

By: Keffer

H.B. No. 3639

A BILL TO BE ENTITLED

AN ACT

relating to a fund for certain county transportation infrastructure projects and the creation of County Energy Transportation Reinvestment Zones.

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

SECTION 1. Chapter 256, Transportation Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND

Sec. 256.101. DEFINITIONS. In this subchapter:

(1) "Fund" means the transportation infrastructure fund established under this subchapter.

(2) "Transportation infrastructure project" means a project for the construction, reconstruction, or maintenance of transportation infrastructure under this subchapter that is intended to alleviate degradation caused by the exploration, development, or production of oil or gas.

(3) "Weight tolerance permit" means a permit issued by the department under Chapter 623 authorizing a vehicle to exceed maximum legal weight limitations.

(4) "Well completion" means the completion, reentry, or recompletion of an oil or gas well.

SECTION 2. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section 222.01071 to read as follows:

(a) In this section:

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

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

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

15 (b) The county may pledge its tax increment to a specific
16 transportation project pursuant to a contract and that pledge shall
17 constitute a debt as defined in Sec. 26.03 (7), Tax Code. A county
18 may not pledge property tax increments authorized in this section
19 as security for bonded indebtedness.

20 (c)(i) The commissioners court of the county, after
21 determining that an area is affected by oil and gas exploration and
22 production activities and would benefit from funding provided under
23 Chapter 256, Subchapter C, Transportation Code, by order or
24 resolution may designate a contiguous geographic area in the
25 jurisdiction of the county to be a county energy transportation
26 reinvestment zone to promote a transportation project.

27 (ii) A county may form a county energy transportation

1 reinvestment zone under this Section in conjunction with another
2 county or counties provided each county meets all procedural
3 requirements for establishment of such a zone.

4 (iii) A county shall form or participate in a maximum of one
5 county energy transportation reinvestment zone under this section.

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

8 (e) Not later than the 30th day before the date the
9 commissioners court proposes to designate an area as a county
10 energy transportation reinvestment zone under this section, the
11 commissioners court must hold a public hearing on the creation of
12 the zone, its benefits to the county and to property in the proposed
13 zone. At the hearing an interested person may speak for or against
14 the designation of the zone, its boundaries, or the from benefit
15 that will arise from dedicating the increment county taxes on real
16 property in the zone to certain transportation projects.

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

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

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

26 (ii) provide that the zone takes effect immediately on
27 adoption of the order or resolution and that the base year shall be

1 the year of passage of the order or resolution or some year in the
2 future;

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

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

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

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

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

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

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

26 (i) The commissioners court may from taxes collected on
27 property in a zone, pay into a tax increment account for the zone an

1 amount equal to the tax increment produced by the county less any
2 amounts allocated under previous agreements, including agreements
3 under Section 381.004, Local Government Code, or Chapter 312, Tax
4 Code;

5 (j) A county energy transportation reinvestment zone
6 terminates on December 31 of the 10th year after the year the zone
7 was designated.

8 SECTION 3. Chapter 222, Transportation Code, is amended as
9 follows:

10 Sec. 222.110. SALES TAX INCREMENT. (a) In this section,
11 "sales tax base" for a county energy transportation reinvestment
12 zone means the amount of sales and use taxes imposed by a
13 municipality under Section 321.101(a), Tax Code, or by a county
14 under Chapter 323, Tax Code, as applicable, attributable to the
15 zone for the year in which the zone was designated under this
16 chapter.

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

27 (c) A county that designates a portion or amount of sales

1 tax increment under Subsection (b) must establish a tax increment
2 account. A municipality or county shall deposit the designated
3 portion or amount of tax increment under Subsection (b) to the
4 entity's respective tax increment account.

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

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

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

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

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

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

24 (2) for use as matching funds under section 256.105

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

1 Section 222.104 and Section 222.1071.

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

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

15 (h) The hearing required under Subsection (g) may be held in
16 conjunction with a hearing held under Section 222.106(e) or
17 222.107(e) if the ordinance or order designating an area as a county
18 energy transportation reinvestment zone under Section 222.106 or
19 222.107 also designates a sales tax increment under Subsection (b).

20 Section 4 Sec. 256.102. TRANSPORTATION INFRASTRUCTURE
21 FUND. (a) The transportation infrastructure fund is a dedicated
22 account in the treasury outside the general revenue fund. The fund
23 consists of amounts appropriated or transferred to the credit of
24 the fund under this subchapter or other law and of any interest or
25 other return from the investment of money in the fund.

26 (b) Sections 403.095 and 404.071, Government Code, do not
27 apply to the fund.

1 Sec. 256.103. GRANT DISTRIBUTION. (a) The department
2 shall administer the grant program under this subchapter.

3 (b) The proportion of the grant money that is available
4 during a fiscal year that may be distributed to a county energy
5 transportation reinvestment zone shall be determined as follows:

6 (1) 60 percent must be based on the number of well
7 completions in the preceding fiscal year that occurred in the
8 county or counties contained within the county energy
9 transportation reinvestment zone divided by the total number of
10 well completions that occurred in the state in that fiscal year, as
11 determined by the Railroad Commission of Texas;

12 (2) 20 percent must be based on the number of weight
13 tolerance permits issued in the preceding fiscal year for the
14 county or counties contained within the county energy
15 transportation reinvestment zone divided by the total number of
16 weight tolerance permits issued in the state in that fiscal year, as
17 determined by the department; and

18 (3) 20 percent must be based on the amount of the oil
19 and gas production taxes collected by the comptroller in the
20 preceding fiscal year in the county or counties contained within
21 the county energy transportation reinvestment zone divided by the
22 total amount of oil and gas production taxes collected in the state
23 in that fiscal year, as determined by the comptroller.

24 (c) The grant program shall be suspended during periods for
25 which the fund balance is zero. The department may award grants
26 under this subchapter only during periods when the fund has a
27 positive balance.

1 Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying
2 for a grant under this subchapter, a county energy transportation
3 reinvestment zone shall:

4 (1) provide the two most recent county commissioner's
5 road reports required under Section 251.005 for the area containing
6 the transportation infrastructure project; and

7 (2) submit for approval by the department a plan that:

8 (A) describes the scope of the transportation
9 infrastructure project to be funded by the grant;

10 (B) meets the terms and conditions imposed by the
11 department; and

12 (C) provides matching funds as described by
13 Section 256.105.

14 (b) In reviewing grant applications under this subchapter,
15 the department shall:

16 (1) seek other potential sources of funding to
17 maximize resources available for the transportation infrastructure
18 projects for which application is made; and

19 (2) consult related transportation planning documents
20 to improve project efficiency and to work effectively in
21 partnership with county governments.

22 (c) The department shall work with county energy
23 transportation reinvestment zones to identify and implement best
24 practices and solutions in prioritizing road projects utilizing
25 funds from the transportation infrastructure fund.

26 Sec. 256.105. MATCHING FUNDS. (a) A county energy
27 transportation reinvestment zone must provide matching funds in an

1 amount equal to at least 10 percent of the amount of a grant under
2 the program to be eligible to receive the grant.

3 Sec. 256.106. ADMINISTRATION. (a) The amount of money
4 spent on administering the grant program during a fiscal year may
5 not be greater than one percent of the total amount deposited into
6 the fund during the previous fiscal year.

7 (b) To be eligible for additional grants or distributions
8 from the fund, a county energy transportation reinvestment zone
9 must provide a copy of an annual audit and certify that all previous
10 distributions from the fund have been expended in accordance with
11 the transportation infrastructure project plan approved by the
12 department under Section 256.104.

13 (c) The department shall conduct an annual audit to ensure
14 that funds granted under this subchapter are used in accordance
15 with the terms of the grant as provided by the department.

16 SECTION 5. Subsection (a), Section 251.005, Transportation
17 Code, is amended to read as follows:

18 (a) A county commissioner serving as a road supervisor shall
19 make a sworn annual report during the ninth month of the county
20 fiscal year on a form approved by the commissioners court showing:

21 (1) the condition of each road or part of a road and of
22 each culvert and bridge in the commissioner's precinct;

23 (2) to the extent practicable, the primary causes of
24 road, culvert, and bridge degradation in the precinct;

25 (3) the amount of money reasonably necessary for
26 maintenance of the roads in the precinct during the next county
27 fiscal year;

1 (4) [~~(3)~~] the number of traffic control devices in the
2 precinct defaced or torn down;

3 (5) [~~(4)~~] any new road that should be opened in the
4 precinct; and

5 (6) [~~(5)~~] any bridges, culverts, or other
6 improvements necessary to place the roads in the precinct in good
7 condition, and the probable cost of the improvements.

8 SECTION 6. Subchapter D, Chapter 252, Transportation Code,
9 is amended by adding Section 252.314 to read as follows:

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

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

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

20 SECTION 7. The Texas Department of Transportation shall
21 adopt rules implementing Subchapter C, Chapter 256, Transportation
22 Code, as added by this Act, as soon as practicable after the
23 effective date of this Act.

24 SECTION 8. This Act takes effect September 1, 2013.