

**SUBJECT:** Allowing local government bonds secured by pass-through toll revenue

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 6 ayes — Krusee, Phillips, Callegari, Casteel, Hamric, Hill  
0 nays  
3 absent — Deshotel, Flores, West

**WITNESSES:** For — None  
Against — None  
On — Amadeo Saenz, Texas Department of Transportation

**BACKGROUND:** HB 3588 by Krusee, enacted by the 78th Legislature, created pass-through toll agreements, which allow public or private entities to construct state highway projects and receive repayment from TxDOT following completion of the project. Pass-through tolls, also known as “shadow tolls,” are negotiated payments made incrementally to the constructing entities based on traffic volume on the new road. The payments are made as if tolls were being collected from motorists by the operators upon project completion.

Pass-through toll agreements can be used on both non-tolled or tolled roadways. In some instances, the arrangement works in reverse, as a local government entity pays the “tolls” in exchange for TxDOT’s financing the road construction.

**DIGEST:** CSHB 2704 would authorize a local government, under an agreement with another local government, to issue bonds to finance toll or non-toll highway projects within the local government’s boundaries and to continue projects into the boundaries of the neighboring local governments. Agreements between local governments for the construction of transportation projects would require TxDOT’s prior approval.

The bill would allow local governments to issue bonds against any available revenue source, including taxes or revenue pledged by TxDOT

through a pass-through toll agreement. CSHB 2704 would require that all principal and interest be repaid on bonds within a 40-year period.

The bill would take immediate effect if passed by a two-thirds record vote of the membership of each house. Otherwise it would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

CSHB 2704 would allow local governments involved in inter-local agreements to leverage bonds through pass-through toll agreements with TxDOT. Pass-through tolls are innovative finance tools that allow parties with available cash to move forward with transportation projects knowing that the costs will be repaid over time, which can accelerate the financing of lower-priority transportation projects.

The bill would allow local governments to issue bonds without relying on property tax revenue to back them up. The issuance of bonds against property taxes can negatively affect a local government's debt. Instead, under a pass-through agreement, TxDOT would pledge a stream of revenue to repay the bonds issued.

Regional Mobility Authorities (RMAs) are local transportation planning authorities that already have been granted the ability to pledge bonds against TxDOT's pass-through toll revenue stream. If the Legislature allows RMAs to use this method of financing, it only follows that other local governmental entities should be given the same authority.

The pass-through "toll" is not an actual toll that motorists pay. It is a fee the state pays per vehicle or per vehicle-mile to local governments or local entities that have assumed the burden of financing road improvements. Individual motorists who use the roadway do not necessarily pay a toll. Instead, the charge for use of the road is "passed through" to the state. Pass-through toll financing can be used to fund both toll and non-toll transportation projects on the state highway system.

Toll roads are necessary as a strategy to relieve congestion, especially given the limited funds currently available for transportation projects in Texas. Currently, TxDOT estimates that the state is able to finance only one-third of its transportation needs. Toll roads provide a viable alternative to the outdated "pay-as-you go" method of financing transportation projects.

**OPPONENTS  
SAY:**

CSHB 2704 would facilitate the further proliferation of toll roads around the state at the expense of motorists who essentially pay a double tax — once at the pump and again at the tollbooth — yet have experienced scant relief from traffic congestion. The line between tolls as a source of financing and tolls as a source of revenue becomes more blurred with each toll-related proposal.

**NOTES:**

The committee substitute differs from the original bill in that it is a Legislative Council draft and that it would require TxDOT's prior approval for any agreements between local governments to finance transportation projects.

A related bill, HB 2705 by Krusee, which would allow counties to pledge the revenue stream from a pass-through toll agreement with TxDOT in order to issue bonds for transportation projects, also is on today's General State Calendar.