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S.B. No. 1747

A BILL TO BE ENTITLED

AN ACT

relating to funding and donations for county transportation projects, including projects 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 FOR COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES

Sec. 256.101. DEFINITIONS. In this subchapter:

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

(2) "Transportation infrastructure project" means the planning for, administration of, construction of, reconstruction of, or maintenance of transportation infrastructure, including roads, bridges, and culverts, intended to alleviate degradation caused by the exploration, development, or production of oil or gas.

(3) "Weight tolerance permit" means a permit issued 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.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND.

1 (a) The transportation infrastructure fund is a dedicated fund in
2 the state treasury outside the general revenue fund. The fund
3 consists of:

4 (1) any federal funds received by the state, including
5 funds received under the federal act, deposited to the credit of the
6 fund;

7 (2) matching state funds in an amount required by the
8 federal act;

9 (3) funds appropriated by the legislature to the
10 credit of the fund;

11 (4) a gift or grant;

12 (5) fees paid to the bank; and

13 (6) investment earnings on the money on deposit in the
14 fund.

15 (b) Money in the fund may be appropriated only to the
16 department for the purposes of this subchapter.

17 (c) Sections 403.095 and 404.071, Government Code, do not
18 apply to the fund.

19 Sec. 256.103. GRANT PROGRAM. (a) The department shall
20 administer a grant program under this subchapter to make grants for
21 transportation infrastructure projects located in a county
22 containing at least one county energy transportation reinvestment
23 zone if the fund has a positive balance.

24 (b) Grants distributed during a fiscal year must be
25 allocated among counties as follows:

26 (1) one-fifth according to weight tolerance permits,
27 determined by the ratio of weight tolerance permits issued in the

1 preceding fiscal year for the county that designated a county
2 energy transportation reinvestment zone to the total number of
3 weight tolerance permits issued in the state in that fiscal year, as
4 determined by the Texas Department of Motor Vehicles;

5 (2) one-fifth according to oil and gas production
6 taxes, determined by the ratio of oil and gas production taxes
7 collected by the comptroller in the preceding fiscal year in the
8 county that designated a county energy transportation reinvestment
9 zone to the total amount of oil and gas production taxes collected
10 in the state in that fiscal year, as determined by the comptroller;
11 and

12 (3) three-fifths according to well completions,
13 determined by the ratio of well completions in the preceding fiscal
14 year in the county that designated a county energy transportation
15 reinvestment zone to the total number of well completions in the
16 state in that fiscal year, as determined by the Railroad Commission
17 of Texas.

18 Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying
19 for a grant under this subchapter, the county shall:

20 (1) provide the road condition report described by
21 Section 251.018 made by the county for the previous two years; and

22 (2) submit to the department a plan that:

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

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

1 (C) provides for matching funds as required by
2 Section 256.105; and

3 (D) meets any other requirements imposed by the
4 department.

5 (b) In reviewing grant applications under this subchapter,
6 the department shall:

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

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

13 (c) Except as otherwise provided by this subsection, the
14 department shall review a grant application before the 31st day
15 after the date the department receives the application. The
16 department may act on an application not later than the 60th day
17 after the date the department receives the application if the
18 department provides notice of the extension to the county that
19 submitted the application.

20 Sec. 256.105. MATCHING FUNDS. (a) Except as provided by
21 Subsection (b), to be eligible to receive a grant under the program,
22 matching funds must be provided, from any source, in an amount equal
23 to at least 10 percent of the amount of the grant.

24 (b) A county that the department determines to be
25 economically disadvantaged must provide matching funds in an amount
26 equal to at least five percent of the amount of the grant.

27 Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that

1 makes a second or subsequent application for a grant from the
2 department under this subchapter must:

3 (1) provide the department with a copy of a report
4 filed under Section 256.009;

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

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

9 (b) The department may use a portion of the money in the
10 fund, not to exceed one percent of the amount deposited into the
11 fund in the preceding fiscal year, to administer this subchapter.

12 SECTION 2. Subchapter E, Chapter 222, Transportation Code,
13 is amended by adding Section 222.1071 to read as follows:

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

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

24 (1) may designate a contiguous geographic area in the
25 jurisdiction of the county to be a county energy transportation
26 reinvestment zone to promote one or more transportation
27 infrastructure projects, as that term is defined by Section

1 256.101, located in the zone; and

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

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

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

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

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

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

25 (2) provide that the zone takes effect immediately on
26 adoption of the order or resolution designating an area and that the
27 base year shall be the year of passage of the order or resolution

1 designating an area or some year in the future;
2 (3) designate the base year for purposes of
3 establishing the tax increment base of the county;
4 (4) establish an ad valorem tax increment account for
5 the zone or provide for the establishment of a joint ad valorem tax
6 increment account, if applicable;
7 (5) designate not less than 90 percent of the tax
8 increment to be used for planning for, construction of,
9 reconstruction of, or maintenance of transportation infrastructure
10 projects; and
11 (6) if two or more counties are designating a zone for
12 the same transportation infrastructure project or projects,
13 include a finding that:
14 (A) the project or projects will benefit the
15 property and residents located in the zone;
16 (B) the creation of the zone will serve a public
17 purpose of the local government; and
18 (C) details the transportation infrastructure
19 projects for which each county is responsible.
20 (g) Compliance with the requirements of this section
21 constitutes designation of an area as a county energy
22 transportation reinvestment zone without further hearings or other
23 procedural requirements.
24 (h) The county may, from taxes collected on property in a
25 zone, pay into a tax increment account for the zone or zones an
26 amount equal to the tax increment produced by the county less any
27 amounts allocated under previous agreements, including agreements

1 under Section 381.004, Local Government Code, or Chapter 312, Tax
2 Code.

3 (i) The county may:

4 (1) use money in the tax increment account to provide:

5 (A) matching funds under Section 256.105; and

6 (B) funding for one or more transportation
7 infrastructure projects located in the zone;

8 (2) apply for grants under Subchapter C, Chapter 256;

9 (3) establish an advisory board to advise the county
10 on the establishment and administration of the county energy
11 transportation reinvestment zone;

12 (4) use not more than one percent of any grant
13 distributed to the county under Subchapter C, Chapter 256, for the
14 administration of a county energy transportation reinvestment
15 zone;

16 (5) use not more than 10 percent of the tax increment
17 in a tax increment account for the administration of a county energy
18 transportation reinvestment zone; and

19 (6) enter into an agreement to provide for the joint
20 administration of county energy transportation reinvestment zones
21 if the commissioners court of the county has designated a county
22 energy transportation reinvestment zone under this section for the
23 same transportation infrastructure project or projects as another
24 county commissioners court.

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

27 (k) A county energy transportation reinvestment zone

1 terminates on December 31 of the 10th year after the year the zone
2 was designated unless extended by an act of the county
3 commissioners court that designated the zone. The extension may
4 not exceed five years.

5 (1) The captured appraised value of real property located in
6 a county energy transportation reinvestment zone shall be treated
7 as provided by Section 26.03, Tax Code.

8 SECTION 3. Section 222.110, Transportation Code, is amended
9 by amending Subsections (a) and (h) and adding Subsection (i) to
10 read as follows:

11 (a) In this section:

12 (1) "Sales[~~,"~~"sales] tax base" for a transportation
13 reinvestment zone means the amount of sales and use taxes imposed by
14 a municipality under Section 321.101(a), Tax Code, or by a county
15 under Chapter 323, Tax Code, as applicable, attributable to the
16 zone for the year in which the zone was designated under this
17 chapter.

18 (2) "Transportation reinvestment zone" includes a
19 county energy transportation reinvestment zone.

20 (h) The hearing required under Subsection (g) may be held in
21 conjunction with a hearing held under Section 222.106(e), ~~[or]~~
22 222.107(e), or 222.1071(d) if the ordinance or order designating an
23 area as a transportation reinvestment zone under Section 222.106,
24 ~~[or]~~ 222.107, or 222.1071 also designates a sales tax increment
25 under Subsection (b).

26 (i) Notwithstanding Subsection (e), the sales and use taxes
27 to be deposited into the tax increment account established by a

1 county energy transportation reinvestment zone or zones under this
2 section may be disbursed from the account only to provide:

- 3 (1) matching funds under Section 256.105; and
4 (2) funding for one or more transportation
5 infrastructure projects located in a zone.

6 SECTION 4. Subchapter A, Chapter 251, Transportation Code,
7 is amended by adding Sections 251.018 and 251.019 to read as
8 follows:

9 Sec. 251.018. ROAD REPORTS. A road condition report made by
10 a county that is operating under a system of administering county
11 roads under Chapter 252 or a special law, including a report made
12 under Section 251.005, must include the primary cause of any road,
13 culvert, or bridge degradation if reasonably ascertained.

14 Sec. 251.019. DONATIONS. (a) A commissioners court may
15 accept donations of labor, money, or other property to aid in the
16 building or maintaining of roads, culverts, or bridges in the
17 county.

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

21 (c) A county that accepts donations under this section must
22 execute a release of liability in favor of the entity donating the
23 labor, money, or other property.

24 SECTION 5. Subsection (a), Section 256.009, Transportation
25 Code, is amended to read as follows:

26 (a) Not later than January 30 of each year, the county
27 auditor or, if the county does not have a county auditor, the

1 official having the duties of the county auditor shall file a report
2 with the comptroller that includes:

3 (1) an account of how:

4 (A) the money allocated to a county under Section
5 256.002 during the preceding year was spent; and

6 (B) if the county designated a county energy
7 transportation reinvestment zone, money paid into a tax increment
8 account for the zone or from an award under Subchapter C was spent;

9 (2) a description, including location, of any new
10 roads constructed in whole or in part with the money:

11 (A) allocated to a county under Section 256.002
12 during the preceding year; and

13 (B) paid into a tax increment account for the
14 zone or from an award under Subchapter C if the county designated a
15 county energy transportation reinvestment zone;

16 (3) any other information related to the
17 administration of Sections 256.002 and 256.003 that the comptroller
18 requires; and

19 (4) the total amount of expenditures for county road
20 and bridge construction, maintenance, rehabilitation, right-of-way
21 acquisition, and utility construction and other appropriate road
22 expenditures of county funds in the preceding county fiscal year
23 that are required by the constitution or other law to be spent on
24 public roads or highways.

25 SECTION 6. The Texas Department of Transportation shall
26 adopt rules implementing Subchapter C, Chapter 256, Transportation
27 Code, as added by this Act, as soon as practicable after the

1 effective date of this Act.

2 SECTION 7. This Act takes effect September 1, 2013.