

Texas Transportation Commission OKs loan to North Texas Tollway Authority for State Highway 161

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The North [Texas](#) Tollway Authority has been fighting for nearly three years to build the State Highway 161 toll road, and on Friday its board members will finally have to decide whether it really wants to.

On Wednesday, the Texas Transportation Commission agreed to extend NTTA a line of credit that will act as a guarantee to creditors in the event that traffic is so low that the authority cannot make its debt payments. The line of credit will save NTTA hundreds of millions of dollars in interest costs if it agrees on Friday to take over Highway 161.

But commissioners unanimously approved the unprecedented loan agreement only after they inserted two terms that NTTA leaders have said could be deal breakers in Friday's vote.

The state is insisting that NTTA pay a penalty if it doesn't refinance the road within 10 years in a way that would take the state off the hook. The loan agreement also would require NTTA to pay additional interest under certain circumstances.

Without the line of credit, NTTA Chairman Paul Wageman has said, the authority could not build the road. But it was far from clear Wednesday whether the authority would be willing to accept the terms imposed by state commissioners, despite heavy political pressure from North Texas elected leaders that it do so.

"We view these provisions as onerous," Wageman said. "Having said that, the board will consider this very carefully on Friday. But this is absolutely not what we agreed to when we reached a negotiated agreement with TxDOT in October 2008."

James Bass, the Transportation Department's chief financial officer, told commissioners that requiring NTTA to pay interest could be seen as punitive, especially because the authority would need to use the line of credit only if the economy or some other reason causes traffic to fall.

But Commissioner Ned Holmes of [Houston](#) insisted that if the department was taking a risk to help NTTA finance a road, it should be paid for it.

"This is really a momentous precedent, what we are about to do here," he said, noting that any deal made for NTTA will be seen as a model by leaders in other cities.

Commissioner Bill Meadows of [Fort Worth](#) objected, saying Holmes was wrong to view the deal with NTTA in purely business terms.

"We're two agencies working together to get something built," he said.

NTTA has argued all along that the line of credit, which commissioners agreed to in principle 16 months ago, shouldn't been seen as charity on the state's part. In return for the credit help, the toll authority has already agreed to make road improvements that will save the state up to \$500 million in gas taxes.

Meadows, a former Fort Worth city council member and former NTTA board member, introduced a substitute motion that would have stripped the requirement for interest, but it failed to receive a second.

The 11.5-mile road between [Grand Prairie](#) and [Irving](#) is expected to produce hundreds of millions of dollars in excess revenue annually – but not for some 30 years.

In the meantime, agreeing to take on the road will mean enormous debt for an agency that already owes about \$7 billion and expects to borrow more within a year or so for a major toll road in [Tarrant County](#) called Southwest Parkway.

Negotiations over who would build Highway 161 began in late 2007, just after NTTA had emerged victorious from a contentious fight with the Texas Department of Transportation over who should build State Highway 121, the massive toll road project still being built, and partially open to traffic, in Denton and Collin counties.

With feelings still bruised from the Highway 121 fight, state transportation officials held out for months, insisting that NTTA pay everything its advisers said a private firm would be willing to pay for Highway 161. It relented after the intervention of Lt. Gov. David Dewhurst, who came to [Dallas](#) in early 2008 to insist on a last-minute deal.

That agreement triggered a two-year window for NTTA to formally agree to build the road, a deadline that expires Sunday.

The agency's nine-member board will meet Friday at its [Plano](#) headquarters just ahead of that deadline to decide whether it should take on the road. If it votes no, the final – and in some senses most crucial – leg of the highway will be delayed as state officials scramble to find a private toll firm willing to build it.

To find such a private partner, the [Transportation Department](#) would have to exploit a loophole in state law that would allow it to partner with a private toll firm for up to 52 years to build the road, with any future profits flowing to investors rather than remaining in North Texas for use on future roads.

But the same trends that have made financing the road more difficult for NTTA – namely, a drop in traffic due to the economy and tightened credit markets – could also

make it difficult for Texas to find a private firm willing to build the road, at least not without a heavy contribution of tax dollars.

North Texas officials said Wednesday that they want NTTA to build the road.

If that is the case, Commissioner Ted Houghton of El Paso said Wednesday, officials had better shift their lobbying focus away from his commission and toward NTTA. "They have the final say in what happens. Not us," said Houghton.

Special NTTA board rules require eight of its nine members to accept the Highway 161 deal, or it will die.

At a glance

ABOUT THE ROAD

- 11.5 miles long
- Already partially open
- NCTCOG spent \$258 million to continue construction of new segments expected to be open this year, in time to relieve 2011 [Super Bowl](#) traffic in Arlington.
- If NTTA takes the project, it will repay \$258 million, plus build the final segment, which runs from just north of I-30 to I-20.

WHAT'S NEXT?

On Friday, the NTTA board decides whether to accept the task of building SH 161, and collecting its tolls in perpetuity, just two days before a statutory deadline would end its legal authority to do so.

By March 1, NTTA must give the OK to Prairie Link Constructors to begin the final leg of the toll road between Irving and Grand Prairie. The firm will manage both design and construction under NTTA's largest single contract, worth nearly \$500 million.

By late 2012, all segments of the road will be open.