

By: Nichols

S.B. No. 581

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. 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 14. 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 15. Section 370.317(d), Transportation Code, is  
13 repealed.

14 SECTION 16. 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.