

By: Darby

H.B. No. 3665

A BILL TO BE ENTITLED

AN ACT

relating to the financing of transportation projects; authorizing fees.

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

SECTION 1. Section 222.071, Transportation Code, is amended to read as follows:

Sec. 222.071. DEFINITIONS. In this subchapter:

(1) "Bank" means the state infrastructure bank ~~account~~.

(2) "Bond" has the meaning assigned to "public security" by Section 1201.002, Government Code ~~["Construction" has the meaning assigned by 23 U.S.C. Section 101]~~.

(3) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(4) "Federal act" means Section 350 of the National Highway System Designation Act of 1995 (Pub. L. No. 104-59), relating to the state infrastructure bank pilot program or the state infrastructure bank program (23 U.S.C. Section 610), as applicable.

~~[(4) "Federal-aid highway" has the meaning assigned by 23 U.S.C. Section 101.]~~

(5) "Qualified project" includes:

(A) a public roadway project ~~[the construction of a federal-aid highway];~~

1 (B) [~~a transit project under 49 U.S.C. Sections~~
2 ~~5307, 5309, and 5311; or~~

3 [~~(C)~~] for the expenditure of secondary funds from
4 an account subject to Section 350 of the National Highway System
5 Designation Act of 1995 (Pub. L. No. 104-59), a project eligible for
6 assistance under Title 23 or Title 49, United States Code; or

7 (C) for the expenditure of money subject to the
8 federal act, a project that qualifies under the federal act.

9 (6) "Secondary funds" includes:

10 (A) the payment or repayment of a loan or other
11 assistance that is provided with money deposited to the credit of
12 the bank; and

13 (B) investment income generated by secondary
14 funds deposited to the credit of the bank.

15 SECTION 2. Section 222.072, Transportation Code, is amended
16 to read as follows:

17 Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state
18 infrastructure bank is a fund held by the comptroller outside the
19 state treasury or by a financial institution serving as trustee [~~an~~
20 ~~account in the state highway fund~~]. The bank is administered by the
21 commission.

22 (b) The commission may deposit in the bank:

23 (1) federal [~~Federal~~] funds received by the state,
24 including funds received under the federal act;

25 (2) [~~7~~] matching state funds in an amount required by
26 the federal [~~that~~] act;

27 (3) funds appropriated by the legislature for that

1 purpose;

2 (4) a payment or repayment of principal and interest
3 on a loan made under Section 222.074 or 222.088;

4 (5) proceeds from the sale of loans under Section
5 222.078;

6 (6) [] proceeds from bonds issued under Section
7 222.075;

8 (7) [] secondary funds;

9 (8) a gift or grant;

10 (9) fees paid to the bank; and

11 (10) investment earnings on the money on [~~other~~
12 ~~state funds deposited into the bank by order of the commission, and~~
13 ~~other money received by the state that is eligible for] deposit in~~
14 ~~the bank [may be deposited into the bank and used only for the~~
15 ~~purposes described in this subchapter].~~

16 (c) Not later than January 31 of each year, the department
17 shall prepare and file a report with the governor, the lieutenant
18 governor, and the Legislative Budget Board that provides
19 information on the operation of the bank, including:

20 (1) investments and returns on investments of money in
21 the bank during the previous fiscal year;

22 (2) loans made from the bank during the previous
23 fiscal year;

24 (3) other financial assistance provided from the bank
25 during the previous fiscal year;

26 (4) the status of any defaults on repayment of loans or
27 on repayment of debt service paid from the bank; and

1 (5) the status of any uncompleted qualified project
2 for which a guarantee was provided from the bank during the previous
3 fiscal year.

4 SECTION 3. Section 222.073, Transportation Code, is amended
5 to read as follows:

6 Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. The
7 ~~[Notwithstanding Section 222.001, the]~~ commission shall use money
8 deposited in the bank to:

9 (1) encourage public and private investment in
10 transportation facilities both within and outside of the state
11 highway system, including facilities that contribute to the
12 multimodal and intermodal transportation capabilities of the
13 state; ~~and]~~

14 (2) develop or expand transportation in the state; and

15 (3) develop financing techniques designed to:

16 (A) expand the availability of funding for
17 transportation projects and to reduce direct state costs;

18 (B) maximize private and local participation in
19 financing projects; and

20 (C) improve the efficiency of the state
21 transportation system.

22 SECTION 4. Section 222.074, Transportation Code, is amended
23 by amending Subsection (a) and adding Subsections (d), (e), and (f)
24 to read as follows:

25 (a) To further a purpose described by Section 222.073, the
26 commission may use money deposited to the credit of the bank to
27 provide financial assistance to a public ~~[or private]~~ entity,

1 including the department, for a qualified project to:

2 (1) extend credit by direct loan, including by
3 purchasing a bond or other obligation of a public entity;

4 (2) provide liquidity or credit enhancement,
5 including through an agreement to:

6 (A) provide a loan to a public entity;

7 (B) purchase a bond, note, or other obligation
8 from a public entity; or

9 (C) provide credit enhancements to a public
10 entity under Subchapter D-1;

11 (3) serve as a capital reserve for bond or debt
12 instrument financing;

13 (4) subsidize interest rates;

14 (5) insure the issuance of a letter of credit or credit
15 instrument;

16 (6) finance a purchase or lease agreement in
17 connection with a transit project;

18 (7) provide security for bonds and other debt
19 instruments, including the replenishment of debt reserve funds;

20 [~~or~~]

21 (8) provide capitalized interest for debt financing by
22 a public entity;

23 (9) provide a guarantee of the payment of operation
24 and maintenance costs of a qualified project by a public entity;

25 (10) pay the cost of issuing a bond or other debt
26 instrument; or

27 (11) for money subject to the federal act, provide

1 methods of leveraging money that have been approved by the United
2 States secretary of transportation and relate to the project for
3 which the assistance is provided.

4 (d) The commission may require a public entity that requests
5 financial assistance from the bank to pay an application fee and
6 other reasonable amounts in connection with the request. The
7 department shall deposit revenue collected under this subsection:

8 (1) to the credit of the state highway fund to
9 reimburse the department for administrative costs relating to the
10 bank that were originally charged to the state highway fund; or

11 (2) in the account in the bank from which the financial
12 assistance is requested.

13 (e) The department shall monitor the use of financial
14 assistance provided to a public entity to ensure that the
15 assistance is used for a purpose authorized by the financial
16 assistance agreement. The department may audit a book or record of
17 a public entity for that purpose.

18 (f) Financial assistance made available under this
19 subchapter for the delivery of a qualified project by the
20 department may not, taking into account any differing forms of the
21 offered assistance, be in a larger amount or on more favorable terms
22 than the financial assistance previously requested and offered for
23 the delivery of that project by a public entity other than the
24 department, if such a request and offer were made. The commission
25 shall adopt rules to implement an analysis required to comply with
26 this subsection.

27 SECTION 5. Section 222.0745, Transportation Code, is

1 amended to read as follows:

2 Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A
3 public entity in this state, including a municipality, county,
4 district, authority, agency, department, board, or commission,
5 that is authorized by law to [~~construct, maintain, or~~] finance or
6 refinance a qualified project, or a transportation corporation or
7 local government corporation created under Chapter 431 and acting
8 on behalf of a public entity, may:

9 (1) borrow money from the bank, including by direct
10 loan or through another form of financial assistance; and

11 (2) enter into an agreement that relates to receiving
12 financial assistance from the bank [~~, based on the credit of the~~
13 ~~public entity~~].

14 (b) Money received by a public entity under this subchapter
15 [~~borrowed under this section~~] must be segregated from other funds
16 under the control of the public entity and may only be used for
17 purposes authorized by the financial assistance agreement [~~related~~
18 ~~to a qualified project~~].

19 (c) To provide for the payment or repayment of a loan or
20 another form of financial assistance provided under this
21 subchapter, a public entity may:

22 (1) pledge revenue or income from any available
23 source;

24 (2) pledge, impose, or collect a tax that the entity is
25 otherwise authorized to impose; or

26 (3) pledge any combination of revenue, income, or
27 taxes.

1 (d) This section is wholly sufficient authority for a public
2 entity to:

3 (1) borrow or otherwise obtain a form of financial
4 assistance from the bank as authorized by this subchapter; and

5 (2) pledge revenue, income, or taxes or any
6 combination of revenue, income, or taxes for the payment or
7 repayment of a loan or another form of financial assistance from the
8 bank.

9 (e) If under any constitutional limitation a public entity
10 must obtain voter approval to impose a tax to secure the payment or
11 repayment of any financial assistance provided under this
12 subchapter, the public entity shall call an election for that
13 purpose.

14 (f) The authority granted by this section does not affect
15 the ability of a public entity to incur debt using other statutorily
16 authorized methods.

17 SECTION 6. Sections 222.075(b), (f), (i), and (j),
18 Transportation Code, are amended to read as follows:

19 (b) Except as provided by Subsection (c), the commission
20 may:

21 (1) issue revenue bonds or revenue refunding bonds
22 under this section without complying with any other law applicable
23 to the issuance of bonds; and

24 (2) enter into a credit agreement related to the
25 bonds.

26 (f) The commission may require an entity [~~participants~~] to
27 [~~make charges, levy taxes, or otherwise~~] provide for sufficient

1 money to pay or repay financial assistance provided from the bank,
2 including any [pay] acquired obligations.

3 (i) Before the commission issues revenue bonds or enters
4 into a credit agreement under this section, the commission shall
5 submit a record of the [All] proceedings of the commission that
6 authorize [relating to] the issuance, execution, and delivery of
7 the [revenue] bonds or credit agreement and any contract that
8 provides revenue or security to pay the bonds or credit agreement
9 [issued under this section shall be submitted] to the attorney
10 general for review [examination]. If the attorney general finds
11 that the proceedings authorizing the bonds or credit agreement and
12 any bonds authorized by the proceedings conform to the requirements
13 prescribed by the Texas Constitution and this subchapter [On
14 determining that the revenue bonds have been authorized in
15 accordance with law], the attorney general shall approve the
16 proceedings and [revenue] bonds, and shall deliver to [the revenue
17 bonds shall be registered by] the comptroller for registration a
18 copy of the attorney general's legal opinion relating to the
19 approval and a record of the proceedings. After approval by the
20 attorney general, the bonds or credit agreement may be executed and
21 delivered, exchanged, or refinanced in accordance with the
22 authorization proceedings. After the approval and registration,
23 the [revenue] bonds, credit agreement, or contract providing
24 revenue or security included in or executed and delivered according
25 to the authorization proceedings are incontestable in any court or
26 other forum for any reason and are valid, [and] binding, and
27 enforceable [obligations] in accordance with their terms for all

1 purposes.

2 (j) The commission may use proceeds from the sale of revenue
3 bonds to finance other funds or accounts relating to the bonds or
4 credit agreement, including a debt service reserve fund, and to pay
5 the cost of issuing the bonds. Any remaining [The] proceeds
6 received from the sale of the [revenue] bonds shall be deposited in
7 the bank and invested and used in the manner provided for other
8 funds deposited under this subchapter.

9 SECTION 7. Subchapter D, Chapter 222, Transportation Code,
10 is amended by adding Section 222.0755 to read as follows:

11 Sec. 222.0755. AUTHORIZATION TO BORROW. (a) For the
12 purpose of providing money for the bank, the department may borrow
13 money under terms and conditions authorized by the commission and
14 may enter into a loan agreement or any other agreement necessary or
15 convenient for a loan under this section.

16 (b) A loan under this section is a special obligation of the
17 commission and department that may be secured by a pledge of and
18 payable from income and receipts of the bank, or any portion
19 thereof, as the commission may designate. A loan under this section
20 does not constitute a debt of the state or a pledge of the faith and
21 credit of the state. The income and receipts may include payments
22 or repayments of financial assistance provided by the bank,
23 investment or other income derived from money on deposit in the
24 bank, or any combination of the foregoing.

25 (c) In accordance with the terms of a loan or other
26 agreement, the proceeds from a loan under this section may be
27 deposited in funds or accounts relating to the loan, including

1 funds or accounts for capitalized interest and reserves, and used
2 to pay the costs of entering into the loan or other agreement. All
3 remaining proceeds received from the loan shall be deposited in the
4 bank and invested in accordance with the terms of a loan or other
5 agreement and in the manner provided for other funds deposited
6 under this subchapter.

7 SECTION 8. Section 222.076, Transportation Code, is amended
8 to read as follows:

9 Sec. 222.076. SEPARATE ACCOUNTS [~~SUBACCOUNTS~~]. (a) The
10 bank shall consist of at least two separate accounts [~~subaccounts~~],
11 a highway account [~~subaccount~~] and a transit account [~~subaccount~~].
12 The commission may create additional accounts that are capitalized
13 with federal funds or with a combination of federal funds and state
14 funds.

15 (b) In addition to the accounts [~~subaccounts~~] under
16 Subsection (a), the commission shall [~~may~~] create one account that
17 is, and may create [~~or~~] more accounts [~~subaccounts~~] that are,
18 capitalized with state funds only. Accounts [~~Subaccounts~~]
19 capitalized with state funds only are not subject to the federal
20 act.

21 SECTION 9. Section 222.077, Transportation Code, is amended
22 by amending Subsections (a) and (b) and adding Subsection (a-1) to
23 read as follows:

24 (a) If a form of financial assistance [~~Any funds disbursed~~
25 ~~through the state infrastructure bank~~] must be paid or repaid, [~~on~~
26 ~~terms determined by~~] the commission shall determine the terms of
27 the payment or repayment, including the interest rate to be

1 charged, and enter into a financial assistance agreement with the
2 public entity receiving the assistance specifying the terms of the
3 payment or repayment. The terms must comply with the federal act
4 except for terms applicable to funds deposited in an account [~~a~~
5 ~~subaccount~~] described by Section 222.076(b).

6 (a-1) For a tolled highway improvement project, the
7 commission may require that revenue from the project be shared
8 between an entity and the department.

9 (b) Notwithstanding any other law to the contrary:

10 (1) the payment or repayment of a loan or other
11 assistance provided with money deposited to the credit of an
12 account [~~a-subaccount~~] in the bank, including all amounts received
13 as a share of revenue from a tolled highway improvement project,
14 shall be deposited in that account [~~subaccount~~]; and

15 (2) investment income generated by money deposited to
16 the credit of an account [~~a-subaccount~~] in the bank shall be:

17 (A) credited to that account, subject to any
18 requirement imposed by a proceeding that authorizes bonds to be
19 issued to provide money for deposit in the bank that is necessary to
20 protect the tax-exempt status of interest payable on the bonds in
21 accordance with applicable federal law [~~subaccount~~];

22 (B) available for use in providing financial
23 assistance under this subchapter and Subchapter D-1; and

24 (C) invested as authorized by Chapter 2256,
25 Government Code, but money in the bank subject to the federal act
26 shall be invested in United States Treasury securities, [~~bank~~]
27 deposits in financial institutions, or other financing instruments

1 approved by the United States secretary of transportation to earn
2 interest and enhance the financing of projects assisted by the
3 bank, and proceeds from bonds deposited in the bank under Section
4 222.072 are subject to any limitations contained in a document that
5 authorizes the issuance of the bonds.

6 SECTION 10. Subchapter D, Chapter 222, Transportation Code,
7 is amended by adding Section 222.078 to read as follows:

8 Sec. 222.078. SALE OF LOANS. (a) In this section, "loan"
9 means any financial assistance provided under this subchapter that
10 must be repaid, including financial assistance repaid through
11 revenue sharing.

12 (b) The commission may direct the department to sell, in
13 accordance with this section, any loan made from money in the bank.
14 The department by rule must establish a competitive bidding or
15 negotiated sale process for a sale conducted under this section.

16 (c) For a loan made to a public entity, the department shall
17 provide to the public entity written notice of the department's
18 intent to sell the loan. The notice must be provided not later than
19 the 90th day preceding the date established under rules of the
20 commission on which the process required for the sale under
21 Subsection (b) begins.

22 (d) The department may not sell a loan made to a public
23 entity if:

24 (1) prepayment of the principal of and accrued
25 interest due on the loan is tendered under Subsection (f); or

26 (2) the public entity prohibits the sale under
27 Subsection (g).

1 (e) The department may not sell a loan that was made to a
2 public entity for a tolled highway improvement project before the
3 later of:

4 (1) the date of the completion of the project's
5 construction;

6 (2) the date that the loan is completely funded; or

7 (3) the earlier of:

8 (A) the date that the project's forecasted
9 stabilization and ramp-up is achieved based on an investment grade
10 traffic and revenue study; or

11 (B) the sixth anniversary of the date the project
12 fully opened for tolled operations.

13 (f) The department must accept the prepayment of principal
14 of and accrued interest due on a loan in accordance with the
15 financial assistance agreement or, in the absence of prescribed
16 terms in the financial assistance agreement regarding prepayment,
17 on terms that the commission determines to be reasonable.

18 (g) If the terms of the financial assistance agreement
19 prohibit a public entity from prepaying its loan at the time of a
20 proposed sale of the loan under this section, the public entity may
21 prohibit the sale of the loan, in which event the department and the
22 public entity shall renegotiate the prepayment terms in the
23 financial assistance agreement to allow for prepayment of the loan
24 at the time of the proposed sale. The prohibition under this
25 subsection terminates on the date an agreement on the renegotiated
26 prepayment terms is executed.

27 (h) For any loan made to a public entity to be sold under

1 this section, the commission may submit to the attorney general for
2 review and approval the related financial assistance agreement
3 together with the record of proceedings of the public entity
4 relating to the agreement. For the purposes of Chapter 1202,
5 Government Code, the financial assistance agreement is considered
6 to be a public security. If the attorney general finds that the
7 financial assistance agreement has been authorized to be issued in
8 conformity with law, the attorney general shall approve the
9 agreement and deliver to the comptroller a copy of the attorney
10 general's legal opinion stating that approval and the record of
11 proceedings. Following approval by the attorney general, the
12 financial assistance agreement is incontestable in a court or other
13 forum and is valid, binding, and enforceable according to its terms
14 as provided by Chapter 1202, Government Code.

15 (i) As part of the sales agreement with the purchaser of a
16 loan, the department may agree to perform the functions required to
17 enforce the conditions and requirements stated in the loan,
18 including enforcing the payment of debt service by the borrowing
19 entity.

20 (j) The department shall deposit the proceeds of the sale of
21 a loan under this section in the bank.

22 (k) The commission and department may exercise any powers
23 necessary to carry out the authority granted by this section,
24 including the authority to contract with any person to accomplish
25 the purposes of this section.

26 (l) The state, the department, and the commission are not
27 liable for the repayment of any loan sold under this section and

1 neither may repay a loan sold under this section.

2 SECTION 11. Chapter 222, Transportation Code, is amended by
3 adding Subchapter D-1 to read as follows:

4 SUBCHAPTER D-1. TRANSPORTATION INFRASTRUCTURE

5 CREDIT ENHANCEMENT PROGRAM

6 Sec. 222.081. APPLICABILITY OF OTHER LAW. To the extent of
7 any conflict between this subchapter and another law, including a
8 municipal charter, this subchapter controls.

9 Sec. 222.082. DEFINITIONS. In this subchapter:

10 (1) "Account" means the transportation infrastructure
11 credit enhancement account created and administered under this
12 subchapter.

13 (2) "Bond" has the meaning assigned to "public
14 security" by Section 1201.002, Government Code.

15 (3) "Credit agreement" means an agreement between a
16 public entity and the department or the commission relating to a
17 guarantee of bonds authorized by this subchapter.

18 (4) "Debt service" means the principal of and interest
19 due on bonds on any particular payment date.

20 (5) "Paying agent" means the financial institution or
21 other entity that is designated by a public entity as its agent for
22 the payment of the debt service due on bonds issued by a public
23 entity and guaranteed under this subchapter.

24 (6) "Public entity" means a municipality, county,
25 district, authority, agency, department, board, or commission of
26 this state that is authorized by law to finance or refinance a
27 public transportation project, or a transportation corporation or

1 local government corporation created under Chapter 431 and acting
2 on behalf of any of those entities.

3 (7) "Public transportation project" means the
4 construction or provision of a tolled or nontolled publicly owned
5 project, the primary purpose of which is to preserve or facilitate
6 the movement of people or goods by any mode of transportation. The
7 term includes buildings, structures, parking areas, appurtenances,
8 rights-of-way, and other property needed for the project, but does
9 not include a project that is primarily for recreational purposes
10 such as a hiking trail or off-road vehicle trail.

11 Sec. 222.083. TRANSPORTATION INFRASTRUCTURE CREDIT
12 ENHANCEMENT ACCOUNT. (a) The commission shall create a
13 transportation infrastructure credit enhancement account in the
14 state infrastructure bank.

15 (b) The following shall be deposited in the account:

16 (1) money appropriated by the legislature for the
17 capitalization of the account;

18 (2) gifts and grants;

19 (3) interest earned on balances in the account;

20 (4) fees paid to the department by public entities for
21 the guarantee of bonds;

22 (5) repayment of debt service paid on guaranteed bonds
23 from the account;

24 (6) amounts due to the department under the terms of a
25 credit agreement; and

26 (7) application fees imposed by the commission.

27 Sec. 222.084. USE OF ACCOUNT. (a) The commission shall use

1 the account to implement the credit enhancement program authorized
2 by this subchapter.

3 (b) The commission may use money in the account to pay or
4 reimburse the department's costs of administering this subchapter.

5 Sec. 222.085. CREDIT ENHANCEMENT PROGRAM. The commission
6 may establish a program to guarantee the payment of debt service on
7 bonds issued by a public entity to finance or refinance a public
8 transportation project that will develop or expand transportation
9 in the state by:

10 (1) addressing mobility in an area containing any of
11 the 50 most congested roadway segments;

12 (2) encouraging public and private investment in
13 public transportation projects, including public transportation
14 projects that contribute to the multimodal and intermodal
15 transportation capabilities of the state;

16 (3) expanding the availability of funding for public
17 transportation projects; or

18 (4) improving the efficiency of the state
19 transportation system.

20 Sec. 222.086. PUBLIC ENTITY'S AUTHORITY. (a) A public
21 entity may apply for a guarantee of its bonds under this subchapter.

22 (b) If required by the commission, a public entity whose
23 application is approved shall enter into a credit agreement with
24 the department to further secure the public entity's obligation to
25 repay amounts drawn from the account to pay debt service on
26 guaranteed bonds.

27 (c) Payments owed by a public entity under a credit

1 agreement, or interest thereon, may be secured by a pledge of:

2 (1) revenue or income from any available source;

3 (2) any taxes of the public entity, including:

4 (A) ad valorem or sales taxes imposed and
5 collected by the public entity; or

6 (B) revenue or taxes collected by or assigned to
7 the public entity from a transportation reinvestment zone; or

8 (3) any combination of revenue, income, and taxes
9 described in Subdivisions (1) and (2).

10 (d) If under any constitutional limitation a public entity
11 must obtain voter approval to impose a tax to secure the payment of
12 guaranteed bonds or a credit agreement, the public entity may call
13 an election for that purpose.

14 (e) A public entity may exercise the powers provided by this
15 subchapter and perform the acts authorized by this subchapter or
16 under any credit agreement entered into under this subchapter
17 without reference to any other statutory authority or without any
18 restrictions or limitations contained in any other statute,
19 provided that a record of proceedings of the public entity
20 authorizing the issuance, execution, and delivery of a credit
21 agreement entered into under this subchapter shall be submitted to
22 the attorney general for review and approval in the manner provided
23 by Chapter 1371, Government Code.

24 (f) This section is wholly sufficient authority within
25 itself for a public entity to:

26 (1) obtain a guarantee on bonds and to enter into,
27 execute, and deliver a credit agreement; and

1 (2) pledge revenue, income, or taxes, or any
2 combination of revenue, income, and taxes, to secure the payment of
3 guaranteed bonds and credit agreements.

4 (g) A public entity may use a provision of another law that
5 does not conflict with this subchapter in order to carry out any
6 authority granted by this subchapter.

7 (h) A public entity must comply with all state law related
8 to the design and construction of projects, including the
9 procurement of design and construction services, that apply to the
10 public entity.

11 Sec. 222.087. APPLICATION; FEES. (a) To apply for a
12 guarantee of bonds under this subchapter a public entity must
13 submit to the department:

14 (1) an application using a form established by the
15 department for that purpose; and

16 (2) any fee required by the commission.

17 (b) The commission may impose an application fee.

18 (c) The commission may impose fees for providing a guarantee
19 under this subchapter.

20 Sec. 222.088. REPAYMENT. Any money disbursed from the
21 account for payment of debt service on a guaranteed bond must be
22 repaid by the public entity that issued the guaranteed bond,
23 together with any additional amounts required by an applicable
24 credit agreement.

25 Sec. 222.089. TIME AND EFFECT OF CREDIT ENHANCEMENT. (a)
26 If bonds are approved for guarantee by the account, the record of
27 proceedings submitted for the attorney general's review and

1 approval of those bonds must include the guarantee, as evidenced by
2 an endorsement on the bonds. If the attorney general approves the
3 bonds, the attorney general shall approve the guarantee. Upon
4 approval by the attorney general, the guarantee shall be registered
5 by the comptroller.

6 (b) On the approval by the attorney general and registration
7 by the comptroller under Subsection (a), and issuance of the bonds:

8 (1) the guarantee of the bonds is effective and the
9 bonds are guaranteed by the account;

10 (2) the guarantee of the bonds is valid and
11 incontestable in a court or other forum;

12 (3) the obligations of the department are binding for
13 all purposes according to the terms of the guarantee; and

14 (4) debt service on the bonds is irrevocably
15 guaranteed by the corpus and income of the account.

16 (c) A bond guaranteed under this subchapter is not an
17 obligation of the state. The department's sole obligation is to pay
18 debt service due and unpaid on a bond from the account under the
19 terms of the guarantee. The department's obligation to pay debt
20 service on a guaranteed bond is limited to the money on deposit in
21 the account.

22 (d) Notwithstanding any other law:

23 (1) any guarantee of bonds approved by the commission
24 remains in effect until the date that all guaranteed bonds mature
25 and are paid, are redeemed and paid, or are legally defeased under
26 Chapter 1207, Government Code; and

27 (2) the account shall continue in existence until each

1 guarantee made from the account is no longer in effect, and all
2 amounts due to the account have been paid.

3 Sec. 222.090. DEPARTMENT ACTION AFTER RECEIPT OF NOTICE OF
4 INABILITY TO PAY. After receipt of written notice from a public
5 entity or a paying agent of the insufficiency of money available to
6 pay debt service due on a guaranteed bond, the department shall
7 instruct the comptroller or the trustee bank, as applicable, to
8 transfer, from the account to the paying agent, the amount
9 necessary to pay the amount of debt service due on the bond.

10 Sec. 222.091. COMPTROLLER'S OR TRUSTEE BANK'S DUTIES. (a)
11 On instruction from the department, the comptroller or the trustee
12 bank, as applicable, shall pay the debt service due on a guaranteed
13 bond.

14 (b) The comptroller or the trustee bank, as applicable,
15 shall hold all documentation relating to the payment made from the
16 account on behalf of the account and the department.

17 (c) After repayment to the account on the terms prescribed
18 by the department, the department shall instruct the comptroller or
19 the trustee bank, as applicable, to submit documentation to the
20 public entity or the paying agent needed to evidence the repayment.

21 Sec. 222.092. AUTHORITY TO COMPLETE, OPERATE, OR MAINTAIN
22 PROJECT. (a) To protect its right to receive repayment for
23 payments made from the account under a guarantee and any related
24 enforcement expenses, the commission may authorize the department
25 to undertake completion of a public transportation project if the
26 public entity has failed to comply with a deadline imposed under the
27 terms of a credit agreement or the bond financing documents.

1 (b) The commission may authorize the department to
2 undertake the proper operation and maintenance of a public
3 transportation project on the failure of the public entity to
4 operate or maintain the public transportation project in compliance
5 with requirements in a credit agreement or the bond financing
6 documents.

7 (c) A public entity shall reimburse the department from any
8 available source of funds, including bond proceeds, for completion,
9 operation, and maintenance costs incurred by the department under
10 this section.

11 Sec. 222.093. RULES. The commission by rule shall:

12 (1) implement this subchapter; and

13 (2) establish eligibility criteria and application
14 requirements for a public entity applying for a guarantee from the
15 account.

16 SECTION 12. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2013.