

SUBJECT: Allowing state spending on toll roads, changing toll road administration

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Alexander, Hawley, Hamric, Hill, Noriega, Pickett, Swinford

0 nays

2 absent — Y. Davis, Edwards

SENATE VOTE: On final passage, March 1 — voice vote

WITNESSES: (*On House companion bill, HB 1045:*)

For — Linda Harper-Brown, TEX-21; Jerry Hiebert, North Texas Tollway Authority; *Registered but did not testify:* Spencer Chambers, Texas Association of Business and Chambers of Commerce; Shanna Igo, Texas Municipal League; Donald Lee, Texas Conference of Urban Counties; James McCarley, Dallas Regional Mobility Coalition; Amanda Oneacre, Greater Dallas Chamber of Commerce; Steve Stagner, Consulting Engineers Council; Vic Suhm, North Texas Commission and Dallas-Fort Worth Area Partners in Mobility; Larry Zacharias, City of Richardson

Against — None

On — John W. Johnson and Robert Nichols, Texas Transportation Commission; Pete Winstead, Texas Turnpike Authority

BACKGROUND: Transportation Code, sec. 222.103 authorizes the Texas Department of Transportation (TxDOT) to contribute money toward the cost of building, maintaining or operating public or private toll roads. The statute provides for repayment under terms established by the Texas Transportation Commission (TTC), as required by the Texas Constitution, Art. 3, sec. 52-b.

Art. 8, sec. 7-a of the Constitution dedicates three-fourths of net motor-fuel tax revenue to the State Highway Fund (Fund 6), which also receives revenue from motor-vehicle registration fees and sales taxes on lubricants. Money in Fund 6 may be appropriated only for specific highway-related purposes.

The Texas Turnpike Authority (TTA), a separate TxDOT division with its own governing board, and regional toll authorities in Harris County and four North Texas counties operate toll roads in Texas.

DIGEST:

CSSB 342 would allow TxDOT to participate financially in public toll road projects without reimbursement. The bill would abolish the TTA board of directors and would allow creation of additional regional tollway authorities.

TxDOT could spend money from any available source to help acquire toll roads, in addition to building, maintaining, and operating them. Public entities could be exempted from repayment, but private entities could not. Any repayments would have to be made from toll revenue, or other from sources as required by TTC, to the fund from which expenditures were made. Bonded indebtedness of the entities would not obligate the state. TxDOT's annual grants for toll roads could not exceed 30 percent of the federal highway funds the state was authorized to receive in the same fiscal year. The bill specifically would authorize regional tollway authorities created under Transportation Code, chapter 366, to receive monies from Fund 6.

Toll projects that used grants or loans made from constitutionally dedicated funds would have to be bid competitively, and contracts would have to be awarded to the lowest bidder. However, the TTA or a successor agency would have until March 1, 2004, to make exclusive development agreements on four projects.

TxDOT district offices could ask TTC to create regional tollway authorities in districts that did not have them and would establish their powers and duties. The authorities would have to pay to the Texas Mobility Fund annually any excess revenue above their debt service, bond coverage requirements, and maintenance and operations costs, unless the revenue was used for expansion.

CSSB 342 would abolish TTA's board of directors on September 1, 2001, and would transfer all of the board's powers and duties to the TTC, along with all contracts, leases, records, employees, property, and unspent and unobligated appropriations. TTA would have to repay all outstanding loans and obligations to TxDOT.

CSSB 342 would take effect if and when the constitutional amendment proposed by SJR 16 by Shapiro, creating the Texas Mobility Fund, takes effect and if SB 4 by Shapiro, the enabling bill for the fund, is enacted and becomes law. Otherwise, CSSB 342 would have no effect, except for the provisions abolishing the TTA board and transferring its assets. If SB 4 becomes law, all appropriations transferred from TTA to TTC would be deposited into the Texas Mobility Fund.

**SUPPORTERS
SAY:**

CSSB 342 would help accelerate construction much-needed toll road projects by providing crucial financial leverage using state highway funds. Forgoing repayment to TxDOT would alleviate the “double whammy” most toll projects face of two liens, one to TxDOT and the other to bondholders. This would make toll projects more attractive to investors, accelerate retirement of debt, and speed up toll revenue production.

Current law either requires TTA to instigate toll projects or allows these projects to be built only by existing authorities in Harris County and the Dallas-Fort Worth Metroplex. Allowing regional toll authorities would be a more streamlined, “bottom-up” approach that could help toll roads proliferate across the state. As Texas’ population grows and traffic congestion worsens, toll roads could become a more viable option if local entities had the flexibility to pursue them.

Taxes pay for many roads that some motorists never use. Toll roads make sense as alternative routes available to motorists for a nominal user fee. Nevertheless, tollways never will replace non-toll roads. Free alternative routes always will exist.

Abolishing the TTA board was proposed in 1997 in TxDOT’s sunset legislation, when TTA became a TxDOT division. Since then, all TTA actions and decisions have required TTC approval. This redundancy and duplication of authority create an unnecessary level of bureaucracy.

Transferring money from TTA into the proposed Texas Mobility Fund would provide seed money (about \$2.3 million at the end of the current biennium, according to the Legislative Budget Board) to get the mobility fund started. Dedicating future toll revenue would provide a funding source that should grow as toll roads mature and become more profitable. With toll equity

alleviating some of the burden of capital outlay for startup costs, toll roads could return as much as 20 percent in excess revenue.

The design-build bidding process is worthy of consideration as a cost-saving measure. The provision allowing exclusive development agreements would allow design-build contracting on four proposed projects in Central Texas to demonstrate its effectiveness as an alternative to competitive bidding.

OPPONENTS
SAY:

Toll roads represent double taxation. Motorists pay for Texas highways at the gasoline pump, at the vehicle registration counter, and at auto supply retailers. They should not have to pay for highways again when they exercise their right to travel on them.

The constitutional prohibition against paying for toll roads with non-toll revenue unless that revenue is repaid remains sound. If tolls are not sufficient in themselves to finance and sustain a road, the road should not be built as a toll road. Scarce state highway funds should not be risked on ventures not likely to return taxpayers' investment.

Tolls are supposed to be high enough only to pay for the toll roads and their financing. Transferring excess toll revenue to a highway bond fund would create an incentive to turn toll projects into "cash cows." Users of toll roads should not be expected to subsidize other highways.

OTHER
OPPONENTS
SAY:

Even if Texas' toll roads increased in number, they never would provide enough revenue to reduce significantly the huge number of other projects Texas needs to build. CSSB 342 would turn the original toll equity concept on its head. Rather than the state subsidizing toll roads, toll roads would be asked to subsidize the state highway program. In fairness, toll revenue at least should be dedicated to more toll roads.

The bill would not provide clear guidance to the TTC on how to proceed with toll road policy. The Legislature should provide more specific direction for the TTC to use the proposed additional authority, such as by requiring the commission to integrate other modes of transportation.

NOTES:

The Senate engrossed version of SB 342 would not have authorized exclusive development agreements on any projects, nor would it have

authorized additional regional tollway authorities. It would not have abolished the TTA board nor transferred its assets. The Senate version would have been contingent on enactment of SJR 12 by Shapiro, authorizing aid for turnpikes, toll roads, and toll bridges.

SJR 16, proposing a constitutional amendment to create the Texas Mobility Fund, is on today's Constitutional Amendments Calendar. SB 4, the enabling bill, is on today's Major State Calendar.