

TRANSPORTATION CODE

CHAPTER 256. FUNDS AND TAXES FOR COUNTY ROADS

SUBCHAPTER A. FUNDS USED FOR COUNTY ROADS; GENERAL PROVISIONS

Sec. 256.001. USE OF COUNTY ROAD AND BRIDGE FUND. (a) Money in the road and bridge fund of a county may be used only for working public roads or building bridges, except as otherwise provided by law.

(b) Money in the fund may be spent only by order of the commissioners court of the county. The court may make the necessary orders for using the money for the purposes provided by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.002. DISTRIBUTION OF COUNTY AND ROAD DISTRICT HIGHWAY FUND. (a) The comptroller shall distribute to the counties on or before October 15 of each year the money appropriated from the county and road district highway fund for that fiscal year.

(b) The money appropriated under Subsection (a) shall be allocated among the counties as follows:

(1) one-fifth according to area, determined by the ratio of the area of the county to the area of the state;

(2) two-fifths according to rural population, determined by the ratio of the rural population of the county to the rural population of the state; and

(3) two-fifths according to lateral road mileage, determined by the ratio of the mileage of lateral roads in the county to the mileage of lateral roads in the state as of January 1 of the year of the allocation as shown by the records of the State-Federal Highway Planning Survey and the department.

(c) On its own motion or at the request of a county, the commission may have a survey made of the county's lateral road mileage. If a survey is made, its results shall be substituted for the corresponding government information to be used under Subsection (b)(3). The governmental entity that requests the survey shall pay for it.

(d) Except as provided by Section 153.503(3)(A), Tax Code, the comptroller may not deposit tax receipts or other money to the credit of the county and road district highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.02, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 943, Sec. 2, eff. Sept. 1, 2001.

Sec. 256.003. USE OF REVENUES FROM COUNTY AND ROAD DISTRICT HIGHWAY FUND. (a) A county may use the money it receives under Section 256.002 only for:

(1) purchasing right-of-way for lateral roads, farm-to-market roads, or state highways;

(2) constructing and maintaining lateral roads, including the hiring of labor and the purchase of materials, supplies, and equipment; or

(3) paying the principal, interest, and sinking fund requirements maturing during the fiscal year on bonds, warrants, or other legal obligations incurred to finance activities described in Subdivisions (1) and (2).

(b) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(29).

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(29).

(d) A county may require that bids for construction funded in whole or part by money received under Section 256.002 be submitted to the commission in the manner provided for bids for construction of a state highway.

(e) On the request of a county, the commission shall provide technical and engineering assistance in making surveys, preparing plans and specifications, preparing project proposals, and supervising construction. The county shall pay the costs of providing the assistance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.03, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 121(29), eff. June 20, 2003.

Sec. 256.004. DEPOSITS OF TAXES TO COUNTY FARM-TO-MARKET AND LATERAL ROAD FUND AND FLOOD CONTROL FUND. (a) The commissioners court of a county shall credit taxes collected under Section 256.054 to the credit of separate funds called the farm-to-market and lateral road fund and the flood control fund.

(b) If the voters at an election held under Section 256.054 approved separately a farm-to-market and lateral road tax and a

flood control tax, the court shall credit the taxes collected to those funds in proportion to the allocation adopted at the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.005. USE OF FARM-TO-MARKET AND LATERAL ROAD FUND. (a) The farm-to-market and lateral road fund of a county is under the jurisdiction and control of the commissioners court. Money in the fund may be used only for the construction and maintenance of farm-to-market and lateral roads in the county.

(b) All or part of the money in the fund may be used in cooperation with the department in acquiring rights-of-way and in constructing and maintaining farm-to-market and lateral roads.

(c) Money in the fund shall be spent to equitably distribute as nearly as possible the benefits derived from the expenditures to the commissioners' precincts in accordance with the taxable value of property in each precinct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.006. USE OF FLOOD CONTROL FUND. (a) The flood control fund of a county is under the jurisdiction and control of the commissioners court. Money in the fund may be used only for flood control purposes in the county and political subdivisions of the county, including:

(1) any soil conservation activity such as contouring, terracing, or tank building; or

(2) any other activity that controls or conserves moisture or water.

(b) Money in the fund shall be spent to equitably distribute as nearly as possible the benefits derived from the expenditures to the commissioners' precincts in accordance with the taxable value of property in each precinct.

(c) All or part of the money in the fund may be used in connection with the plans and programs of:

(1) the United States Soil Conservation Service;

(2) the Texas Agricultural Extension Service;

(3) a state soil conservation district, conservation and reclamation district, drainage district, water control and improvement district, navigation district, flood control district, or levee improvement district; or

(4) a municipality.

(d) Plans for an improvement constructed with money from the fund must be approved by the county and, if applicable, the affected political subdivision.

(e) The commissioners court may hire a federal or state soil conservation engineer or personnel of the Texas Agricultural Extension Service to plan a soil, water, erosion, and drainage program for flood control under this section and may acquire the machinery, equipment, or material useful in carrying out the program. The machinery and equipment shall be made available to the owner of a farm or ranch for purposes consistent with the purposes of this section. A farm or ranch owner using the machinery or equipment shall compensate the county for the use according to the actual expenses incurred by the county, not including depreciation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.007. TRANSFERS OF SURPLUS REGISTRATION FEE REVENUE. The commissioners court of a county that does not impose a tax for the construction and maintenance of roads and bridges may transfer surplus money derived from motor vehicle registration fees to any county fund that the court designates and may spend that money for any purpose authorized by Section 7-a, Article VIII, Texas Constitution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.008. STATE FUNDING OF FARM-TO-MARKET ROADS. (a) Money in the farm-to-market road fund may be used only to finance the construction, improvement, and maintenance of farm-to-market roads by the department.

(b) The department shall use money made available for the construction, improvement, and maintenance of farm-to-market roads so that not less than \$23 million is used each year for those purposes on farm-to-market roads selected under Subsection (c).

(c) The money spent under Subsection (b) shall be used for a system of roads selected by the department after consultation with the commissioners courts of the counties to identify the most needed roads in the counties. The department shall make the selections in a manner intended to ensure equitable and judicious distribution of money and work among the counties.

(d) To be selected, a road must have the following general characteristics:

(1) it may not be a potential addition to the federal aid primary highway system;

(2) it must serve rural areas primarily and must connect farms, ranches, rural homes, sources of natural resources such as oil, mines, timber, and water loading points, schools, churches, and points of public congregation, including community developments and villages;

(3) it must be capable of contributing to the creation of economic values in the areas it serves;

(4) it must preferably serve as a public school bus route or rural free delivery postal route; and

(5) it must be capable of early integration into the improved state road system, and at least one end of the road should connect with an improved road or a road that is soon to be improved that is in the state road system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than January 30 of each year, the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor shall file a report with the comptroller that includes:

(1) an account of how the money allocated to a county under Section 256.002 during the preceding year was spent;

(2) a description, including location, of any new roads constructed in whole or in part with the money allocated to a county under Section 256.002 during the preceding year;

(3) any other information related to the administration of Sections 256.002 and 256.003 that the comptroller requires; and

(4) the total amount of expenditures for county road and bridge construction, maintenance, rehabilitation, right-of-way acquisition, and utility construction and other appropriate road expenditures of county funds in the preceding county fiscal year that are required by the constitution or other law to be spent on public roads or highways.

(b) The report must be in a form prescribed by the comptroller.

(c) The comptroller may distribute money under Section 256.002(a) to a county only if the most recent report required by Subsection (a) has been filed.

(d) A county official or employee shall provide to the comptroller on request any information necessary to determine the legality of the use of money allocated under Section 256.002.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.17(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 917, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 119, eff. Sept. 1, 2003.

Sec. 256.010. APPLICABILITY OF CHAPTER TO COUNTY OPERATING UNDER SPECIAL ROAD TAX LAW. A county operating under a special road tax law may take any action authorized by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 22, eff. Sept. 1, 1999.

SUBCHAPTER B. TAXES FOR COUNTY ROADS

Sec. 256.051. COUNTY, PRECINCT, AND ROAD DISTRICT BOND TAXES. (a) In each year in which bonds issued under Chapter 1471, Government Code, are outstanding, the county, precinct, or road district that issued the bonds shall impose taxes in an amount sufficient to pay the principal of and interest on the bonds.

(b) The taxes shall be imposed in the manner provided by Sections 51.502 through 51.506, Water Code. A reference in Chapter 257 or in Chapter 1471, Government Code, to ad valorem taxes applies to a tax levied by the commissioners court under this section on a basis other than the ad valorem basis.

(c) Taxes for bonds issued on the full faith and credit of the county shall be assessed and collected by the county assessor-collector in the manner provided by law for the assessment and collection of other county taxes.

(d) Taxes for bonds issued for and on the full faith and credit of a precinct or road district shall be assessed and collected by the county assessor-collector in the manner provided for the assessment and collection of common school district taxes.

(e) The county assessor-collector shall pay taxes collected under this section to the county treasurer in the manner that other taxes are paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.374, eff. Sept. 1, 2001.

Sec. 256.052. ADOPTION OF SPECIAL ROAD TAX. (a) At an election held under this section, a county or political subdivision or defined district of a county may adopt the additional ad valorem tax not to exceed 15 cents on the \$100 valuation of property provided by Section 9, Article VIII, Texas Constitution, for the further maintenance of the county roads.

(b) On a petition signed by a majority of the registered voters of a political subdivision or other specified portion of a county, the commissioners court of the county by order shall declare the political subdivision or specified portion of the county to be a defined district and shall record the order in the court's minutes. The petition must define by metes and bounds the territory requested to be included in the proposed defined district.

(c) The commissioners court shall order an election to adopt the tax if it receives a petition requesting the election that is signed by:

(1) at least 200 registered voters of the county, if the petition requests an election to approve a tax for the county; or

(2) at least 50 registered voters of the political subdivision or defined district, if the petition requests an election to approve a tax for a political subdivision or defined district.

(d) The commissioners court shall set the rate of the tax in the election order. The court shall order the election to be held on the first authorized uniform election date prescribed by Subchapter A, Chapter 41, Election Code, that occurs after the 20th day after the date the election is ordered.

(e) The county judge shall issue an election proclamation.

(f) The ballot for the election shall be printed to permit voting for or against the proposition: "Adopting a road tax."

(g) If a majority of the votes received in the election favor adoption of the tax, the commissioners court shall impose the tax in the amount specified in the order for the election in the same manner as it imposes other taxes. If the election is held in time, in the year of the election the court shall impose the tax at the same time as other county taxes. Otherwise, the court may impose the tax at any time before the tax roll is made out. If a greater rate is not imposed for a year, the court may lower the rate for the next year without a petition for that action.

(h) A petition calling for an election to adopt a tax under this section may not be granted on or before the first anniversary of the date of an election held under this section at which the voters do not approve the adoption of the tax.

(i) This section does not authorize the issuance of bonds. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.053. REPEAL OF SPECIAL ROAD TAX. (a) The commissioners court of a county may order and conduct an election to repeal a tax adopted under Section 256.052 in the manner provided for an election to adopt the tax.

(b) A petition requesting an election to repeal the tax may not be granted on or before the second anniversary of the date of the election at which the tax is adopted.

(c) The commissioners court may grant a petition calling for an election to repeal the tax only if satisfactory proof is presented to the court that:

(1) there is great dissatisfaction with the tax; and

(2) it is probable that a majority of the residents of the county, political subdivision, or defined district who are qualified to vote for the tax would vote for repeal of the tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.054. ADDITIONAL COUNTY TAXES FOR COUNTY ROADS AND FLOOD CONTROL; BONDS. (a) A county may impose ad valorem taxes as provided by Section 1-a, Article VIII, Texas Constitution, for the construction and maintenance of farm-to-market and lateral roads or for flood control, not to exceed the maximum tax rate established by that section, only if the taxes are approved at an election held under this section.

(b) The commissioners court of the county may order an election under this section on its own motion. The court shall order an election under this section if it receives a petition requesting the election signed by a number of registered voters of

the county equal to at least 10 percent of the number of voters who voted in the most recent general election in the county. The court may adopt the order only at a regular session of the court. The order must specify the maximum rate of the tax to be voted on.

(c) The proposition submitted to the voters at the election may provide that the tax may be used for the construction and maintenance of farm-to-market and lateral roads, for flood control purposes, or for both, as determined by the commissioners court. At an election to adopt a tax for only one of those purposes, the ballot shall be printed to permit voting for or against the proposition: "Adopting a tax not exceeding ___ cents on each \$100 valuation," specifying the purpose of the tax to be voted on. At an election to adopt a tax for each of those purposes, the ballot shall be printed to permit voting for or against the proposition: "Adopting a farm-to-market and lateral roads tax not exceeding ___ cents and a flood control tax not exceeding ___ cents on each \$100 valuation."

(d) In addition to the notice of the election required by Section 4.003, Election Code, the county judge shall post a copy of the election order at a public place in each county election precinct not later than the 14th day before the date of the election.

(e) If a majority of the votes received in the election favor adoption of the tax, the commissioners court shall impose the tax each year in the same manner as other county ad valorem taxes.

(f) The commissioners court may call a subsequent election to change the maximum rate of a farm-to-market and lateral road tax or flood control tax previously adopted by the county in the manner provided by this section for an election to adopt a tax.

(g) The commissioners court of a county that adopts a tax as provided by this section may issue negotiable county bonds or county time warrants for the construction or improvement of farm-to-market and lateral roads or the construction of permanent improvements for flood control purposes if the bonds or warrants are authorized by a majority of the votes received in an election ordered by the commissioners court. The commissioners court shall submit each proposition separately at the election. The commissioners court shall issue the bonds or warrants and impose the taxes for those bonds or warrants as provided by Subtitles A and C, Title 9, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.375, eff. Sept. 1, 2001.