

BILL ANALYSIS

Senate Research Center

S.B. 1632
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Transportation
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State Infrastructure Banks (SIB) were authorized in 1995 as part of the National Highway Designation Act to help accelerate needed mobility improvements through a variety of financial assistance options made to local entities through state transportation departments.

The SIB offers borrowers favorable terms to make roadway improvements and projects may be tolled or non-tolled. As a revolving loan fund, the account balance grows through the monthly interest earned and repaid principal and interest payments. SIB financial assistance can be granted to an entity authorized to construct, maintain or finance an eligible transportation project. Projects must be eligible for funding under existing federal highway rules to comply with SIB requirements. For a majority of the eligible projects this usually requires a project to be on a state's highway system and included in the statewide Transportation Improvement Plan.

Eligible work includes planning and preliminary studies; feasibility, economic and environmental studies; right of way acquisition; surveying; appraisal and testing; utility relocation; engineering and design; construction; inspection and construction engineering.

By enhancing the existing SIB and providing loans and credit enhancement to transportation-building entities, Texas will be able to leverage limited funding sources in a manner that most efficiently improves mobility, enhances safety, and generates economic activity.

In addition to direct loans, S.B. 1632 authorizes the Texas Department of Transportation to provide credit enhancement to eligible entities which would decrease their cost of borrowing. Given current market conditions and the number of local transportation entities in the state, it is possible to significantly leverage additional SIB funds by providing necessary financing to make projects across the state more feasible. With the disappearance of bond insurance companies since the 2008 financial crisis, a strong private-sector credit enhancement product currently does not exist for these types of projects.

S.B. 1632 authorizes use of SIB funds to offer project sponsors various forms of credit enhancement. The Texas Transportation Commission will be able to enter into an agreement to cover certain costs under specific circumstances that will increase the rating of the project and consequently reduce the cost of borrowing.

As proposed, S.B. 1632 amends current law relating to the financing of transportation projects, and authorizes fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Committee in SECTION 4 (Section 222.074, Transportation Code), SECTION 10 (Section 222.078, Transportation Code), and SECTION 11 (Section 222.093, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 10 (Section 222.078, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 222.071, Transportation Code, to redefine "bank," "bond," "federal act," "qualified project," and "secondary funds," to define "credit agreement," and to delete the existing definition of "federal-aid highway."

SECTION 2. Amends Section 222.072, Transportation Code, as follows:

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) Provides that the state infrastructure bank is a fund held by the comptroller of public accounts of the State of Texas (comptroller) outside the state treasury or by a financial institution serving as trustee, rather than the state infrastructure bank is an account in the state highway fund.

(b) Authorizes the Texas Transportation Commission (TTC) to deposit in the bank:

(1) federal funds received by the state, including funds received under the federal act;

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

(3) funds appropriated by the legislature for that purpose;

(4) a payment or repayment of principal and interest on a loan made under Section 222.074 (Form of Assistance) or 222.088;

(5) proceeds from the sale of loans under Section 222.078;

(6)-(7) Makes no changes to these subdivisions;

(8) a gift or grant;

(9) feeds paid to the bank; and

(10) investment earnings on the money on deposit in the bank, rather than other state funds deposited into the bank by order of TTC, and other money received by the state that is eligible for deposit in the bank that is authorized to be deposited into the bank and used only for the purposes described in this subchapter.

(c) Requires the Texas Department of Transportation (TxDOT), not later than January 31 of each year, to prepare and file a report with the governor, the lieutenant governor, and the Legislative Budget Board (LBB) that provides information on the operation of the bank, including investments and returns on investments of money in the bank during the previous fiscal year; loans made from the bank during the previous fiscal year; other financial assistance provided from the bank during the previous fiscal year; the status of any defaults on repayment of loans or on repayment of debt service paid from the bank; and the status of any uncompleted qualified project for which a guarantee was provided from the bank during the previous fiscal year.

SECTION 3. Amends Section 222.073, Transportation Code, to require TTC, rather than to require TTC notwithstanding Section 222.001 (Use of State Highway Fund), to use money deposited in the bank for certain endeavors, including to develop or expand transportation in the state.

SECTION 4. Amends Section 222.074, Transportation Code, by amending Subsection (a) and adding Subsections (d), (e), and (f) as follows:

(a) Authorizes TTC, to further a purpose described by Section 222.073, to use money deposited to the credit of the bank to provide financial assistance to a public entity, rather than a public or private entity, including TxDOT, for a qualified project for certain purposes, including to extend credit by direct loan, including by purchasing a bond or other obligation of a public entity; provide liquidity or credit enhancement, including through an agreement to provide a loan to a public entity, purchase a bond, note, or other obligation from a public entity, or provide credit enhancements to a public entity under Subchapter D-1; provide security for bonds and other debt instruments, including the replenishment of debt reserve funds; provide capitalized interest for debt financing by a public entity; provide a guarantee of the payment of operation and maintenance costs of a qualified project by a public entity; pay the cost of issuing a bond or other debt instrument; or for money subject to the federal act, provide methods of leveraging money that have been approved by the United States secretary of transportation and relate to the project for which the assistance is provided.

(d) Authorizes TTC to require a public entity that requests financial assistance from the bank to pay an application fee and other reasonable amounts in connection with the request. Requires TxDOT to deposit revenue collected under this subsection to the credit of the state highway fund to reimburse TxDOT for administrative costs relating to the bank that were originally charged to the state highway fund or in the account in the bank from which the financial assistance is requested.

(e) Requires TxDOT to monitor the use of financial assistance provided to a public entity to ensure that the assistance is used for a purpose authorized by the financial assistance agreement. Authorizes TxDOT to audit a book or record of a public entity for that purpose.

(f) Prohibits financial assistance made available under this subchapter for the delivery of a qualified project by TxDOT from, taking into account any differing forms of the offered assistance, being in a larger amount or on more favorable terms than the financial assistance previously requested and offered for the delivery of that project by a public entity other than TxDOT, if such a request and offer were made. Requires TTC to adopt rules to implement an analysis required to comply with this subsection.

SECTION 5. Amends Section 222.0745, Transportation Code, as follows:

Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) Authorizes a public entity in this state, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to finance or refinance a qualified project, rather than to construct, maintain, or finance a qualified project, or a transportation corporation or local government corporation created under Chapter 431 (Texas Transportation Corporation Act) and acting on behalf of a public entity, to:

(1) borrow money from the bank, including by direct loan or through another form of financial assistance; and

(2) enter into an agreement that relates to receiving financial assistance from the bank, rather than borrow money from the bank, including by direct loan, based on the credit of the public entity.

(b) Requires that money received by a public entity under this subchapter be segregated from other funds under the control of the public entity and is authorized to only be used for purposes authorized by the financial assistance agreement, rather than requiring that money borrowed under this section be segregated from other funds under the control of the public entity and is authorized to only be used for purposes related to a qualified project.

(c) Authorizes a public entity, to provide for the payment or repayment of a loan or another form of financial assistance provided under this subchapter, to pledge revenue or income from any available source; pledge, impose, or collect a tax that

the entity is otherwise authorized to impose; or pledge any combination of revenue, income, or taxes.

(d) Provides that this section is wholly sufficient authority for a public entity to borrow or otherwise obtain a form of financial assistance from the bank as authorized by this subchapter and pledge revenue, income, or taxes or any combination of revenue, income, or taxes for the payment or repayment of a loan or another form of financial assistance from the bank.

(e) Requires the public entity, if under any constitutional limitation a public entity must obtain voter approval to impose a tax to secure the payment or repayment of any financial assistance provided under this subchapter, to call an election for that purpose.

(f) Creates this subsection from existing text and makes no further change.

SECTION 6. Amends Sections 222.075(b), (f), (i), and (j), Transportation Code, as follows:

(b) Authorizes TTC, except as provided by Subsection (c) (relating to certain laws that apply to bonds issued by TTC), to issue certain bonds and enter into a credit agreement related to the bonds.

(f) Authorizes TTC to require an entity to provide for sufficient money to pay or repay financial assistance provided from the bank, including any acquired obligations, rather than authorizing TTC to require participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.

(i) Requires TTC, before TTC issues revenue bonds or enters into a credit agreement under this section, to submit a record of the proceedings of TTC that authorize the issuance, execution, and delivery of the bonds or credit agreement and any contract that provides revenue or security to pay the bonds or credit agreement to the attorney general for review, rather than requiring that all proceedings relating to the issuance of revenue bonds issued under this section be submitted to the attorney general for examination. Requires the attorney general, if the attorney general finds that the proceedings authorizing the bonds or credit agreement and any bonds authorized by the proceedings conform to the requirements prescribed by the Texas Constitution and this subchapter, to approve the proceedings and bonds, and to deliver to the comptroller for registration a copy of the attorney general's legal opinion relating to the approval and a record of the proceedings, rather than requiring the attorney general, on determining that the revenue bonds have been authorized in accordance with law, to approve the revenue bonds, and the revenue bonds are required to be registered by the comptroller. Provides that, after the approval and registration, the bonds, credit agreement, or contract providing revenue or security included in or executed and delivered according to the authorization proceedings are incontestable in any court or other forum for any reason and are valid, binding, and enforceable in accordance with their terms for all purposes, rather than providing that, after the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

(j) Authorizes TTC to use proceeds from the sale of revenue bonds to finance other funds or accounts relating to the bonds or credit agreement, including a debt service reserve fund, and to pay the cost of issuing the bonds. Requires that any remaining proceeds received from the sale of the bonds, rather than requiring that the proceeds received from the sale of revenue bonds, be deposited in the bank and invested and used in the manner provided for other funds deposited under this subchapter.

SECTION 7. Amends Subchapter D, Chapter 222, Transportation Code, by adding Section 222.0755, as follows:

Sec. 222.0755. AUTHORIZATION TO BORROW. (a) Authorizes TxDOT, for the purpose of providing money for the bank, to borrow money under terms and conditions authorized by TTC and to enter into a loan agreement or any other agreement necessary or convenient for a loan under this section.

(b) Provides that a loan under this section is a special obligation of TTC and TxDOT that is authorized to be secured by a pledge of and payable from income and receipts of the bank, or any portion thereof, as TTC may designate. Provides that a loan under this section does not constitute a debt of the state or a pledge of the faith and credit of the state. Authorizes the income and receipts to include payments or repayments of financial assistance provided by the bank, investment or other income derived from money on deposit in the bank, or any combination of the foregoing.

(c) Authorizes the proceeds from a loan under this section, in accordance with the terms of a loan or other agreement, to be deposited in funds or accounts relating to the loan, including funds or accounts for capitalized interest and reserves, and used to pay the costs of entering into the loan or other agreement. Requires that all remaining proceeds received from the loan be deposited in the bank and invested in accordance with the terms of a loan or other agreement and in the manner provided for other funds deposited under this subchapter.

SECTION 8. Amends Section 222.076, Transportation Code, as follows:

Sec. 222.076. New heading: SEPARATE ACCOUNTS. (a) Requires the bank to consist of at least two separate accounts, a highway account and a transit account, rather than a highway subaccount and a transit subaccount. Authorizes TTC to create additional accounts that are capitalized with federal funds or with a combination of federal funds and state funds.

(b) Changes references to subaccounts to accounts. Requires TTC, rather than authorizes TTC in addition to the accounts under Subsection (a), to create one account that is, and is authorized to create more accounts that are capitalized with state funds only. Provides that accounts capitalized with state funds only are not subject to the federal act.

SECTION 9. Amends Section 222.077, Transportation Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires TTC, if a form of financial assistance is required to be paid or repaid, to determine the terms of the payment or repayment, including the interest rate to be charged, and enter into a financial assistance agreement with the public entity receiving the assistance specifying the terms of the payment or repayment, rather than requiring that any funds disbursed through the state infrastructure bank be repaid on terms determined by TTC. Requires that the terms comply with the federal act except for terms applicable to funds deposited in an account, rather than a subaccount, described by Section 222.076(b).

(a-1) Authorizes TTC, for a tolled highway improvement project, to require that revenue from the project be shared between an entity and TxDOT.

(b) Provides that notwithstanding any other law to the contrary:

(1) the payment or repayment or repayment of a loan or other assistance provided with money deposited to the credit of an account, rather than a subaccount, in the bank, including all amounts received as a share of revenue from a tolled highway improvement project, is required to be deposited in that account, rather than subaccount; and

(2) investment income generated by money deposited to the credit of an account, rather than subaccount, in the bank is required to be credited to that account, subject to any requirement imposed by a proceeding that authorizes bonds to be issued to provide money for deposit in the bank that is necessary to protect the tax-exempt status of interest payable on the bonds in accordance with applicable federal law; available for use in providing financial assistance under this subchapter and Subchapter D-1; and invested as authorized by Chapter 2256 (Public Funds Investment), Government Code, but money in the bank subject to the federal act is required to be invested in United States Treasury securities, deposits in financial institutions, or other financing instruments approved by the United States secretary of transportation to earn interest and enhance the financing of projects assisted by the bank, and proceeds from bonds deposited in the bank under Section 222.072 are subject to any limitations contained in a document that authorizes the issuance of the bonds.

SECTION 10. Amends Subchapter D, Chapter 222, Transportation Code, by adding Section 222.078, as follows:

Sec. 222.078. SALE OF LOANS. (a) Defines, in this section, "loan" to mean any financial assistance provided under this subchapter that is required to be repaid, including financial assistance repaid through revenue sharing.

(b) Authorizes TTC to direct TxDOT to sell, in accordance with this section, any loan made from money in the bank. Requires TxDOT by rule to establish a competitive bidding or negotiated sale process for a sale conducted under this section.

(c) Requires TxDOT, for a loan made to a public entity, to provide to the public entity written notice of TxDOT's intent to sell the loan. Requires that the notice be provided not later than the 90th day preceding the date established under rules of TTC on which the process required for the sale under Subsection (b) begins.

(d) Prohibits TxDOT from selling a loan made to a public entity if prepayment of the principal of and accrued interest due on the loan is tendered under Subsection (f) or the public entity prohibits the sale under Subsection (g).

(e) Prohibits TxDOT from selling a loan that was made to a public entity for a tolled highway improvement project before the later of:

(1) the date of the completion of the project's construction;

(2) the date that the loan is completely funded; or

(3) the earlier of the date that the project's forecasted stabilization and ramp-up is achieved based on an investment grade traffic and revenue study or the sixth anniversary of the date the project fully opened for tolled operations.

(f) Requires TxDOT to accept the prepayment of principal of and accrued interest due on a loan in accordance with the financial assistance agreement or, in the absence of prescribed terms in the financial assistance agreement regarding prepayment, on terms that TTC determines to be reasonable.

(g) Authorizes the public entity, if the terms of the financial assistance agreement prohibit a public entity from prepaying its loan at the time of a proposed sale of the loan under this section, to prohibit the sale of the loan, in which event TxDOT and the public entity are required to renegotiate the prepayment terms in the financial assistance agreement to allow for prepayment of the loan at the time of the proposed sale. Provides that the prohibition under this subsection terminates on the date an agreement on the renegotiated prepayment terms is executed.

(h) Authorizes TTC, for any loan made to a public entity to be sold under this section, to submit to the attorney general for review and approval the related financial assistance agreement together with the record of proceedings of the public entity relating to the agreement. Provides that, for the purposes of Chapter 1202 (Examination and Registration of Public Securities), Government Code, the financial assistance agreement is considered to be a public security. Requires the attorney general, if the attorney general finds that the financial assistance agreement has been authorized to be issued in conformity with law, to approve the agreement and deliver to the comptroller a copy of the attorney general's legal opinion stating that approval and the record of proceedings. Provides that, following approval by the attorney general, the financial assistance agreement is incontestable in a court or other forum and is valid, binding, and enforceable according to its terms as provided by Chapter 1202, Government Code.

(i) Authorizes TxDOT, as part of the sales agreement with the purchaser of a loan, to agree to perform the functions required to enforce the conditions and requirements stated in the loan, including enforcing the payment of debt service by the borrowing entity.

(j) Requires TxDOT to deposit the proceeds of the sale of a loan under this section in the bank.

(k) Authorizes TTC and TxDOT to exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

(l) Provides that the state, TxDOT, and TTC are not liable for the repayment of any loan sold under this section and neither is authorized to repay a loan sold under this section.

SECTION 11. Amends Chapter 222, Transportation Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. TRANSPORTATION INFRASTRUCTURE
CREDIT ENHANCEMENT PROGRAM

Sec. 222.081. APPLICABILITY OF OTHER LAW. Provides that, to the extent of any conflict between this subchapter and another law, including a municipal charter, this subchapter controls.

Sec. 222.082. DEFINITIONS. Defines "account," "bond," "credit agreement," "debt service," "paying agent," "public entity," and "public transportation project" in this subchapter.

Sec. 222.083. TRANSPORTATION INFRASTRUCTURE CREDIT ENHANCEMENT ACCOUNT. (a) Requires TTC to create a transportation infrastructure credit enhancement account in the state infrastructure bank.

(b) Requires that the following be deposited in the account:

- (1) money appropriated by the legislature for the capitalization of the account;
- (2) gifts and grants;
- (3) interest earned on balances in the account;
- (4) fees paid to TxDOT by public entities for the guarantee of bonds;

- (5) repayment of debt service paid on guaranteed bonds from the account;
- (6) amounts due to TxDOT under the terms of a credit agreement; and
- (7) application fees imposed by TTC.

Sec. 222.084. USE OF ACCOUNT. (a) Requires TTC to use the account to implement the credit enhancement program authorized by this subchapter.

(b) Authorizes TTC to use money in the account to pay or reimburse TxDOT's costs of administering this subchapter.

Sec. 222.085. CREDIT ENHANCEMENT PROGRAM. Authorizes TTC to establish a program to guarantee the payment of debt service on bonds issued by a public entity to finance or refinance a public transportation project that will develop or expand transportation in the state by addressing mobility in an area containing any of the 50 most congested roadway segments; encouraging public and private investment in public transportation projects, including public transportation projects that contribute to the multimodal and intermodal transportation capabilities of the state; expanding the availability of funding for public transportation projects; or improving the efficiency of the state transportation system.

Sec. 222.086. PUBLIC ENTITY'S AUTHORITY. (a) Authorizes a public entity to apply for a guarantee of its bonds under this subchapter.

(b) Requires a public entity whose application is approved, if required by TTC, to enter into a credit agreement with TxDOT to further secure the public entity's obligation to repay amounts drawn from the account to pay debt service on guaranteed bonds.

(c) Authorizes payments owed by a public entity under a credit agreement, or interest thereon, to be secured by a pledge of:

- (1) revenue or income from any available source;
- (2) any taxes of the public entity, including ad valorem or sales taxes imposed and collected by the public entity or revenue or taxes collected by or assigned to the public entity from a transportation reinvestment zone; or
- (3) any combination of revenue, income, and taxes described in Subdivisions (1) and (2).

(d) Authorizes a public entity, if under any constitutional limitation the public entity is required to obtain voter approval to impose a tax to secure the payment of guaranteed bonds or a credit agreement, to call an election for that purpose.

(e) Authorizes a public entity to exercise the powers provided by this subchapter and perform the acts authorized by this subchapter or under any credit agreement entered into under this subchapter without reference to any other statutory authority or without any restrictions or limitations contained in any other statute, provided that a record of proceedings of the public entity authorizing the issuance, execution, and delivery of a credit agreement entered into under this subchapter is required to be submitted to the attorney general for review and approval in the manner provided by Chapter 1371 (Obligations for Certain Public Improvements), Government Code.

(f) Provides that this section is wholly sufficient authority within itself for a public entity to obtain a guarantee on bonds and to enter into, execute, and deliver a credit agreement and pledge revenue, income, or taxes, or any combination of

revenue, income, and taxes, to secure the payment of guaranteed bonds and credit agreements.

(g) Authorizes a public entity to use a provision of another law that does not conflict with this subchapter in order to carry out any authority granted by this subchapter.

(h) Requires a public entity to comply with all state law related to the design and construction of projects, including the procurement of design and construction services, that apply to the public entity.

Sec. 222.087. APPLICATION; FEES. (a) Requires a public entity, to apply for a guarantee of bonds under this subchapter to submit to TxDOT:

(1) an application using a form established by TxDOT for that purpose; and

(2) any fee required by TTC.

(b) Authorizes TTC to impose an application fee.

(c) Authorizes TTC to impose fees for providing a guarantee under this subchapter.

Sec. 222.088. REPAYMENT. Requires that any money disbursed from the account for payment of debt service on a guaranteed bond be repaid by the public entity that issued the guaranteed bond, together with any additional amounts required by an applicable credit agreement.

Sec. 222.089. TIME AND EFFECT OF CREDIT ENHANCEMENT. (a) Requires that the record of proceedings submitted for the attorney general's review and approval of those bonds, if bonds are approved for guarantee by the account, include the guarantee, as evidenced by an endorsement on the bonds. Requires the attorney general, if the attorney general approves the bonds, to approve the guarantee. Requires that the guarantee, upon approval by the attorney general, be registered by the comptroller.

(b) Provides that, on the approval by the attorney general and registration by the comptroller under Subsection (a), and issuance of the bonds:

(1) the guarantee of the bonds is effective and the bonds are guaranteed by the account;

(2) the guarantee of the bonds is valid and incontestable in a court or other forum;

(3) the obligations of TxDOT are binding for all purposes according to the terms of the guarantee; and

(4) debt service on the bonds is irrevocably guaranteed by the corpus and income of the account.

(c) Provides that a bond guaranteed under this subchapter is not an obligation of the state. Provides that TxDOT's sole obligation is to pay debt service due and unpaid on a bond from the account under the terms of the guarantee. Provides that TxDOT's obligation to pay debt service on a guaranteed bond is limited to the money on deposit in the account.

(d) Provides that, notwithstanding any other law:

(1) any guarantee of bonds approved by TTC remains in effect until the date that all guaranteed bonds mature and are paid, are redeemed and paid, or are legally defeased under Chapter 1207 (Refunding Bonds), Government Code; and

(2) the account is required to continue in existence until each guarantee made from the account is no longer in effect, and all amounts due to the account have been paid.

Sec. 222.090. DEPARTMENT ACTION AFTER RECEIPT OF NOTICE OF INABILITY TO PAY. Requires TxDOT, after receipt of written notice from a public entity or a paying agent of the insufficiency of money available to pay debt service due on a guaranteed bond, to instruct the comptroller or the trustee bank, as applicable, to transfer, from the account to the paying agent, the amount necessary to pay the amount of debt service due on the bond.

Sec. 222.091. COMPTROLLER'S OR TRUSTEE BANK'S DUTIES. (a) Requires the comptroller or the trustee bank, on instruction from TxDOT, as applicable, to pay the debt service due on a guaranteed bond.

(b) Requires the comptroller or the trustee bank, as applicable, to hold all documentation relating to the payment made from the account on behalf of the account and TxDOT.

(c) Requires TxDOT, after repayment to the account on the terms prescribed by TxDOT, to instruct the comptroller or the trustee bank, as applicable, to submit documentation to the public entity or the paying agent needed to evidence the repayment.

Sec. 222.092. AUTHORITY TO COMPLETE, OPERATE, OR MAINTAIN PROJECT. (a) Authorizes TTC, to protect its right to receive repayment for payments made from the account under a guarantee and any related enforcement expenses, to authorize TxDOT to undertake completion of a public transportation project if the public entity has failed to comply with a deadline imposed under the terms of a credit agreement or the bond financing documents.

(b) Authorizes TTC to authorize TxDOT to undertake the proper operation and maintenance of a public transportation project on the failure of the public entity to operate or maintain the public transportation project in compliance with requirements in a credit agreement or the bond financing documents.

(c) Requires a public entity to reimburse TxDOT from any available source of funds, including bond proceeds, for completion, operation, and maintenance costs incurred by TxDOT under this section.

Sec. 222.093. RULES. Requires TTC by rule to implement this subchapter and establish eligibility criteria and application requirements for a public entity applying for a guarantee from the account.

SECTION 12. Effective date: upon passage or September 1, 2013.