

AN ACT

relating to funding and donations for transportation projects, including projects of county energy transportation reinvestment zones.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 256, Transportation Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND

Sec. 256.101. DEFINITIONS. In this subchapter:

(1) "Fund" means the transportation infrastructure fund established under this subchapter.

(2) "Transportation infrastructure project" means the planning for, construction of, reconstruction of, or maintenance of transportation infrastructure, including roads, bridges, and culverts, intended to alleviate degradation caused by the exploration, development, or production of oil or gas. The term includes the lease or rental of equipment used for road maintenance.

(3) "Weight tolerance permit" means a permit issued under Chapter 623 authorizing a vehicle to exceed maximum legal weight limitations.

(4) "Well completion" means the completion, reentry, or recompletion of an oil or gas well.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND.

1 (a) The transportation infrastructure fund is a dedicated fund in  
2 the state treasury outside the general revenue fund. The fund  
3 consists of:

4 (1) any federal funds received by the state deposited  
5 to the credit of the fund;

6 (2) matching state funds in an amount required by  
7 federal law;

8 (3) funds appropriated by the legislature to the  
9 credit of the fund;

10 (4) a gift or grant;

11 (5) any fees paid into the fund; and

12 (6) investment earnings on the money on deposit in the  
13 fund.

14 (b) Money in the fund may be appropriated only to the  
15 department for the purposes of this subchapter.

16 (c) Sections 403.095 and 404.071, Government Code, do not  
17 apply to the fund.

18 Sec. 256.103. GRANT PROGRAM. (a) The department shall  
19 develop policies and procedures to administer a grant program under  
20 this subchapter to make grants to counties for transportation  
21 infrastructure projects located in areas of the state affected by  
22 increased oil and gas production. The department may adopt rules to  
23 implement this subchapter.

24 (b) Grants distributed during a fiscal year must be  
25 allocated among counties as follows:

26 (1) 20 percent according to weight tolerance permits,  
27 determined by the ratio of weight tolerance permits issued in the

1 preceding fiscal year for the county that designated a county  
2 energy transportation reinvestment zone to the total number of  
3 weight tolerance permits issued in the state in that fiscal year, as  
4 determined by the Texas Department of Motor Vehicles;

5 (2) 20 percent according to oil and gas production  
6 taxes, determined by the ratio of oil and gas production taxes  
7 collected by the comptroller in the preceding fiscal year in the  
8 county that designated a county energy transportation reinvestment  
9 zone to the total amount of oil and gas production taxes collected  
10 in the state in that fiscal year, as determined by the comptroller;

11 (3) 50 percent according to well completions,  
12 determined by the ratio of well completions in the preceding fiscal  
13 year in the county that designated a county energy transportation  
14 reinvestment zone to the total number of well completions in the  
15 state in that fiscal year, as determined by the Railroad Commission  
16 of Texas; and

17 (4) 10 percent according to the volume of oil and gas  
18 waste injected, determined by the ratio of the volume of oil and gas  
19 waste injected in the preceding fiscal year in the county that  
20 designated a county energy transportation reinvestment zone to the  
21 total volume of oil and gas waste injected in the state in that  
22 fiscal year, as determined by the Railroad Commission of Texas.

23 Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying  
24 for a grant under this subchapter, the county shall:

25 (1) provide the road condition report described by  
26 Section 251.018 made by the county for the previous year; and

27 (2) submit to the department:

1           (A) a copy of the order or resolution  
2 establishing a county energy transportation reinvestment zone in  
3 the county, except that the department may waive the submission  
4 until the time the grant is awarded; and

5           (B) a plan that:

6                   (i) provides a list of transportation  
7 infrastructure projects to be funded by the grant;

8                   (ii) describes the scope of the  
9 transportation infrastructure project or projects to be funded by  
10 the grant using best practices for prioritizing the projects;

11                   (iii) provides for matching funds as  
12 required by Section 256.105; and

13                   (iv) meets any other requirements imposed  
14 by the department.

15           (b) In reviewing grant applications under this subchapter,  
16 the department shall:

17                   (1) seek other potential sources of funding to  
18 maximize resources available for the transportation infrastructure  
19 projects to be funded by grants under this subchapter; and

20                   (2) consult related transportation planning documents  
21 to improve project efficiency and work effectively in partnership  
22 with counties.

23           (c) Except as otherwise provided by this subsection, the  
24 department shall review a grant application before the 31st day  
25 after the date the department receives the application. The  
26 department may act on an application not later than the 60th day  
27 after the date the department receives the application if the

1 department provides notice of the extension to the county that  
2 submitted the application.

3 Sec. 256.105. MATCHING FUNDS. (a) Except as provided by  
4 Subsection (b), to be eligible to receive a grant under the program,  
5 matching funds must be provided, from any source, in an amount equal  
6 to at least 20 percent of the amount of the grant.

7 (b) A county that the department determines to be  
8 economically disadvantaged must provide matching funds in an amount  
9 equal to at least 10 percent of the amount of the grant.

10 Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that  
11 makes a second or subsequent application for a grant from the  
12 department under this subchapter must:

13 (1) provide the department with a copy of a report  
14 filed under Section 251.018;

15 (2) certify that all previous grants are being spent  
16 in accordance with the plan submitted under Section 256.104; and

17 (3) provide an accounting of how previous grants were  
18 spent, including any amounts spent on administrative costs.

19 (b) The department may use one-half of one percent of the  
20 amount deposited into the fund in the preceding fiscal year, not to  
21 exceed \$500,000 in a state fiscal biennium, to administer this  
22 subchapter.

23 SECTION 2. Subchapter E, Chapter 222, Transportation Code,  
24 is amended by adding Sections 222.1071 and 222.1072 to read as  
25 follows:

26 Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT  
27 ZONES. (a) A county shall determine the amount of the tax

1 increment for a county energy transportation reinvestment zone in  
2 the same manner the county would determine the tax increment as  
3 provided in Section 222.107(a) for a county transportation  
4 reinvestment zone.

5 (b) A county, after determining that an area is affected  
6 because of oil and gas exploration and production activities and  
7 would benefit from funding under Chapter 256, by order or  
8 resolution of the commissioners court:

9 (1) may designate a contiguous geographic area in the  
10 jurisdiction of the county to be a county energy transportation  
11 reinvestment zone to promote one or more transportation  
12 infrastructure projects, as that term is defined by Section  
13 256.101, located in the zone; and

14 (2) may jointly administer a county energy  
15 transportation reinvestment zone with a contiguous county energy  
16 transportation reinvestment zone formed by another county.

17 (c) A commissioners court must:

18 (1) dedicate or pledge all of the captured appraised  
19 value of real property located in the county energy transportation  
20 reinvestment zone to transportation infrastructure projects; and

21 (2) comply with all applicable laws in the application  
22 of this chapter.

23 (d) Not later than the 30th day before the date a  
24 commissioners court proposes to designate an area as a county  
25 energy transportation reinvestment zone under this section, the  
26 commissioners court must hold a public hearing on the creation of  
27 the zone and its benefits to the county and to property in the

1 proposed zone. At the hearing an interested person may speak for or  
2 against the designation of the zone, its boundaries, the joint  
3 administration of a zone in another county, or the use of tax  
4 increment paid into the tax increment account.

5 (e) Not later than the seventh day before the date of the  
6 hearing, notice of the hearing and the intent to create a zone must  
7 be published in a newspaper having general circulation in the  
8 county.

9 (f) The order or resolution designating an area as a county  
10 energy transportation reinvestment zone must:

11 (1) describe the boundaries of the zone with  
12 sufficient definiteness to identify with ordinary and reasonable  
13 certainty the territory included in the zone;

14 (2) provide that the zone takes effect immediately on  
15 adoption of the order or resolution designating an area and that the  
16 base year shall be the year of passage of the order or resolution  
17 designating an area or some year in the future;

18 (3) establish an ad valorem tax increment account for  
19 the zone or provide for the establishment of a joint ad valorem tax  
20 increment account, if applicable; and

21 (4) if two or more counties are designating a zone for  
22 the same transportation infrastructure project or projects,  
23 include a finding that:

24 (A) the project or projects will benefit the  
25 property and residents located in the zone;

26 (B) the creation of the zone will serve a public  
27 purpose of the county; and

1           (C) details the transportation infrastructure  
2 projects for which each county is responsible.

3           (g) Compliance with the requirements of this section  
4 constitutes designation of an area as a county energy  
5 transportation reinvestment zone without further hearings or other  
6 procedural requirements.

7           (h) The county may, from taxes collected on property in a  
8 zone, pay into a tax increment account for the zone or zones an  
9 amount equal to the tax increment produced by the county less any  
10 amounts allocated under previous agreements, including agreements  
11 under Section 381.004, Local Government Code, or Chapter 312, Tax  
12 Code.

13           (i) The county may:

14                   (1) use money in the tax increment account to provide:

15                           (A) matching funds under Section 256.105; and

16                           (B) funding for one or more transportation  
17 infrastructure projects located in the zone;

18                   (2) apply for grants under Subchapter C, Chapter 256,  
19 subject to Section 222.1072;

20                   (3) use five percent of any grant distributed to the  
21 county under Subchapter C, Chapter 256, for the administration of a  
22 county energy transportation reinvestment zone, not to exceed  
23 \$250,000;

24                   (4) enter into an agreement to provide for the joint  
25 administration of county energy transportation reinvestment zones  
26 if the commissioners court of the county has designated a county  
27 energy transportation reinvestment zone under this section for the

1 same transportation infrastructure project or projects as another  
2 county commissioners court; and

3 (5) pledge money in the tax increment account to a road  
4 utility district formed as provided by Subsection (n).

5 (j) Tax increment paid into a tax increment account may not  
6 be pledged as security for bonded indebtedness.

7 (k) A county energy transportation reinvestment zone  
8 terminates on December 31 of the 10th year after the year the zone  
9 was designated unless extended by an act of the county  
10 commissioners court that designated the zone. The extension may  
11 not exceed five years. On termination of the zone, any money  
12 remaining in the tax increment account must be transferred to the  
13 road and bridge fund described by Chapter 256 for the county that  
14 deposited the money into the tax increment account.

15 (l) The captured appraised value of real property located in  
16 a county energy transportation reinvestment zone shall be treated  
17 as provided by Section 26.03, Tax Code.

18 (m) The commissioners court of a county may enter into an  
19 agreement with the department to designate a county energy  
20 transportation reinvestment zone under this section for a specified  
21 transportation infrastructure project involving a state highway  
22 located in the proposed zone.

23 (n) In the alternative, to assist the county in developing a  
24 transportation infrastructure project, if authorized by the  
25 commission under Chapter 441, a road utility district may be formed  
26 under that chapter that has the same boundaries as a county energy  
27 transportation reinvestment zone created under this section. The

1 road utility district may issue bonds to pay all or part of the cost  
2 of a transportation infrastructure project and may pledge and  
3 assign all or a specified amount of money in the tax increment  
4 account to secure those bonds if the county:

- 5 (1) collects a tax increment; and  
6 (2) pledges all or a specified amount of the tax  
7 increment to the road utility district.

8 (o) A road utility district formed as provided by Subsection  
9 (n) may enter into an agreement to fund development of a  
10 transportation infrastructure project or to repay funds owed to the  
11 department. Any amount paid for this purpose is considered to be  
12 an operating expense of the district. Any taxes collected by the  
13 district that are not paid for this purpose may be used for any  
14 district purpose.

15 Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY  
16 TRANSPORTATION REINVESTMENT ZONE. (a) A county is eligible to  
17 apply for a grant under Subchapter C, Chapter 256, if the county  
18 creates an advisory board to advise the county on the  
19 establishment, administration, and expenditures of a county energy  
20 transportation reinvestment zone. The county commissioners court  
21 shall determine the terms and duties of the advisory board members.

22 (b) Except as provided by Subsection (c), the advisory board  
23 of a county energy transportation reinvestment zone consists of the  
24 following members appointed by the county judge and approved by the  
25 county commissioners court:

- 26 (1) up to three oil and gas company representatives  
27 who perform company activities in the county and are local

1 taxpayers; and

2 (2) two public members.

3 (c) County energy transportation reinvestment zones that  
4 are jointly administered are advised by a single joint advisory  
5 board for the zones. A joint advisory board under this subsection  
6 consists of members appointed under Subsection (b) for each zone to  
7 be jointly administered.

8 (d) An advisory board member may not receive compensation  
9 for service on the board or reimbursement for expenses incurred in  
10 performing services as a member.

11 SECTION 3. Section 222.110, Transportation Code, is amended  
12 by amending Subsections (a) and (h) and adding Subsection (i) to  
13 read as follows:

14 (a) In this section:

15 (1) "Sales[~~, "sales~~] tax base" for a transportation  
16 reinvestment zone means the amount of sales and use taxes imposed by  
17 a municipality under Section 321.101(a), Tax Code, or by a county  
18 under Chapter 323, Tax Code, as applicable, attributable to the  
19 zone for the year in which the zone was designated under this  
20 chapter.

21 (2) "Transportation reinvestment zone" includes a  
22 county energy transportation reinvestment zone.

23 (h) The hearing required under Subsection (g) may be held in  
24 conjunction with a hearing held under Section 222.106(e), ~~[or]~~  
25 222.107(e), or 222.1071(d) if the ordinance or order designating an  
26 area as a transportation reinvestment zone under Section 222.106,  
27 ~~[or]~~ 222.107, or 222.1071 also designates a sales tax increment

1 under Subsection (b).

2 (i) Notwithstanding Subsection (e), the sales and use taxes  
3 to be deposited into the tax increment account established by a  
4 county energy transportation reinvestment zone or zones under this  
5 section may be disbursed from the account only to provide:

6 (1) matching funds under Section 256.105; and

7 (2) funding for one or more transportation  
8 infrastructure projects located in a zone.

9 SECTION 4. Subchapter A, Chapter 251, Transportation Code,  
10 is amended by adding Sections 251.018 and 251.019 to read as  
11 follows:

12 Sec. 251.018. ROAD REPORTS. A road condition report made by  
13 a county that is operating under a system of administering county  
14 roads under Chapter 252 or a special law, including a report made  
15 under Section 251.005, must include the primary cause of any road,  
16 culvert, or bridge degradation if reasonably ascertained.

17 Sec. 251.019. DONATIONS. (a) A commissioners court may  
18 accept donations of labor, money, or other property to aid in the  
19 building or maintaining of roads, culverts, or bridges in the  
20 county.

21 (b) A county operating under the county road department  
22 system on September 1, 2013, may use the authority granted under  
23 this section without holding a new election under Section 252.301.

24 (c) A county that accepts donations under this section must  
25 execute a release of liability in favor of the entity donating the  
26 labor, money, or other property.

27 SECTION 5. Subsection (a), Section 256.009, Transportation

1 Code, is amended to read as follows:

2 (a) Not later than January 30 of each year, the county  
3 auditor or, if the county does not have a county auditor, the  
4 official having the duties of the county auditor shall file a report  
5 with the comptroller that includes:

6 (1) an account of how:

7 (A) the money allocated to a county under Section  
8 256.002 during the preceding year was spent; and

9 (B) if the county designated a county energy  
10 transportation reinvestment zone, money paid into a tax increment  
11 account for the zone or from an award under Subchapter C was spent;

12 (2) a description, including location, of any new  
13 roads constructed in whole or in part with the money:

14 (A) allocated to a county under Section 256.002  
15 during the preceding year; and

16 (B) paid into a tax increment account for the  
17 zone or from an award under Subchapter C if the county designated a  
18 county energy transportation reinvestment zone;

19 (3) any other information related to the  
20 administration of Sections 256.002 and 256.003 that the comptroller  
21 requires; and

22 (4) the total amount of expenditures for county road  
23 and bridge construction, maintenance, rehabilitation, right-of-way  
24 acquisition, and utility construction and other appropriate road  
25 expenditures of county funds in the preceding county fiscal year  
26 that are required by the constitution or other law to be spent on  
27 public roads or highways.

1           SECTION 6. The Texas Department of Transportation shall  
2 adopt rules implementing Subchapter C, Chapter 256, Transportation  
3 Code, as added by this Act, as soon as practicable after the  
4 effective date of this Act.

5           SECTION 7. The amendment adding Sections 222.1071 and  
6 222.1072 to Subchapter E, Chapter 222, Transportation Code, made by  
7 this Act prevails over the amendment adding those sections to  
8 Subchapter E, Chapter 222, Transportation Code, made by Section 1,  
9 House Bill No. 2300, 83rd Legislature, Regular Session, 2013, and  
10 the amendment made by Section 1, House Bill No. 2300, 83rd  
11 Legislature, Regular Session, 2013, has no effect.

12           SECTION 8. This Act takes effect September 1, 2013.