

June 9th, 2009

Update of report originally sent in an email to General Chairmen on March 27th, 2009.

Original text is in black type *and all updates are in blue italic.*

The TSLB is a member of the United Labor Legislative Committee (ULLCO). The committee is made up of affiliated and unaffiliated unions who pay a membership fee and cooperate on supporting and/or opposing legislation on matters important to union members and their families. The committee meets each morning at the Texas AFL-CIO headquarters before the legislature begins that day's work to decide what position to take, if any, and what actions need to be undertaken on upcoming legislation. The decision is made by a vote of the ULLCO members present. As a member of ULLCO, the TSLB has access to a bill tracking service. ULLCO is tracking more than 2100 bills this session.

I attached a copy of my report from the tracking service. The report has 81 bills of interest to the TSLB however many of the bills are identical.

Update on the TSLB tracking list follows this message.

Most of the bills are monitored only. I watch legislation that otherwise won't directly affect our membership to make sure adverse amendments are not added.

Here is a list of the bills that I am supporting as of this date along with a brief description of the intent of the legislation.

- SB316 Relating to establishment of quiet zones. This allows small cities that are surrounded by larger cities to enter into an agreement with the larger cities for the establishment and financing of quiet zones.
Supported in Committee. Passed without amendments and signed by the governor 5-27-09, effective immediately.
- HB1264 identical
SB316 considered in the House in lieu of HB1264
- HB347 identical
Did not receive a committee hearing
- HB469 Relating to carbon dioxide sequestration. If carbon sequestration becomes financially feasible in the state, it would alleviate environmental concerns about new coal fired electric generating power plants being built because the carbon dioxide generated by the burning of coal would be captured and sequestered in deep wells.
Amended in committee to require the comptroller to adopt rules for a franchise tax credit for clean energy projects. The original bill stated that the governor and the comptroller MAY adopt rules for a tax credit for entities the governor contracted to promote research and development of clean energy projects. Passed the House, amended again in the Senate. Both the House and Senate adopted the conference committee report. It was signed in the House and reported enrolled. It was sent to the Governor on June 3rd. Pending final action at this time. The Governor has 20 days to sign or veto the bill, other wise it becomes law.

- HB499 Relating to changing the name of the Railroad Commission of Texas. The Railroad Commission has nothing to do with Railroads. All of the responsibilities of railroad regulation have been transferred to the Department of Transportation. Call it anything except the railroad commission.
The bill was left pending in the house Energy Resources Committee.
- SB341 identical
This bill passed the Senate and was received in the House. It was referred to the Energy Resources Committee on May 7th and never received a hearing.
- HB645 This is our limo bill. I have previously copied each of you with all the information regarding this bill. Asked for and received ULLCO support for this bill.
Testified in support in committee. Passed out of the House Transportation Committee and was reported to the Local and Consent Calendars committee on March 25th. We held this bill up at this point waiting on the Senate bill to arrive in the House. Scheduled for second reading on the House Local Calendar on May 12. Laid on the table and companion (SB481) considered in lieu of.
- SB481 identical
Testified in committee. Passed the Senate Transportation and Homeland Security Committee on March 2nd. Passed the Senate on the Local and Uncontested Calendar on March 19th. Received in the House and referred to the Transportation Committee on March 31st. It took another month of lobbying the Transportation Committee to get a vote on this bill. Finally voted out of committee on April 30th and was recommended for the Local and Consent Calendar. However, it took another week for the Transportation Committee to file the committee report which was sent to the Local and Consent Committee on May 8th. Laid out for consideration in lieu of companion (HB645) and finally passed on May 12th. Sent to the Governor on May 14th and was signed 9 days later.
- HB646 Relating to the participation in the Southern High Speed Rail Compact. This is a compact between Texas, Louisiana, Alabama, and Mississippi to study the feasibility of high speed passenger trains between these states.
Supported in committee. Minor amendments made in the House Transportation committee. Passed on May 29th. Sent to the Governor on May 31. Final action pending at this time.
- HB1811 Relating to asbestos causing mesothelioma. This would lower the threshold for proving asbestos exposure causes mesothelioma in Texas. I asked designated counsel if this would affect FELA cases. Their opinion is that it would not. However, this is a good bill for workers outside FELA which could affect our members or their families. ULLCO supports this bill.
Left pending following a hearing in the house Judiciary and Civil Jurisprudence Committee on March 30th.
- SB1123 identical
Did not receive a committee hearing.
- HB2244 Relating to a statewide passenger rail system being administered by TXDOT. I am generally supportive of the expansion of passenger service in the state, partially when a

statewide approach is taken. However, there is much misconception as to how existing freight rail could be upgraded and used for passenger trains. I will oppose anything detrimental to freight jobs and will enlist ULLCO's help, and yours, to do so.

Did not receive a committee hearing.

HB2418 identical

Did not receive a committee hearing.

SB1382 identical

Supported in committee. Passed the Senate without amendments on April 30 and the House on May 27. Sent to the governor on June 1st pending final action at this time.

SB1570 similar

This bill was amended in Senate Transportation and Homeland Security Committee to create a high speed (at least 200 mph) rail corporation in Texas. The corporation is to plan and develop a high speed rail facility, solicit federal funding for the project and coordinate with federal planners and other states to interconnect with other high speed rail facilities in the future. The bill passed the Senate. It also passed out of the House Transportation Committee but died before being scheduled for second reading in the House. No amendments adverse to BLET were put on this legislation.

HB2987 Relating to revision of statutes relating to railroads. This is bill will codify all existing regulations pertaining to railroads into the Transportation code and will update language usage. Legislative counsel provided a draft of the changes to all stakeholders, including the TSLB, last fall. I read the draft and will continue to monitor this to make sure none of the changes adversely affect the intent of the original regulation.

This bill passed out of the House State Affairs committee but was tabled by the House and the companion (SB1540) was considered in lieu of.

SB1540 identical

Finally passed without amendments and signed by the Governor on May 20, effective April 1, 2011.

SB126 Relating to a temporary moratorium on authorizations for certain coal-fired electric generating facilities. This would stop, for two years, the construction of new coal-fired generating plants unless equipped with equipment to capture and sequester the carbon dioxide produced by the plant. Carbon sequestration would benefit our membership in the long run even though a moratorium against new power plants might delay new jobs in the short term.

Left pending following a committee hearing in House Natural Resources.

SB608 Relating to the creation of an agency responsible for the promotion of "green jobs". Generally good for all workers. ULLCO supports this bill.

Left pending following a committee hearing in House Natural Resources.

SB897 Relating to haz-mat reporting requirements by a railroad. This changes language in existing regulations to clarify that the railroads must report to TXDOT instead of the railroad commission. It also adds a metropolitan planning organization in the list of agencies a railroad must report to.

Supported in committee. Passed the Senate on April 23. Passed out of the House Transportation Committee on April 29th and was sent to Calendars committee where it died. The text of this bill was amended into HB300, TXDOT reauthorization. HB300 was one of several Texas agency reauthorization bills that died in the last days of the session.

I am opposing:

HB3803 Relating to railroad police. This would make a railroad policeman a peace officer in Texas. This expansion of power would include the ability for the railroad police to enforce traffic violations. This is concerning to me because the railroad police could ticket our members for a traffic violation. If the UP agrees to language to limit this enforcement to railroad crossing violations only, I will reassess our position at that time.

Upon further discussion, we determined that railroad police are already peace officers in Texas. This bill would merely clarify that fact. However I still opposed the expansion of authority to allow railroad police to write our members a speeding ticket. I successfully amended this bill in the House Public Safety Committee to limit their authorization to enforcement of railroad crossing laws only. This change allowed me to testify in support of the bill in the committee hearing. After it passed out of this committee it stopped moving. In the last weeks of the session, I received information that the text of the original bill (with the objectionable language) had been added as a floor amendment to HB3201 which adds fire marshals to the list of who are peace officers. By the time I had received this information, HB3201, as amended, had already passed out of the Senate Criminal Justice Committee and had been voted on by the Senate. However, one Senator amended the bill on the floor to delete reference to the railroad police. Since the House and Senate versions of HB3201 were now different, the bill had to be sent back to the House where they could accept the change made in the Senate, or ask for a conference committee to negotiate a final version. I visited with the Senate bill sponsor and the House amendment author (both likely to be on the conference committee) to insist that the final version of this bill contain the language we agreed to. During discussion the parties could not agree to a compromise. Instead the House accepted the Senate amendment that stripped reference to railroad police. The result is HB3803 finally died but only after being resurrected about 3 or 4 times. As a side note, the statute this bill would have amended contains a section saying that railroad police may not perform duty in another craft during a labor dispute or strike. This important labor protection is very rare in Texas law and I felt exposing this section to possible mischief during the legislative process was not worth the benefit we may have received by allowing railroad police to write traffic tickets.

There are a number of bills relating to methods of funding rail relocation and commuter and passenger rail projects. It appears any legislation to fund these projects will include a local voter approval option. I have not taken a position on these bills but I have been attending the committee hearings to monitor their progress. Many of these bills will not receive a committee hearing.

Generally I support the concept of transportation mobility improvement projects including rail relocation. However, I believe the funding options being discussed are overly reliant on taxing individuals. Businesses, on the other hand, are not being asked to “ante up” to help improve transportation infrastructure.

I am also monitoring these bills to make sure no language is used that would prevent our membership from following the work in the case of rail relocation.

Bills monitored during committee hearings and floor debate but did not take a position:

HB2433 Relating to powers of certain freight rail districts. This caption is misleading because the bill actually revises commuter rail district powers to include powers related to a commuter rail facility. The bill allows a rail district to spend money received from a local government outside the district if the money is used for a public purpose. The bill was amended in committee to add other types of passenger rail services including intercity rail services to the list of services a rail district may operate. Passed and signed by the Governor on May 13.

HB2434 Changes current law to allow freight rail districts, inter-municipal commuter rail districts and commuter rail districts to receive federal funds directly. Currently federal funds appropriated by the federal government for construction and maintenance of publicly or privately owned rail facilities must be administered by the Texas Transportation commission and be spent under the direction of TXDOT. Passed and signed by the Governor on May 12, effective immediately.

HB2219 Changes the appointment of the public transportation advisory committee. Takes the appointment away from the Transportation commission and allows the Governor, Lieutenant Governor, and Speaker of the House to each appoint 3 members to the advisory committee. Passed and signed by the Governor on May 23.

SB581 Makes changes in current statutes that will allow a public entity to join a inter-municipal commuter rail district. Currently only a county or a municipality may be a member of the district. Also makes changes to the authority a district currently has to acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities by adding the authority for the district to provide intercity or other types of passenger rail services. Passed and sent to the Governor on June 1. Pending final action at this time.

SB855 Called the Local Option Transportation Act, briefly the original bill was written for Dallas and Fort Worth and would authorize counties and municipalities to raise funds for mobility improvement projects by imposing a variety of additional taxes based on choices made by the residents in local elections. Currently Texas law requires all taxes to go to the state. This bill would change current law to allow local option funds to be spent by the taxing entity for local mobility improvement projects. In Senate committee hearings El Paso, Houston, San Antonio and other cities asked to be included in the local option legislation. This was done by defining six regions of the state where the funds could be spent. The bill passed the Senate but was changed in the House Transportation committee so that only counties would have the taxing authority. As originally filed the bill was 10 pages long whereas the House committee substitute ended up at 76 pages. Late in the session this bill got caught up in gamesmanship between the Senate and House Transportation committees and eventually ran out of time. However, major provisions including the local options tax were amended into HB300, TXDOT reauthorization.

HB2589 Intended to fundamentally restructure the method of funding allocation for transportation projects, including rail relocation, in Texas. It would require the Transportation Commission to allocate

funds to 25 regions in the state according to a formula based on the needs identified by the regions rather than allowing the Commission to decide which projects get funding and which do not as is currently the law. The bill was heard in Transportation Committee and eventually amended into HB300, TxDOT reauthorization bill.

HB300 TxDOT reauthorization. Passed the House Transportation Committee after, as mentioned above, the provisions of HB2589 were amended into this bill. In Addition, the House added 144 amendments (including amendments to the amendments the total was over 200) eventually passing the bill to the Senate whereupon the Senate Transportation Committee promptly trashed the whole bill and started over with their own ideas about how to restructure TxDOT. One of the reasons they took this extreme action is because the TxDOT Director and the Transportation Commission Chair testified in the Senate Transportation Committee that removing state oversight of how transportation funding is allocated (what they thought HB2589 would effectively do) may not conform to federal rules and would likely result in the loss of federal highway dollars coming to Texas. This testimony resulted in the Senate completely removing these provisions from HB300. Soon thereafter the House Transportation Committee hauled the TxDOT Director and Commission Chair back before the House Transportation Committee and grilled them regarding their actions. This was the most contentious committee hearing I have ever witnessed because the members thought TxDOT and the Transportation Commission were trying to hold onto the power that comes with controlling funds and attempting to do so by spreading misinformation about the effects of HB2589. Back to the Senate, where 64 amendments were pre-filed on HB300. The Senate Transportation Committee accepted a number of the amendments including local options funding (SB855). More amendments were added by the Senate before passing the bill which by now had little resemblance to the one passed by the House. The bill ended up in conference committee where major changes again took place. Much of the House version of funding was put back into the bill prompting the Chair of the Senate Transportation Committee, John Carona, to threaten a filibuster against the conference committee report. Carona's message follows as attachment one at the end of this report. Also attached is a letter from the Texas Public Policy Foundation explaining why they oppose local option funding for transportation improvement projects.

There are also a number of joint resolutions that propose to make the changes in the Texas Constitution. These changes are necessary to enable tax allocation provisions contained in several of the bills relating to rail relocation and highway funding. I have not taken a position on these.
None of the resolutions passed this session.

As you can see there is a lot going on this session. However, the session is half-way through and the first regular calendar in the House was posted on Wednesday, March 25th. Most of the over 7100 bills filed this year will never see the light of day.
Of the 84 bills that the TSLB tracked, 14 finally passed. These had 9 companions. The other 60 bills will have to wait until next session.

At the end of the session ULLCO members had a total of 1516 bills on track including ours. Of that total 212 tracked bills passed. Some of the notable legislation that did not pass was workers unemployment reform that would have enabled Texas to draw more than 500 million in federal money for unemployment benefits. The federal money would have paid for the additional recipients of unemployment benefits for 8 to 10 years. The bill died in the last days of the session. Also not making it was improvement in CHIP that

would provide health insurance coverage for an additional 20,000 to 80,000 children. Both of these measures were opposed by Governor Perry.

Bill Research Report
06-08-2009 - 13:44:10

This is the list of bills tracked by TSLB. The original list included duplicates which are deleted here. Following the bill number is the name of the author, coauthor and Senate or House sponsor. The last action taken is also included.

- HB 4 Orr Relating to eminent domain, including certain limitations, procedures, and standards relating to the use of eminent domain.
Left pending in House Land and Resource Management committee
- SB 533 Duncan (Identical)
Left pending in Senate State Affairs committee
- HB 9 Truitt Relating to local options regarding transportation and mobility improvement projects in certain counties.
Left pending as substituted House Transportation committee
- SB 855 Carona (Identical)
On the House Calendar when it ran out of time, discussed above
- HB11 Leibowitz Relating to repeal of authority for the establishment and operation of the Trans-Texas Corridor.
Left pending in House Transportation committee
- HB 1253 Bohac (Identical)
Did not receive a committee hearing
- HB 12 Leibowitz Relating to the membership of the Transportation Commission.
Left pending in House Transportation committee
- HB 31 Leibowitz Relating to the amount of liability insurance required to be maintained on certain buses owned by a motor carrier.
Did not receive a committee hearing
- HB 55 Branch
Carona Relating to an offense of using a wireless communication device while operating a motor vehicle.
6- 3-09 G Sent to the Governor
- HB 300 Isett
Hegar Relating to the continuation and functions of the Texas Department of Transportation, including the transfer of certain functions to the Texas Department of Motor Vehicles.
Passed the House and Senate in different versions. Conference committee report was not agreed to, discussed above

SB 1019 Hegar (Identical)
Left pending Senate Transportation and Homeland Security

HB 347 Straus Relating to the establishment of railroad quiet zones outside the boundaries of certain municipalities.
Not referred to committee

HB 1264 Corte (Identical)
SB316 considered in lieu of

SB 316 Wentworth (Identical)
Signed by the Governor 5-27-09 discussed above

HB 469 King, Phil
Seliger Relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester in geological formations carbon dioxide that would otherwise be emitted into the atmosphere.
Sent to the Governor 6-3-09

HB 499 Orr Relating to changing the name of the Railroad Commission of Texas to the Texas Energy Commission.
Left pending House Energy Resources

SB 341 Wentworth (Identical)
Referred to House Committee on House Energy Resources did not receive a hearing

HB 564 McClendon Relating to the allocation to the Texas rail relocation and improvement fund of a portion of the revenue from the motor vehicle sales and use tax.
Meeting cancelled for 04/27/09, House Ways and Means

SB 383 Carona (Identical)
Referred to committee on Senate Finance did not receive a hearing

HB 565 McClendon Relating to the abolition of the Texas Transportation Commission and the creation of the commissioner of transportation as an elected statutory state officer.
Left pending House Transportation

HB 645 Veasey Relating to safety regulations for certain contract carriers.
SB 481 considered in lieu of

HB 646 Hughes
Eltime Relating to the participation of this state in the Southern High-Speed Rail Compact.
Sent to the Governor 5-31-09

HB 1125 Corte Relating to the eminent domain authority of common carriers.
Left pending House Land and Resource Management

HB 1208 McClendon Relating to the dedication of certain sales and use tax and franchise tax revenue to the Texas rail relocation and improvement fund.

Meeting cancelled for 04/27/09, House Ways and Means

- HB 1222 Laubenberg Relating to the financial audit of certain regional transportation authorities by the state auditor.
Referred to committee on House Transportation did not receive a hearing
- HB 1279 McClendon Relating to dedication of a portion of unclaimed lottery revenues to the Texas rail relocation and improvement fund.
Referred to committee on House Appropriations did not receive a hearing
- SB 1649 Carona (Identical)
Referred to committee on Senate Finance did not receive a hearing
- HB 1280 McClendon Relating to use of money from the Texas Enterprise Fund for rail projects.
Referred to House Technology/Economic Dev/Workforce did not receive a hearing
- HB 1811 Eiland Relating to the standard of causation in claims involving mesothelioma cause by exposure to asbestos fibers
Left pending House Judiciary and Civil Jurisprudence
- SB 1123 Duncan (Identical)
Referred to House Committee on House Judiciary and Civil Jurisprudence did not receive a hearing
- HB 2138 McClendon Relating to certain fees imposed in connection with the operation of overweight and oversize vehicles
Left pending House Transportation
- HB 2219 Phillips
Williams Relating to the public transportation advisory committee
Signed by the Governor
- HB 2244 Leibowitz Relating to the coordination of the planning, construction, operation, and maintenance of a statewide passenger rail system by the Texas Department of Transportation.
Referred to committee on House Transportation did not receive a hearing
- HB 2418 McClendon (Identical)
Referred to committee on House Transportation did not receive a hearing
- SB 1382 Carona (Identical)
6- 1-09 Sent to the Governor
- HB 2420 McClendon Relating to ad valorem and sales and use tax exemptions for high-speed passenger rail facilities.
Meeting cancelled for 04/27/09, House Ways and Means
- SB 1272 Carona (Identical)
Referred to committee on Senate Finance did not receive a hearing

HB 2433 Smith, Wayne
Williams Relating to the powers of certain freight rail districts.
Signed by the Governor

SB 1282 Williams (Identical)
Left pending on the Senate Intent Calendar

HB 2434 Smith, Wayne
Williams Relating to the supervision by the Texas Department of Transportation of money appropriated by the federal government for the construction and maintenance of rail facilities
Signed by the Governor

SB 1283 Williams (Identical)
Left pending on the Senate Intent Calendar

HB 2489 Harper-Brown Relating to the allocation of revenue from the motor vehicle sales tax to the state highway fund.
Left pending House Ways and Means

HB 2589 Pickett Relating to transportation planning and the creation and membership of planning organizations and the funding allocations for transportation projects.
Reported from committee as substituted House Transportation

HB 2604 Hunter Relating to the issuance of certain permits for overweight vehicles.
Local bill for Corpus Christy. Passed House Transportation

SB 1571 Hinojosa (Identical)
Signed by the Governor

HB 2613 Heflin Relating to the allocation of gasoline tax to county roads.
Left pending House Ways and Means

HB 2985 Phillips
Carona Relating to the registration of for-hire motor carriers of passengers by the Texas Department of Transportation.
5-26-09 Sent to the Governor

HB 2987 Phillips Relating to a non-substantive revision of statutes relating to railroads; including conforming amendments.
SB1540 considered in lieu of

SB 1540 Carona (Identical)
Signed by the Governor

HB 2990 Phillips Relating to the authority and powers of regional mobility authorities.
Left pending House Transportation

HB 3201 King, Phil
Wentworth Relating to the designation of certain fire marshals and related officers, inspectors, and investigators as peace officers.
Bill that the railroad police bill (HB3803) was attached to. 6- 3-09 Sent to the Governor

HB 3238 McClendon Relating to the use of certain revenue from oversize and overweight vehicle permits for the Texas rail relocation and improvement fund.
Referred to committee on House Transportation did not receive a hearing

HB 3341 Miklos Relating to the creation of a transportation development corporation in certain municipalities; authorizing local option elections for funding mass transit projects.
Supported this bill in committee as a better alternative to HB855. This local option provided for business to share in paying for transportation improvement projects. Left pending House Transportation

HB 3505 McClendon Relating to the use of money from the Texas rail relocation and improvement fund for rail projects.
Referred to committee on House Transportation did not receive a hearing

HB 3650 Merritt
Carona Relating to the creation, administration, powers, duties, operations, and financing of a border region high-speed rail authority for the Texas-Louisiana and the Texas-Mexico border regions.
Made it to the Senate Intent Calendar where it ran out of time

HB 3803 King, Tracy Relating to railroad peace officers appointed by the public safety director of the Department of Public Safety.
Passed committee as substituted House Public Safety - discussed above

HB 4335 McClendon Relating to the creation of and the powers of a comprehensive multimodal urban transportation authority.
Left pending House Transportation

SB 2096 Wentworth (Identical)
Passed both Houses but in different forms. House appointed conference committee Senate did not before time ran out

HJR 9 Truitt Relating to allowing the expenditure of motor vehicle fuel taxes and registration fees for passenger rail, transit and freight rail.
Passed House Transportation as substituted

HJR 122 Rodriguez (Identical)
Left pending House Transportation

SJR 24 Carona (Identical)
Referred to committee on Senate Finance did not receive a hearing

SJR 52 Davis, Wendy (Identical)

- On the House Calendar when time ran out*
- HJR 89 Paxton Dedicating certain revenue derived from motor fuel taxes to the construction of public highways.
Left pending House Ways and Means
- HJR 13 Leibowitz (Identical)
Referred to committee on House Ways and Means did not receive a hearing
- HJR 113 Phillips Proposing a constitutional amendment limiting the purposes for which revenue from taxes on motor fuels and lubricants may be used.
Referred to committee on House Transportation did not receive a hearing
- HR 709 Coleman Requesting the Transportation Commission and the Department of Transportation provide the House with project selection criteria prior to obligating any Recovery Act funds.
Filed late in the session was not referred to committee
- SB 16 Averitt
Cook Relating to the enhancement of air quality, including the capture of carbon dioxide and development of a greenhouse gas registry, emissions reduction technologies, and the improvement of energy efficiency.
Passed the Senate, on the House Calendar when time ran out
- SB 126 Ellis Relating to a temporary moratorium on authorizations for certain coal-fired electric generating facilities.
Left pending Senate Natural Resources
- SB 384 Carona
McClendon Relating to the promotion of toll projects by the Texas Department of Transportation.
On the House Calendar when companion passed
- HB 2142 McClendon (Identical)
5-29-09 Sent to the Governor
- SB 467 Zaffirini Relating to the use of certain aviation and air transportation-related sales and use tax proceeds for aviation facilities development.
Referred to committee on Senate Finance did not receive a hearing
- SB 481 Carona
Veasey Relating to safety regulations for certain contract carriers.
Signed by the Governor, discussed above

SB 502 Carona
Harper-Brown Relating to the authority of the Texas Department of Transportation to enter into funding agreements to expedite an agency's environmental review duties related to transportation projects.
On the House Calendar when time ran out

HB 4203 Harper-Brown (Identical)
Left pending House Transportation

SB 505 Ogden
Pickett Authorizing the designation of an area adjacent to a state highway project as a transportation finance zone and requiring the revenue from the taxes imposed in the zone be used to pay obligations in connection with the project.
Passed committee on House Transportation

SB 581 Wentworth
Rose Relating to intermunicipal commuter rail districts.
6- 1-09 G Sent to the Governor

SB 608 Watson Relating to the creation of the Texas Center for Sustainable Business.
Left pending Senate Natural Resources

SB 612 Shapleigh Relating to the powers and duties of the Texas Department of Transportation related to rail facilities.
On the Senate Intent Calendar when time ran out

SB 897 Shapleigh
Harper-Brown Relating to certain reporting requirements in connection with the transportation of hazardous materials by a railroad company.
Passed committee on House Transportation, discussed above

SB 942 Wentworth Relating to local option methods for financing transportation projects and services.
Left pending Senate Transportation and Homeland Security

SB 1350 Carona
Pickett Relating to the creation, administration, financing, and use of a Texas Transportation Revolving Fund.
Passed the Senate and committee on House Transportation

SB 1442 Fraser
Giddings Relating to business entities and associations.
Signed by the Governor

HB 2235 Giddings (Identical)
SB 1442 considered in lieu of

- SB 1570 Carona
Harper-Brown Relating to the facilitation, analysis, and implementation of high-speed passenger rail in this state.
Passed the Senate and House committee on Transportation Recommended for Local and Consent Calendar when time ran out
- SB 1923 Watson Relating to funding sources for the Texas rail relocation and improvement fund.
On the Senate Intent Calendar when time ran out
- SJR 6 Ellis Relating to the dedication of the revenue received from the sporting goods sales tax.
Referred to committee on Senate Finance did not receive a hearing
- SJR 9 Carona
Pickett Relating to limiting the purposes for which revenue from taxes on motor fuels and lubricants may be used.
Passed the Senate, on the House Calendar when time ran out
- SJR 16 Carona Relating to exempting from ad valorem taxation a high-speed passenger rail facility.
Referred to committee on Senate Finance did not receive a hearing
- HJR 82 McClendon (Identical)
Referred to committee on House Ways and Means did not receive a hearing
- SJR 18 Ogden
Pickett Permitting the Texas Transportation Commission to designate the area adjacent to a state highway project as a transportation finance zone and dedicating the proceeds of taxes in the zone to the Texas Mobility Fund.
Passed the Senate on the House Calendar when time ran out
- SJR 26 Wentworth Relating to permitting counties to impose a local motor fuel tax and an additional vehicle registration fee to be used for transportation purposes.
Referred to committee on Senate Finance did not receive a hearing

Respectfully Submitted,

Terry Briggs, Chairman

*Attachments (2) Why I will filibuster the TxDot Sunset Bill - Senator John Carona
Letter thanking House Members for opposing local option funding - TPPF*

Attachment 1

Why I Will Filibuster the TxDOT Sunset Bill (HB300), by Senator John Carona

There is an old Italian saying: *Dai nemici mi guardo io, dagli amici mi guardi Iddio.*
It means "I can protect myself from my enemies; may God protect me from my friends!"

It's no secret by now that the conference committee report contents were not what I was led to believe, and that the report was signed and filed before I was ever shown the decisions. What we have is a deal negotiated in bad faith. I can handle the personal and professional insult involved; after all, there is another Italian saying:

Quando finisce la partita, i pedoni, le torri, i cavalli, i vescovi, i due re e le due regine tutti vanno nello stesso scatolo.

When the chess game is over, the pawns, rooks, knights, bishops, kings, and queens all go back into the same box. We will recover and work together again, and the Senate will survive.

Unfortunately, the practical effects of HB 300 for Texas transportation are negative and still must be addressed. For example, in the absence of the Local Option Transportation Act, other provisions included in either the House or Senate bill but discarded by conferees such as Local Participation take on new importance and should have been adopted. Had I known LOTA would be stripped, I would have pressed that point.

If HB 300 dies, the only real loss is the enabling legislation to issue Proposition 12 bonds. Frankly, given the debt service entailed over time, there is a good argument to putting off this debt until we can pass legislation reducing or eliminating transportation diversions, legislation I filed, but mysteriously came to a stop in the House.

It further appears that the Senate conferees ended up giving away the store. The fatal flaw in HB 300 is buried in the process for determining whether the state or the MPO picks the projects. HB 300 has the Transportation Commission developing criteria for selection and placement of projects in the Transportation Plan, which is good. However, for the major funding categories the Commission must then use the MPO's priorities unless they conflict with federal law or rule. Finally, the department "shall use the planning organizations' project lists to create the statewide transportation program and budget." Through these steps, found on page 38 of the side by side, the conferees complete the transfer of decision making authority from the state level to the MPO, which in my view is the wrong direction.

Accordingly, here is how I will proceed today.

First, I will read the bill to the body. HB 300 on conference committee report is 344 pages long, which is even bigger than the infamous HB 3588 by 10%. Given that the House bill came to the Senate with over 100 amendments stapled to the back and not rolled in, there has never been a compiled version that makes sense, entire sections of law are repealed by handwritten notes in the margins, and we have barely had the bill long enough to absorb so much as the table of contents, you can expect this effort to take a while.

In that process, we will explore a few of the very curious provisions of this bill. For example, why would there be a provision inserted after Senator Hinojosa was appointed to the committee that addresses a TCEQ permit currently in litigation and if passed, I am told would put a constituent of Senator Lucio's out of business?

Why if LOTA was so impossible, would there be a provision appearing for the first time in the conference committee report that enables the El Paso County Commissioners, without a vote of the citizens, to increase vehicle registration fees by an additional \$50?

If rail transit in North Texas is too much for the House to vote on, why would the conference committee report include a first-ever provision directing the route of a rail line serving Irving?

Second, I will describe for my colleagues in detail the development and content of the Rail North Texas proposal, so they can fully understand and appreciate the resolve of local leaders, businesses, and taxpayers in North Texas to have this opportunity.

Third, I will address the knee-jerk, self-professed tax watchdogs whose outcry on the local option transportation act betrays either ignorance of the session or a callous use of LOTA as a straw man to garner headlines and addresses for their mailing lists. I will do that by reminding my colleagues of the content, analysis, and fiscal impact of legislation I proposed that would end diversions and index the motor fuels tax.

Fourth, I will share with each Senator the projects in their districts that are unfunded, and that this legislation will do little to address.

Fifth, I will return to the reason LOTA is so important, the state of transportation funding today. There are many resources that detail the funding crisis, such as the 2030 Report and the Governor's Business Council report, and I look forward to disseminating that information.

Of course, Texas is not alone in these needs, and there are voluminous reports from at least two national select committees that shed light on our failing infrastructure finance systems.

I hope at that point I have not run out of time in the session because I have some other items to discuss, but I am inspired by the memory of Bill Meier, who from the desk right behind where I sit today, talked for 43 hours. Let's see how I do.

Rebuttal Letter

May 28, 2009

Dear Members of the House,

Thank you for expressing your overwhelming intent that a tax increase should be kept separate from the TxDOT sunset bill. Supporters of the measure use words such as “demonstration program” and “local option” to disguise what would be a significant liability on taxpayers. The research and facts are clear:

- Other options provide significant new revenue for transportation, without raising taxes and fees.
- The outrage city and county leaders have focused on the Legislature is misplaced. They must use existing tools before asking for tax increases.
- Taxpayers expect the Legislature and local governments to make tough decisions by prioritizing existing spending without raising taxes – rather than taking the easy way out and only giving voters an option to raise taxes and fees, without allowing them to prioritize existing funding.

Myth #1: The “local option” provision does not raise taxes and fees.

FACT: These taxes and fees cannot exist without legislative passage. Taxes and fees will almost certainly be increased with adoption of this provision. Taxpayers will have this liability hanging over their family budgets as they navigate (and hopefully emerge from) one of the worst economic periods in our lifetime.

Myth #2: The only way to solve this problem is with new taxes and fees.

FACT: The proposed state budget continues to divert more than \$1 billion from existing transportation funding to non-transportation purposes.

FACT: Our research identified more than \$300 million per year available just in D/FW if cities made transportation a priority with their existing sales tax, as some cities have already done.

FACT: As uncovered by the Fort Worth Star-Telegram last week, one of the most vocal supporters of this tax increase – the City of Arlington – shelved plans to use existing sales tax capacity for transportation, and is instead waiting to see if the legislature raises taxes. This action should be unanimously condemned.

FACT: Our research has demonstrated that city and county government budgets contain significant overspending that could be directed towards this “crisis,” as their budgets have increased faster than the rate of population and inflation year after year.

Myth #3: The local tax and fee measure is transparent and accountable.

FACT: Being given two public meetings before voting on something is not transparency. The local tax and fee provision could generate nearly as much transportation funding for each region as generated from the state gas tax, yet it would not require anywhere close to the same level of transparency and accountability as required of TxDOT. Suggestions for entities to post their check registers online were flatly opposed – even though more than 300 school districts, TxDOT, and six counties already do so.

There is not a single provision that provides measurable accountability in terms of reducing traffic congestion. The Legislature and our statewide elected officials have made Texas a national leader in transparency, but the local tax and fee provision would be a huge step backwards.

Myth #4: Taxes and fees wouldn't be raised until the economy is improved.

FACT: Even those supporting this tax increase admit that the new taxes and fees could begin within less

than two years. Taxpayers could take a hit just as the economy is (hopefully) recovering.

Myth #5: The local taxes and fees will solve congestion.

FACT: Nowhere in the local tax measure (that could generate billions in new local taxes and fees) is there a measurable performance objective such as reducing traffic congestion. While it says that a project must “reduce traffic congestion,” it does not require the selection of projects that reduce congestion more than others. Using the language in this bill would permit local option taxes to be spent on hike and bike trails, since a study may demonstrate they take one person off a road – regardless of the cost. Just as the Legislature would hopefully not spend billions on education without measuring dropout and graduation rates, taxpayers deserve similar protections for transportation.

Myth #6: The local option money can’t be spent on lobbying.

FACT: SB 855 (the original local tax bill) contained language that forbid the use of the local taxes and fees for paying someone required to register with the Texas Ethics Commission, but that language disappeared when the Senate amended the TxDOT Sunset Bill, HB 300.

THEN – SB 855, as engrossed: Sec. 466.005. RESTRICTIONS ON LOBBYING. A county that imposes a method of local option funding under this chapter may not use the funds to pay a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code.

NOW – HB 300: Sec. 180.005. PROHIBITIONS ON USE OF REVENUE. A county located within a metropolitan planning organization selected by the department as an urban passenger rail demonstration program may not use revenue from a method of finance imposed under this chapter:

(3) to directly or indirectly hold, promote, or oppose an election under this chapter, including paying for promotional, educational, or advocacy materials. Many of us brag on Texas having such a resilient economy and not being in the fiscal crisis other states have found themselves in. Research has shown that low taxes and prudent regulation played a large part in providing for our current position. Now is not the time to discard the principles and hard work that made this possible.

This local tax and fee measure is a band-aid approach of giving voters no option but a tax increase. Such action would force voters to make the tough decisions without giving them the options the Legislature can use. Voters can’t prioritize existing funding and they can’t cut their taxes.

Every item listed above has been researched and outlined in our publications which you can find on our website, www.texaspolicy.com, by clicking on ‘Publications’ and then clicking on ‘Transportation.’ Thank you for your consideration.

Sincerely,



Justin Keener



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