HOUSE RESEARCH ORGANIZATION bill analysis — 5/18/2001

SB 1296
Lucio, et al. (Flores)
(CSSB 1296 by Wise)

SUBJECT: Creating a roadway bond program for border colonias

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 7 ayes — Averitt, Denny, Hopson, Marchant, Menendez, Pitts, Wise

0 nays

2 absent — Solomons, Grusendorf

SENATE VOTE: On final passage, April 18 — 29-1 (Fraser)

WITNESSES: For — Jim Manley, El Paso County Commissioners Court

Against — None

On — Danette Rich, Governor's Office; *Registered but did not testify:* Michael Behrens, Texas Department of Transportation; Judith Porras, Texas Public Finance Authority

BACKGROUND: Colonias are rural residential subdivisions and/or developments located in unincorporated areas of counties, typically with few amenities or utilities and little infrastructure.

DIGEST: CSSB 1296 would establish a bond program for roadway projects for colonias along the Texas-Mexico border, provided that voters amended the Texas Constitution to authorize issuance of bonds for the program.

The bill would authorize the Governor's Office to ask the Texas Public Finance Authority (TPFA) to issue up to $175 million in general-obligation bonds or notes or to make related credit agreements. The proceeds could be used, as directed by the Texas Department of Transportation (TxDOT), only to assist counties with access roadway projects serving border colonias.

The governor would have to determine the amount and timing of debt issued by the TPFA. The Texas Transportation Commission (TTC) would have to set up and manage the program in cooperation with the Governor's Office, the secretary of state, and the Texas A&M University Center for Housing and Urban Development.

In consulting with the governor, the TTC would have to issue rules to define border colonias; establish assistance eligibility criteria for areas and projects; determine which counties and projects receive assistance and how much; develop grant application procedures; set minimum road standards for grant proposals; and establish financial reporting requirements for counties receiving assistance.

Authorized credit agreements could include interest rate and currency swaps; interest rate locks; forward payment conversions; payments based on interest-rate or currency exchange-rate levels or changes; exchanges of cash flows or payment series; or options, puts, or calls.

This bill would take effect if and when the constitutional amendment proposed by SJR 37 took effect, authorizing the issuance of general-obligation bonds or notes for this program. If voters did not approve the amendment, CSSB 1296 would have no effect.

SUPPORTERS SAY:

As many as 800 colonias may exist along the Texas-Mexico border. Many of the estimated 400,000 residents originally were victimized by unscrupulous developers who did not provide or arrange for adequate infrastructure. While progress has been made in addressing some of the colonias' water, sewage and utility problems, access to and from colonias remains problematic. For example, many colonias roads have become unpaved trails inaccessible by emergency and postal vehicles and school buses. Continued neglect would allow the situation to deteriorate as population grows and traffic increases, exacerbated by the effects of new rules adopted under the North American Free Trade Agreement.

Although some border counties have upgraded a few main roads, these counties do not have the resources to meet the huge infrastructure needs of colonias. Intractable problems demand innovation. By financing grants through low-interest bonds backed by the state's credit, CSSB 1296 would give counties incentive to develop local solutions to access problems. This unique approach would make the greatest impact soonest. Waiting to "pay as you go," as Texas requires for highways, would tantamount to doing nothing for colonias.

Roads in colonias are in a state of bureaucratic limbo. Because the roads are on private property, counties are not responsible for them. They are ineligible for conventional funding through TxDOT because they are not part of the state road system. However, county government is the logical jurisdiction for these projects, given no other viable options. TxDOT's expertise in transportation-related grant program administration would give strategic coordination to what is a regional problem beyond the scope of individual counties. Requiring the TTC to consult with the governor on the criteria for assistance would ensure fair and equitable selection and distribution.

Appropriating the $30 million that could be available for this purpose in the general appropriations bill would leverage an estimated $175 million in bonds based on a projected return ratio of almost 6:1. At an average cost of $90,000 per mile, about 2,000 miles of road could be built. That would be a significant improvement, providing a good start toward making colonias more livable and lifting its residents out of poverty.

Colonias are no more flood-prone than any other area of the Lower Rio Grande Valley. Relocating colonias residents would be unfeasible, and the costs of doing so would far exceed those of improving infrastructure.

OPPONENTS SAY:

Bonding for roads is and always will be a bad idea. Interest and other costs make bonded roads more expensive and mortgage future funds that cannot be spent on other priorities. Like families and businesses, government should wait till it can afford projects and should not spend beyond its means.

Because colonias often are located in difficult, flood-prone terrain below sea level, an extensive network of access roads for these areas would be prohibitively expensive and possibly short-lived. These factors would make them less attractive to bond investors, possibly resulting in higher interest rates. No comprehensive study exists to give taxpayers an idea of how many roads or how much money would be needed to provide adequate access to colonias. Even supporters admit that 2,000 miles of new or improved roads would not come close to rectifying this deplorable situation. The bill makes no mention of who would perform long-term maintenance and pay for related costs. As a result, the proposed road expenditures could prove to be a case of throwing good money after bad. The state could use its limited resources better by relocating the colonias residents to more habitable locales. CSSB 1296 would set a bad precedent by paying for private road construction with tax dollars. Offering tax breaks to private contractors or developers would be a wiser and less expensive approach.

The program proposed by CSSB 1296 would favor one area of the state over others and would neglect other needy Texans. Underserved areas with inadequate roads are not limited to the Texas-Mexico border.

OTHER OPPONENTS SAY:

TxDOT primarily contracts to build highways, not residential and access roads. The Governor's Office or the Texas Department of Housing and Community Affairs could grant money directly to counties more efficiently. In fairness, the proposed program should be broadened to include similar communities across the state, rather than only in one geographic area.

NOTES:

The Senate engrossed version of SB 1296 would have allowed bond enhancement agreements, rather than credit agreements as delineated in the committee substitute, but would not have provided for issuance of notes.

SJR 37 by Lucio, which would propose amending the Constitution to authorize the issuance of general-obligation bonds for this program, is on today's Constitutional Amendments Calendar.

Article 11 of the Senate-approved version of SB 1 by Ellis, the general appropriations bill for fiscal 2002-03, contains a rider that would appropriate $30 million to TxDOT to pay debt service on bonds issued under this program, contingent on enactment of SJR 37 and SB 1296.