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S.B. No. 1747

Substitute the following for S.B. No. 1747:

By: Wu

C.S.S.B. No. 1747

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to funding and donations for county transportation  
3 projects, including projects of county energy transportation  
4 reinvestment zones.

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

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

8 SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND FOR COUNTY ENERGY  
9 TRANSPORTATION REINVESTMENT ZONES

10 Sec. 256.101. DEFINITIONS. In this subchapter:

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

13 (2) "Transportation infrastructure project" means the  
14 planning for, construction of, reconstruction of, or maintenance of  
15 transportation infrastructure, including roads, bridges, and  
16 culverts, intended to alleviate degradation caused by the  
17 exploration, development, or production of oil or gas. The term  
18 includes the acquisition of equipment used for road maintenance.

19 (3) "Weight tolerance permit" means a permit issued  
20 under Chapter 623 authorizing a vehicle to exceed maximum legal  
21 weight limitations.

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

24 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 deposited  
5 to the credit of the fund;

6 (2) matching state funds in an amount required by  
7 federal law;

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

10 (4) a gift or grant;

11 (5) any fees paid into the fund; and

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

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

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

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

23 (b) The department shall develop criteria for the awarding  
24 of grants for transportation infrastructure projects on county  
25 roads. The criteria must include consideration of:

26 (1) the amount of oil and gas production in the county,  
27 including required maintenance performed on wells, the

1 refracturing of wells, well completions, and the drilling of  
2 disposal wells;

3 (2) safety needs and projects in the county;

4 (3) county traffic levels;

5 (4) pavement and bridge conditions in the county;

6 (5) weight tolerance permits issued for the county;

7 and

8 (6) geographic distribution of grant funds throughout  
9 oil and gas regions of the state.

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

12 (1) provide the road condition report described by  
13 Section 251.018 made by the county for the previous two years;

14 (2) submit to the department:

15 (A) a copy of the order or resolution  
16 establishing a county energy transportation reinvestment zone in  
17 the county; and

18 (B) a plan that:

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

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

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

26 (iv) meets any other requirements imposed  
27 by the department; and

1           (3) certify that the county has not reduced county  
2 funding for transportation infrastructure projects by more than 25  
3 percent from the average of the amounts that the county has spent  
4 for transportation infrastructure projects in the three years  
5 before the date of the certification.

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

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

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

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

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

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

1       Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that  
2 makes a second or subsequent application for a grant from the  
3 department under this subchapter must:

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

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

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

10       (b) The department may use one-half of one percent of the  
11 amount deposited into the fund in the preceding fiscal year, not to  
12 exceed \$500,000 in a state fiscal biennium, to administer this  
13 subchapter.

14       SECTION 2. Subchapter E, Chapter 222, Transportation Code,  
15 is amended by adding Sections 222.1071 and 222.1072 to read as  
16 follows:

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

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

27           (1) may designate a contiguous geographic area in the

1 jurisdiction of the county to be a county energy transportation  
2 reinvestment zone to promote one or more transportation  
3 infrastructure projects, as that term is defined by Section  
4 256.101, located in the zone; and

5 (2) may jointly administer a county energy  
6 transportation reinvestment zone with a contiguous county energy  
7 transportation reinvestment zone formed by another county.

8 (c) A commissioners court must:

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

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

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

23 (e) Not later than the seventh day before the date of the  
24 hearing, notice of the hearing and the intent to create a zone must  
25 be published in a newspaper having general circulation in the  
26 county.

27 (f) The order or resolution designating an area as a county

1 energy transportation reinvestment zone must:

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

5 (2) provide that the zone takes effect immediately on  
6 adoption of the order or resolution designating an area and that the  
7 base year shall be the year of passage of the order or resolution  
8 designating an area or some year in the future;

9 (3) establish an ad valorem tax increment account for  
10 the zone or provide for the establishment of a joint ad valorem tax  
11 increment account, if applicable; and

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

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

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

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

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

25 (h) The county may, from taxes collected on property in a  
26 zone, pay into a tax increment account for the zone or zones an  
27 amount equal to the tax increment produced by the county less any

1 amounts allocated under previous agreements, including agreements  
2 under Section 381.004, Local Government Code, or Chapter 312, Tax  
3 Code.

4 (i) The county may:

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

6 (A) matching funds under Section 256.105; and

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

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

11 (3) use five percent of any grant distributed to the  
12 county under Subchapter C, Chapter 256, for the administration of a  
13 county energy transportation reinvestment zone, not to exceed  
14 \$500,000; and

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

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

23 (k) A county energy transportation reinvestment zone  
24 terminates on December 31 of the 10th year after the year the zone  
25 was designated unless extended by an act of the county  
26 commissioners court that designated the zone. The extension may  
27 not exceed five years. On termination of the zone, any money



1 remaining in the tax increment account must be transferred to the  
2 road and bridge fund described by Chapter 256 for the county that  
3 deposited the money into the tax increment account.

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

7 (m) The commissioners court of a county may enter into an  
8 agreement with the department to designate a county energy  
9 transportation reinvestment zone under this section for a specified  
10 transportation project involving a state highway located in the  
11 proposed zone.

12 Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY  
13 TRANSPORTATION REINVESTMENT ZONE. (a) A county is eligible to  
14 apply for a grant under Subchapter C, Chapter 256, if the county  
15 creates an advisory board to advise the county on the  
16 establishment, administration, and expenditures of a county energy  
17 transportation reinvestment zone.

18 (b) Except as provided by Subsection (c), the advisory board  
19 of a county energy transportation reinvestment zone consists of the  
20 following members appointed by the county judge and approved by the  
21 county commissioners court:

22 (1) three oil and gas company representatives who  
23 perform company activities in the county and are local taxpayers;  
24 and

25 (2) two public members.

26 (c) County energy transportation reinvestment zones that  
27 are jointly administered are advised by a single joint advisory

1 board for the zones. A joint advisory board under this subsection  
2 consists of members appointed under Subsection (b) for each zone to  
3 be jointly administered.

4 (d) An advisory board member may not receive compensation  
5 for service on the board or reimbursement for expenses incurred in  
6 performing services as a member.

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

10 (a) In this section:

11 (1) "Sales[~~,"~~"sales] tax base" for a transportation  
12 reinvestment zone means the amount of sales and use taxes imposed by  
13 a 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 (2) "Transportation reinvestment zone" includes a  
18 county energy transportation reinvestment zone.

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

25 (i) Notwithstanding Subsection (e), the sales and use taxes  
26 to be deposited into the tax increment account established by a  
27 county energy transportation reinvestment zone or zones under this

1 section may be disbursed from the account only to provide:

2 (1) matching funds under Section 256.105; and

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

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

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

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

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

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

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

25 (a) Not later than January 30 of each year, the county  
26 auditor or, if the county does not have a county auditor, the  
27 official having the duties of the county auditor shall file a report

1 with the comptroller that includes:

2 (1) an account of how:

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

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

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

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

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

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

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

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

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