

TEXAS TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE B. STATE HIGHWAY SYSTEM

CHAPTER 222. FUNDING AND FEDERAL AID

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 (H.B. 2134), 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 (H.B. 2134), 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 (H.B. [2134](#)), 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 (H.B. [2134](#)), 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 (H.B. [2134](#)), Sec. 5, eff. June 18, 2005.