

## **BILL ANALYSIS**

C.S.H.B. 2300  
By: Keffer  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that a considerable portion of energy exploration and production in Texas occurs in rural areas where many of the roads and bridges were not designed for heavy traffic and overweight vehicles. The parties observe that the energy production boom and the associated traffic and heavy trucks have damaged these roads and bridges and contributed to increased numbers of automobile accidents. The parties contend that funding is needed to rebuild and reinforce transportation infrastructure in certain areas affected by increased energy production. C.S.H.B. 2300 seeks to address this situation through the establishment of county energy transportation reinvestment zones.

### **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. 2300 amends the Transportation Code to authorize a county, after determining that an area is affected by oil and gas exploration and production activities, by order or resolution of the commissioners court to designate a contiguous geographic area in the county's jurisdiction to be a county energy transportation reinvestment zone to promote one or more specified transportation projects located in the zone and by order or resolution of the commissioners court to jointly administer a county energy transportation reinvestment zone in conjunction with another county or counties. The bill provides for a required public hearing and notice regarding the creation of a county energy transportation reinvestment zone. The bill sets out requirements for the order or resolution designating an area as such a zone, including a requirement that the order or resolution establish a property tax increment account for the zone or provide for the establishment of a joint property tax increment account, if applicable, and name the advisory board for the zone or the county's members on a joint advisory board, as applicable. The bill establishes that compliance with certain requirements of the bill constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

C.S.H.B. 2300 requires a county to determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment for a county transportation reinvestment zone. The bill authorizes the county, from taxes collected on property in a county energy transportation reinvestment zone, to pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements. The bill prohibits the tax increment paid into a tax increment account from being pledged as security for bonded indebtedness and authorizes the commissioners court to pledge money in the tax increment account to provide funding for one or more specified transportation projects located in the zone and to a road utility district formed as provided by certain provisions of the bill.

C.S.H.B. 2300 provides alternative authority for the formation of a road utility district that has the same boundaries as a county energy transportation reinvestment zone created under the bill's provisions in order to assist the county in developing a transportation project. The bill authorizes the road utility district to issue bonds to pay all or part of the cost of a transportation project and to pledge and assign all or a specified amount of money in the tax increment account to secure those bonds if the county collects a tax increment and pledges all or a specified amount of the tax increment to the road utility district. The bill authorizes a road utility district that is formed under the alternative authority to enter into an agreement to fund development of a project or to repay funds owed to the Texas Department of Transportation (TxDOT) and sets out related provisions.

C.S.H.B. 2300 authorizes the boundaries of a county energy transportation reinvestment zone to be amended under certain conditions. The bill terminates a county energy transportation reinvestment zone on December 31 of the 10th year after the year the zone was designated if before that date the county has not used the zone for the purpose for which it was designated. The bill authorizes the commissioners courts of two or more counties that have designated a county energy transportation reinvestment zone for the same transportation project or projects to enter into an agreement to provide for the joint administration of the zones. The bill authorizes the commissioners court of a county to enter into an agreement with TxDOT to designate a county energy transportation reinvestment zone for a specified transportation project involving a state highway located in the proposed zone.

C.S.H.B. 2300 provides for the composition of the advisory board of a county energy transportation reinvestment zone, establishes that county energy transportation reinvestment zones that are jointly administered are advised by a single joint advisory board for the zones, and provides for the composition of such a joint advisory board. The bill prohibits an advisory board member from receiving compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

C.S.H.B. 2300 authorizes the sales and use taxes that are to be deposited into a tax increment account relating to a transportation reinvestment zone to be disbursed from the account to satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for authorized projects for county energy transportation reinvestment zones.

C.S.H.B. 2300 authorizes a commissioners court to accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county if the commissioners court enters into an agreement of release of liability regarding the donations. The bill authorizes a county operating under the county road department system on September 1, 2013, to use such authority to accept donations without holding a new election on the adoption of such a system.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2300 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section **222.01071** to read as follows:

SECTION 1. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections **222.1071** and **222.1072** to read as

(a) In this section:

(1) the amount of a county's tax increment for a year is the amount of ad valorem taxes levied and collected by the county for that year on the captured appraised value of real property taxable by the county and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a county for a year is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for that year less the tax increment base of the county; and

(3) the tax increment base of a county is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

No equivalent provision.

(b) The county may pledge its tax increment to a specific transportation project pursuant to a contract and that pledge shall constitute a debt as defined in Sec. 26.03 (7), Tax Code.

A county may not pledge property tax increments authorized in this section as security for bonded indebtedness.

(c)(i) The commissioners court of the county, after determining that an area is affected by oil and gas exploration and production activities and would benefit from funding provided under Chapter 256, Subchapter C, Transportation Code, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a

follows:

No equivalent provision.

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES. (a) A county shall determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment as provided in Section 222.107(a) for a county transportation reinvestment zone.

(j) The commissioners court may pledge money in the tax increment account:

(1) to provide funding for one or more specified transportation projects located in the zone; and

(2) to a road utility district formed as provided by Subsection (k).

(i) Tax increment paid into a tax increment account may not be pledged as security for bonded indebtedness.

(b) A county, after determining that an area is affected by oil and gas exploration and production activities,

by order or resolution of the commissioners court:

(1) may designate a contiguous geographic

transportation reinvestment zone to promote a transportation project.

(ii) A county may form a transportation reinvestment zone under this Section in conjunction with another county or counties provided each county meets all procedural requirements for establishment of such a zone.

(d) The commissioners court must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the from benefit that will arise from dedicating the increment county taxes on real property in the zone to certain transportation projects. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

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

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

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

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

(4) designate the base year for purposes of establishing the tax increment base of the county; and

area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more specified transportation projects located in the zone; and

(2) may jointly administer a county energy transportation reinvestment zone in conjunction with another county or counties, as provided by Subsection (o).

(c) A commissioners court must comply with all applicable laws in the application of this chapter.

(d) Not later than the 30th day before the date a commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, the joint administration of a zone in another county, or the use of tax increment paid into the tax increment account.

(e) Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a county energy transportation reinvestment zone must:

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

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

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

(5) establish an ad valorem tax increment account for the zone.

(6) name a board of directors for the zone who shall receive no fees for service nor per diems, and who shall be named by the county judge and approval by the commissioners as follows:

(i) if a single county zone, the board shall be comprised of the county judge, a county commissioner, two representatives of oil and gas companies that are performing company activities in the county and representing a local tax payer, and a member of the public active in civic affairs who is a beneficiary of the energy development activity;

(ii) if a multi county zone, the board shall be comprised of the representatives listed in Section 222.1071(f)(i) representing each county participating in the multi county zone;

(iii) members of the board of directors for a multi county zone are not subject to approval by any county other than itself.

(g) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(h) The commissioners court may from taxes collected on property in a zone, pay into a tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code;

(i) In the alternative, to assist the county in developing a transportation project, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(i-1) In the event a county collects a tax increment, it may pledge its tax increments to the road utility district which then is authorized to issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified

(4) establish an ad valorem tax increment account for the zone or provide for the establishment of a joint ad valorem tax increment account, if applicable; and

(5) name the advisory board for the zone or the county's members on a joint advisory board, as applicable, as provided by Section 222.1072.

*(See also added Sec. 222.1072, Transportation Code, below.)*

(g) Compliance with the requirements of this section constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

(h) The county may, from taxes collected on property in a zone, pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code.

*(See Subsecs. (i) and (j) above.)*

(k) In the alternative, to assist the county in developing a transportation project, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a county energy transportation reinvestment zone created under this section. The road utility district may issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds if the county:

amount of money in the tax increment account to secure those bonds.

(j) A road utility district formed as provided by Subsection (i) may enter into an agreement to fund development of a project or to repay funds owed to the department. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

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

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the county has not used the zone for the purpose for which it was designated.

**No equivalent provision.**

**No equivalent provision.**

**No equivalent provision.**

*(See also added Sec. 222.01071(f)(6), Transportation Code, above.)*

(1) collects a tax increment; and  
(2) pledges all or a specified amount of the tax increment to the road utility district.

(l) A road utility district formed as provided by Subsection (k) may enter into an agreement to fund development of a project or to repay funds owed to the department. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(m) To accommodate changes in the limits of the project for which a zone was designated, the boundaries of a zone may be amended at any time, except that property may not be added to a zone unless the commissioners court of the county complies with Subsections (d), (e), and (f).

(n) A **county energy** transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the county has not used the zone for the purpose for which it was designated.

(o) The commissioners courts of two or more counties that have designated a county energy transportation reinvestment zone under this section for the same transportation project or projects may enter into an agreement to provide for the joint administration of the zones.

(p) The commissioners court of a county may enter into an agreement with the department to designate a county energy transportation reinvestment zone under this section for a specified transportation project involving a state highway located in the proposed zone.

Sec. 222.1072. **ADVISORY BOARD OF COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONE.** (a) Except as provided by Subsection (b), the advisory board of a county energy transportation

reinvestment zone consists of the following members appointed by the county judge and approved by the county commissioners court:

(1) three oil and gas company representatives who perform company activities in the county and are local taxpayers; and

(2) two public members who are active in civic affairs.

(b) County energy transportation reinvestment zones that are jointly administered are advised by a single joint advisory board for the zones. A joint advisory board under this subsection consists of members appointed under Subsection (a) for each zone to be jointly administered.

(c) An advisory board member may not receive compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

SECTION 2. Chapter 222, Transportation Code, is amended as follows:

Sec. 222.110. SALES TAX INCREMENT.

(a) In this section, "sales tax base" for a transportation reinvestment zone means the amount of sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax Code, as applicable, attributable to the zone for the year in which the zone was designated under this chapter.

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

(c) A county that designates a portion or amount of sales tax increment under Subsection (b) must establish a tax increment account. A municipality or

SECTION 2. Section 222.110(e), Transportation Code, is amended to read as follows:

county shall deposit the designated portion or amount of tax increment under Subsection (b) to the entity's respective tax increment account.

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

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

(2) deposit that amount into the tax increment account; and

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

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

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

(2) notwithstanding Sections 321.506 and 323.505, Tax Code, satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects authorized under Section 222.104 and Section 222.1071.

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

(g) Not later than the 30th day before the date the governing body of a municipality or county proposes to designate a portion or amount of sales tax increment under Subsection (b), the governing body shall hold a public hearing on the designation of the sales tax increment. At the hearing an interested person may speak for or against the designation of the sales tax increment. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the county or municipality, as appropriate.

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

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

(2) notwithstanding Sections 321.506 and 323.505, Tax Code, satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects authorized under Section 222.104 **or** 222.1071.



(h) The hearing required under Subsection (g) may be held in conjunction with a hearing held under Section 222.106(e) or 222.107(e) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106 or 222.107 also designates a sales tax increment under Subsection (b).

SECTION 3. Subchapter D, Chapter 252, Transportation Code, is amended by adding Section 252.314 to read as follows:

Sec. 252.314. DONATIONS. (a) A commissioners court or the county road department may accept donations of labor, money, or other property to aid in the building or maintaining of roads in the county.

(b) A county operating under the county road department system on September 1, 2013, may use the authority granted under this section without holding a new election under Section 252.301.

(c) A county accepting donations under Sec. 252.314 must execute a release of liability in favor of the entity donating the labor, money or other property.

**No equivalent provision.**

SECTION 3. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Sec. 251.018. DONATIONS. (a) A commissioners court may accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county if the commissioners court enters into an agreement of release of liability regarding the donations.

(b) A county operating under the county road department system on September 1, 2013, may use the authority granted under this section without holding a new election under Section 252.301.

**No equivalent provision**

*(See also added Subsec. (a) above.)*

SECTION 4. This Act takes effect September 1, 2013.