

# Texas Senate bill merges transportation proposals

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AUSTIN – Two years of planning, positioning and politicking over the multibillion-dollar business of building roads in Texas will come down to a single bill in the Senate as soon as today, when members will spend hours arguing over how to build more roads for more people without spending much more money.

The Senate bill is a witches' brew of proposals, from gas tax schemes to toll road dreams, that would further Gov. Rick Perry's pursuit of private toll roads, give lawmakers more direct oversight of the Texas Department of Transportation and let North Texas counties ask voters to raise their own taxes to build more roads and, perhaps, more rail lines.

But the one thing it would not do is radically prune the power of the Texas Department of Transportation, and that might just be enough to kill it altogether. A version that passed the House this month would be far stricter with the 14,000-employee agency and would give local planning councils the upper hand in making decisions about roads and bridges.

Whatever the Senate approves some time early this week would head to a conference committee, where five members from each chamber will try to settle on a version. If they can't agree, every significant idea for changing transportation policy this year would be in jeopardy.

The chambers have two enormous differences: First, the House's determination to rein in the transportation department and with it the governor's power to set transportation policy for Texas. The Senate approach is milder. Second, and perhaps more significant, is the desire by North Texas officials to be able to raise taxes to fund road and rail projects, with voters' approval.

"Many of my friends in the House and the public just want to start over with the agency, rather than fix it," said Lt. Gov. David Dewhurst, who presides over the Senate. "But I am not sure that is possible, or very practical. There are great people on the [Texas Transportation] Commission who really have in their hearts the best interests of Texas. So I want to help this agency and want to help turn it around."

Pickett's argument

Weakening the department is essential, argued House transportation chairman Joe Pickett, D-El Paso. For years, he has said, the department has played the role of "the heavy" throughout Texas, often forcing projects and approaches to projects on communities that ought to have the final say themselves.

He said he isn't surprised the agency has found such strong allies late in the legislative session.

"TxDOT has a lot of influence and unfortunately the culture is such that they believe they are sole dictators instead of being our partners," he said.

His views may clash with the Senate's, but they have support from members of the public still seething over Perry's vision for the Trans Texas Corridor, a massive private toll plan that is dead in theory but lives on in the rapidly expanding network of toll roads in places like Dallas. Nor is Pickett entirely alone in the House, where "TxDOT" has been considered a bad word for years.

Transportation committee member Rep. Linda Harper-Brown, R-Irving, said she'd rather see the session end with no transportation reform at all than with the mild changes envisioned by the Senate.

"I would not say that coming out of the session with nothing is a success," she said Saturday. "But it is far more important to come out with a bill that brings substantive change in the way TxDOT operates."

Perry may have the decisive influence on these issues. Senate transportation chairman John Carona, R-Dallas, predicted the governor would not accept any bill that greatly diminishes the role of the agency or removes his influence on what Perry has called his signature issue.

#### Local-option taxes

But even more of a possible deal-breaker is the proposal that means the most to North Texas, where local officials are nearly frantic as they await the result of six years of lobbying to win the authority to call tax elections for transportation projects.

Carona calls that provision – the "local-option tax bill" – his single biggest priority.

"I can tell you this: I am not going to budge on the local-option bill," he said. "I simply won't accept a bill that comes out of the conference committee that does not include it."

The measure would let counties ask voters to accept a menu of tax increases including up to 10 cents per gallon of fuel. It could raise more than \$500 million a year for North Texas alone, depending on which counties participate. Most North Texas counties want to use the money for rail projects, but that would require voters' approval of a constitutional amendment.

Other senators also strongly support it. Sen. Eliot Shapleigh, D-El Paso, said it's all but certain that the majority of senators on the conference committee will insist that the bill include the local-option tax proposal.

But Pickett and others in the House said if Carona digs his heels in over the local-option provision, the transportation bill could die altogether.

"His priority may be local option, but I do not believe that is the House's priority," Pickett said.

He said he also supported a bill that would have incrementally raised gas taxes statewide to keep up with inflation, but it died because the full House would not support it. "Local option is probably similar," he said.

Some conservative House members endorse the local-option measure as a last-ditch effort to give Dallas the tools it needs to remain economically competitive.

"The last thing I want to do is support a tax," said Rep. Angie Chen Button, R-Garland. "But I do support this."

House members are already irked that the Senate weakened the changes to the transportation department, and they were irked again when Carona slid the local-option tax proposal onto the Senate version, in part to avoid a House debate.

If no bill at all passes, the transportation department could go out of business, since the agency is subject to the "sunset" process, a periodic review of agencies that determines their effectiveness and necessity. Perry could call a special session to focus on transportation to avoid that, but it's more likely that lawmakers would give the agency a two-year extension, starting the fight over again in anticipation of a 2011 showdown.

For the department and its supporters, that would be fine. And even its harshest critics would rather hold out for more sweeping changes.

"TxDOT needs a complete overhaul, and it may not happen for another two to four years," Pickett said. "Both bills have so much additional baggage at this point, we will have to see. Anything is possible."

## TRANSPORTATION POLICY ISSUES

Here's a look at the issues that will be most contentious when the House and Senate try to compromise on transportation policy changes:

**Higher gas taxes:** Senators want to let counties call elections to ask voters whether they can raise taxes and fees to pay for new roads and, perhaps, rail lines. The governor's support is uncertain, and members of the House who are likely to be on the conference committee that will negotiate a deal with the Senate appear to be split on the matter.

**Toll roads:** Though some elements of the bill would restrict toll roads in Texas, it's all but certain that the state will continue to use them to fund road construction. The fight here will probably be over what kind of restrictions are likely to be imposed on long-term

deals with private toll companies. One leading senator said he expects the final bill to extend the private toll deals for four years but end their use after that. That would be a radical change for Texas, which under Gov. Rick Perry has been among the nation's leaders in moving toward privatized roads. But others note anything can happen in four years.

**Transportation Department's role:** The House wants to strip the department of its ability to decide which projects statewide will be built with state and federal money, and instead give that power to local officials. Top senators strongly oppose this measure, and the governor is expected to resist as well.

**Governor's role:** The House also wants to strip the governor of his role to appoint commissioners to run the department, and instead elect commissioners. Senate leaders call this idea an enormous mistake, and Perry is expected to resist strenuously. The fight may come down to whether to give the commissioners he appoints terms of four years or two, down from their current six years.

#### KEY LAWMAKERS

##### **Rep. Joe Pickett, D-El Paso**

**About:** First-term chairman of the House's transportation committee, he's a longtime critic of the Transportation Department who, in 2007, sponsored a bill that would have closed the agency. He also is chairman of the local transportation planning council in El Paso.

**What he wants:** To strip the department of most of its power, putting locals in charge of deciding which roads to build.

**Will he get it?** The Senate firmly opposes his radical realignment of the department. Senators will have to bargain some to get a local-option tax bill approved, but wholesale adoption of Pickett's approach to the department seems unlikely.

##### **Sen. John Carona, R-Dallas**

**About:** Emerging as perhaps the top voice in Austin on transportation issues, the Senate transportation committee chairman has backed higher statewide gas taxes, more borrowing by the department and more general funds from the state for highways and rail – all without support of any of the state's top three leaders.

**What he wants:** His drop-dead issue is the local-option bill that would give counties the right to call local elections to raise taxes to pay for local roads and – if a separate constitutional amendment is passed – on rail projects. He strongly opposes the idea of eviscerating the transportation department's powers and thinks electing commissioners is an "awful idea."

**Will he get it?** Depends on who the speaker appoints from the House to be on the conference committee, as some House members also think Pickett's approach goes too far. But to get the local tax bill he may have to bargain, and, as he says, hope like heck that Gov. Rick Perry doesn't veto it.

### **Gov. Rick Perry**

**About:** In his 10th year as governor, he's ready to fight over transportation, perhaps his signature issue.

**What he wants:** To retain the power to appoint the Transportation Commission – this is a deal-breaker for him, supporters say – and to keep the department that the commission oversees as the driving force on transportation policy.

**Will he get it?** Probably. With the threat of vetoes, the governor's power over legislation is strongest at the end of the session, and with the Senate opposed to the strongest House provisions, he's likely to come out with much of what he wants.

### **Rep. Linda Harper-Brown, R-Irving**

**About:** A self-styled transportation watchdog, Harper-Brown has the unique position of serving on both the House transportation committee and the legislative-review commission that evaluated the transportation department for changes. In both roles, she has called for big changes at the department. She has also emerged as an opponent of the local-option tax bill pushed by most North Texas leaders.

**What she wants:** A department whose size and responsibilities are drastically scaled back – or no legislation at all. She also says she sees no benefit for Irving in the passage of the local-option tax bill.

**Will she get it?** Supporters of the local tax bill are watching carefully to see if Harper-Brown is appointed by the speaker to join the conference committee. If so, that could signal trouble for the idea.