

By: Pickett

H.B. No. 2802

Substitute the following for H.B. No. 2802:

By: Fletcher

C.S.H.B. No. 2802

A BILL TO BE ENTITLED

AN ACT

relating to the financing of transportation projects.

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

SECTION 1. Sections 201.943(b), (c), (d), (e), and (f),
Transportation Code, are amended to read as follows:

(b) Obligations must be secured by and payable from a pledge
of and lien on all or part of the money in the fund, including the
revenues of this state that are dedicated or appropriated for
deposit to the fund. Obligations may be additionally secured by and
payable from credit agreements. The commission may pay amounts due
on the obligations from discretionary money available to it that is
not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts,
reserves, and subfunds for purposes the commission finds
appropriate and necessary [~~in connection with the issuance of
obligations~~].

(d) Obligations may be issued for one or more of the
following purposes:

(1) to pay all or part of the costs of constructing,
reconstructing, acquiring, and expanding state highways, including
any necessary design and acquisition of rights-of-way, in the
manner and locations determined by the commission that, according
to conclusive findings of the commission, have an expected useful
life, without material repair, of not less than 10 years;

1 (2) to provide participation by the state in the
2 payment of part of the costs of constructing and providing publicly
3 owned toll roads and other public transportation projects that are
4 determined by the commission to be in the best interests of the
5 state in its major goal of improving the mobility of the residents
6 of the state;

7 (3) to make loans to public entities, including a
8 transportation corporation created under Chapter 431, for a purpose
9 described in Subdivisions (1) and (2);

10 (4) to create debt service reserve accounts;

11 (5) [~~4~~] to pay interest on obligations for a period
12 of not longer than two years;

13 (6) [~~5~~] to refund or cancel outstanding
14 obligations; and

15 (7) [~~6~~] to pay the commission's costs of issuance.

16 (e) Long-term obligations in the amount proposed to be
17 issued by the commission may not be issued unless the comptroller
18 projects in a comptroller's certification that the amount of money
19 dedicated to the fund pursuant to Section 49-k(e), Article III,
20 Texas Constitution, and required to be on deposit in the fund
21 pursuant to Section 49-k(f), Article III, Texas Constitution,
22 together with any other money or revenues that the commission
23 pledges or otherwise commits for the purposes of the fund,
24 including loan repayments to be deposited in the fund under Section
25 201.9461, receipts from credit agreements, and money received or to
26 be received from the federal government, uncommitted fund balances,
27 and the investment earnings on [~~that~~] money in the fund, during each

1 year of the period during which the proposed obligations are
2 scheduled to be outstanding will be equal to at least 110 percent of
3 the requirements to pay the principal of and interest on the
4 proposed long-term obligations during that year.

5 (f) Short-term obligations in the amount proposed by the
6 commission may not be issued unless the comptroller, in a
7 comptroller's certification:

8 (1) assumes that the short-term obligations will be
9 refunded and refinanced to mature over a 30-year [~~20-year~~] period
10 with level debt service [~~principal~~] requirements and bearing
11 interest at then current market rates, as determined by the
12 comptroller; and

13 (2) projects that the amount of money dedicated to the
14 fund pursuant to Section 49-k(e), Article III, Texas Constitution,
15 and required to be on deposit in the fund pursuant to Section
16 49-k(f), Article III, Texas Constitution, together with any other
17 money or revenues that the commission pledges or otherwise commits
18 for the purposes of the fund, including loan repayments to be
19 deposited in the fund under Section 201.9461, receipts from credit
20 agreements, and money received or to be received from the federal
21 government, uncommitted fund balances, and the investment earnings
22 on [~~that~~] money in the fund, during each year of the assumed 30-year
23 [~~20-year~~] period will be equal to at least 110 percent of the
24 requirements to pay the principal of and interest on the proposed
25 refunding obligations during that year.

26 SECTION 2. Subchapter M, Chapter 201, Transportation Code,
27 is amended by adding Sections 201.9461 and 201.9462 to read as

1 follows:

2 Sec. 201.9461. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a)
3 For money disbursed from the fund as a loan, the commission shall
4 determine the terms and conditions of repayment, including the
5 interest rate to be charged.

6 (b) The department shall deposit in the fund all amounts
7 received from repayment of a loan.

8 Sec. 201.9462. BORROWING FROM FUND BY PUBLIC ENTITY. (a) A
9 public entity, including a municipality, county, district,
10 authority, agency, department, board, or commission, that is
11 authorized by law to construct, maintain, or finance a highway
12 improvement project, toll road project, or public transportation
13 project may borrow money from the fund and may enter into any
14 agreement relating to receiving a loan made from money in the fund.

15 (b) Money borrowed under Subsection (a) must be segregated
16 from other funds under the control of the public entity and may be
17 used only for a purpose authorized by this subchapter.

18 (c) To provide for the repayment of a loan, a public entity
19 may:

20 (1) pledge revenues or income from any available
21 source;

22 (2) pledge, levy, and collect any taxes, subject to
23 any constitutional limitation; or

24 (3) pledge any combination of revenues, income, and
25 taxes.

26 (d) This section is wholly sufficient authority for a public
27 entity to borrow money from the fund as authorized by this

1 subchapter and to pledge revenues, income, or taxes, or any
2 combination of revenues, income, and taxes, to the repayment of a
3 loan.

4 SECTION 3. Sections 222.003(c) and (e), Transportation
5 Code, are amended to read as follows:

6 (c) Proceeds from the sale of bonds and other public
7 securities issued under this section:

8 (1) shall be used to fund state highway improvement
9 projects; and

10 (2) may be used to make loans to public entities,
11 including a transportation corporation created under Chapter 431,
12 for the purpose described by Subdivision (1).

13 (e) The proceeds of bonds and other public securities issued
14 under this section may not be used for any purpose other than any
15 costs related to the bonds and other public securities and the
16 purposes described by this section [~~for which revenues are~~
17 ~~dedicated under Section 7-a, Article VIII, Texas Constitution~~].

18 The proceeds of bonds and other public securities issued under this
19 section may not be used for the construction of a state highway or
20 other facility on the Trans-Texas Corridor. For purposes of this
21 section, the "Trans-Texas Corridor" means the statewide system of
22 multimodal facilities under the jurisdiction of the department that
23 is designated by the commission, notwithstanding the name given to
24 that corridor.

25 SECTION 4. Subchapter A, Chapter 222, Transportation Code,
26 is amended by adding Sections 222.0031 and 222.0032 to read as
27 follows:

1 Sec. 222.0031. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a)

2 For money disbursed under Section 222.003 as a loan, the commission
3 shall determine the terms and conditions of repayment, including
4 the interest rate to be charged.

5 (b) The department shall deposit all amounts received from
6 repayment of a loan in:

7 (1) the state highway fund; or

8 (2) a subaccount in the state infrastructure bank.

9 Sec. 222.0032. BORROWING FROM BOND PROCEEDS BY PUBLIC

10 ENTITY. (a) A public entity, including a municipality, county,
11 district, authority, agency, department, board, or commission,
12 that is authorized by law to construct, maintain, or finance a
13 highway improvement project, toll road project, or public
14 transportation project may borrow money from the department through
15 a loan made under Section 222.003, and may enter into any agreement
16 relating to receiving a loan under that section.

17 (b) Money borrowed under Subsection (a) must be segregated
18 from other funds under the control of the public entity and may be
19 used only for the purpose authorized by Section 222.003(c)(1).

20 (c) To provide for the repayment of a loan, a public entity
21 may:

22 (1) pledge revenues or income from any available
23 source;

24 (2) pledge, levy, and collect any taxes, subject to
25 any constitutional limitation; or

26 (3) pledge any combination of revenues, income, and
27 taxes.

1 (d) This section is wholly sufficient authority for a public
2 entity to borrow money as authorized by Subsection (a) and to pledge
3 revenues, income, or taxes, or any combination of revenues, income,
4 and taxes, to the repayment of a loan.

5 SECTION 5. Sections 222.004(b) and (g), Transportation
6 Code, are amended to read as follows:

7 (b) The commission by order or resolution may issue general
8 obligation bonds for the purposes provided in this section. The
9 commission may at any time during a biennium issue bonds or other
10 public securities, and enter into related credit agreements, up to
11 the aggregate amount of general obligation bond proceeds
12 appropriated for that biennium, notwithstanding any estimate in an
13 appropriations act relating to amounts expected to be expended in a
14 fiscal year during that biennium. The aggregate principal amount
15 of the bonds that are issued may not exceed the amount specified by
16 Section 49-p(a), Article III, Texas Constitution.

17 (g) Bonds may be issued for one or more of the following
18 purposes:

19 (1) to pay all or part of the costs of highway
20 improvement projects;

21 (2) to make loans to public entities, including a
22 transportation corporation created under Chapter 431, for the
23 purpose described in Subdivision (1); and

24 (3) [~~2~~] to pay:

25 (A) the costs of administering projects
26 authorized under this section;

27 (B) the cost or expense of the issuance of the

1 bonds; or

2 (C) all or part of a payment owed or to be owed
3 under a credit agreement.

4 SECTION 6. Subchapter A, Chapter 222, Transportation Code,
5 is amended by adding Sections 222.0041 and 222.0042 to read as
6 follows:

7 Sec. 222.0041. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a)
8 For money disbursed under Section 222.004 as a loan, the commission
9 shall determine the terms and conditions of repayment, including
10 the interest rate to be charged.

11 (b) The department shall deposit all amounts received from
12 repayment of a loan made under Section 222.004 in a subaccount in
13 the state infrastructure bank.

14 Sec. 222.0042. BORROWING FROM BOND PROCEEDS BY PUBLIC
15 ENTITY. (a) A public entity, including a municipality, county,
16 district, authority, agency, department, board, or commission,
17 that is authorized by law to construct, maintain, or finance a
18 highway improvement project, toll road project, or public
19 transportation project may borrow money from the department through
20 a loan made under Section 222.004, and may enter into any agreement
21 relating to receiving a loan under that section.

22 (b) Money borrowed under Subsection (a) must be segregated
23 from other funds under the control of the public entity and may be
24 used only for the purpose authorized by Section 222.004(g)(1).

25 (c) To provide for the repayment of a loan, a public entity
26 may:

27 (1) pledge revenues or income from any available

1 source;

2 (2) pledge, levy, and collect any taxes, subject to
3 any constitutional limitation; or

4 (3) pledge any combination of revenues, income, and
5 taxes.

6 (d) This section is wholly sufficient authority for a public
7 entity to borrow money from the fund as authorized by Subsection (a)
8 and to pledge revenues, income, or taxes, or any combination of
9 revenues, income, and taxes, to the repayment of a loan.

10 SECTION 7. Section 222.103, Transportation Code, is amended
11 by amending Subsections (a) and (b) and adding Subsection (b-1) to
12 read as follows:

13 (a) The department may participate, by spending money from
14 any available source, in the cost of the acquisition, construction,
15 maintenance, or operation of a toll facility of a public or private
16 entity on terms and conditions established by the commission. The
17 commission:

18 (1) shall ~~may~~ require:

19 (A) the repayment of any money spent by the
20 department for the cost of a toll facility of a public entity; or

21 (B) the public entity to agree to share project
22 revenue with the department, on terms and conditions approved by
23 the commission; and

24 (2) shall require the repayment of any money spent by
25 the department for the cost of a toll facility of a private entity.

26 (b) Money repaid as required by the commission and other
27 payments received by the department in connection with an

1 expenditure made under this section shall be deposited to the
2 credit of the fund from which the expenditure was made. Money
3 deposited as required by this section is exempt from the
4 application of Section 403.095, Government Code.

5 (b-1) Loan repayments and revenue sharing and other
6 payments received by the department in connection with an
7 expenditure made under this section may be used by the commission or
8 the department to finance the construction, maintenance, or
9 operation of tolled or nontolled transportation projects, as
10 defined by Section 228.001, in any location in this state.

11 SECTION 8. Section 222.103(a), Transportation Code, as
12 amended by this Act, applies only to money loaned by the Texas
13 Department of Transportation on or after the effective date of this
14 Act.

15 SECTION 9. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.