

WHITE PAPER FOR COMMISSION DISCUSSION ITEMS
LAR Preparation for FY 2012-13

DESCRIPTION:

Discussion of development of the upcoming Legislative Appropriations Request for Fiscal Years 2012 and 2013.

ISSUES:

- Broad issues I will be providing information on:
 - FTE levels
 - Prop 12 funding
 - Rail funding

REFERENCES:

None.

DESIRED RESULTS:

Overall direction on the development of the LAR and areas the Commission would like to see highlighted.

FURTHER ACTIONS

Staff will begin development of the LAR in accordance with the direction of the Commission. In June a DRAFT LAR will be submitted for the Commission's review before it is submitted to the LBB in August.

OTHER:

None

**TxDOT's FY 2012-2013 LAR
Discussion Item
Agenda Item 31 – May 26, 2010**

Requested FTE Levels

FTE allocation at 14,067 (current)

Pros

- Provides a higher ceiling under which the Department must operate
 - o Ample FTE positions that would allow the Department to ramp up staffing if additional funding becomes available or as projects warrant
- Consistent with approach in prior LARs for the FTE allocation

Cons

- If FTEs are listed then they would also need to be funded in our LAR
 - o Based on current cash projections, the State Highway Fund could not afford to fully fund all 14,067 FTEs and retain current letting volumes
- Figure is higher than current usage levels
 - o Many of these FTEs would likely not be filled during the upcoming biennium (absent a new funding stream); FTE usage in 2nd Quarter of FY 2010 was around 12,150.
- If approved and funded at this level, and FTE positions are not needed during the next biennium, in order to redirect the funds to construction activities we would need to submit a transfer request to the LBB, potentially delaying the application of dollars to new contracts.

FTE allocation at 12,200 per year

Pros

- Based on current cash projections, this FTE allocation will allow us to retain letting at current levels
- More closely aligns with our recent and anticipated FTE usage.

Cons

- Once the FTE allocation is reduced, it will likely be hard to have it restored to higher levels in future years if needed to address additional funding streams or unanticipated increases in workload.

No FTE cap, but a cap on overall salary expenditures

Background

- In both the 2006-2007 and 2008-2009 LARs the Department requested to not be limited to a fixed FTE cap, but instead to be limited to a percentage of overall budget that could be used for salaries.

Pros

- With this mechanism in place, when the Department's programs rose or fell due to funding levels, the Department would be required to "right-size" the work force in response.

Cons

- Might lead to required layoffs in times of decreasing program
- Would be unique within state government

The proposed rider language from the LARs is below:

Full-Time Equivalent: Informational Items. Notwithstanding any other provision of this Act, the figures listed above for "Number of Full-Time-Equivalent Positions" are to be interpreted as informational items only, and will not constitute a limitation on the number of full-time equivalent employees or contract workers for the Department. Out of the total funds appropriated above the Department may expend no more than 11.0% in any fiscal year on salaries and wages for employees of the Department.

Proposition 12 Bonds – SIB vs Revolver

The legislation to establish the Texas Transportation Revolving Fund (Revolver) did not pass during the 81st Legislature and the \$1 billion of Prop 12 money that was to be deposited to the Revolver was instead directed to the State Infrastructure Bank (SIB). This has led to the question, "What's the difference between the Revolver and the SIB." The following pages answer that question.

They compare the proposed legislation from the special session for the Revolver (basically the same as engrossed SB 1350 from the regular session) and compares it to the existing statutory authority for the SIB. There are two sheets:

Overall - compares the provisions of the Revolver and SIB without regard to funding source. (You may recall that some of the Revolver provisions could only be performed with certain funds. The same is true for the SIB. The provisions for which the answer may be different depending on the funding source have been marked with an asterisk.)

Prop 12 - this sheet again compares the provisions of the Revolver and SIB, but this time it is based on what each could do with funding from Prop 12. When the answer is different than it was on the "overall" sheet it has been highlighted in yellow.

An example may help to illustrate - on the "overall" sheet you will see that the SIB is authorized to provide assistance to transit projects, but since Prop 12 funds are limited to only highway improvements, on the "Prop 12" sheet the answer for transit projects is "no" under the SIB.)

Provisions of the Revolver vs. the SIB - overall programs

Provision	Program	
	Revolver	SIB
Commission can sell individual loans	√	X
Commission may issue fund revenue bonds	√	√
Participant and Department may each agree to waive sovereign immunity	√	X
Loans made and debt service payments on fund revenue bonds are not subject to appropriation	√	X
Rules advisory committee on the development of rules required	√	X
Rules to include eligibility requirements	√	√
Rules to include prioritization criteria	√	X
Ability to make loans to TxDOT	√	X
Commission determines interest rate and maturity of loans	√	√
Annual report on Fund's activity to the LBB and others required	√	X
Commission may take an equity position in a tolled project (revenue sharing)	√	X
Ability to loan to private entities (in certain circumstances)	X	√
Ability to assist transit projects *	X	√
Project required to be consistent with the plans of the MPO	X	√
Source of funds:		
capitalization subject to a <u>specific</u> appropriation	√	X
state funds deposited by order of the Commission	X	√
Proposition 12	√	√
Proposition 14	√	√
State Highway Funds	√	√
"Surplus" Texas Mobility Funds	√	√
Other funds from direct appropriation	√	√
Forms of assistance:		
loans, including the purchase of obligations, for tolled and non-tolled roads	√	√
credit enhancements *	√	√
provide liquidity *	√	X
provide capitalized interest for debt financing *	√	X
serve as a capital reserve for bond or debt financings *	√	√
insure the issuance of a letter of credit or credit instrument *	√	√
provide security for bonds and other debt instruments *	√	√
provide a guarantee of the payment of operations and maintenance *	√	X
Commission may require the payment of reasonable fees	√	X
Participant must segregate any funds received	√	√
Public entities have full authority to borrow or receive financial assistance and to pledge revenues, income, or taxes to the repayment	√	√
Commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations	√	√

* While the mechanism of the Revolver and SIB allow for this type of assistance, various sources of funds have their own constitutional limitations which may not allow for these types of assistance. In particular, Prop 12 money is limited to making loans for highway improvement projects.

Provisions of the Revolver vs. the SIB - Prop 12 funding

Provision	Program	
	Revolver	SIB
Commission can sell individual loans	√	X
Commission may issue fund revenue bonds	√	√
Participant and Department may each agree to waive sovereign immunity	√	X
Loans made and debt service payments on fund revenue bonds are not subject to appropriation	√	X
Rules advisory committee on the development of rules required	√	X
Rules to include eligibility requirements	√	√
Rules to include prioritization criteria	√	X
Ability to make loans to TxDOT	√	X
Commission determines interest rate and maturity of loans	√	√
Annual report on Fund's activity to the LBB and others required	√	X
Commission may take an equity position in a tolled project (revenue sharing)	√	X
Ability to loan to private entities (in certain circumstances)	X	X
Ability to assist transit projects *	X	X
Project required to be consistent with the plans of the MPO	X	√
Source of funds:		
capitalization subject to a <u>specific</u> appropriation	√	X
Proposition 12	√	√
Forms of assistance:		
loans, including the purchase of obligations, for tolled and non-tolled roads	√	√
credit enhancements *	X	X
provide liquidity *	X	X
provide capitalized interest for debt financing *	X	X
serve as a capital reserve for bond or debt financings *	X	X
insure the issuance of a letter of credit or credit instrument *	X	X
provide security for bonds and other debt instruments *	X	X
provide a guarantee of the payment of operations and maintenance *	X	X
Commission may require the payment of reasonable fees	√	X
Participant must segregate any funds received	√	√
Public entities have full authority to borrow or receive financial assistance and to pledge revenues, income, or taxes to the repayment	√	√
Commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations	√	√

* While the mechanism of the Revolver and SIB allow for this type of assistance, various sources of funds have their own constitutional limitations which may not allow for these types of assistance. In particular, Prop 12 money is limited to making loans for highway improvement projects.

Answer for Prop 12 differs from that for the overall program.