

TRANSPORTATION CODE
CHAPTER 222. FUNDING AND FEDERAL AID
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 222.001. USE OF STATE HIGHWAY FUND. Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

- (1) to improve the state highway system;
- (2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department; or
- (3) by the Department of Public Safety to police the state highway system and to administer state laws relating to traffic and safety on public roads.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.002. USE OF STATE HIGHWAY FUND FOR DEPARTMENT FUNCTIONS. Money in the state highway fund that is not required to be spent for public roadways by the Texas Constitution or federal law may be used for any function performed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND. (a) The commission may issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) The aggregate principal amount of the bonds and other public securities that are issued may not exceed \$6 billion. The commission may only issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year.

(c) Proceeds from the sale of bonds and other public securities issued under this section shall be used to fund state highway improvement projects.

(d) Of the aggregate principal amount of bonds and other public securities that may be issued under this section, the commission shall issue bonds or other public securities in an aggregate principal amount of \$1.2 billion to fund projects that reduce accidents or correct or improve hazardous locations on the state highway system. The commission by rule shall prescribe criteria for selecting projects eligible for funding under this section. In establishing criteria for the projects, the commission shall consider accident data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.

(f) The commission may enter into credit agreements, as defined by Chapter 1371, Government Code, relating to the bonds and other public securities authorized by this section. The agreements may be secured by and payable from the same sources as the bonds and other public securities.

(g) All laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to the issuing of bonds and other public securities and the entering into of credit agreements under this section.

(h) The proceeds of bonds and other public securities issued under this section may be used to:

(1) finance other funds relating to the public security, including debt service reserve and contingency; and

(2) pay the cost or expense of the issuance of the public security.

(i) Bonds and other public securities and credit agreements authorized by this section may not have a principal amount or terms that, at the time the bonds or other public securities are issued or

the agreements entered into, are expected by the commission to cause annual expenditures with respect to the obligations to exceed 10 percent of the amount deposited to the credit of the state highway fund in the immediately preceding year.

(j) Bonds and other public securities issued under this section may be sold in such manner and subject to such terms and provisions as set forth in the order authorizing their issuance, and such bonds and other public securities must mature not later than 20 years after their dates of issuance, subject to any refundings or renewals.

(k) The comptroller shall withdraw from the state highway fund and forward at the direction of the commission to another person the amounts as determined by the commission to permit timely payment of:

(1) the principal of and interest on the bonds and other public securities that mature or become due; and

(2) any cost related to the bonds and other public securities that become due, including payments under credit agreements.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 5.01, eff. Sept. 13, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264, Sec. 14.01, eff. June 11, 2007.

SUBCHAPTER B. FEDERAL AID

Sec. 222.031. USE OF FEDERAL AID FOR ROAD CONSTRUCTION. Money appropriated by the United States for public road construction in this state may be spent only by and under the supervision of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.12, eff. Sept. 1, 1997.

Sec. 222.032. USE OF FEDERAL AID FOR TOLL BRIDGE CONSTRUCTION. (a) The department may:

(1) cooperate with the United States Secretary of Transportation in the construction of a toll bridge under 23 U.S.C. Section 129;

(2) spend state highway funds for the purpose described in Subdivision (1);

(3) impose tolls in accordance with 23 U.S.C. Section 129; and

(4) take other necessary or proper action to give effect to the purpose and intent of this section.

(b) The department shall impose tolls in accordance with this section with the goal that the tolls be eliminated, as contemplated or required by 23 U.S.C. Section 129.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.033. INTERSTATE TOLL BRIDGES. (a) Section 222.032 applies to a bridge over a stream forming the boundary of this state and an adjoining state.

(b) If the bridge is constructed jointly by this state and the adjoining state, the commission may cooperate with the appropriate authorities of the adjoining state in imposing tolls in accordance with this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.034. DISTRIBUTION OF FEDERAL FUNDS. (a) Federal aid for transportation purposes that is administered by the commission shall be distributed to the various parts of the state for a funding cycle through the selection of highway projects in the state in a manner that is consistent with federal formulas that determine the amount of federal aid for transportation purposes received by the state. A distribution under this subsection does not include deductions made for the state infrastructure bank or other federal funds reallocated by the federal government.

(b) The commission may vary from the distribution procedure provided by Subsection (a) if it issues a ruling or minute order identifying the variance and providing a particular justification for the variance.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.17, eff. Sept. 1, 1997.

See Subsec. (b) for effective date information.

Sec. 222.035. PRIVATE ACTIVITY BONDS. (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code of 1986.

(b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the

Internal Revenue Code of 1986 to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used:

(1) the determination shall be published in the Texas Register; and

(2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register.

(c) The attorney general shall monitor federal legislation for purposes of this section.

(d) The department shall establish and administer a program for private activity bonds issued for highway facilities or surface freight transfer facilities in this state.

(e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities.

(f) The department shall adopt rules to administer the program established under this section.

(g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under Section 146, Internal Revenue Code of 1986, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code.

Added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.16, eff. June 14, 2005.

SUBCHAPTER C. FUNDING FROM OTHER POLITICAL SUBDIVISIONS

Sec. 222.051. LOCAL FINANCING AND REIMBURSEMENT. (a) A governmental unit that has the authority to build roads may finance the construction of an approved project for the state highway system.

(b) If funds become available, the department may contract to reimburse the governmental unit that provided financing for the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.052. LOCAL CONTRIBUTIONS. (a) The governing body of a political subdivision of this state may contribute funds to be spent by the commission in the development and construction of the public roads and state highway system within the political subdivision.

(b) The commission may accept a contribution made under Subsection (a).

(c) In this section, "political subdivision" includes a county or a political subdivision of a county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.053. RELIEF FROM LOCAL MATCHING FUNDS REQUIREMENT. (a) In this section, "economically disadvantaged county" means a county that has, in comparison to other counties in the state:

- (1) below average per capita taxable property value;
- (2) below average per capita income; and
- (3) above average unemployment.

(b) Except as provided by Subsection (c), the commission may require, request, or accept from a political subdivision matching or other local funds, rights-of-way, utility adjustments, additional participation, planning, documents, or any other local incentives to make the most efficient use of its highway funding.

(c) In evaluating a proposal to construct, maintain, or extend a highway or for another type of highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, the commission:

(1) may not consider the absence or value of local incentives provided under Subsection (b) or the value of a benefit received by the state in an agreement under Section 791.031, Government Code, beyond the minimum required local matching funds; and

(2) shall adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

(d) In making an adjustment under Subsection (c)(2), the commission may use its in-kind resources and any other available resources to help satisfy a federal requirement.

(e) The commission shall report annually to the governor, the lieutenant governor, and the speaker of the house of representatives on the use of matching funds and local incentives

and the ability of the commission to ensure that political subdivisions located in economically disadvantaged counties have equal ability to compete for highway funding with political subdivisions in counties that are not economically disadvantaged.

(f) The commission shall certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed under Subsection (a). A county certified under this section is eligible for an adjustment under Subsection (c)(2).

(g) The commission shall determine whether to make an adjustment under Subsection (c)(2) at the time a political subdivision that consists of all or a portion of an economically disadvantaged county submits a proposal to construct, maintain, or extend a highway or for another type of highway project.

(h) The commission may delegate any of its duties or powers under this section to the director or the director's designee.
Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.18, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 545, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 809, Sec. 2, eff. September 1, 2005.

SUBCHAPTER D. STATE INFRASTRUCTURE BANK

Sec. 222.071. DEFINITIONS. In this subchapter:

(1) "Bank" means the state infrastructure bank account.

(2) "Construction" has the meaning assigned by 23 U.S.C. Section 101.

(3) "Federal act" means Section 350 of the National Highway System Designation Act of 1995 (Pub. L. No. 104-59).

(4) "Federal-aid highway" has the meaning assigned by 23 U.S.C. Section 101.

(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, a project eligible for assistance under Title 23 or Title 49, United States Code.

(6) "Secondary funds" includes:

(A) the repayment of a loan or other assistance that is provided with money deposited to the credit of the bank; and

(B) investment income generated by secondary funds deposited to the credit of the bank.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state infrastructure bank is an account in the state highway fund. The bank is administered by the commission.

(b) Federal funds received by the state under the federal act, matching state funds in an amount required by that act, proceeds from bonds issued under Section 222.075, secondary funds, 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.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267, Sec. 1, eff. June 18, 2005.

Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK.

Notwithstanding Section 222.001, the commission shall use money deposited in the bank to:

(1) encourage public and private investment in transportation facilities both within and outside of the state highway system, including facilities that contribute to the multimodal and intermodal transportation capabilities of the state; and

(2) develop financing techniques designed to:

(A) expand the availability of funding for transportation projects and to reduce direct state costs;

(B) maximize private and local participation in financing projects; and

(C) improve the efficiency of the state transportation system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267, Sec. 2, eff. June 18, 2005.

Sec. 222.074. FORM OF ASSISTANCE. (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 for a qualified project to:

- (1) extend credit by direct loan;
- (2) provide credit 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 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.

(b) Financial assistance to a private entity under Subsection (a) shall be limited to a qualified project that:

- (1) provides transportation services or facilities that provide a demonstrated public benefit; or
- (2) is constructed or operated in cooperation with a state agency or political subdivision in accordance with an agreement between that agency or political subdivision and the private entity.

(c) Financial assistance to a public or private entity under Subsection (a) shall be limited, as applicable, to a qualified project that is consistent with the transportation plan developed by the metropolitan planning organization.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267, Sec. 3, eff. June 18, 2005.

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 borrow money from the bank, including by direct loan, based on the credit of the public entity.

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

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

Added by Acts 2001, 77th Leg., ch. 4, Sec. 1, eff. April 9, 2001.

Sec. 222.075. REVENUE BONDS. (a) The commission may issue revenue bonds for the purpose of providing money for the bank.

(b) Except as provided by Subsection (c), the commission may issue revenue bonds or revenue refunding bonds under this section without complying with any other law applicable to the issuance of bonds.

(c) Notwithstanding any other provision of this section, the following laws apply to bonds issued by the commission:

(1) Chapters 1201, 1202, 1204, 1231, and 1371, Government Code; and

(2) Subchapters A-C, Chapter 1207, Government Code.

(d) The revenue bonds are special obligations of the commission payable only from income and receipts of the bank as the commission may designate. The income and receipts include principal of and interest paid and to be paid on acquired obligations, other designated obligations held by the bank, or income from accounts created within the bank.

(e) The revenue bonds do not constitute a debt of the state or a pledge of the faith and credit of the state.

(f) The commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.

(g) Revenue bonds issued under this section shall be authorized by order of the commission and shall have the form and

characteristics and bear the designations as are provided in the order.

- (h) Revenue bonds shall:
- (1) be dated;
 - (2) bear interest at the rate or rates authorized by law;
 - (3) mature at the time or times, serially, as term, revenue bonds, or otherwise not more than 50 years after their dates;
 - (4) be called before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided in the order;
 - (5) be issued in temporary or permanent form;
 - (6) be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the commission to be the most advantageous reasonably obtainable; and
 - (7) be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this section or be issued without parity and secured differently from other revenue bonds.

(i) All proceedings relating to the issuance of revenue bonds issued under this section shall be submitted to the attorney general for examination. On determining that the revenue bonds have been authorized in accordance with law, the attorney general shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller. 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) The proceeds received from the sale of revenue bonds shall be deposited in the bank and invested in the manner provided for other funds deposited under this subchapter. Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.373, eff. Sept. 1, 2001.

Sec. 222.076. SEPARATE SUBACCOUNTS. (a) The bank shall consist of at least two separate subaccounts, a highway subaccount and a transit subaccount.

(b) In addition to the subaccounts under Subsection (a), the commission may create one or more subaccounts that are capitalized with state funds only. Subaccounts capitalized with state funds only are not subject to the federal act. Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267, Sec. 4, eff. June 18, 2005.

Sec. 222.077. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS; INVESTMENT INCOME. (a) Any funds disbursed through the state infrastructure bank must be repaid on terms determined by the commission. The terms must comply with the federal act except for terms applicable to funds deposited in a subaccount described by Section 222.076(b).

- (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 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;
 - (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.

(c) The commission shall administer the bank in compliance with applicable requirements of the federal act and any applicable federal regulation or guideline.

- (d) The commission by rule shall:
- (1) implement this subchapter; and
 - (2) establish eligibility criteria for an entity applying for financial assistance from the bank.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267, Sec. 5, eff. June 18, 2005.

SUBCHAPTER E. TOLL FACILITIES

Sec. 222.101. EXPENDITURE OF MONEY. The department may spend money from any source for the construction, maintenance, and operation of toll facilities.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.01, eff. Sept. 1, 1997.

Sec. 222.103. COST PARTICIPATION. (a) The department may participate, by spending money from any available source, in the cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission:

(1) may require the repayment of any money spent by the department for the cost of a toll facility of a public entity; and

(2) shall require the repayment of any money spent by the department for the cost of a toll facility of a private entity.

(b) Money repaid as required by the commission shall be deposited to the credit of the fund from which the expenditure was made. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(c) A bond or other debt obligation issued by a public or private entity to finance the cost of a toll facility in which the department participates is an obligation of the issuing entity and is not an obligation of this state.

(d) On the request of a member of the legislature, the department shall provide the member a status report on all highway construction projects, by legislative district, that are under contract or awaiting funding. The report shall include projects that would be funded in any manner by state, federal, or toll funds.

(e) On the request of a member of the legislature, not later than the 90th day before the date a loan is granted or an expenditure is made by the department for a project under this section, the department shall notify each member of the legislature that represents any part of the area affected by the project of the status of the project and how any other project in any other district would be affected.

(f) This section applies to any participation by the department in the cost of a project under Chapter 284, 361, or 366.

(g) The commission shall adopt rules to implement Subsection (a).

(h) Money granted by the department each fiscal year under this section may not exceed an amount that, together with the money granted for the preceding four fiscal years, results in an average annual expenditure of \$2 billion. This limitation does not apply to money required to be repaid.

(i), (j) Repealed by Acts 2003, 78th Leg., ch. 312, Sec. 77; Acts 2003, 78th Leg., ch. 1325, Sec. 15.74.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1237, Sec. 1, eff. Nov. 6, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 77, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.74, 19.02, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.17, eff. June 14, 2005.

Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway.

(b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.

(c) The department may enter into an agreement with a private entity that provides for the payment of pass-through tolls to the department as reimbursement for the department's design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is

financed by the department.

(d) The department and a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 may enter into an agreement that provides for:

(1) the payment of pass-through tolls to the authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility that the department estimates it would have incurred if the highway had not been converted; or

(2) the payment by the authority or county of pass-through tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, develop, finance, construct, and maintain a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility.

(d-1) Unless there is an insufficient number of approved proposals for projects to be developed under an agreement providing for the payment of pass-through tolls, in any state fiscal year that begins on or after September 1, 2007, the amount the department agrees to pay under agreements entered into under this section as reimbursement to a public or private entity for project costs may not be less than the yearly average of such amounts from the date of the creation by the commission of the pass-through toll program. This subsection expires September 1, 2009.

(e) The department may use any available funds for the purpose of making a pass-through toll payment under this section except funds derived from the issuance of bonds under Section 201.943.

Text of Subsec. (f) as added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.18

(f) A regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 is authorized to secure and pay its obligations under an agreement under this section from any lawfully available funds.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 15.002, eff. September 1, 2007.

Text of Subsec. (g) as added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.18

(g) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for:

(1) determining the amount of pass-through tolls to be paid under this section; and

(2) allocating the risk that traffic volume will be higher or lower than the parties to an agreement under this section anticipated in entering the agreement.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 15.002, eff. September 1, 2007.

Text of Subsec. (h) as added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.18

(h) Money repaid to the department under this section shall be deposited to the credit of the fund from which the money was originally provided and is exempt from the application of Section 403.095, Government Code.

Text of Subsec. (h) as added by Acts 2005, 79th Leg., Ch. 994, Sec. 1

(h) An agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with which the department enters into an agreement under this section.

(j) An agreement under this section must provide that the municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

(k) An agreement under this section must prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the

maximum extent possible, expedite the development of the project.
Added by Acts 2003, 78th Leg., ch. 1325, Sec. 6.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.18, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 994, Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 15.002, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1320, Sec. 1, eff. September 1, 2007.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281,
Sec. 2.19

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 994,
Sec. 2, see other Sec. 222.1045.

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES.

(a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(d)(1).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (d)(1) to the private entity.

Added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.19, eff. June 14, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 994,
Sec. 2

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281,
Sec. 2.19, see other Sec. 222.1045.

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES.

(a) In this section, "public entity" means a municipality, county, regional mobility authority, or a regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway converted to a toll facility under Section 222.104(c).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity.

Added by Acts 2005, 79th Leg., Ch. 994, Sec. 2, eff. June 18, 2005.

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

(1) promote public safety;

(2) facilitate the development or redevelopment of property;

(3) facilitate the movement of traffic; and

(4) enhance a local entity's ability to sponsor a project authorized under Section 222.104. Added by Acts 2007, 80th Leg., R.S., Ch. 1320, Sec. 2, eff. September 1, 2007.

Sec. 222.106. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES. (a) In this section:

(1) the amount of a municipality's tax increment for a year is the amount of ad valorem taxes levied and collected by the municipality for that year on the captured appraised value of real property taxable by the municipality and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a municipality for a year is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for that year less the tax increment base of the municipality; and

(3) the tax increment base of a municipality is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a municipality the governing body of which intends to enter into an agreement with the department under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project described by Section 222.104 that cultivates development or redevelopment of the area.

(d) The governing body must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the governing body of the municipality proposes to adopt an ordinance designating an area as a transportation reinvestment zone under this section, the governing body must hold a public hearing on the designation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone or its boundaries. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create the zone must be published in a newspaper having general circulation in the municipality.

(f) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(g) The ordinance designating an area as a transportation reinvestment zone must:

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

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) establish an ad valorem tax increment account for the zone; and

(5) contain findings that promotion of the transportation project will cultivate development or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone an amount equal to the tax increment produced by the municipality.

(i) Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section.

(j) Except as provided by Subsection (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality complies with a contractual requirement, if any, that

included the pledge of money deposited to a tax increment account or the repayment of money owed under the agreement under Section 222.104 in connection with which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not used the zone for the purpose for which it was designated.

(l) Any surplus remaining on termination of a zone may be used for transportation projects of the municipality in or outside of the zone.

Added by Acts 2007, 80th Leg., R.S., Ch. 1320, Sec. 2, eff. September 1, 2007.

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES; TAX ABATEMENTS; ROAD UTILITY DISTRICTS. (a) In this section:

(1) the amount of a county's tax increment for a year is the amount of ad valorem taxes levied and collected by the county for that year on the captured appraised value of real property taxable by the county and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a county for a year is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for that year less the tax increment base of the county; and

(3) the tax increment base of a county is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a county the commissioners court of which intends to enter into a pass-through toll agreement with the department under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project described by Section 222.104 that cultivates development or redevelopment of the area and for the purpose of abating ad valorem taxes imposed by the county on real property located in the zone.

(d) The commissioners court must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

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

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

(2) provide that the zone takes effect immediately on adoption of the order or resolution; and

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation.

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

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate a portion of the ad valorem taxes imposed by the county on the owner's property. All abatements granted by the commissioners court in a transportation

reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated under this section may not exceed the amount calculated under Subsection (a)(1) for that year.

(i) To assist the county in developing a project authorized under Section 222.104, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(j) In any ad valorem tax year, a road utility district formed as provided by Subsection (i) may impose taxes on property in the district at a rate that when applied to the property in the district would impose taxes in an amount equal to the amount of taxes abated by the commissioners court of the county under Subsection (h). Notwithstanding Section 441.192(a), an election is not required to approve the imposition of the taxes.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement with the county to assume the obligation, if any, of the county to fund a project under Section 222.104 or to repay funds owed to the department under Section 222.104. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge of money collected under this section.

(m) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the county has not used the zone for the purpose for which it was designated.

Added by Acts 2007, 80th Leg., R.S., Ch. 1320, Sec. 2, eff. September 1, 2007.