

BILL ANALYSIS

Senate Research Center

S.B. 1747
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Transportation
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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 have 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 is a direct result of numerous meetings with county officials in the interim and several industry stakeholders. S.B. 1747 designates county energy transportation reinvestment zones whereby a dedication account is used as a specific funding mechanism that will allow counties to apply for grants upon the fulfillment of a qualification process that includes submitting mandated county road reports, submitting specific road repair plans and providing a county match. Each county will be required to contribute a percentage of up to 10 percent in order to be considered for drawing down any funds.

S.B. 1747 establishes a viable funding mechanism that each county can rely on to assist with repairing and maintaining its roads. S.B. 1747 will help counties make sure that roadways are safe, secure, and reliable. Any slowdown in oil and gas activity will have a direct impact on Texas's ability to continue funding the growth from the shale plays.

As proposed, S.B. 1747 amends current law relating to a fund for certain county transportation infrastructure projects and the creation of county energy transportation reinvestment zones.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to Texas Department of Transportation in SECTION 7 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.

SECTION 2. Amends Subchapter E, Chapter 222, Transportation Code, by adding Section 222.01071, as follows:

(a) Provides that 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 county energy 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 county energy 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 county energy transportation reinvestment zone for the year in which the zone was designated under this section.

(b) Authorizes the county to pledge its tax increment to a specific transportation project pursuant to a contract and that pledge is required to constitute a debt as defined in Section 26.03 (7) (Treatment of Captured Appraised Value and Tax Increment), Tax Code. Prohibits a county from pledging property tax increments authorized in this section as security for bonded indebtedness.

(c)(i) Authorizes 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 (Funds and Taxes for County Roads), Subchapter C, Transportation Code, by order or resolution, to designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote a transportation project.

(ii) Authorizes a county to form a county energy 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.

(iii) Requires a county to form or participate in a maximum of one county energy transportation reinvestment zone under this section.

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

(e) Requires the 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, 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, or the benefit that will arise from dedicating the increment county taxes on real property in the zone to certain transportation projects.

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

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

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

(ii) 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;

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

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

(v) 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:

(a) if a single county zone, the board is required to 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;

(b) if a multi-county zone, the board is required to be comprised of the representatives listed in Section 222.1071(f)(i) representing each county participating in the multi-county zone;

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

(h) 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.

(i) Authorizes the commissioners court to 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 (Community and Economic Development Programs in Certain Counties), Local Government Code, or Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;

(j) Provides that a county energy transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated.

SECTION 3. Amends Chapter 222, Transportation Code, by amending Section 222.110, as follows:

Sec. 222.110. SALES TAX INCREMENT. (a) Redefines, in this section, "sales tax base" for a county energy transportation reinvestment zone as the amount of sales and use taxes imposed by a municipality under Section 321.101(a) (relating to authorizing a municipality to adopt or repeal a sales and use tax authorized by this chapter, at an election in which a majority of the qualified voters of the municipality approve the adoption or repeal of the tax), Tax Code, or by a county under Chapter 323 (County Sales and Use Tax Act), Tax Code, as applicable, attributable to the zone for the year in which the zone was designated under this chapter.

(b) Makes a conforming change.

(c)-(d) Makes no change to these subsections.

(e) Authorizes the sales and use taxes to be deposited into the tax increment account under this section to be disbursed from the account only to pay for projects authorized under Section 222.104 (Pass-Through Tolls), including the repayment of amounts owed under an agreement entered into under that section; for use as matching funds under Section 256.105; and notwithstanding Sections 321.506 (Use of Tax Revenue by Municipality) and 323.505 (Use of Tax Revenue), 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)-(g) Makes no change to these subsections.

(h) Makes a conforming change.

SECTION 4. Amends Chapter 256, Transportation Code, by adding Sections 256.102 through 256.106, as follows:

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND. (a) Provides that the transportation infrastructure fund is a dedicated account in the treasury outside the general revenue fund. Provides that the fund consists of amounts appropriated or transferred to the credit of the fund under this subchapter or other law and of any interest or other return from the investment of money in the fund.

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

Sec. 256.103. GRANT DISTRIBUTION. (a) Requires the Texas Department of Transportation (TxDOT) to administer the grant program under this subchapter.

(b) Requires the proportion of the grant money that is available during a fiscal year to be distributed to a county energy transportation reinvestment zone to be determined as follows:

(1) 60 percent is required to be based on the number of well completions in the preceding fiscal year that occurred in the county or counties contained within the county energy transportation reinvestment zone divided by the total number of well completions that occurred in the state in that fiscal year, as determined by the Railroad Commission of Texas;

(2) 20 percent is required to be based on the number of weight tolerance permits issued in the preceding fiscal year for the county or counties contained within the county energy transportation reinvestment zone divided by the total number of weight tolerance permits issued in the state in that fiscal year, as determined by TxDOT; and

(3) 20 percent is required to be based on the amount of the oil and gas production taxes collected by the comptroller in the preceding fiscal year in the county or counties contained within the county energy transportation reinvestment zone divided by the total amount of oil and gas production taxes collected in the state in that fiscal year, as determined by the comptroller.

(c) Requires the grant program to be suspended during periods for which the fund balance is zero. Authorizes TxDOT to award grants under this subchapter only during periods when the fund has a positive balance.

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

(1) provide the two most recent county commissioners road reports required under Section 251.005 for the area containing the transportation infrastructure project; and

(2) submit for approval by TxDOT a plan that describes the scope of the transportation infrastructure project to be funded by the grant, meets the

terms and conditions imposed by TxDOT, and provides matching funds as described by Section 256.105.

- (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 for which application is made; and
 - (2) consult related transportation planning documents to improve project efficiency and to work effectively in partnership with county governments.
- (c) Requires TxDOT to work with county energy transportation reinvestment zones to identify and implement best practices and solutions in prioritizing road projects utilizing funds from the transportation infrastructure fund.

Sec. 256.105. MATCHING FUNDS. (a) Requires a county energy transportation reinvestment zone to provide matching funds in an amount equal to at least 10 percent of the amount of a grant under the program to be eligible to receive the grant.

Sec. 256.106. ADMINISTRATION. (a) Prohibits the amount of money spent on administering the grant program during a fiscal year from being greater than one percent of the total amount deposited into the fund during the previous fiscal year.

- (b) Provides that to be eligible for additional grants or distributions from the fund, a county energy transportation reinvestment zone must provide a copy of an annual audit and certify that all previous distributions from the fund have been expended in accordance with the transportation infrastructure project plan approved by the department under Section 256.104.
- (c) Requires TxDOT to conduct an annual audit to ensure that funds granted under this subchapter are used in accordance with the terms of the grant as provided by TxDOT.

SECTION 5. Amends Section 251.005(a), Transportation Code, as follows:

- (a) Requires a county commissioner serving as a road supervisor to make a sworn annual report during the ninth month of the county fiscal year on a form approved by the commissioners court showing:
 - (1) Makes no change to this subdivision;
 - (2) to the extent practicable, the primary causes of road, culvert, and bridge degradation in the precinct;
 - (3) the amount of money reasonably necessary for maintenance of the roads in the precinct during the next county fiscal year; and
 - (4)-(6) Makes nonsubstantive changes.

SECTION 6. Amends Subchapter D, Chapter 252, Transportation Code, by adding Section 252.314, as follows:

- Sec. 252.314. DONATIONS. (a) Authorizes a commissioners court or the county road department to accept donations of labor, money, or other property to aid in the building or maintaining of roads 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 accepting donations under Section 252.314 to execute a release of liability in favor of the entity donating the labor, money or other property.

SECTION 7. 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 8. Effective date: September 1, 2013.