

TURF Testimony

Joint Study Committee on Private Participation in Toll Projects

April 29, 2008

Terri Hall, Founder, Texans Uniting for Reform and Freedom (TURF). TURF is a grassroots, non-profit organization of nearly 50,000 members across Texas. TURF also has members from more than 22 states and internationally in Canada, Switzerland, among other countries.

After hearing her testimony today, get Barbara Reese of the Virginia DOT down here to run TxDOT! How refreshing to hear their commitment to total transparency and to the public interest. We desperately need that kind of leadership at TxDOT and fast. The taxpayers expect it and deserve no less.

We are not opposed to all toll projects, but we do oppose imposing tolls on existing corridors and we're seeking to reverse the current trend of toll proliferation to replace gas tax-funded freeways. We also adamantly oppose the Trans Texas Corridor and public private partnerships (PPPs), especially concession agreements, and market valuation its public counterpart.

We would support a gas tax increase under certain conditions:

- 1) End gas tax diversions
- 2) Remove all waste, fraud, and abuse from TxDOT's budget like cash bonuses to TxDOT management, payments to losing bidders, \$18 million dollar rest stops equipped with free Wi-Fi, spending \$20 million on building a park in downtown Dallas, and having 20 lawyers present to negotiate the SH 130 contract.
- 3) Get an accurate, independent figure of the actual funding gap (and the proposed gas tax hike to fill it) by comparing the cost to keep roadways freeways versus reconstructing them as toll projects. As an example, to make improvements to US 281 in Bexar County and keep it a freeway costs \$170 million in today's dollars versus \$475 million to make it a toll project. The true funding gap to add needed capacity and keep our roads freeways is likely a much smaller figure than the pricetag ginned-up for toll roads. Rep. Joe Pickett even said we could build 4 freeways for the price of one toll road.
- 4) Allow a public vote on ALL proposed toll projects not currently open to traffic as a toll road so we don't end up with a gas tax hike AND toll proliferation in a double whammy unless the VOTERS (not TxDOT, politicians, MPOs or RMAs) in that region approve the toll project.

You should remember that the official bond statement on the CTRMA's US 183A bonds said several years ago that these bonds might not be a

prudent investment if the price of fuel ever exceeded the inflation adjusted high from 1980 (which is roughly \$3 per gallon today), OR if there were ever a serious downturn in the Central Texas economy. Not just now, but over the full 30 year life of the toll road bonds. We've clearly reached both marks. Given the economic realities of escalating gas prices with no end in sight and an economic recession, why are we still discussing toll roads, especially CDAs and market valuation which are the most expensive transportation options?

Testimony today suggests there is no shortage of cash available for toll revenue bonds or PPPs right now unlike the borrowing crunch in just about every other sector. But have we not learned from the current mortgage crisis that reckless spending and borrowing in boomtimes is followed by a bust, and it's the taxpayers who will have to bail these investors out? Think Bear Stearns to the tune of \$400 billion.

It's truly reckless to assume that following the same course of taxing, spending, borrowing to build these 87 toll projects in the short or long term serves the public interest with gas at \$3.50 a gallon and stats showing driving going down. There will not be enough political cover when these deals collapse and investors come crying to the taxpayers to bail them out. You've been warned by investors themselves NOT to proceed with these toll projects under current economic conditions.

We've been following the Federal Highway Administration's figures for Vehicles Miles Traveled (VMT) in Texas. For at least the last 18 months, VMT has gone down as the price of gas has steadily risen. The need for more capacity and new roads is changing real time as the price of gas goes up. We're already at the price point where investors suggest there will not be enough users who can afford to pay a toll to make toll roads financially do-able, making most traffic and revenue projections suspect unless they take these economic realities into account.

Many are advocating both a gas tax hike AND continuing toll policies unabated to fund transportation, which totally disregards the public's ability to pay for such increases in the cost of transportation with gas prices and the cost of living rising much faster than incomes. Fiscal restraint needs to be injected into this debate!

Dennis Enright, an expert in PPPs from Northwest Financial in New Jersey, testified before the Senate Transportation Committee on March 1, 2007, that PPPs cost 50% more, there's zero risk to the private operator, and that these projects should always stay in the public sector. There was no such moral clarity in today's hearing.

PPPs are a taxpayer rip-off and nothing more than a cleverly cloaked tax hike and Robin Hood scheme stealing from one corridor to pay for another. Non-competes alone, whether enacting outright prohibitions on new

construction/expansion or whether imposing financial penalties, are enough reason to severely limit or stop building toll roads. Bond investors require them whether on public or private toll projects. The sole purpose of a non-compete is to guarantee congestion on free routes and seek to maximize toll revenues.

What we're hearing seems to be an attempt to put bandaids on PPPs like change the buy backs provisions or limit non-competes, but the discussion really needs to be on whether this shift to reliance on toll financing, and PPPs in particular, is what the public wants and if it is in the public's best interest. The public has weighed in repeatedly and resoundingly saying "NO!" to tolls without a public vote in every form of public testimony and in dozens of hearings so why continue to pursue what the taxpayers clearly say they don't want?

It used to be against the law for government to make a profit. The purpose of government is to serve the public not make a profit like the private sector. Since government's sole source of revenue is forcible taxation, it must put the public interest and transparency above everything else. Under PPPs and market valuation, the government is abusing its highway monopolies by calling it "free market," then fleecing the taxpayers while they rake in profits cloaked as "excess revenues."

It's fundamentally unethical and immoral for our government to turn our highway system, upon which we all depend for daily living, into a profit-making cash cow for government.

When there were 20 lawyers present at the signing of SH 130, it's clear this is what TxDOT is wasting our money on, legal fees for complicated PPP and market valuation agreements, not on fixing our roads.

Transportation Reinvestment Zones, whether using property tax or sales tax as some have suggested, show there is no reticence to increase taxes, just in finding more clever ways to cloak them. Local government should not be funding our state highways, The State has continued to starve the gas tax and abdicate its role forcing local government to front money to build STATE highways. Whether through pass through financing or TRZs, it means a tax increase to Texans, just from a different government entity. Texans shouldn't have their property taxes go up to fund state highways! That's anything but a choice or a user fee!

TRZs assume there will be economic development from toll roads. No retailer in their right mind would locate next to a toll road, nor most consumers when buying a house. In fact, several news reports from realtors in Bexar County have shown residents are flocking away from the areas of town slated to be tolled. Also, residents who experience higher traffic volumes on their neighborhood streets due to people avoiding the toll road have their property value DECREASE not INCREASE.

Bexar County is already seeing folks protest their property tax appraisals because of the devaluation happening due to the threat of toll roads going in near their homes. Residents can't sell the homes because buyers have to be told of the coming toll road, and they can't afford the tax bill to stay in them.

The level of economic development along a non-toll road versus a toll road are totally different. A judge in a Sierra Club court case agreed that it is an implausible assumption to suggest economic and development conditions stay the same whether or not a road is tolled. The fact is people change their behavior to avoid having to pay extra to drive or shop when they can go live or shop elsewhere where they don't. It's a fact that taxes don't create economic prosperity for anyone other than government (and perhaps the road lobby).

It's your fiduciary duty to put the road lobby's lust for infrastructure funds and paving over Texas in check and put the taxpayers' short-term and long-term economic health and the sustainability of this approach FIRST. No transportation study shows that increasing the cost of transportation is good for the economy. It's high time we re-think the most expensive transportation tax, tolls. It will KILL the economy.

If TxDOT's claims are true and we're not taking in enough money to even maintain our current highways, it makes NO SENSE to divert \$5 billion in maintenance money to go build more roads we know in advance we don't have the funds to maintain. It's totally irresponsible! Please listen to the citizens and let's put some sanity back into our transportation policy.

This concludes our remarks.