

EXECUTIVE SUMMARY
December 2, 2010

Collin County's Proposed Legislation Addressing Primacy Rights for Multiple Local Toll Authorities in a Service Area

Government Affairs

Background

- The North Texas Tollway Authority (NTTA) is a regional tollway authority governed by Chapter 366 of the Texas Transportation Code with four member counties – Collin, Dallas, Denton and Tarrant.
- Per SB 792 passed during the 80th Texas Legislature in 2007, local toll authorities such as the NTTA have the first option to deliver toll projects within their respective service areas, prior to a project being offered to TxDOT.
- In September 2008, the Collin County Commissioners Court passed a resolution creating a county toll road authority under Chapter 284 of the Texas Transportation Code. SB 792 did not contemplate any additional local toll authorities being formed in an area already served by such an authority.
- In 2009, during the 81st Texas Legislature, Senate leadership worked with the NTTA and Collin County to develop compromise legislation that supported the NTTA serving as the primary toll road provider for the North Texas region while also allowing Collin County to advance early project milestones, such as environmental approvals, traffic and revenue studies, initial engineering, and right-of-way acquisition; additionally, in return for entering into an agreement with the NTTA to accomplish this work in a coordinated fashion, the compromise legislation authorized the NTTA to reimburse Collin County for its resulting expenditures once the NTTA undertook the project.
- This compromise legislation mirrors the process now being used by local governments to speed mobility improvements through new corridors. By advancing right-of-way acquisition and undertaking the construction of frontage roads, those entities spur the feasibility of the overall project. Once feasibility is achieved, the NTTA constructs the main lanes. The local governments then benefit from improved mobility through the new corridor, as well as the additional ad valorem taxes generated by development resulting from the project.
- The local senators, the NTTA, and the Collin County Judge agreed to this compromise legislation, which passed the Senate. However, when county leadership pursued in the House exclusive primacy for Collin County on all toll projects within its boundaries, including on extensions of the Dallas North Tollway, the compromise collapsed. Ultimately, no legislation was enacted that addressed the multiple-local-authorities issue.
- At its May 2010 meeting, the NTTA Board of Directors adopted legislative goals for the 82nd Texas Legislature convening in 2011. The goals include maintaining the local toll authorities' first option for toll project delivery throughout their service areas and addressing the respective rights of multiple authorities in a service area.
- Sen. Florence Shapiro filed SB 163 to serve as a placeholder for legislation to address the issue of multiple local toll authorities in one service area.

General Overview

- In light of the NTTA's almost 60 years of experience designing, constructing, and operating successful toll projects, its state-of-the-art toll road system and established customer base of more than 2 million TollTag customers, and its existing administrative and operational structures and staff, the NTTA – as the original toll authority in this region – is clearly the best-equipped to deliver toll projects throughout its four-county service area.
- Further, evaluating and developing toll projects through a single regional authority – such as the NTTA – supports regional planning, thereby assuring that projects are advanced in a coordinated manner, based upon consistently applied criteria and on the basis of regional benefit, instead of upon the varying goals and agendas of individual counties.
- Because SB 792 made no provision for multiple local toll authorities, NTTA leadership has worked with its Collin County counterparts to develop an approach that serves both the NTTA's position as the primary regional toll road provider and Collin County's ability to accelerate critical projects.
- At its November 15 meeting, the Collin County Commissioners Court's legal counsel presented draft legislation to address the issue of multiple toll authorities in a shared service area. The primary elements include:
 - The county solely determines the alignment, feasibility, and completion date for a toll project and thus unilaterally determines when the option process begins.
 - The NTTA then has six months to exercise its option to undertake the project.
 - Unless the county agrees otherwise, in order to exercise its option, the NTTA must agree to:
 - ✓ complete the project within 10 years,
 - ✓ reimburse the county for all of its project costs, and
 - ✓ revenue-share with the county.
 - If the NTTA does not exercise its option, the project reverts to the county, which may advance the project as and when it chooses.

From the NTTA's perspective, Collin County's draft legislation has several deficiencies.

- Although Collin County does not currently have the operational structure in place to advance a toll project, it is important to resolve these primacy issues either in the upcoming 82nd Texas Legislature or through an interlocal agreement.

Legal Information

- The NTTA's Outside Legal Counsel has reviewed this information.

Financial Impact

- There is no immediate financial impact.
- However, this primacy issue likely has significant long-term financial implications. The NTTA's preservation of its first option rights may be critical to undertake, and thereby secure the revenues of, future toll projects within its service area so as to continue to expand and leverage the system. This concept of system financing has successfully supported the accelerated development of more than 700 lane miles throughout the region that would not have been built as quickly, or perhaps not built at all, if their delivery depended solely upon state gas tax funding.

Business Diversity

- There is no business diversity impact at this time.

Staff Recommendation

- There is no staff recommendation at this time.

APPROVED BY: to be signed below by the author and Department Director or Assistant Executive Director

Materials Prepared By Carrie Rogers Director, Government Affairs	Materials Approved By Allen Clemson Executive Director
Materials Approved By Janice Davis Chief Financial Officer	Materials Approved By Frank Stevenson Outside General Counsel