

AGENDA ITEM 33

Discuss and consider a resolution regarding proposed legislation to eliminate the Texas Turnpike Authority Board and establish a Texas Mobility Fund with profits from toll roads.

Mike Weaver of Prime Strategies discussed the proposed legislation.

No action was taken on this agenda item.

< Attachment >

**BASIC OVERVIEW OF THE
TEXAS MOBILITY FUND PACKAGE**

- **CSSJR 16** - combines SJR 12 by Alexander (toll equity) and SJR 16 by Shapiro/Brimer/Lewis (mobility fund).
- **CSSB 4 by Shapiro/Brimer/Lewis** - the committee substitute adds a section to the bill making the passage contingent on the passage of SB 342 and SJR 16.
- **CSSB 342 by Shapiro/Alexander** - the committee substitute (1) abolishes the Texas Turnpike Authority and transfers all authority to the Texas Transportation Commission, and (2) gives the Commission the authority, upon the request of a TxDOT district office to create a regional tollway authority for turnpike projects located in that district if a tollway authority does not exist in that area.

Senate Joint Resolution 16

The purpose of SJR 16 is to combine the different funding mechanisms that have been presented and heard in public testimony by the House Transportation Committee.

The first part of the substitute creates the Texas Mobility Fund in the state treasury. It will be administered by the Texas Transportation Commission.

The money in the fund will be used by the state to construct toll roads and other projects.

The Commission may issue and sell obligations of the state. The proceeds in the Mobility Fund will be used to pay off the bonds.

The legislature may dedicate funds as it feels appropriate to the Mobility Fund. Other funds in addition to toll road proceeds and bond proceeds could go directly into the fund.

The fund will not include other constitutionally dedicated funds including taxes on motor fuels or registration fees.

The legislature may substitute funds to the Mobility Fund to insure that the flow of monies needed to retire bonds is not interrupted.

The bonds will take advantage of low interest rates because of the stability of the fund.

Proceedings authorizing obligation and related credit agreements will be executed under the authority of the Attorney General for accuracy.

Summary: This constitutional amendment gives the Commission the authority to build and leverage toll projects. The current board and commission that is found within the department structure will be abolished so that we will no longer have the duplication of effort. We will no longer be faced with the controversy of loaning funds within the same agency.

The toll equity projects in the metropolitan areas will provide new money, which will allow TxDOT to build additional projects throughout the state.

This will streamline the effort and will provide badly needed authority to TxDOT to use toll equity, toll roads, and other mechanisms to move projects forward.

SENATE BILL 342

This legislation combines several key proposals. It allows the Texas Department of Transportation to streamline its process in building highways. The Texas Transportation Commission will have the authority to build toll roads with bonds and provide for the combining of motor fuel taxes with toll money to leverage those projects.

The program will relieve congestion throughout the State of Texas by freeing up additional money. The regional toll authorities are protected and the Commission will have the authority to work with them in their new expanded program.

This step is similar to what we did with the Aviation Commission in 1991, which has proven to be extremely cost-effective.

The Commission may loan money to a regional tollway to help leverage their projects, and those funds will be repaid.

For the supporters of alternate contracting methods, the bill allows for four exclusive development type contracts during the next three years to determine whether that contracting system is appropriate for Texas.

The legislation limits the amount of money that can be used to leverage toll projects to 30% of the construction dollars. That will insure that there will always be free roads built in our state.

Summary: This bill streamlines state government by abolishing the toll road authority and giving those powers to the Commission. The new Mobility Fund is provided as a mechanism through which toll funds and bond proceeds will flow. This will allow the department the opportunity to leverage these funds and build additional highways.

BRIEFING POINTS
MOBILITY FUND/TOLL EQUITY/TTA LEGISLATION
SJR 16/SB 4/SB 342

General Policy/Legal Issues

- * Creates a "Robin Hood Road Funding" plan, by diverting excess revenues from regional toll systems (excluding NTTA and HCTRA) to the Texas Mobility Fund (TMF) for development of free roads throughout the state.
 - * establishes a "open lien" on the revenues of a regional toll system
 - * results in regional inequity, particularly since the regional toll authorities in Dallas and Houston areas are not required to contribute.
 - * will be a disincentive for regions to pursue toll road development since user fees will be sent to other areas
 - * may be subject to constitutional "equal protection" attacks (e.g., creates a disproportionate tax burden on local areas which are funding infrastructure development in other areas of the state)
 - * Will undermine toll revenue bond financing because the investment community and bond rating agencies will have a negative view of the open lien requirement.
 - * perceived risk will be higher because TxDOT will have an incentive to minimize funding of repair, maintenance and expansion of a toll system in order to provide "excess revenues" for the TMF
 - * will likely preclude an investment grade rating on debt obligations, which will drive interest rate higher and preclude access to TIFIA financing (23 U.S.C. 183(a)(4) requires investment grade rated debt)
 - * confidence in the Texas Legislature and TxDOT as responsible borrowers and toll system operators will be diminished after eliminating TTA board and establishing an open lien which is detrimental to toll system operations
 - * may hurt future NTTA and HCTRA financings since the Texas Legislature has now demonstrated a willingness to use toll system revenues for non-toll purposes (e.g., either of those entities could be the subject of future legislative action)
 - * The "excess revenues" to be used to fund the TMF is not well-defined.
 - * added definition will be reflected in policy and rules adopted by TxDOT, which could be a result oriented action and subject to manipulation by TxDOT
 - * if rules are adopted narrowly defining excess revenues (so that most money stays in the system), use of this as a funding mechanism for the TMF is a sham
 - * if rules are adopted broadly defining excess revenues, system operations and expansion will be undermined (see discussion above).
 - * Elimination of the TTA Board of Directors and the limitation on the number of EDA projects are bad policy.
 - * these actions are directly contrary to recommendations in the Comptrollers Performance Review of TxDOT.
 - * the perception that the AGC controls TxDOT will be validated
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- * Proliferation of regional toll authorities is inefficient and will discourage toll road development
 - * redundant hiring of outside consultants for financial advice, bond counsel, engineering, project management, etc.
 - * increased costs for these functions are inevitable
 - * local officials may not have the expertise needed to supervise and make decisions concerning toll road development

Effect on CTTT

- * The CTTT will be delayed and possibly not built.
 - * The TIFIA loan will be jeopardized because an investment grade rating is unlikely on CTTT revenue bonds (for the reasons discussed above), and that rating is a legal prerequisite for securing TIFIA funds
 - * The elimination of the TTA board may be viewed as a material change to the TIFIA application, as well as the "new" legal requirement for the use of excess revenues
 - * local officials will be unwilling to contribute ROW, utility relocations, and other support knowing that excess revenues will be diverted to the TMF
 - * The TTA Board (and Chairman Winstead in particular) have been instrumental in brokering deals on ROW commitments and other local issues- nobody left to serve that function

Questionable Legislative Strategy

- * The establishment of the TMF is contingent on the passage of SJR 16 by the voters, but the elimination of the TTA board is not. If the initiative is defeated in November, the TTA board will have been eliminated for no reason and the Governor will have given up 6 appointments with nothing gained in exchange.
 - * The elimination of the TTA board and limitations on the use of public/private partnerships (e.g., EDA are contrary to the Comptroller's recommendations and could be portrayed as squelching innovation in state government.
 - * Given the lack of any operating toll projects with which to fund the TMF (and none scheduled for operation in the near future) the TMF may be portrayed as a sham effort by the governor to demonstrate progress on transportation funding.
 - * The governor may be blamed for killing the CTTT, including SH 130.
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AGENDA ITEM 34

Discuss and take any appropriate action concerning guaranteed salary at the Sheriff's Department.

The following persons addressed the court concerning guaranteed salary positions at the Sheriff's Department:

John Chandler
Gretchen Mickler
Sgt. Steve Allison
Sheriff John Maspero
John Willingham
David Flores

Moved: **Commissioner Limmer**

Seconded: **Commissioner Boatright**

Motion: To approve the change to hourly salary from guaranteed salary for Sheriff's Department employees with the stipulation that the court reviews the dollar amounts resulting from the change in the new budget year.

Moved: **Commissioner Limmer**

Seconded: **Commissioner Boatright**

Amended Motion: To approve the change to hourly salary from guaranteed salary for Sheriff's Department employees with the stipulation that the court reviews the dollar amounts resulting from the change in the new budget year, **and with a cap of \$100,000.00 allocated for overtime pay.**

Commissioner Limmer withdrew his motion. Commissioner Boatright withdrew his second.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Boatright**

Motion: For the Commissioners' Court to accept a budget from the Sheriff that includes hourly wages.

Commissioner Heiligenstein withdrew his motion.

Moved: **Commissioner Limmer**

Seconded: **Commissioner Hays**

Motion: To do away with the guaranteed salary for the Sheriff's Department for the next budget year, but to reserve the right to review the figures that it will take to fund the overtime and the officers at the time of the budget.

Commissioner Limmer amended his motion to read as follows:

Moved: **Commissioner Limmer**

Seconded: **Commissioner Hays**

Amended Motion: To do away with the guaranteed salary for the Sheriff's Department for the next budget year, but to reserve the right to review the figures that it will take to fund the overtime and the officers at the time of the budget, **and to cap allocation for overtime pay at \$100,000.00.**

Vote: 4 – 1 with Commissioner Heiligenstein voting against the motion.

COMMISSIONERS' COURT RECESSED AT 10:40 A.M. ON TUESDAY, MAY 8, 2001.

COMMISSIONERS' COURT RECONVENED AT 10:55 A.M. ON TUESDAY, MAY 8, 2001.

Moved: **Judge Doerfler**

Seconded: **Commissioner Hays**

Motion: To stipulate that the base salary for Sheriff's Department employees is based on 170 hours per ~~pay~~ 28-day period, with time over 170 hours per 28-day ~~pay~~ period to be accrued at time and a half.

Vote: 3 – 1 with Commissioner Heiligenstein voting against the motion and with Commissioner Boatright absent from the dais.

****This motion was amended as shown on May 29, 2001, Commissioners' Court, agenda item 29.****

AGENDA ITEM 35

Discuss and take any appropriate action on part time Special Projects position for Taylor parkland acquisition to be funded from Park Bonds (Not to exceed \$7,500).

Moved: **Commissioner Limmer**