

Amend CSSB 1420 (house committee report) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 222.071, Transportation Code, is amended by adding Subdivisions (1-a), (2-a), and (7) and amending Subdivision (5) to read as follows:

(1-a) "Bond" includes a bond, note, or other public security.

(2-a) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(5) "Qualified project" includes:

(A) the construction of a federal-aid highway;

(B) a transit project under 49 U.S.C. Sections 5307, 5309, and 5311; ~~[or]~~

(C) for the expenditure of secondary funds from a subaccount subject to the federal act, a project eligible for assistance under Title 23 or Title 49, United States Code; or

(D) a transportation project.

(7) "Transportation project" means a tolled or nontolled highway improvement project.

SECTION _____. Section 222.072, Transportation Code, is amended to read as follows:

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state infrastructure bank is an account held by the Texas Treasury Safekeeping Trust Company ~~[in the state highway fund]~~. The bank is administered by the commission.

(b) The commission may deposit in the bank money derived from any source available to the commission, including:

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

(2) [7] matching state funds in an amount required by the federal [that] act;

(3) if appropriated by the legislature for that purpose:

(A) proceeds from bonds issued under Section 222.003;

(B) proceeds from bonds issued under Section

222.004; and

(C) other direct appropriations;

(4) proceeds from bonds issued under Section 201.943 and money provided by the commission from the Texas Mobility Fund that is in excess of the amount required to be on deposit in the Texas Mobility Fund under the proceedings that authorize Texas Mobility Fund bonds and credit agreements;

(5) a repayment of principal and interest on a loan made under Section 222.074;

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

(7) [7] proceeds from bonds issued under Section 222.075;

(8) [7] secondary funds; and

(9) a gift or grant [7, other state funds deposited into the bank by order of the commission, and other money received by the state that is eligible for deposit in the bank may be deposited into the bank and used only for the purposes described in this subchapter].

(c) The commission shall prepare and file biennially a report with the governor, the lieutenant governor, and the Legislative Budget Board that provides information on the operation of the bank, including:

(1) the amounts and sources of money deposited in the bank during the most recent biennium;

(2) investments and returns on investments of money in the bank during the most recent biennium;

(3) loans made from the bank during the most recent biennium;

(4) other financial assistance provided from the bank during the most recent biennium;

(5) the status of any defaults on repayment of loans or other financial assistance provided from the bank; and

(6) the details of any qualified project for which financial assistance is received from the bank during the most recent biennium, including the identity of a highway that is directly affected by the project and the degree to which the project

is designed to reduce congestion, improve traffic safety, and enhance connectivity.

SECTION _____. Section 222.074, Transportation Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) To further a purpose described by Section 222.073, the commission may use money deposited to the credit of the bank to provide financial assistance to a public or private entity, including the department, for a qualified project to:

(1) extend credit by direct loan, including by purchasing an obligation of a public entity;

(2) provide liquidity or credit enhancement, including through an agreement to:

(A) provide a loan to a public or private entity;
or

(B) purchase a bond, note, or other obligation from a public entity [enhancements];

(3) serve as a capital reserve for bond or debt instrument financing;

(4) subsidize interest rates;

(5) insure the issuance of a letter of credit or credit instrument;

(6) finance a purchase or lease agreement in connection with a transit project;

(7) provide security for bonds and other debt instruments; ~~or~~

(8) provide capitalized interest for debt financing by a public or private entity;

(9) provide a guarantee of the payment of operation and maintenance costs of a qualified project by a public entity;

(10) pay the cost of issuing a bond or other debt instrument; or

(11) 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) The proceeds from bonds issued under Section 222.003 or 222.004 may only be used to provide financial assistance for a

highway improvement project, subject to any limitations prescribed by law.

(e) Money from the Texas Mobility Fund may only be used to provide financial assistance for a state highway improvement project, publicly owned toll road, or public transportation project, that is located on or off of the state highway system, subject to any limitations prescribed by law.

(f) The commission may require a public or private entity that requests financial assistance from the bank to pay an application fee and other reasonable amounts in connection with the request. The commission shall deposit revenue collected under this subsection to the credit of the state highway fund.

(g) The department shall monitor the use of financial assistance provided to a public or private entity to ensure that the assistance is used for a purpose authorized by law. The department may audit a book or record of a public or private entity for that purpose.

SECTION _____. Section 222.0745, Transportation Code, is amended to read as follows:

Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A public entity in this state, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a qualified project may:

(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 [~~, based on the credit of the public entity~~].

(b) Money received by a public entity under this subchapter [~~borrowed under this section~~] must be segregated from other funds under the control of the public entity and may only be used for purposes authorized by this subchapter [~~related to a qualified project~~].

(c) To provide for the repayment of a loan or another form of financial assistance from the bank, a public entity may:

(1) pledge revenue or income from any available

source;

(2) pledge, impose, or collect a tax that the entity is otherwise authorized to impose; or

(3) pledge any combination of revenue, income, or taxes.

(d) This section is wholly sufficient authority for a public entity to:

(1) borrow or otherwise obtain a form of financial assistance from the bank as authorized by this subchapter; and

(2) pledge revenue, income, or taxes or any combination of revenue, income, or taxes for the repayment of a loan or another form of financial assistance from the bank.

(e) The authority granted by this section does not affect the ability of a public entity to incur debt using other statutorily authorized methods.

SECTION _____. Sections 222.075(b), (f), (i), and (j), Transportation Code, are amended to read as follows:

(b) Except as provided by Subsection (c), the commission may:

(1) issue revenue bonds or revenue refunding bonds under this section without complying with any other law applicable to the issuance of bonds; and

(2) enter into a credit agreement related to the bonds.

(f) The commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to repay financial assistance provided from the bank, including any [pay] acquired obligations.

(i) Before the commission issues revenue bonds or enters into a credit agreement under this section, the commission shall submit a record of the [All] proceedings of the commission that authorize [relating to] the issuance, execution, and delivery of the [revenue] bonds or credit agreement and any contract that provides revenue or security to pay the bonds or credit agreement [issued under this section shall be submitted] to the attorney general for review [examination]. 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 [~~On determining that the revenue bonds have been authorized in accordance with law~~], the attorney general shall approve the proceedings and [~~revenue~~] bonds, and shall deliver to [~~the revenue bonds shall be registered by~~] the comptroller for registration a copy of the attorney general's legal opinion relating to the approval and a record of the proceedings. After approval by the attorney general, the bonds or credit agreement may be executed and delivered, exchanged, or refinanced in accordance with the authorization proceedings. After the approval and registration, the [~~revenue~~] 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, [~~and~~] binding, and enforceable [~~obligations~~] in accordance with their terms for all purposes.

(j) The commission may 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. Any remaining [~~The~~] proceeds received from the sale of the [~~revenue~~] bonds shall be deposited in the bank and invested and used in the manner provided for other funds deposited under this subchapter.

SECTION _____. Section 222.076, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may create, within a subaccount, one or more additional subaccounts.

SECTION _____. Section 222.077, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If a form of financial assistance [~~Any funds disbursed through the state infrastructure bank~~] must be repaid, [~~on terms determined by~~] the commission shall determine the terms of the repayment, including the interest rate to be charged. The terms must comply with the federal act except for terms applicable to funds deposited in a subaccount described by Section 222.076(b).

(a-1) For a tolled highway improvement project, the commission may require that revenue from the project be shared between an entity and the department. The entity and the department may enter into an agreement specifying the terms of the revenue sharing.

(b) Notwithstanding any other law to the contrary:

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

(2) investment income generated by money deposited to the credit of a subaccount in the bank shall be:

(A) credited to that subaccount, 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;

(B) available for use in providing financial assistance under this subchapter; and

(C) invested in United States Treasury securities, bank deposits, 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, except that 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 _____. Subchapter D, Chapter 222, Transportation Code, is amended by adding Sections 222.078 and 222.079 to read as follows:

Sec. 222.078. SALE OF LOAN. (a) In this section, "loan" includes any financial assistance that must be repaid and any portion of that assistance.

(b) The commission may sell a loan made from money in the bank. The commission shall deposit the proceeds from the sale in the bank.

(c) The commission may submit to the attorney general for

review and approval a financial assistance agreement related to a loan to be sold under this section, including a record of proceedings of the borrowing entity that relates to the agreement. The agreement shall be considered a public security for purposes of Chapter 1202, Government Code.

(d) If the attorney general approves an agreement under Subsection (c), the agreement is:

(1) incontestable in a court or other forum; and

(2) valid, binding, and enforceable according to the agreement's terms, as provided by Chapter 1202, Government Code.

(e) The commission shall sell a loan under this section using a competitive bidding process and at a price and under terms that the commission determines to be reasonable.

(f) As part of a sales agreement with a purchaser of a loan, the commission may agree to perform a function required to enforce a condition or requirement stated in the loan, including enforcing the payment of debt service by the borrowing entity.

(g) The commission may 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.

(h) The state and the commission are not liable for the repayment of and may not repay a loan sold under this section.

Sec. 222.079. SOVEREIGN IMMUNITY. A public entity that receives financial assistance under this subchapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of a financial assistance agreement.