a turnpike project;

- 1 (B) a system;
- 2 (C) a passenger or freight rail facility,
3 including:
- 4 (i) tracks;
- 5 (ii) a rail line;
- 6 (iii) switching, signaling, or other
7 operating equipment;
- 8 (iv) a depot;
- 9 (v) a locomotive;
- 10 (vi) rolling stock;
- 11 (vii) a maintenance facility; and
- 12 (viii) other real and personal property
13 associated with a rail operation;
- 14 (D) a roadway with a functional classification
15 greater than a local road or rural minor collector;
- 16 (E) a ferry;
- 17 (F) an airport, other than an airport that on
18 September 1, 2005, was served by one or more air carriers engaged in
19 scheduled interstate transportation, as those terms were defined by
20 14 C.F.R. Section 1.1 on that date;
- 21 (G) a pedestrian or bicycle facility;
- 22 (H) an intermodal [~~intermodal~~] hub;
- 23 (I) an automated conveyor belt for the movement
24 of freight;
- 25 (J) a border crossing inspection station;
- 26 (K) an air quality improvement initiative;
- 27 (L) a public utility facility;

1 (M) a transit system;

2 (M-1) a parking area, structure, or facility, or
3 a collection device for parking fees; [~~and~~]

4 (N) if applicable, projects and programs listed
5 in the most recently approved state implementation plan for the
6 area covered by the authority, including an early action compact;
7 and

8 (O) improvements in a transportation
9 reinvestment zone designated under Subchapter E, Chapter 222.

10 SECTION 2. Section 370.004(a), Transportation Code, is
11 amended to read as follows:

12 (a) The cost of acquisition, construction, improvement,
13 extension, or expansion of a transportation project under this
14 chapter includes the cost of:

15 (1) the actual acquisition, construction,
16 improvement, extension, or expansion of the transportation
17 project;

18 (2) the acquisition of real property, rights-of-way,
19 property rights, easements, and other interests in real property;

20 (3) machinery and equipment;

21 (4) interest payable before, during, and for not more
22 than three years after acquisition, construction, improvement,
23 extension, or expansion as provided in the bond proceedings;

24 (5) traffic estimates, revenue estimates, engineering
25 and legal services, plans, specifications, surveys, appraisals,
26 construction cost estimates, and other expenses necessary or
27 incidental to determining the feasibility of the acquisition,

1 construction, improvement, extension, or expansion;

2 (6) necessary or incidental administrative, legal,
3 and other expenses;

4 (7) compliance with laws, regulations, and
5 administrative rulings, including any costs associated with
6 necessary environmental mitigation measures;

7 (8) financing;

8 (9) the assumption of debts, obligations, and
9 liabilities of an entity relating to a transportation project
10 transferred to an authority by that entity; ~~and~~

11 (10) expenses related to the initial operation of the
12 transportation project; and

13 (11) payment obligations of an authority under a
14 contract or agreement authorized by this chapter in connection with
15 the acquisition, construction, improvement, extension, expansion,
16 or financing of the transportation project.

17 SECTION 3. Sections 370.033(a), (f), and (g),
18 Transportation Code, are amended to read as follows:

19 (a) An authority, through its board, may:

20 (1) adopt rules for the regulation of its affairs and
21 the conduct of its business;

22 (2) adopt an official seal;

23 (3) study, evaluate, design, finance, acquire,
24 construct, maintain, repair, and operate transportation projects,
25 individually or as one or more systems, provided that a
26 transportation project that is subject to Subpart C, 23 C.F.R. Part
27 450, is:

1 (A) included in the plan approved by the
2 applicable metropolitan planning organization; and

3 (B) consistent with the statewide transportation
4 plan and the statewide transportation improvement program;

5 (4) acquire, hold, and dispose of property in the
6 exercise of its powers and the performance of its duties under this
7 chapter;

8 (5) enter into contracts or operating agreements with
9 a similar authority, another governmental entity, or an agency of
10 the United States, a state of the United States, the United Mexican
11 States, or a state of the United Mexican States;

12 (6) enter into contracts or agreements necessary or
13 incidental to its powers and duties under this chapter;

14 (7) cooperate and work directly with property owners
15 and governmental entities and officials to support an activity
16 required to promote or develop a transportation project;

17 (8) employ and set the compensation and benefits of
18 administrators, consulting engineers, attorneys, accountants,
19 construction and financial experts, superintendents, managers,
20 full-time and part-time employees, agents, consultants, and other
21 persons as the authority considers necessary or useful;

22 (8-a) participate in the state travel management
23 program administered by the comptroller for the purpose of
24 obtaining reduced airline fares and reduced travel agent fees,
25 provided that the comptroller may charge the authority a fee not to
26 exceed the costs incurred by the comptroller in providing services
27 to the authority;

1 (9) notwithstanding Sections 221.003 and 222.031 and
2 subject to Subsections (j) and (m), apply for, directly or
3 indirectly receive and spend loans, gifts, grants, and other
4 contributions for any purpose of this chapter, including the
5 construction of a transportation project, and receive and spend
6 contributions of money, property, labor, or other things of value
7 from any source, including the United States, a state of the United
8 States, the United Mexican States, a state of the United Mexican
9 States, the commission, the department, a subdivision of this
10 state, or a governmental entity or private entity, to be used for
11 the purposes for which the grants, loans, or contributions are
12 made, and enter into any agreement necessary for the grants, loans,
13 or contributions;

14 (10) install, construct, or contract for the
15 construction of public utility facilities, direct the time and
16 manner of construction of a public utility facility in, on, along,
17 over, or under a transportation project, or request the removal or
18 relocation of a public utility facility in, on, along, over, or
19 under a transportation project;

20 (11) organize a corporation under Chapter 431 for the
21 promotion and development of transportation projects;

22 (12) adopt and enforce rules not inconsistent with
23 this chapter for the use of any transportation project, including
24 tolls, fares, or other user fees, speed and weight limits, and
25 traffic and other public safety rules, provided that an authority
26 must consider the same factors that the Texas Turnpike Authority
27 division of the department must consider in altering a prima facie

1 speed limit under Section 545.354;

2 (13) enter into leases, operating agreements, service
3 agreements, licenses, franchises, and similar agreements with a
4 public or private party governing the party's use of all or any
5 portion of a transportation project and the rights and obligations
6 of the authority with respect to a transportation project;

7 (14) borrow money from or enter into a loan agreement
8 or other arrangement with the state infrastructure bank, the
9 department, the commission, or any other public or private entity;
10 and

11 (15) do all things necessary or appropriate to carry
12 out the powers and duties expressly granted or imposed by this
13 chapter.

14 (f) An authority and a governmental entity may enter into a
15 contract, agreement, interlocal agreement, or other similar
16 arrangement under which the authority may plan, design, construct,
17 or operate a transportation project on behalf of the governmental
18 entity. An authority may enter into a contract or agreement with
19 the department under which the authority will plan, develop,
20 operate, or maintain a transportation project on behalf of the
21 department, subject to the transportation project being in the
22 authority's area of jurisdiction. A contract or agreement under
23 this subsection may contain terms and conditions as may be approved
24 by an authority, including payment obligations of the governmental
25 entity and the authority.

26 (g) Payments to be made to an authority under a contract or
27 agreement described by Subsection (f) constitute operating

1 expenses of the transportation project or system that is to be
2 operated under the contract or agreement. The contract or
3 agreement may extend for the number of years as agreed to by the
4 parties.

5 SECTION 4. Sections 370.071(a) and (b), Transportation
6 Code, are amended to read as follows:

7 (a) An authority may pay the expenses of studying the cost
8 and feasibility of a transportation project, the design and
9 engineering of a transportation project, and any other expenses
10 relating to the preparation and issuance of bonds for a proposed
11 transportation project by:

12 (1) using legally available revenue derived from an
13 existing transportation project;

14 (2) borrowing money and issuing bonds or entering into
15 a loan agreement payable out of legally available revenue
16 anticipated to be derived from the operation of an existing
17 transportation project; ~~or~~

18 (3) pledging to the payment of the bonds or a loan
19 agreement legally available revenue anticipated to be derived from
20 the operation of transportation projects or revenue legally
21 available to the authority from another source; or

22 (4) pledging to the payment of the bonds or a loan
23 agreement the proceeds from the sale of other bonds.

24 (b) Money spent under this section for a proposed
25 transportation project must be reimbursed to the transportation
26 project from which the money was spent from the proceeds of bonds
27 issued for the acquisition and construction of the proposed

1 transportation project, unless the transportation projects are or
2 become part of a system under Section 370.034.

3 SECTION 5. Section 370.072(c), Transportation Code, is
4 amended to read as follows:

5 (c) Money in the feasibility study fund may be used only to
6 pay the expenses of studying the cost and feasibility of a
7 transportation project, the design and engineering of a
8 transportation project, and any other expenses relating to:

9 (1) the preparation and issuance of bonds for the
10 acquisition and construction of a proposed transportation project;

11 (2) the financing of the improvement, extension, or
12 expansion of an existing transportation project; and

13 (3) private participation, as authorized by law, in
14 the financing of a proposed transportation project, the refinancing
15 of an existing transportation project or system, or the
16 improvement, extension, or expansion of a transportation project.

17 SECTION 6. Section 370.073(a), Transportation Code, is
18 amended to read as follows:

19 (a) One or more municipalities, counties, or other
20 governmental entities, a combination of municipalities, counties,
21 and other governmental entities, or a private group or combination
22 of individuals in this state may pay all or part of the expenses of
23 studying the cost and feasibility of a transportation project, the
24 design and engineering of a transportation project, and any other
25 expenses relating to:

26 (1) the preparation and issuance of bonds for the
27 acquisition or construction of a proposed transportation project by

1 an authority;

2 (2) the improvement, extension, or expansion of an
3 existing transportation project of the authority; or

4 (3) the use of private participation under applicable
5 law in connection with the acquisition, construction, improvement,
6 expansion, extension, maintenance, repair, or operation of a
7 transportation project by an authority.

8 SECTION 7. Section 370.113(a), Transportation Code, is
9 amended to read as follows:

10 (a) The principal of, interest on, and any redemption
11 premium on bonds issued by an authority are payable solely from:

12 (1) the revenue of the transportation project for
13 which the bonds are issued;

14 (2) payments made under an agreement with the
15 commission, the department, or other governmental entity as
16 authorized ~~[provided]~~ by this chapter ~~[Subchapter C]~~;

17 (3) money derived from any other source available to
18 the authority, other than money derived from a transportation
19 project that is not part of the same system or money derived from a
20 different system, except to the extent that the surplus revenue of a
21 transportation project or system has been pledged for that purpose;
22 ~~[and]~~

23 (4) amounts received under a credit agreement relating
24 to the transportation project for which the bonds are issued; and

25 (5) the proceeds of the sale of other bonds.

26 SECTION 8. Section 370.114, Transportation Code, is amended
27 to read as follows:

1 Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of
2 revenue from a transportation project under this chapter or on a
3 reserve, replacement, or other fund established in connection with
4 a bond issued under this chapter or a contract or agreement entered
5 into under this chapter:

6 (1) is enforceable at the time of payment for and
7 delivery of the bond or on the effective date of the contract or
8 agreement;

9 (2) applies to each item on hand or subsequently
10 received;

11 (3) applies without physical delivery of an item or
12 other act; and

13 (4) is enforceable against any person having a claim,
14 in tort, contract, or other remedy, against the applicable
15 authority without regard to whether the person has notice of the
16 lien or pledge.

17 (b) A copy of any bond resolution shall [~~is not required to~~]
18 be maintained [~~recorded except~~] in the regular records of the
19 authority.

20 SECTION 9. Section 370.172, Transportation Code, is amended
21 by amending Subsection (b) and adding Subsection (k) to read as
22 follows:

23 (b) Tolls, fees, fares, or other charges must be set at
24 rates or amounts so that the aggregate of tolls, fees, fares, or
25 other charges from an authority's transportation project, together
26 with other revenue of the transportation project:

27 (1) provides revenue sufficient to pay:

1 (A) the cost of maintaining, repairing, and
2 operating the transportation project; ~~and~~

3 (B) the principal of and interest on any bonds
4 issued for the transportation project as those bonds become due and
5 payable; and

6 (C) any other payment obligations of an authority
7 under a contract or agreement authorized under this chapter; and

8 (2) creates reserves for a purpose listed under
9 Subdivision (1).

10 (k) Notwithstanding any other provision of this chapter, an
11 authority may pledge all or any part of its revenues and any other
12 funds available to the authority to the payment of any obligations
13 of the authority under a contract or agreement authorized by this
14 chapter.

15 SECTION 10. Section 370.173(c), Transportation Code, is
16 amended to read as follows:

17 (c) The authority may use money in the revolving fund to:

18 (1) finance the acquisition, construction,
19 maintenance, or operation of a transportation project, including
20 the extension, expansion, or improvement of a transportation
21 project;

22 (2) provide matching money required in connection with
23 any federal, state, local, or private aid, grant, or other funding,
24 including aid or funding by or with public-private partnerships;

25 (3) provide credit enhancement either directly or
26 indirectly for bonds issued to acquire, construct, extend, expand,
27 or improve a transportation project;

1 (4) provide security for or payment of future or
2 existing debt for the design, acquisition, construction,
3 operation, maintenance, extension, expansion, or improvement of a
4 transportation project or system;

5 (5) borrow money and issue bonds, promissory notes, or
6 other indebtedness payable out of the revolving fund for any
7 purpose authorized by this chapter; and

8 (6) provide for any other reasonable purpose that
9 assists in the financing of an authority as authorized by this
10 chapter.

11 SECTION 11. Section 370.177, Transportation Code, is
12 amended by adding Subsection (1) to read as follows:

13 (1) In addition to the other powers and duties provided by
14 this chapter, with regard to its toll collection and enforcement
15 powers for its turnpike projects or other toll projects developed,
16 financed, constructed, and operated under an agreement with the
17 authority or another entity, an authority has the same powers and
18 duties as the department under Chapter 228, a county under Chapter
19 284, and a regional tollway authority under Chapter 366.

20 SECTION 12. Sections 370.251(a) and (b), Transportation
21 Code, are amended to read as follows:

22 (a) Except as provided by Subsection (a-1), the governing
23 body of an authority is a board of directors consisting of
24 representatives of each county in which a transportation project of
25 the authority is located or is proposed to be located. The
26 commissioners court of each county that initially forms the
27 authority shall appoint at least two directors to the board.

1 Additional directors may be appointed to the board at the time of
2 initial formation by agreement of the counties creating the
3 authority to ensure fair representation of political subdivisions
4 in the counties of the authority that will be affected by a
5 transportation project of the authority, provided that the number
6 of directors must be an odd number. The commissioners court of a
7 county that is subsequently added to the authority shall appoint at
8 least one director to the board. The governor shall appoint one
9 director to the board who shall serve as the presiding officer of
10 the board and shall appoint an additional director to the board if
11 an appointment is necessary to maintain an odd number of directors
12 on the board.

13 (b) The appointment [~~Unless the commissioners courts~~] of
14 additional directors from a county subsequently added to an [~~the~~
15 ~~counties of the~~] authority or from a [~~unanimously agree otherwise,~~
16 ~~the commissioners court of each~~] county of an authority that
17 contains an operating transportation project of the authority shall
18 be by a process unanimously agreed to by the commissioners courts of
19 all the counties of the authority [~~appoint one additional~~
20 ~~director~~].

21 SECTION 13. Subchapter F, Chapter 370, Transportation Code,
22 is amended by adding Section 370.2511 to read as follows:

23 Sec. 370.2511. BOARD OF DIRECTORS: CERTAIN AUTHORITIES.

24 (a) This section applies only to an authority created by a
25 municipality.

26 (b) The governing body of a municipality by order may
27 establish the governing body as the board of directors of an

1 authority.

2 (c) If the board of directors of an authority created by a
3 municipality consists of the members of the governing body of the
4 municipality, the presiding officers of the governing body of the
5 municipality are the presiding officers of the board.

6 (d) Each director of a board under this section has equal
7 status and may vote.

8 (e) The vote of a majority attending a board meeting is
9 necessary for any action taken by a board under this section. If a
10 vacancy exists on a board, the majority of directors serving on the
11 board is a quorum.

12 (f) The governing body of a municipality that becomes the
13 board of an existing authority under this section shall by
14 resolution provide for the transfer process that establishes the
15 governing body as the board of the authority.

16 (g) If the board of directors of an authority created by a
17 municipality consists of the members of the governing body of the
18 municipality, Sections 370.251, 370.2515, 370.252, 370.2521,
19 370.2522, 370.2523, 370.253, 370.254, and 370.255 do not apply to
20 the board.

21 SECTION 14. Section 370.303, Transportation Code, is
22 amended by amending Subsections (a) and (b) and adding Subsections
23 (b-1) and (g) to read as follows:

24 (a) A governmental entity [~~other than a nonprofit~~
25 ~~corporation~~] may, consistent with the Texas Constitution, issue
26 bonds, notes, or other obligations or enter into and make payments
27 under agreements with an authority in connection with the

1 financing, acquisition, construction, [~~to acquire, construct,~~
 2 ~~maintain,~~] or operation of [~~operate~~] a transportation project by an
 3 authority, whether inside or outside the geographic boundaries of
 4 the governmental entity, including agreements to pay the principal
 5 of, and interest on, bonds, notes, or other obligations issued by
 6 the authority and make payments under any related credit
 7 agreements. The entity may impose and collect taxes to pay the
 8 interest on the bonds and to provide a sinking fund for the
 9 redemption of the bonds.

10 (b) In addition to the powers provided by Subsection (a), a
 11 governmental entity may, to the extent constitutionally permitted,
 12 agree with an authority to:

- 13 (1) issue bonds, notes, or other obligations;
- 14 (2) [~~τ~~] create:
 - 15 (A) a taxing district;
 - 16 (B) a transportation reinvestment zone under
 17 Subchapter E, Chapter 222; or
 - 18 (C) an entity to promote economic development;
- 19 (3) collect and remit to an authority taxes, fees, or
 20 assessments collected for purposes of developing transportation
 21 projects;
- 22 (4) [~~τ~~] fund public improvements to promote economic
 23 development; [~~τ~~] or
- 24 (5) enter into and make payments under an agreement to
 25 acquire, construct, maintain, or operate any portion of a
 26 transportation project of the authority.

27 (b-1) An agreement under Subsection (b) may include a means

1 for a local governmental entity to pledge or otherwise provide
2 funds for a transportation project that benefits the governmental
3 entity to be developed by the authority.

4 (g) An agreement under this section may contain repayment or
5 reimbursement obligations of an authority.

6 SECTION 15. Section 370.304, Transportation Code, is
7 amended to read as follows:

8 Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An
9 authority may enter into any contract, loan agreement, or other
10 agreement necessary or convenient to achieve the purposes of this
11 subchapter.

12 SECTION 16. Section 370.317(d), Transportation Code, is
13 repealed.

14 SECTION 17. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2011.