

## BILL ANALYSIS

Senate Research Center

S.B. 1747  
By: Uresti et al.  
Transportation  
7/26/2013  
Enrolled

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The state's increased revenue can directly be attributed to the increased production of the oil and gas industry.

The accelerated road degradation in several of the counties throughout the state in recent years has been attributed to the unexpected increased vehicle traffic due to the exploration of oil/gas. These roads were not intended to sustain the heavy trucks that are used in this process. County road and bridge budgets are not sufficiently funded to routinely maintain the roads, and counties are left with severe damage directly related to the energy exploration and production. The county roads in these areas need an immediate solution and a sustainable long-term plan dedicated to those areas that have created the surplus our state has benefited from.

S.B. 1747 amends current law relating to funding and donations for transportation projects, including projects of county energy transportation reinvestment zones.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 1 (Section 256.103, Transportation Code) and SECTION 6 of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 256, Transportation Code, by adding Subchapter C, as follows:

#### SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND

Sec. 256.101. DEFINITIONS. Defines "fund," "transportation infrastructure project," "weight tolerance permit," and "well completion" in this subchapter.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND. (a) Provides that the transportation infrastructure fund (fund) is a dedicated fund in the state treasury outside the general revenue fund. Provides that the fund consists of:

- (1) any federal funds received by the state deposited to the credit of the fund;
- (2) matching state funds in an amount required by federal law;
- (3) funds appropriated by the legislature to the credit of the fund;
- (4) a gift or grant;
- (5) any fees paid into the fund; and
- (6) investment earnings on the money on deposit in the fund.

(b) Authorizes money in the fund to be appropriated only to the Texas Department of Transportation (TxDOT) for the purposes of this subchapter.

(c) Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments), Government Code, do not apply to the fund.

Sec. 256.103. GRANT PROGRAM. (a) Requires TxDOT to develop policies and procedures to administer a grant program under this subchapter to make grants to counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production. Requires TxDOT to adopt rules to implement this subchapter.

(b) Requires that grants distributed during a fiscal year be allocated among counties as follows:

(1) 20 percent according to weight tolerance permits, determined by the ratio of weight tolerance permits issued in the preceding fiscal year for a county that designated a county energy transportation reinvestment zone to the total number of weight tolerance permits issued in the state in that fiscal year, as determined by the Texas Department of Motor Vehicles;

(2) 20 percent according to oil and gas production taxes, determined by the ratio of oil and gas production taxes collected by the comptroller of public accounts of the State of Texas (comptroller) in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total amount of oil and gas production taxes collected in the state in that fiscal year, as determined by the comptroller; and

(3) 50 percent according to well completions, determined by the ratio of well completions in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total number of well completions in the state in that fiscal year, as determined by the Railroad Commission of Texas (railroad commission); and

(4) 10 percent according to the volume of oil and gas waste injected, determined by the ratio of the volume of oil and gas waste injected in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total volume of oil and gas waste injected in the state in that fiscal year, as determined by the railroad commission.

Sec. 256.104. GRANT APPLICATION PROCESS. (a) Requires the county, in applying for a grant under this subchapter, to:

(1) provide the road condition report described by Section 251.018 made by the county for the previous year; and

(2) submit to TxDOT:

(A) a copy of the order or resolution establishing a county energy transportation reinvestment zone in the county, except that TxDOT may waive the submission until the time the grant is awarded; and

(B) a plan that:

(i) provides a list of transportation infrastructure projects to be funded by the grant;

(ii) describes the scope of the transportation infrastructure project or projects to be funded by the grant using best practices for prioritizing the projects;

(iii) provides for matching funds as required by Section 256.105; and

(iv) meets any other requirements imposed by TxDOT.

(b) Requires TxDOT, in reviewing grant applications under this subchapter, to:

(1) seek other potential sources of funding to maximize resources available for the transportation infrastructure projects to be funded by grants under this subchapter; and

(2) consult related transportation planning documents to improve project efficiency and work effectively in partnership with counties.

(c) Requires TxDOT, except as otherwise provided by this subsection, to review a grant application before the 31st day after the date TxDOT receives the application. Authorizes TxDOT to act on an application not later than the 60th day after the date TxDOT receives the application if TxDOT provides notice of the extension to the county that submitted the application.

Sec. 256.105. MATCHING FUNDS. (a) Requires that matching funds, from any source, except as provided by Subsection (b), be provided in an amount equal to at least 20 percent of the amount of the grant to be eligible to receive a grant under the program.

(b) Requires a county that TxDOT determines to be economically disadvantaged to provide matching funds in an amount equal to at least 10 percent of the amount of the grant.

Sec. 256.106. PROGRAM ADMINISTRATION. (a) Requires a county that makes a second or subsequent application for a grant from TxDOT under this subchapter to:

(1) provide TxDOT with a copy of a report filed under Section 251.018; and

(2) certify that all previous grants are being spent in accordance with the plan submitted under Section 256.104; and

(3) provide an accounting of how previous grants were spent, including any amounts spent on administrative costs.

(b) Authorizes TxDOT to use one-half of one percent of the amount deposited into the fund in the preceding fiscal year, not to exceed \$500,000 in a state fiscal biennium, to administer this subchapter.

SECTION 2. Amends Subchapter E, Chapter 222, Transportation Code, by adding Sections 222.1071 and 222.1072, as follows:

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES.

(a) 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 as provided in Section 222.107(a) (relating to setting forth the amount of a county's tax increment for a year, the captured appraisal value of real property taxable by a county for a year, and the tax increment base of a county) for a county transportation reinvestment zone.

(b) Authorizes a county, after determining that an area is affected because of oil and gas exploration and production activities and would benefit from funding under Chapter 256, by order or resolution of the commissioners court:

(1) to designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more transportation infrastructure projects, as that term is defined by Section 256.101, located in the zone; and

(2) to jointly administer a county energy transportation reinvestment zone with a contiguous county energy transportation reinvestment zone formed by another county.

(c) Requires a commissioners court to:

(1) dedicate or pledge all of the captured appraised value of real property located in the county energy transportation reinvestment zone to transportation infrastructure projects; and

(2) comply with all applicable laws in the application of this chapter.

(d) Requires a commissioners court, not later than the 30th day before the date the commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, to hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. Authorizes an interested person at the hearing to 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) Requires that notice of the hearing and the intent to create a zone be published, not later than the seventh day before the date of the hearing, in a newspaper having general circulation in the county.

(f) Requires that the order or resolution designating an area as a county energy transportation reinvestment zone:

(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 designating an area and that the base year shall be the year of passage of the order or resolution designating an area or some year in the future;

(3) 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

(4) if two or more counties are designating a zone for the same transportation infrastructure project or projects, include a finding that:

(A) the project or projects will benefit the property and residents located in the zone;

(B) the creation of the zone will serve a public purpose of the county; and

(C) details the transportation infrastructure projects for which each county is responsible.

(g) Provides that 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) Authorizes the county, from taxes collected on property in a 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, including agreements under Section 381.004 (Community and Economic Development Programs in Certain Counties), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;

(i) Authorizes the county to:

(1) use money in the tax increment account to provide matching funds under Section 256.105 and funding for one or more transportation infrastructure projects located in the zone;

(2) apply for grants under Subchapter C, Chapter 256, subject to Section 222.1072;

(3) use five percent of any grant distributed to the county under Subchapter C, Chapter 256, for the administration of a county energy transportation reinvestment zone, not to exceed \$250,000;

(4) enter into an agreement to provide for the joint administration of county energy transportation reinvestment zones if the commissioners court of the county has designated a county energy transportation reinvestment zone under this section for the same transportation infrastructure project or projects as another county commissioners court; and

(5) pledge money in the tax increment account to a road utility district formed as provided by Subsection (n).

(j) Prohibits tax increment paid into a tax increment account from being pledged as security for bonded indebtedness.

(k) Provides that a county energy transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated unless extended by an act of the county commissioners court that designated the zone. Prohibits the extension from exceeding five years. Requires any money remaining in the tax increment account, on termination of the zone, to be transferred to the road and bridge fund described by Chapter 256 for the county that deposited the money into the tax increment account.

(l) Requires the captured appraised value of real property located in a county energy transportation reinvestment zone to be treated as provided by Section 26.03, Tax Code.

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

(n) Authorizes a road utility district, in the alternative, to be formed under that chapter that has the same boundaries as a county energy transportation reinvestment zone created under this section to assist the county in developing a

transportation infrastructure project, if authorized by the Texas Transportation Commission under Chapter 441 (Road Utility Districts). Authorizes the road utility district to issue bonds to pay all or part of the cost of a transportation infrastructure 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:

(1) collects a tax increment; and

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

(o) Authorizes a road utility district formed as provided by Subsection (n) to enter into an agreement to fund development of a transportation infrastructure project or to repay funds owed to TxDOT. Provides that any amount paid for this purpose is considered to be an operating expense of the district. Authorizes any taxes collected by the district that are not paid for this purpose to be used for any district purpose.

Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONE. (a) Provides that a county is eligible to apply for a grant under Subchapter C, Chapter 256, if the county creates an advisory board to advise the county on the establishment, administration, and expenditures of a county energy transportation reinvestment zone. Requires the county commissioners court to determine the terms and duties of the advisory board members.

(b) Sets forth the composition of the advisory board of a county energy transportation reinvestment zone, except as provided by Subsection (c).

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

(d) Prohibits an advisory board member from receiving compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

SECTION 3. Amends Section 222.110, Transportation Code, by amending Subsections (a) and (h) and adding Subsection (i), as follows:

(a) Defines "transportation reinvestment zone" in this section. Makes nonsubstantive changes.

(h) Authorizes the hearing required under Subsection (g) (relating to requiring the governing body to hold a public hearing on the designation of the sales tax increment) to be held in conjunction with a hearing held under Section 222.106(e) (relating to requiring the governing body to hold a public hearing on the designation of a transportation reinvestment zone), 222.107(e) (relating to requiring the commissioners court to hold a public hearing on the creation of a transportation reinvestment zone), or 222.1071(d) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106 (Municipal Transportation Reinvestment Zones), 222.107 (County Transportation Reinvestment Zones), or 222.1071 also designates a sales tax increment under Subsection (b) (relating to authorizing the governing body of a municipality or county to determine the portion or amount of tax increment generated from the sales and use taxes imposed by a municipality in a certain ordinance or order).

(i) Authorizes the sales and use taxes to be deposited into the tax increment account established by a county energy transportation reinvestment zone or zones under this section, notwithstanding Subsection (e), to be disbursed from the account only to provide:

(1) matching funds under Section 256.105; and

(2) funding for one or more transportation infrastructure projects located in a zone.

SECTION 4. Amends Subchapter A, Chapter 251, Transportation Code, by adding Sections 251.018 and 251.019, as follows:

Sec. 251.018. ROAD REPORTS. Requires that a road condition report made by a county that is operating under a system of administering county roads under Chapter 252 (Systems of County Road Administration) or a special law, including a report made under Section 251.005 (Commissioner's Road Report), include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained.

Sec. 251.019. DONATIONS. (a) 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.

(b) Authorizes a county operating under the county road department system on September 1, 2013, to use the authority granted under this section without holding a new election under Section 252.301 (Adoption of County Road Department System).

(c) Requires a county that accepts donations under this section to execute a release of liability in favor of the entity donating the labor, money, or other property.

SECTION 5. Amends Section 256.009(a), Transportation Code, as follows:

(a) Requires the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor, not later than January 30 of each year, to file a report with the comptroller that includes an account of how, if the county designated a county energy transportation reinvestment zone, money paid into a tax increment account for the zone or from an award under Subchapter C was spent and a description, including location, of any new roads constructed in whole or in part with the money paid into a tax increment account for the zone or from an award under Subchapter C if the county designated a county energy transportation reinvestment zone. Makes nonsubstantive changes.

SECTION 6. Requires TxDOT to adopt rules implementing Subchapter C, Chapter 256, Transportation Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. Provides that the amendment adding Sections 222.1071 and 222.1072 to Subchapter E, Chapter 222, Transportation Code, made by this Act prevails over the amendment adding those sections to Subchapter E, Chapter 222, Transportation Code, made by Section 1, House Bill No. 2300, 83rd Legislature, Regular Session, 2013, and the amendment made by Section 1, House Bill No. 2300, 83rd Legislature, Regular Session, 2013, has no effect.

SECTION 8. Effective date: September 1, 2013.