

Highway officials seek to close a legal loophole that allows cities to pocket state road money

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The Texas Transportation Commission is expected to close a legal loophole in highway funding that is allowing cities to pocket millions in state funds after building projects for up to 20 percent below the estimated cost.

The commission will vote to close the gap in the state's so-called pass-through tolling program during a special meeting Tuesday in Austin. Statewide, about \$249 million in pass-through tolling projects are in development.

Under what is known as pass-through financing, local governments pay for road work up front and the state reimburses the money over many years, using a formula based on how many cars use the road.

But because of economic conditions, bids for these projects are coming in under projections. When cities and counties find they can build the roads 10 to 20 percent cheaper -- they then pocket the difference.

In North Texas, Hudson Oaks is using pass-through tolling to fix Interstate 20, U.S. 180 and Lakeshore Drive. Colleyville has applied for the funds to expand Texas 26.

New language

State officials say that extra money is needed for the state highway system, which is chronically short of funds.

New language in pass-through agreements could limit the state's reimbursement to actual costs, and could limit overruns to 10 percent beyond the original agreed amount, said John Barton, Texas Department of Transportation assistant executive director.

The language would apply not only to future pass-through agreements, but those that have already been signed. Some officials from areas of Texas where such projects are already underway say that's not fair.

"We've played by the law. Now you guys changed the rules and put this project in jeopardy," Fort Bend County Commissioner Richard Morrison told transportation department officials. "I'm here to ask TxDot to honor their end of the agreement."

Fort Bend's project, the Farm Road 1093/Westpark Toll Road Extension, is expected to cost \$39.6 million.

North Texas work

In Hudson Oaks, city officials also would be concerned about changing their agreement with the state, which dates back to September, city administrator Sheri Campbell-Husband said. "If that's the case, cities aren't going want to enter into agreements like that," she said.

The Hudson Oaks project calls for the state to reimburse up to \$7.9 million. Campbell-Husband said local resources are already covering about a fourth of the total \$10.5 million cost. Any surplus enjoyed from lower bids likely would just go back into the project, to help cover the city's costs, she said. The project is expected to get underway in 2011.

In Colleyville, city officials don't think the proposed change will hurt their application for about \$25 million funds to expand Texas 26 from Cheek-Sparger Road to Hall-Johnson Road. "We based our application based on what our engineer thought the cost would be, so that's already in line with what TxDot is proposing," spokeswoman Mona Gandy said.

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