CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 28, 2005
Date

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2702 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sen. Rodney Ellis

Sen. Kevin Eltife

Sen. Troy Fraser

Sen. Eliot Shapleigh

On the part of the Senate
Sen. Todd Staples, Chair

Rep. Fred Hill

Rep. Glenn Hegar

Rep. Larry Phillips

Rep. Robby Cook

On the part of the House
Rep. Mike Krusee, Chair

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2702

A BILL TO BE ENTITLED

AN ACT

relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in this state; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. RAIL FACILITIES

SECTION 1.01. Section 91.001, Transportation Code, is amended by amending Subdivision (6) and adding Subdivision (13) to read as follows:

(6) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility or system, including commuter rail, intercity rail, [~~and~~] high-speed rail<u>, and tri-track</u>. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

<u>(13) "Tri-track" means a triangular monorail beam guideway:</u>

<u>(A) constructed at a grade above surface modes of transportation;</u>

(B) for use by dual-mode vehicles capable of using the guideway or a highway; and

(C) with entrances accessible from and exits accessible to highways.

SECTION 1.02. Section 91.004, Transportation Code, is amended to read as follows:

Sec. 91.004. GENERAL POWERS. (a) The department may:

(1) plan and make policies for the location, construction, maintenance, and operation of a rail facility or system in this state;

(2) acquire, finance, construct, maintain, and subject to Section 91.005, operate a passenger or freight rail facility, individually or as one or more systems;

(3) for the purpose of acquiring or financing a rail facility or system, accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(4) contract with a public or private person to finance, construct, maintain, or operate a rail facility under this chapter; or

(5) perform any act necessary to the full exercise of the department's powers under this chapter.

(b) Except as provided by Subsection (c), money appropriated or allocated by the United States for the construction and maintenance in this state of rail facilities

owned by any public or private entity shall be administered by the commission and may be spent only under the supervision of the department.

(c) Subsection (b) does not apply to money appropriated or allocated:

(1) to a transit authority described by Chapter 451, a transportation authority described by Chapter 452 or 460, or a transit department described by Chapter 453; or

(2) for use by:

(A) a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; or

(B) a district created under Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes).

SECTION 1.03. Section 91.051, Transportation Code, is amended to read as follows:

Sec. 91.051. AWARDING OF CONTRACTS. Except for a contract entered into under Section 91.052, 91.054, or 91.102 [~~Unless otherwise provided by this subchapter~~], a contract made by the department for the construction, maintenance, or operation of a rail facility must be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the department's criteria.

SECTION 1.04. Subchapter C, Chapter 91, Transportation Code, is amended by adding Section 91.054 to read as follows:

Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a)

To the extent and in the manner that the department may enter into a comprehensive development agreement under Chapter ~~361~~ 228 with regard to a ~~turnpike~~ toll project, the department may enter into a comprehensive development agreement under this chapter that provides for the financing, design, acquisition, construction, maintenance, or operation of a rail facility or system. All provisions of Chapter ~~361~~ 228 relating to comprehensive development agreements for ~~turnpike~~ toll projects apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.

(b) The department may combine in a comprehensive development agreement under this chapter a rail facility or system and a ~~turnpike~~ toll project as defined by Section ~~361~~ 201.001.

(c) The department may not enter into a comprehensive development agreement with a private entity under this chapter that provides for the lease or use of rights-of-way or related property by the private entity to construct, operate, or maintain a facility that is unrelated to the operation of the rail facility or system.

SECTION 1.05. Section 91.071(b), Transportation Code, is amended to read as follows:

(b) The [~~Each fiscal year, the total amount disbursed by the~~] department may not spend money from the general revenue [~~state highway~~] fund to implement this chapter except pursuant to a line-item appropriation [~~may not exceed $12.5 million~~].

[~~This subsection does not apply to:~~

[~~(1) the acquisition of abandoned rail facilities described in Section 91.007;~~

[~~(2) funding derived from the issuance of bonds, private investment, and donations;~~

[~~(3) federal funds from the Federal Railroad Administration, from the Federal Transit Administration, or authorized and appropriated by the United States Congress for a specific project;~~

[~~(4) grants awarded by the governor from the Texas Enterprise Fund; and~~

[~~(5) grading and bed preparation.~~]

SECTION 1.06. Section 91.074(c), Transportation Code, is amended to read as follows:

(c) The department may contract with a person for the use of all or part of a rail facility or system or may lease or sell all or part of a rail facility or system, including all or any part of the right-of-way adjoining trackwork, for any purpose, including placing on the adjoining right-of-way a storage or transfer facility, warehouse, garage, parking facility, telecommunication line or facility, restaurant, or gas station. <u>Any portion of a rail facility or system that is used or leased by a private person under this subsection for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.</u>

SECTION 1.07. Subchapter D, Chapter 91, Transportation Code, is amended by adding Section 91.075 to read as follows:

1 Sec. 91.075. PASS-THROUGH FARES. (a) In this section,
2 "pass-through fare" means:
3 (1) a per passenger fee or a per passenger mile fee
4 that is determined by the number of passengers using a passenger
5 rail facility; or
6 (2) a fee that is determined based on the number of
7 carloads or commodity tonnages shipped using a freight rail
8 facility.
9 (b) The department may enter into an agreement with a
10 public or private entity that provides for the payment of pass-
11 through fares to the public or private entity as reimbursement
12 for the acquisition, design, development, financing,
13 construction, relocation, maintenance, or operation of a
14 passenger rail facility or a freight rail facility by the
15 entity.
16 (c) The department may use any available funds for the
17 purpose of making a pass-through fare payment under this
18 section, including funds from the state infrastructure bank.
19 (d) The commission may adopt rules necessary to implement
20 this section. Rules adopted under this subsection may include
21 criteria for:
22 (1) determining the amount of pass-through fares to
23 be paid under this section; and
24 (2) allocating the risk that ridership on a passenger
25 rail facility or carloads or commodity tonnages shipped on a
26 freight rail facility will be higher or lower than the parties
27 to an agreement under this section anticipated in entering into

the agreement.

SECTION 1.08. Effective October 1, 2005, Article 6445, Revised Statutes, is amended to read as follows:

Art. 6445. POWER AND AUTHORITY. (a) Power and authority are hereby conferred upon the Texas Department of Transportation [~~Railroad Commission of Texas~~] over all railroads, and suburban, belt and terminal railroads, and over all public wharves, docks, piers, elevators, warehouses, sheds, tracks and other property used in connection therewith in this State, and over all persons, associations and corporations, private or municipal, owning or operating such railroad, wharf, dock, pier, elevator, warehouse, shed, track or other property to fix, and it is hereby made the duty of the said department [~~Commission~~] to adopt all necessary rates, charges and regulations, to govern and regulate such railroads, persons, associations and corporations, and to correct abuses and prevent unjust discrimination in the rates, charges and tolls of such railroads, persons, associations and corporations, and to fix division of rates, charges and regulations between railroads and other utilities and common carriers where a division is proper and correct, and to prevent any and all other abuses in the conduct of their business and to do and perform such other duties and details in connection therewith as may be provided by law.

(b) All powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are transferred to the Texas Department of

Transportation.

(c) A reference in law to the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads means the Texas Department of Transportation.

SECTION 1.09. (a) On October 1, 2005:

(1) all powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are transferred to the Texas Department of Transportation;

(2) all rules, policies, forms, procedures, and decisions of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are continued in effect as rules, policies, forms, procedures, and decisions of the Texas Department of Transportation, until superseded by a rule or other appropriate action of the Texas Department of Transportation;

(3) any investigation, complaint, action, contested case, or other proceeding involving the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads is transferred without change in status to the Texas Department of Transportation, and the Texas Department of Transportation assumes, without a change in status, the position of the Railroad Commission of Texas in any investigation, complaint, action, contested case, or other proceeding that relates primarily to railroads and the regulation of railroads involving the Railroad Commission of Texas; and

(4) all employees of the Railroad Commission of Texas that perform duties relating primarily to railroads and the regulation of railroads become employees of the Texas Department of Transportation.

(b) The transfer of the powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads to the Texas Department of Transportation does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Railroad Commission of Texas.

SECTION 1.10. As soon as possible after the effective date of this Act but before October 1, 2005, the Railroad Commission of Texas shall determine and report to the Texas Department of Transportation on:

(1) which obligations, contracts, records, assets, and property of the Railroad Commission of Texas relate primarily to railroads and the regulation of railroads; and

(2) which employees of the Railroad Commission of Texas perform duties that relate primarily to railroads and the regulation of railroads.

ARTICLE 2. HIGHWAYS

SECTION 2.01. Section 201.001, Transportation Code, is amended to read as follows:

1 Sec. 201.001. DEFINITIONS. (a) In this title:

2 (1) "Commission" means the Texas Transportation
3 Commission.

4 (2) "Department" means the Texas Department of
5 Transportation.

6 (3) "Director" means the executive director of the
7 Texas Department of Transportation.

8 (b) In this subtitle, "toll project" means one or more
9 tolled lanes of a highway or an entire toll highway constructed,
10 maintained, or operated as a part of the state highway system
11 and any improvement, extension, or expansion to the highway,
12 including:

13 (1) a facility to relieve traffic congestion and
14 promote safety;

15 (2) a bridge, tunnel, overpass, underpass,
16 interchange, entrance plaza, approach, toll booth, toll plaza,
17 service road, ramp, or service center;

18 (3) an administration, storage, or other building,
19 operations center, maintenance or other facility, equipment, or
20 system the department considers necessary to operate the
21 project;

22 (4) property rights, easements, and interests the
23 department acquires to construct, maintain, or operate the
24 project;

25 (5) a parking area or structure, rest stop, park, and
26 any other improvement or amenity the department considers
27 necessary, useful, or beneficial for the operation and

maintenance of the project; and

(6) a nontolled facility that is appurtenant to and necessary for the efficient operation and maintenance of the project, including a connector, service road, access road, ramp, interchange, bridge, or tunnel.

SECTION 2.02. Section 201.1055, Transportation Code, is amended to read as follows:

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement for the [~~that includes~~]:

(1) acquisition, [~~both~~] design, [~~and~~] construction, or renovation, including site development, of a building or other facility required to support department operations [~~district office headquarters facility~~] located on real property owned or acquired by the department [~~in a county with a population of 3.3 million or more~~]; or

(2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements [~~a lease of department-owned real property in a district that includes a county with a population of 3.3 million or more to the private entity,~~

[~~(3) a provision authorizing the private entity to construct and retain ownership of a building on property leased to the entity under Subdivision (2); and~~

[~~(4) a provision under which the department agrees to enter into an agreement to lease with an option or options to purchase a building constructed on property leased to the entity under Subdivision (2)~~].

(b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code.

(c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2).

(d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2).

(e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must require the private entity to compensate the department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code.

SECTION 2.03. Section 201.113, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) An agreement entered into under this section may provide that an improvement of a portion of the state highway system by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function.

SECTION 2.04. Sections 201.115(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) The commission may authorize the department to borrow money from any source to carry out the functions of the department.

(b) A loan under this section may be in the form of an agreement, note, contract, or other form as determined by the commission and may contain any provisions the commission considers appropriate, except:

(1) the term of the loan may not exceed two years;

(2) the amount of the loan, combined with any amounts outstanding on other loans under this section, may not exceed an amount that is two times the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan; and

(3) the loan may not create general obligation of the

state and is payable only as authorized by legislative appropriation.

(c) If the department [~~commission~~] borrows money by the issuance of notes, the notes shall be considered a state security for purposes of Chapter 1231, Government Code [~~issued in accordance with the requirements of Subchapter N, except that the maturity limitations in Subsection (b) supersede the maturity limitations in Section 201.963~~].

SECTION 2.05. Section 201.615, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department shall consider the following factors when developing transportation projects that involve the construction, reconstruction, rehabilitation, or resurfacing of a highway, other than a maintenance resurfacing project:

(1) the extent to which the project promotes safety;

(2) the durability of the project;

(3) the economy of maintenance of the project;

(4) the impact of the project on:

(A) the natural and artificial environment;

(B) the scenic and aesthetic character of the area in which the project is located;

(C) preservation efforts; and

(D) each affected local community and its economy; [~~and~~]

(5) the access for other modes of transportation, including those that promote physically active communities; and

(6) except as provided by Subsection (c), the aesthetic character of the project, including input from each affected local community.

(c) Subsection (a)(6) does not apply to transportation projects that involve the rehabilitation or resurfacing of a bridge or highway.

SECTION 2.06. Section 202.112, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) An option to acquire property purchased under this section or Section 227.041 may not expire later than the fifth anniversary of the date the option was purchased and may be renewed for subsequent periods that expire not later than the fifth anniversary of the date the option was renewed, by agreement of the commission and the grantor of the option or the grantor's heirs or assigns.

SECTION 2.07. Section 203.004, Transportation Code, is transferred to Subchapter H, Chapter 201, Transportation Code, redesignated as Section 201.617, Transportation Code, and amended to read as follows:

Sec. 201.617 [~~203.004~~]. [~~CONTRACTS FOR MANAGEMENT OF PROPERTY USED FOR~~] MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS. (a) If authorized by an applicable regulatory authority, to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the [~~The~~] department may:

(1) pay a fee to an appropriate public agency or private entity in lieu of acquiring or agreeing to manage

property;

(2) transfer real property to an entity designated by an agency of the United States without monetary consideration if the property is used or is proposed to be used for mitigation purposes; or

(3) contract with any public or private entity for the management of property owned by the department and used for [~~the~~] mitigation purposes [~~of an adverse environmental impact directly resulting from the construction or maintenance of a state highway~~].

(a-1) Before the commission may acquire by purchase or condemnation real property to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the department shall, if authorized by an applicable regulatory authority, offer to purchase a conservation easement from the owner of the real property. If the landowner does not accept the offer to execute a conservation easement before the 61st day after the date the offer is made, the department may acquire the property by purchase or condemnation.

(b) A contract under this section is not subject to Chapter 771, Government Code.

(c) In this section, "management" [~~"management," in connection with property,~~] means administration, control, or maintenance that is required by an agency of the United States.

SECTION 2.08. Section 201.943, Transportation Code, is amended by adding Subsection (l) to read as follows:

(l) Obligations may not be issued if the commission or the

department requires that toll roads be included in a regional mobility plan in order for a local authority to receive an allocation from the fund.

SECTION 2.09. Subchapter K, Chapter 201, Transportation Code, is amended by adding Section 201.907 to read as follows:

Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or a public or private entity contracted to operate a toll project may contract with an agency of this state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce laws related to:

(1) the regulation and control of vehicular traffic on a state highway; and

(2) the payment of the proper toll on a toll project.

SECTION 2.10. Section 203.052(b), Transportation Code, is amended to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

(1) protect a state highway;

(2) drain a state highway;

(3) divert a stream, river, or other watercourse from the right-of-way of a state highway;

(4) store materials or equipment for use or used in the construction or maintenance of a state highway;

(5) construct or operate a warehouse or other facility used in connection with the construction, maintenance,

or operation of a state highway;

(6) lay out, construct, or maintain a roadside park;

(7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;

(8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway; [~~or~~]

(9) provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant, or other commercial facility;

(10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or

(11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

SECTION 2.11. Section 203.0521, Transportation Code, is amended to read as follows:

Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a remainder of the tract, the department may negotiate for and purchase the remainder or any part of a severed real property if the department and the owner agree on terms for the purchase. The

department [~~commission~~] shall offer, except as provided by Subsection (f), to purchase a [~~the~~] remainder if the department [~~commission~~] determines that:

(1) the remainder has little or no value or utility to the owner; or

(2) the entire tract could be acquired for substantially the same compensation as the partial tract.

(b) In acquiring real property under Section 203.051, if the acquisition severs an owner's real property, the department shall pay:

(1) the value of the property acquired; and

(2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other [~~The department may acquire the remainder under this section only if the owner of the property consents to the acquisition of the remainder~~].

(b-1) If a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and that is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of ~~15,000~~ 25,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

(c) Instead of a single fixed payment for real property purchased under Subsection (a) for a toll project, the

department may agree to a payment to the owner in the form of:

(1) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or

(2) a right to use, without charge, a segment or part of the toll project [~~The department is not required to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances~~].

(d) A right to receive revenue under Subsection (c)(1) is subject to any pledge of the revenue under the terms of a trust agreement securing bonds issued for the applicable segment of the toll project.

(e) The department and its designated agents may enter the real property [~~a remainder~~] to conduct an appraisal, survey, or environmental investigation to determine whether the department will offer to acquire the real property [~~remainder~~].

(f) The department is not required under Subsection (a) to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances.

SECTION 2.12. Section 203.055, Transportation Code, is amended to read as follows:

Sec. 203.055. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY [~~CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY~~]. (a) The governing body of a political subdivision or public agency that owns or is in charge

of public real property may consent to the use of the property for highway purposes.

(b) The governing body of a political subdivision or public agency may, without advertisement, convey the title to or rights or easements [~~a right~~] in real property that the department needs[~~:~~

[~~(1) is owned by the political subdivision or public agency; and~~

[~~(2) may be acquired by the commission under this subchapter~~] for highway purposes.

(c) Notwithstanding any law to the contrary, at the request of the department, a political subdivision or a state agency may lease, lend, grant, or convey to the department real property, including a highway or real property currently devoted to public use, that may be necessary or appropriate to accomplish the department's purposes. The political subdivision or state agency may lease, lend, grant, or convey the property:

(1) on terms the subdivision or agency determines reasonable and fair; and

(2) without advertisement, court order, or other action or formality other than the regular and formal action of the subdivision or agency concerned.

[~~(b) In this section, "political subdivision" includes a county or municipality.~~]

SECTION 2.13. Sections 361.137, 361.138, 361.233, and 361.142, Transportation Code, are transferred to Subchapter D, Chapter 203, Transportation Code, redesignated as Sections

203.066, 203.067, 203.068, and 203.069, Transportation Code, and amended to read as follows:

Sec. 203.066 [~~361.137~~]. DECLARATION OF TAKING FOR TOLL PROJECT. (a) This section and Section 203.067 apply only to a taking for a toll project.

(b) The department may file a declaration of taking with the clerk of the court:

(1) in which the department files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(c) [~~(b)~~] The department may file the declaration of taking concurrently with or subsequent to the petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(d) [~~(c)~~] The department may not file a declaration of taking before the completion of:

(1) all environmental documentation, including a final environmental impact statement or a record of decision, that is required by federal or state law;

(2) all public hearings and meetings, including those held in connection with the environmental process and under Sections 201.604 and 203.021, that are required by federal or state law; [~~and~~]

(3) all notifications required by Section 203.022; and

(4) if the property contains a business, farm, or ranch, a written notification to the property owner that the

occupants:

(A) will not be required to move before the 90th day after the date of the notice; and

(B) will receive, not later than the 30th day before the date by which the property must be vacated, a written notice specifying the date by which the property must be vacated.

(e) [~~(d)~~] The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

(A) the municipality in which the property is located;

(B) the street address of the property; and

(C) the lot and block number of the property;

(3) a statement of the property interest to be condemned;

(4) the name and address of each property owner that the department can obtain after reasonable investigation and a description of the owner's interest in the property; and

(5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a toll [~~turnpike~~] project.

(f) [~~(d-1)~~] A deposit to the registry of the court of an amount equal to the appraised value, as determined by the

department, of the property to be condemned must accompany the declaration of taking.

(g) [~~(e)~~] The date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled.

(h) The filing of a declaration of taking does not affect the special commissioners' hearing or any other proceeding [~~(f) After a declaration of taking is filed, the case shall proceed as any other case in eminent domain~~] under Chapter 21, Property Code.

Sec. 203.067 [~~361.138~~]. POSSESSION OF PROPERTY FOR TOLL PROJECT. (a) Immediately on the filing of a declaration of taking under Section 203.066, the department shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. The department shall file evidence of the service with the clerk of the court. On filing of that evidence, the department may take possession of the property pending the litigation.

(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the department may not take possession sooner than the 91st day after the date of service under Subsection (a).

(c) A property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

Sec. 203.068 [~~361.233~~]. RIGHT OF ENTRY FOR TOLL PROJECT.

(a) The department and its authorized agents may enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination it determines necessary or appropriate for the purposes of the development of a toll project [~~this chapter~~].

(b) An entry under this section is not:

(1) a trespass; or

(2) an entry under a pending condemnation proceeding.

(c) The department shall make reimbursement for any actual damages to real property, water, or premises that result from an activity described by Subsection (a).

Sec. 203.069 [~~361.142~~]. COVENANTS, CONDITIONS, RESTRICTIONS, OR LIMITATIONS. Covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the department are not binding against the department and do not impair the department's ability to use the property for a purpose authorized by this chapter. The beneficiaries of the covenants, conditions, restrictions, or limitations are not entitled to enjoin the department from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek damages to the person's property under Section 17, Article I, Texas Constitution.

SECTION 2.14. Section 203.092(a), Transportation Code, is amended to read as follows:

(a) A utility shall make a relocation of a utility facility at the expense of this state if[~~:~~

[~~(1)~~] relocation of the utility facility is required

by improvement of:

(1) a highway in this state established by appropriate authority as part of the National System of Interstate and Defense Highways and the relocation is eligible for federal participation; [~~or~~]

(2) [~~relocation of the utility facility is required by improvement of~~] any segment of the state highway system and the utility has a compensable property interest in the land occupied by the facility to be relocated; or

(3) a segment of the state highway system that was designated by the commission as a turnpike project or toll project before September 1, 2005.

(a-1) Notwithstanding Subsection (a), the department and the utility shall share equally the cost of the relocation of a utility facility that is made before September 1, 2007, and required by the improvement of a nontolled highway to add one or more tolled lanes. This subsection expires September 1, 2007.

(a-2) Notwithstanding Subsection (a), the department and the utility shall share equally the cost of the relocation of a utility facility that is made before September 1, 2007, and required for the improvement of a nontolled highway that has been converted to a turnpike project or toll project. This subsection expires September 1, 2007.

(a-3) Notwithstanding Subsection (a), the department and the utility shall share equally the cost of the relocation of a utility facility that is made before September 1, 2007, and required for the construction of a new location of a turnpike

project or toll project or the expansion of a new location of a turnpike project or toll project. This subsection expires September 1, 2007.

SECTION 2.15. Section 221.001(1), Transportation Code, is amended to read as follows:

(1) "Highway" includes a tolled or nontolled public road or part of a tolled or nontolled public road and a bridge, culvert, building, or other necessary structure related to a public road.

SECTION 2.16. Subchapter B, Chapter 222, Transportation Code, is amended by adding Section 222.035 to read as follows:

Sec. 222.035. PRIVATE ACTIVITY BONDS. (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code of 1986.

(b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the Internal Revenue Code of 1986 to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used:

(1) the determination shall be published in the Texas Register; and

(2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register.

(c) The attorney general shall monitor federal legislation for purposes of this section.

(d) The department shall establish and administer a

program for private activity bonds issued for highway facilities or surface freight transfer facilities in this state.

(e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities.

(f) The department shall adopt rules to administer the program established under this section.

(g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under Section 146, Internal Revenue Code of 1986, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code.

SECTION 2.17. Section 222.103(h), Transportation Code, is amended to read as follows:

(h) Money granted by the department each fiscal year under this section may not exceed an amount that, together with the money granted for the preceding four fiscal years, results in an average annual expenditure of $2 billion [~~$800 million~~]. This limitation does not apply to money required to be repaid.

SECTION 2.18. Section 222.104, Transportation Code, is amended to read as follows:

Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway.

(b) The department may enter into an agreement with a

1 public or private entity that provides for the payment of pass-
2 through tolls to the public or private entity as reimbursement
3 for the design, development, financing, construction,
4 maintenance, or operation of a toll or nontoll facility on the
5 state highway system by the public or private entity.
6 (c) The department may enter into an agreement with a
7 private entity that provides for the payment of pass-through
8 tolls to the department as reimbursement for the department's
9 design, development, financing, construction, maintenance, or
10 operation of a toll or nontoll facility on the state highway
11 system that is financed by the department.
12 (d) The department and a regional mobility authority, a
13 regional tollway authority, or a county acting under Chapter 284
14 may enter into an agreement [~~with a regional mobility authority,~~
15 ~~a regional tollway authority, or a county acting under Chapter~~
16 ~~284~~] that provides for:
17 (1) the payment of pass-through tolls to the
18 authority or county as compensation for the payment of all or a
19 portion of the costs of maintaining a state highway or a portion
20 of a state highway transferred to the authority or county after
21 being converted to a toll facility [~~of the authority or county~~]
22 that the department estimates it would have incurred if the
23 highway had not been converted; or
24 (2) the payment by the authority or county of pass-
25 through tolls to the department as reimbursement for all or a
26 portion of the costs incurred by the department to design,
27 develop, finance, construct, and maintain a state highway or a

portion of a state highway transferred to the authority or county after being converted to a toll facility.

(e) [~~(d)~~] The department may use any available funds for the purpose of making a pass-through toll payment under this section.

(f) A regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 is authorized to secure and pay its obligations under an agreement under this section from any lawfully available funds.

(g) [~~(e)~~] The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include [~~establish~~] criteria for:

(1) determining the amount of pass-through tolls to be paid under this section; and

(2) allocating the risk that traffic volume will be higher or lower than the parties to an agreement under this section anticipated in entering the agreement.

(h) Money repaid to the department under this section shall be deposited to the credit of the fund from which the money was originally provided and is exempt from the application of Section 403.095, Government Code.

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with which the department enters into an agreement under this section.

(j) An agreement under this section must provide that the municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

(k) An agreement under this section must prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

SECTION 2.19. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section 222.1045 to read as follows:

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(c).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity.

SECTION 2.20. Sections 223.041(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) The department, in setting a minimum level of expenditures in these engineering-related activities that will be paid to the private sector providers, shall provide that [~~index the level of expenditures from the amount set by rider in the General Appropriations Act enacted by the 75th Legislature at its regular session in 1997, expressed as a percentage of the total funds appropriated in Strategy A.1.1. Plan/Design/Manage.~~

[~~(c) Beginning in fiscal year 2000, the department shall increase its expenditures to private sector providers for engineering-related services at least one percentage point per year until~~] the expenditure level for a state fiscal year in all strategies paid to private sector providers for all department engineering-related services for transportation projects is not less than [~~reaches a minimum of~~] 35 percent of the total funds appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy

A.1.2. of the General Appropriations Act for that state fiscal biennium. The department shall attempt to make expenditures for engineering-related services with private sector providers under this subsection with historically underutilized businesses, as defined by Section 2161.001, Government Code, in an amount consistent with the applicable provisions of the Government Code, any applicable state disparity study, and in accordance with the good-faith-effort procedures outlined in the rules adopted by the Texas Building and Procurement [~~General Services~~] Commission.

[~~(d) The commission shall provide for hearings at which private sector complaints relating to the selection process are heard.~~]

SECTION 2.21. Chapter 223, Transportation Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. 223.201. AUTHORITY. (a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) facility or a combination of facilities on the Trans-Texas Corridor;

(3) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(4) state highway improvement project in which the

private entity has an interest in the project; or

(5) state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

(b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction, rehabilitation, expansion, or improvement of a project described in Subsection (a) and may also provide for the financing, acquisition, maintenance, or operation of a project described in Subsection (a).

(c) The department may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) Money disbursed by the department under a comprehensive development agreement is not included in the amount:

(1) required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or

(2) appropriated in Strategy A.1.1. Plan/Design/Manage of the General Appropriations Act for that biennium for the purpose of making the computation under Section 223.041.

(e) The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.

1 (g) The department may combine in a comprehensive
2 development agreement under this subchapter a toll project and a
3 rail facility as defined by Section 91.001.
4 Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL
5 PARTICIPATION. The amount of money disbursed by the department
6 from the state highway fund and the Texas mobility fund during a
7 federal fiscal year to pay the costs under comprehensive
8 development agreements may not exceed 40 percent of the
9 obligation authority under the federal-aid highway program that
10 is distributed to this state for that fiscal year.
11 Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE
12 DEVELOPMENT AGREEMENTS. (a) If the department enters into a
13 comprehensive development agreement, the department shall use a
14 competitive procurement process that provides the best value for
15 the department. The department may accept unsolicited proposals
16 for a proposed project or solicit proposals in accordance with
17 this section.
18 (b) The department shall establish rules and procedures
19 for accepting unsolicited proposals that require the private
20 entity to include in the proposal:
21 (1) information regarding the proposed project
22 location, scope, and limits;
23 (2) information regarding the private entity's
24 qualifications, experience, technical competence, and capability
25 to develop the project; and
26 (3) any other information the department considers
27 relevant or necessary.

1 (c) The department shall publish a notice advertising a
2 request for competing proposals and qualifications in the Texas
3 Register that includes the criteria to be used to evaluate the
4 proposals, the relative weight given to the criteria, and a
5 deadline by which proposals must be received if:
6 (1) the department decides to issue a request for
7 qualifications for a proposed project; or
8 (2) the department authorizes the further evaluation
9 of an unsolicited proposal.
10 (d) A proposal submitted in response to a request
11 published under Subsection (c) must contain, at a minimum, the
12 information required by Subsections (b)(2) and (3).
13 (e) The department may interview a private entity
14 submitting an unsolicited proposal or responding to a request
15 under Subsection (c). The department shall evaluate each
16 proposal based on the criteria described in the request for
17 competing proposals and qualifications and may qualify or
18 shortlist private entities to submit detailed proposals under
19 Subsection (f). The department must qualify or shortlist at
20 least two private entities to submit detailed proposals for a
21 project under Subsection (f) unless the department does not
22 receive more than one proposal or one response to a request
23 under Subsection (c).
24 (e-1) Notwithstanding the requirements of this section,
25 the department may prequalify a private entity to submit a
26 detailed proposal to provide services under a design-build
27 contract. The department is not required to publish a request

1 under Subsection (c) for a design-build contract, and may enter
2 into a design-build contract based solely on an evaluation of
3 detailed proposals submitted in response to a request under
4 Subsection (f) by prequalified private entities. The commission
5 shall adopt rules establishing criteria for the prequalification
6 of a private entity that include the precertification
7 requirements applicable to providers of engineering services and
8 the qualification requirements for bidders on highway
9 construction contracts. Rules for design-build projects adopted
10 pursuant to this subsection shall also provide for an expedited
11 selection process that includes design innovation as a selection
12 criterion.
13 (e-2) In this section, "design-build contract" means a
14 comprehensive development agreement that includes the design and
15 construction of a turnpike project, does not include the
16 financing of a turnpike project, and may include the
17 acquisition, maintenance, or operation of a turnpike project.
18 (f) The department shall issue a request for detailed
19 proposals from all private entities qualified or shortlisted
20 under Subsection (e) if the department proceeds with the further
21 evaluation of a proposed project. A request under this
22 subsection may require additional information relating to:
23 (1) the private entity's qualifications and
24 demonstrated technical competence;
25 (2) the feasibility of developing the project as
26 proposed;
27 (3) engineering or architectural designs;

1 (4) the private entity's ability to meet schedules;

2 (5) a financial plan, including costing methodology

3 and cost proposals; or

4 (6) any other information the department considers

5 relevant or necessary.

6 (g) In issuing a request for proposals under Subsection

7 (f), the department may solicit input from entities qualified

8 under Subsection (e) or any other person. The department may

9 also solicit input regarding alternative technical concepts

10 after issuing a request under Subsection (f).

11 (h) The department shall evaluate each proposal based on

12 the criteria described in the request for detailed proposals and

13 select the private entity whose proposal offers the apparent

14 best value to the department.

15 (i) The department may enter into negotiations with the

16 private entity whose proposal offers the apparent best value.

17 (j) If at any point in negotiations under Subsection (i)

18 it appears to the department that the highest ranking proposal

19 will not provide the department with the overall best value, the

20 department may enter into negotiations with the private entity

21 submitting the next highest ranking proposal.

22 (k) The department may withdraw a request for competing

23 proposals and qualifications or a request for detailed proposals

24 at any time. The department may then publish a new request for

25 competing proposals and qualifications.

26 (l) The department may require that an unsolicited

27 proposal be accompanied by a nonrefundable fee sufficient to

1 cover all or part of its cost to review the proposal.

2 (m) The department shall pay an unsuccessful private

3 entity that submits a responsive proposal in response to a

4 request for detailed proposals under Subsection (f) a stipulated

5 amount in exchange for the work product contained in that

6 proposal. The stipulated amount must be stated in the request

7 for proposals and may not exceed the value of any work product

8 contained in the proposal that can, as determined by the

9 department, be used by the department in the performance of its

10 functions. The use by the department of any design element

11 contained in an unsuccessful proposal is at the sole risk and

12 discretion of the department and does not confer liability on

13 the recipient of the stipulated amount under this section.

14 After payment of the stipulated amount:

15 (1) the department owns with the unsuccessful

16 proposer jointly the rights to, and may make use of any work

17 product contained in, the proposal, including the technologies,

18 techniques, methods, processes, ideas, and information contained

19 in the project design; and

20 (2) the use by the unsuccessful proposer of any

21 portion of the work product contained in the proposal is at the

22 sole risk of the unsuccessful proposer and does not confer

23 liability on the department.

24 (n) The department may prescribe the general form of a

25 comprehensive development agreement and may include any matter

26 the department considers advantageous to the department. The

27 department and the private entity shall finalize the specific

terms of a comprehensive development agreement.

(o) Subchapter A of this chapter and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.

Sec. 223.204. CONFIDENTIALITY OF INFORMATION. (a) To encourage private entities to submit proposals under this subchapter, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 223.203(b)(1) and (2), unless the private entity consents to the disclosure of the information;

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement, unless the private entity consents to the disclosure of the information or material; and

(3) information created or collected by the department or its agent during consideration of a proposal for a comprehensive development agreement.

(b) After the department completes its final ranking of proposals under Section 223.203(h), the final rankings of each proposal under each of the published criteria are not confidential.

1 Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY.
2 (a) Notwithstanding Section 223.006 and the requirements of
3 Subchapter B, Chapter 2253, Government Code, the department
4 shall require a private entity entering into a comprehensive
5 development agreement under this subchapter to provide a
6 performance and payment bond or an alternative form of security
7 in an amount sufficient to:
8 (1) ensure the proper performance of the agreement;
9 and
10 (2) protect:
11 (A) the department; and
12 (B) payment bond beneficiaries who have a direct
13 contractual relationship with the private entity or a
14 subcontractor of the private entity to supply labor or material.
15 (b) A performance and payment bond or alternative form of
16 security shall be in an amount equal to the cost of constructing
17 or maintaining the project.
18 (c) If the department determines that it is impracticable
19 for a private entity to provide security in the amount described
20 by Subsection (b), the department shall set the amount of the
21 bonds or the alternative forms of security.
22 (d) A payment or performance bond or alternative form of
23 security is not required for the portion of an agreement that
24 includes only design or planning services, the performance of
25 preliminary studies, or the acquisition of real property.
26 (e) The amount of the payment security must not be less
27 than the amount of the performance security.

1 (f) In addition to or instead of a performance and payment
2 bond, the department may require one or more of the following
3 alternative forms of security:
4 (1) a cashier's check drawn on a financial entity
5 specified by the department;
6 (2) a United States bond or note;
7 (3) an irrevocable bank letter of credit; or
8 (4) any other form of security determined suitable by
9 the department.
10 (g) The department by rule shall prescribe requirements
11 for an alternative form of security provided under this section.
12 Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) A state highway
13 or another facility described by Section 223.201(a) that is the
14 subject of a comprehensive development agreement with a private
15 entity, including the facilities acquired or constructed on the
16 project, is public property and shall be owned by the
17 department.
18 (b) Notwithstanding Subsection (a), the department may
19 enter into an agreement that provides for the lease of rights-
20 of-way, the granting of easements, the issuance of franchises,
21 licenses, or permits, or any lawful uses to enable a private
22 entity to construct, operate, and maintain a project, including
23 supplemental facilities. At the termination of the agreement,
24 the highway or other facilities are to be in a state of proper
25 maintenance as determined by the department and shall be
26 returned to the department in satisfactory condition at no
27 further cost.

1 (c) A highway asset or toll project that is used or leased
2 by a private entity under Section 202.052 or 228.053 for a
3 commercial purpose is not exempt from ad valorem taxation and is
4 subject to local zoning regulations and building standards.
5 (d) The department may not enter into a comprehensive
6 development agreement with a private entity under this
7 subchapter or Section 227.023 that provides for the lease,
8 license, or other use of rights-of-way or related property by
9 the private entity for the purpose of constructing, operating,
10 or maintaining an ancillary facility that is used for commercial
11 purposes.
12 Sec. 223.207. LIABILITY FOR PRIVATE OBLIGATIONS. The
13 department may not incur a financial obligation for a private
14 entity that designs, develops, finances, constructs, maintains,
15 or operates a state highway or other facility under this
16 subchapter. The state or a political subdivision of the state
17 is not liable for any financial or other obligations of a
18 project solely because a private entity constructs, finances, or
19 operates any part of the project.
20 Sec. 223.208. TERMS OF PRIVATE PARTICIPATION. (a) The
21 department shall negotiate the terms of private participation
22 under this subchapter, including:
23 (1) methods to determine the applicable cost, profit,
24 and project distribution among the private participants and the
25 department;
26 (2) reasonable methods to determine and classify toll
27 rates and responsibility for the setting of tolls;

1 (3) acceptable safety and policing standards; and

2 (4) other applicable professional, consulting,

3 construction, operation, and maintenance standards, expenses,

4 and costs.

5 (b) A comprehensive development agreement entered into

6 under this subchapter or Section 227.023(c) may include any

7 provision that the department considers appropriate, including

8 provisions:

9 (1) providing for the purchase by the department,

10 under terms and conditions agreed to by the parties, of the

11 interest of a private participant in the comprehensive

12 development agreement and related property, including any

13 interest in a highway or other facility designed, developed,

14 financed, constructed, operated, or maintained under the

15 comprehensive development agreement;

16 (2) establishing the purchase price for the interest

17 of a private participant in the comprehensive development

18 agreement and related property, which price may be determined in

19 accordance with the methodology established by the parties in

20 the comprehensive development agreement;

21 (3) providing for the payment of obligations incurred

22 pursuant to the comprehensive development agreement, including

23 any obligation to pay the purchase price for the interest of a

24 private participant in the comprehensive development agreement,

25 from any lawfully available source, including securing such

26 obligations by a pledge of revenues of the commission or the

27 department derived from the applicable project, which pledge

shall have such priority as the department may establish;

(4) permitting the private participant to pledge its rights under the comprehensive development agreement;

(5) concerning the private participant's right to operate and collect revenue from the project; and

(6) restricting the right of the commission or the department to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made.

(c) The department may enter into a comprehensive development agreement under this subchapter or under Section 227.023(c) with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(d) Section 223.207 does not apply to the obligations of the department under a comprehensive development agreement.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter or Section 227.023(c) to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a

1 district court of Travis County, and the sovereign immunity of
2 the state is waived for that purpose. The district courts of
3 Travis County shall have exclusive jurisdiction and venue over
4 and to determine and adjudicate all issues necessary to
5 adjudicate any action brought under this subsection. The remedy
6 provided by this subsection is in addition to any legal and
7 equitable remedies that may be available to a party to a
8 comprehensive development agreement.
9 (f) A comprehensive development agreement entered into
10 under this subchapter or Section 227.023(c) and any obligations
11 incurred, issued, or owed under the agreement does not
12 constitute a state security under Chapter 1231, Government Code.
13 (g) If the department enters into a comprehensive
14 development agreement with a private participant that includes
15 the collection by the private participant of tolls for the use
16 of a toll project, the private participant shall submit to the
17 department for approval:
18 (1) the methodology for:
19 (A) the setting of tolls; and
20 (B) increasing the amount of the tolls;
21 (2) a plan outlining methods the private participant
22 will use to collect the tolls, including:
23 (A) any charge to be imposed as a penalty for
24 late payment of a toll; and
25 (B) any charge to be imposed to recover the cost
26 of collecting a delinquent toll; and
27 (3) any proposed change in an approved methodology

1 for the setting of a toll or a plan for collecting the toll.

2 (h) Except as provided by this section, a comprehensive
3 development agreement with a private participant that includes
4 the collection by the private participant of tolls for the use
5 of a toll project may be for a term not longer than 50 years.
6 The comprehensive development agreement may be for a term not
7 longer than 70 years if the agreement:

8 (1) contains an explicit mechanism for setting the
9 price for the purchase by the department of the interest of the
10 private participant in the comprehensive development agreement
11 and related property, including any interest in a highway or
12 other facility designed, developed, financed, constructed,
13 operated, or maintained under the agreement; and

14 (2) outlines the benefit the state will derive from
15 having a term longer than 50 years.

16 Sec. 223.209. RULES, PROCEDURES, AND GUIDELINES GOVERNING
17 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall
18 adopt rules, procedures, and guidelines governing selection of a
19 developer for a comprehensive development agreement and
20 negotiations to promote fairness, obtain private participants in
21 projects, and promote confidence among those participants. The
22 rules must contain criteria relating to the qualifications of
23 the participants and the award of the contracts.

24 (b) The department shall have up-to-date procedures for
25 participation in negotiations under this subchapter.

26 (c) The department has exclusive judgment to determine the
27 terms of an agreement.

SECTION 2.22. Section 224.151(9), Transportation Code, is amended to read as follows:

(9) "Restricted lane" includes:

(A) a high occupancy vehicle lane;

(B) a toll lane under Section 228.007 [~~224.154~~]; and

(C) an exclusive lane.

SECTION 2.23. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.061 to read as follows:

Sec. 225.061. SPEAKER JIMMY TURMAN ROAD. (a) Farm-to-Market Road 68 in Fannin County is designated as Speaker Jimmy Turman Road.

(b) The department shall design and construct markers indicating the road number, the designation as Speaker Jimmy Turman Road, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the road and at appropriate intermediate sites along the road.

(d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

SECTION 2.24. Section 227.001(9), Transportation Code, is amended to read as follows:

(9) "Turnpike" has the meaning assigned to toll

[~~turnpike~~] project under Section 201.001(b) [~~361.001~~].

SECTION 2.25. Subchapter A, Chapter 227, Transportation Code, is amended by adding Section 227.004 to read as follows:

Sec. 227.004. REPORTS. (a) The department shall periodically prepare reports detailing:

(1) the reasons for the immediate and future needs for each mode of transportation in each segment of a Trans-Texas Corridor project; and

(2) the reasonableness and necessity for each mode of transportation in each segment of a Trans-Texas Corridor project in the report.

(b) Not later than the seventh day before the date the department submits a Tier 1 environmental impact statement and not later than the 90th day before the department submits a Tier 2 environmental impact statement to the federal government for any segment of a Trans-Texas Corridor route, the department shall:

(1) post the most recent applicable report required by Subsection (a) on the department's Internet website; and

(2) provide a copy of the report to each state senator and each representative who represents all or part of the area in which the segment of the route is located and the commissioners court of each county in which the segment of the route is located.

SECTION 2.26. Section 227.021, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) The department may not limit the public's direct

access to or from the Trans-Texas Corridor with the intent to benefit the economic viability of an ancillary facility.

SECTION 2.27. Section 227.023, Transportation Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) To the extent and in the manner that the department may enter into comprehensive development agreements under Chapter 223 [~~361 with regard to turnpikes~~], the department may enter into a comprehensive development agreement under this chapter that provides for the financing, development, design, construction, or operation of a facility or a combination of facilities on the Trans-Texas Corridor. All provisions of Chapter 223 [~~361~~] relating to comprehensive development agreements [~~for turnpikes~~] apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.

(d) Property that is licensed or leased to a private entity under Section 227.082 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

(e) If a contract between the department and a private entity includes the collection by the private entity of a fee for the use of a facility or a combination of facilities that are part of the Trans-Texas Corridor, the private entity shall submit to the department for approval:

(1) the methodology for:

(A) the setting of the amount of a fee; and

(B) increasing the amount of the fee;

(2) a plan outlining methods the entity will use to collect the fee, including:

(A) any charge to be imposed as a penalty for late payment of the fee; and

(B) any charge to be imposed to recover the cost of collecting a delinquent fee; and

(3) any proposed change in an approved methodology for the setting of the amount of a fee or a plan for collecting the fee.

(f) A contract with a private entity that includes the collection by the private entity of a fee for the use of a facility may not be for a term longer than 50 years.

SECTION 2.28. Section 227.028(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 201.617(a-1), the [~~The~~] department may acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating a past, present, or future adverse environmental effect arising from the construction or operation of any part of the Trans-Texas Corridor without regard to whether the need for mitigation is established for a particular project.

SECTION 2.29. Section 227.029(b), Transportation Code, is amended to read as follows:

(b) If the department finds it necessary to change the

location of a portion of a facility, it shall reconstruct the facility at a [~~the~~] location that the department determines restores the utility of the facility [~~to be most favorable~~]. The reconstructed facility must be of substantially the same type and in as good condition as the original facility. The department shall determine and pay the cost of the reconstruction and any damage incurred in changing the location of a facility.

SECTION 2.30. Subchapter C, Chapter 227, Transportation Code, is amended by adding Sections 227.032, 227.033, and 227.034 to read as follows:

Sec. 227.032. HIGHWAYS INTERSECTING TRANS-TEXAS CORRIDOR. (a) The department shall ensure that, at each intersection of a segment of a state highway that is designated as part of the Trans-Texas Corridor and a segment of a highway that is designated as an interstate highway, state highway, or United States highway, the Trans-Texas Corridor and the interstate highway, state highway, or United States highway are directly accessible to each other.

(b) The department shall make every reasonable effort to connect a segment of a state highway that is designated as part of the Trans-Texas Corridor with significant farm-to-market and ranch-to-market roads and major county and city arterials included in the locally adopted long-range transportation plan as determined by the department, taking into consideration:

(1) financial feasibility;

(2) advice solicited from:

(A) county commissioners courts;

(B) governing bodies of municipalities; and

(C) metropolitan planning organizations;

(3) circuity of travel for landowners;

(4) access for emergency vehicles; and

(5) traffic volume.

Sec. 227.033. GROUNDWATER. (a) After receipt of an offer to construct a facility for the transportation of groundwater from the county in which the groundwater is pumped or extracted, but not later than the 90th calendar day before entering into a lease agreement, license agreement, or franchise agreement for the use of any part of the Trans-Texas Corridor for that purpose, the department shall provide written notice of the offer to:

(1) each groundwater conservation district, subsidence district, or other local water authority having territory in the county in which the groundwater is pumped or extracted; and

(2) the commissioners court of the county in which the groundwater is pumped or extracted.

(b) The department may not pump or extract, or allow the pumping or extracting, of groundwater from the right-of-way of the Trans-Texas Corridor unless the groundwater is needed for the construction, operation, or maintenance of a facility other than a public utility facility. If a well drilled and operated on the Trans-Texas Corridor is located inside the boundaries of a groundwater conservation district, the well is subject to the

Trans-Texas Corridor and a segment of a highway that is designated as an interstate highway, state highway, or United States highway, the Trans-Texas Corridor and the interstate highway, state highway, or United States highway are directly accessible to each other.

(b) The department shall make every reasonable effort to connect a segment of a state highway that is designated as part of the Trans-Texas Corridor with significant farm-to-market and ranch-to-market roads and major county and city arterials included in the locally adopted long-range transportation plan as determined by the department, taking into consideration:

(1) financial feasibility;

(2) advice solicited from:

(A) county commissioners courts;

(B) governing bodies of municipalities; and

(C) metropolitan planning organizations;

(3) circuity of travel for landowners;

(4) access for emergency vehicles; and

(5) traffic volume.

Sec. 227.033. GROUNDWATER. (a) After receipt of an unsolicited proposal or after soliciting proposals to construct a facility for the transportation of groundwater from the county in which the groundwater is pumped or extracted, but not later than the 90th calendar day before entering into a lease agreement, license agreement, or franchise agreement for the use of any part of the Trans-Texas Corridor for that purpose, the department shall provide written notice of the proposal or the

solicitation to:

(1) each groundwater conservation district, subsidence district, or other local water authority having territory in the county in which the groundwater is pumped or extracted; and

(2) the commissioners court of the county in which the groundwater is pumped or extracted.

(b) The department may not pump or extract, or allow the pumping or extracting, of groundwater from the right-of-way of the Trans-Texas Corridor unless the groundwater is needed for the construction, operation, or maintenance of a facility other than a public utility facility. If a well drilled and operated on the Trans-Texas Corridor is located inside the boundaries of a groundwater conservation district, the well is subject to the rules of the district.

Sec. 227.054. PROHIBITION AGAINST PROHIBITING CONSTRUCTION OR TRANSPORTATION PROJECTS. (a) A contract for the acquisition, construction, maintenance, or operation of a facility on the Trans-Texas Corridor may not contain a provision that limits or prohibits construction or operation of a highway or other transportation project that is:

(1) included in the unified transportation program of the department in effect at the time the contract is executed;

(2) a project of a local government; or

(3) constructed or operated for the safety of pedestrian or vehicular traffic.

(b) In this section, "transportation project" has the

1 [redacted]

2 Sec. 227.034. PROHIBITION AGAINST LIMITING OR PROHIBITING CONSTRUCTION
3 OF TRANSPORTATION PROJECTS. (a) A contract for the
4 acquisition, construction, maintenance, or operation of a
5 facility on the Trans-Texas Corridor may not contain a provision
6 that limits or prohibits construction or operation of a highway or other
7 transportation project that is:
8 (1) included in the unified transportation program of
9 the department in effect at the time the contract is executed;
10 (2) a project of a local government; or
11 (3) constructed or operated for the safety of
12 pedestrian or vehicular traffic.
13 (b) In this section, "transportation project" has the
14 meaning assigned by Section 370.003.
15 SECTION 2.31. Section 227.041, Transportation Code, is
16 amended by amending Subsections (a) and (b) and adding
17 Subsection (b-1) and (d) to read as follows:
18 (a) Except as otherwise provided by this subchapter, the
19 commission has the same powers and duties relating to the
20 condemnation and acquisition of real property for a facility of
21 the Trans-Texas Corridor that the commission and the department
22 have relating to the condemnation or purchase of real property
23 under Subchapter D, Chapter 203, [~~361, and Section 361.233~~] for
24 a toll [~~turnpike~~] project. The commission may purchase an
25 option to purchase property, other than real property, a
26 property right, or a right-of-way used for a public utility
27 facility, that the commission is considering for possible use as

part of the Trans-Texas Corridor even if it has not been finally decided that the Trans-Texas Corridor will be located on that property. An option to purchase may be purchased along alternative potential routes for the Trans-Texas Corridor even if only one of those potential routes will be selected as the final route.

(b) An interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor <u>or is needed for mitigation of adverse environmental effects,</u> and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Primary purposes include:

(1) providing right-of-way or a location for a facility;

(2) providing land for mitigation of adverse environmental effects;

(3) providing buffer zones for scenic or safety purposes;

(4) allowing for possible future expansion of any facility; and

(5) <u>providing a location for a gas station, convenience store, [redacted] or similar facility</u> [~~generating revenue, directly or indirectly, for use in constructing or operating the Trans-Texas Corridor from or for ancillary facilities that directly benefit users of the Trans-Texas Corridor~~].

(e) The commission may not condemn property contiguous to an existing or planned segment of the Trans-Texas Corridor for an ancilliary facility.

(b-1) The commission may not acquire property for an ancillary facility that will be used for commercial purposes, except to provide a location between the main lanes of a highway or between a highway and a department rail facility for a gas station, convenience store, [redacted] or similar facility that:

(1) provides services to and directly benefits users of the Trans-Texas Corridor; and

(2) is not located within 10 miles of an intersection of a segment of a state highway that is designated as part of the Trans-Texas Corridor and a segment of a state highway that is designated as an interstate highway.

(d) If the commission acquires property not immediately needed for department purposes, the department is encouraged to acquire an option to purchase the property under Subsection (a) or to lease back purchased land under Section 227.043 to continue the agricultural or recreational use of the property.

SECTION 2.32. Subchapter D, Chapter 227, Transportation Code, is amended by adding Section 227.047 to read as follows:

Sec. 227.047. ALTERNATIVE ACCESS TO SEVERED PROPERTY. If the department acquires a tract for the Trans-Texas Corridor that severs an owner's property, the department may allow the owner to build, in compliance with federal law, an alternative access between the severed tracts below the tract acquired by the department. An owner must obtain department approval of the design specifications of the alternative access.

~~SECTION 2.33. Section 227.062(a), Transportation Code, is~~

Trans-Texas Corridor.

(d) The commission may not condemn property contiguous to an existing or planned segment of the Trans-Texas Corridor for an ancillary facility.

(e) If the commission acquires property not immediately needed for department purposes, the department is encouraged to acquire an option to purchase the property under Subsection (a) or to lease back purchased land under Section 227.043 to continue the agricultural or recreational use of the property.

SECTION 2.32A. Subchapter D, Chapter 227, Transportation Code, is amended by adding Section 227.0415 to read as follows:

Sec. 227.0415. DEVELOPMENT RIGHTS. (a) In connection with the acquisition of property located in an existing or planned segment of the Trans-Texas Corridor for the purpose of providing a location for an ancillary facility to be used for a commercial purpose, the owner of the property to be acquired may elect to retain the right to develop the property in accordance with the department's development plans. If more than one person owns an interest in the property, the election under this subsection must be made by unanimous written consent of all persons who own an interest in the property.

(b) If the owner does not develop the property within the time period set out in the department's development plans, the department may acquire the development rights for the property by purchase or condemnation.

(c) Property that is developed by the owner under this section is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

SECTION 2.33. Section 227.062(c), Transportation Code, is

amended to read as follows:

(c) The [~~Each fiscal year, the total amount disbursed by the~~] department may not spend money from the general revenue fund [~~out of state and federal funds shall not exceed $25 million~~] for the construction or purchase of non-highway facilities on the Trans-Texas Corridor except pursuant to a line-item appropriation. [~~This subsection does not apply to funds derived from the issuance of bonds, private investment, donations, the Federal Transit Administration, or the Federal Railroad Administration. This subsection also does not apply to:~~

[~~(1) activities that are subject to the limitation in Subsection (a); and~~

[~~(2) activities described in Subsection (b)(1).~~]

SECTION 2.33A. Section 227.082[redacted], Transportation Code, ~~are~~ is amended by amending Subsections (c) and (d) and adding Subsection (f) to read as follows:

(c) The department may grant an exclusive or nonexclusive license to access or use any portion of the Trans-Texas Corridor [~~for any purpose~~]. A license granted under this section may be for a definite or indefinite term. The department may not grant an exclusive license to access or use a highway on the Trans-Texas Corridor. The department may not grant an exclusive license for use of the Trans-Texas Corridor by an owner of a public utility facility if the exclusive use is prohibited by other law.

(d) Property may be leased or a franchise or license granted for any purpose reasonably necessary for the effective

(f) The department may lease property or grant a franchise or license under this section only if each agreement has been approved by the commissioners court of the county in which the property, facility, or other part of the Trans-Texas Corridor is located. This subsection does not apply to a lease of property or a grant of a franchise or license to a private entity for the purpose of operating a highway, turnpike, rail facility, or utility facility under a comprehensive development agreement.

[~~, including~~] use or operation of a facility and to provide a location between the main lanes of a highway or between a highway and a department rail facility or a gas station, convenience store, [redacted] or a similar facility that:

(1) provides services to and directly benefits users of the Trans-Texas Corridor; and

(2) is not located within 10 miles of an intersection of a segment of a state highway that is designated as part of the Trans-Texas Corridor and a segment of a state highway that is designated as an interstate highway [~~as a facility and use for unrelated commercial, industrial, or agricultural purpose~~].

SECTION 2.34. Subtitle B, Title 6, Transportation Code, is amended by adding Chapter 228, and Sections 361.001, 361.301, 361.307, and 361.032, Transportation Code, are transferred to Chapter 228, Transportation Code, designated as Subchapter A, and amended to read as follows:

CHAPTER 228. STATE HIGHWAY TOLL PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 228.001 [~~361.001~~]. DEFINITIONS. In this chapter:

(1) "Air quality project" means a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads. [~~"Authority" means the Texas Turnpike Authority division of the Texas Department of Transportation.~~]

(2) "Bond" means bonds, notes, or other obligations

issued under Subchapter C or another law with respect to a toll project or system. [~~"Owner" includes a person having title to or an interest in any property, rights, easements, and interests authorized to be acquired under this chapter.~~]

(3) "Region" means:

(A) a metropolitan statistical area and any county contiguous to that metropolitan statistical area; or

(B) two adjacent districts of the department.

(4) "System" means a toll project or any combination of toll projects designated as a system under Section 228.010.

(5) "Toll [~~"Turnpike~~] project" has the meaning assigned by Section 201.001(b) [~~means a toll highway constructed, maintained, or operated under this chapter as part of the state highway system and any improvement, extension, or expansion to the highway and includes:~~

[~~(A) a facility to relieve traffic congestion and promote safety;~~

[~~(B) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll house, service road, ramp, or service station;~~

[~~(C) an administration, storage, or other building the department considers necessary to operate the project;~~

[~~(D) property rights, easements, and interests the department acquires to construct or operate the project;~~

[~~(E) a parking area or structure, rest stop, park, and any other improvement or amenity the department~~

~~considers necessary, useful, or beneficial for the operation of a turnpike project; and~~

[~~(F) a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, or tunnel~~].

(6) "Transportation project" means:

(A) a tolled or nontolled state highway improvement project;

(B) a toll project eligible for department cost participation under Section 222.103;

(C) the acquisition, construction, maintenance, or operation of a rail facility or system under Chapter 91;

(D) the acquisition, construction, maintenance, or operation of a state-owned ferry under Subchapter A, Chapter 342;

(E) a public transportation project under Chapter 455 or 456;

(F) the establishment, construction, or repair of an aviation facility under Chapter 21; and

(G) a passenger rail project of another governmental entity. [~~(4) "Regional tollway authority" means a regional tollway authority created under Chapter 366.~~]

Sec. 228.002 [~~361.301~~]. AGREEMENTS WITH PUBLIC [~~OR PRIVATE~~] ENTITIES [~~TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS~~]. (a) The [~~Notwithstanding Section 361.231 and Subchapter A, Chapter 2254, Government Code, the~~] department

may enter into an agreement with a public [~~or private~~] entity[~~, including a toll road corporation,~~] to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or [~~and~~] operate a toll project [~~turnpike projects~~].

(b) An agreement entered into under this section with a regional tollway authority governed by Chapter 366 may provide that a function described by Subsection (a) that is performed by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function. [~~The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.~~]

Sec. 228.003 [~~361.307~~]. AGREEMENTS WITH [~~PRIVATE ENTITIES AND~~] OTHER GOVERNMENTAL AGENCIES. (a) The department [~~and a private entity jointly~~] may, with the approval of the commission, enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a toll [~~turnpike~~] project, or to finance, construct, operate, and maintain a toll [~~turnpike~~] project. The

department must obtain the approval of the governor to enter into an agreement with an agency of another state, the United Mexican States, or a state of the United Mexican States.

(b) If the department enters into an agreement with a private entity, including a comprehensive development agreement under Subchapter E, Chapter 223, the department and the private entity may jointly enter into an agreement under Subsection (a). [~~The department may not enter into an agreement with the United Mexican States or a state of the United Mexican States without the approval of the governor.~~]

Sec. 228.004. PROMOTION OF TOLL PROJECT. [~~361.032. GENERAL POWERS AND DUTIES. (a) The commission shall adopt rules for the implementation and administration of this chapter.~~

[~~(b)~~] The department may, [~~:~~

[~~(1) construct, maintain, repair, and operate turnpike projects in this state;~~

[~~(2) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;~~

[~~(3) with the approval of the governor and the commission, enter into contracts or operating agreements with similar authorities or agencies of another state, including a state of the United Mexican States;~~

[~~(4) enter into contracts or agreements necessary or incidental to its duties and powers under this chapter;~~

[~~(5) employ consulting engineers, accountants,~~

~~construction and financial experts, superintendents, managers, and other employees and agents the department considers necessary and set their compensation;~~

[~~(6) receive grants for the construction of a turnpike project and receive contributions of money, property, labor, or other things of value from any source to be used for the purposes for which the grants or contributions are made;~~

[~~(7)~~] notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to promote the development and use of toll [~~turnpike~~] projects and may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers[~~; and~~

[~~(8) do all things necessary or appropriate to carry out the powers expressly granted by this chapter~~].

SECTION 2.35. Subchapter A, Chapter 228, Transportation Code, is amended by adding Sections 228.005 and 228.0055 to read as follows:

Sec. 228.005. REVENUE OF TOLL PROJECT OR SYSTEM. Except as provided by Subchapter C, toll revenue or other revenue derived from a toll project or system that is collected or received by the department under a comprehensive development agreement for a toll project or system:

(1) shall be deposited in the state highway fund; and

(2) is exempt from the application of Section 403.095, Government Code.

Sec. 228.0055. USE OF CONTRACT PAYMENTS. Payments

received by the department under a comprehensive development agreement may be used by the department to finance the construction, maintenance, or operation of a transportation project or air quality project in the region.

SECTION 2.36. Sections 361.189 and 224.154, Transportation Code, are transferred to Subchapter A, Chapter 228, Transportation Code, redesignated as Sections 228.006 and 228.007, Transportation Code, and amended to read as follows:

Sec. 228.006 [~~361.189~~]. USE OF SURPLUS REVENUE. (a) The commission shall [~~by order may~~] authorize the use of surplus revenue of a toll [~~turnpike~~] project or system to pay the costs of a transportation [~~another turnpike~~] project, highway project, or air quality project within a department district in which any part of the turnpike project is located [~~the region~~].

(b) The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because of a payment under Subsection (a).

(c) The commission [~~in the order prescribe terms for the use of the revenue, including the pledge of the revenue, but~~] may not take an action under this section that violates, impairs, or is inconsistent with a bond order, trust agreement, or indenture governing the use of the surplus revenue.

Sec. 228.007 [~~224.154~~]. TOLL LANES. (a) Subject to Section 228.201 [~~Notwithstanding any law of this state relating to charging tolls on existing free public highways, and subject to Section 224.1541(d)~~], the commission may by order authorize

the department to charge a toll for the use of one or more lanes of a state highway [~~facility~~], including a high occupancy vehicle lane designated under Section 224.153 or an exclusive lane designated under Section 224.1541[~~, for the purposes of congestion mitigation~~].

(b) If the commission authorizes the department to charge a toll under Subsection (a), the department may enter into an agreement with a regional tollway authority described in Chapter 366, a transit authority described in Chapter 451, 452, or 453, a coordinated county transportation authority under Chapter 460, a regional mobility authority under Chapter 370 [~~361~~], a county acting under Chapter 284, or a transportation corporation:

(1) to design, construct, operate, or maintain a toll lane under this section; and

(2) to charge a toll for the use of one or more lanes of a state highway facility under this section.

(c) The commission may by order authorize the department or the entity contracted to operate the toll lane to set the amount of toll charges. Any toll charges shall be imposed in a reasonable and nondiscriminatory manner.

(d) [~~Revenue generated from toll charges and collection fees assessed by the department in connection with a toll lane shall be deposited in the state highway fund and may be used only for projects for the improvement of the state highway system.~~] Revenue generated from toll charges and collection fees assessed by an entity with whom the department contracts under this section shall be allocated as required by the terms

of the agreement.

[~~(c) The powers granted by this section are subject to the restrictions of 23 U.S.C. Section 129.~~]

SECTION 2.37. Section 224.1541(d), Transportation Code, is transferred to Subchapter A, Chapter 228, Transportation Code, redesignated as Section 228.008, Transportation Code, and amended to read as follows:

Sec. 228.008. TOLLS ON EXCLUSIVE LANE. [~~(d)~~] The department may not charge a toll for the use of an exclusive lane unless:

(1) the lanes or multilane facility adjacent to the exclusive lane is tolled; or

(2) a vehicle that is authorized to use the tolled exclusive lane is authorized to use nontolled adjacent lanes or an adjacent nontolled multilane facility.

SECTION 2.38. Section 361.033, Transportation Code, is transferred to Subchapter A, Chapter 228, Transportation Code, redesignated as Section 228.009, Transportation Code, and amended to read as follows:

Sec. 228.009 [~~361.033~~]. AUDIT. Notwithstanding any other law to the contrary, the department shall have an independent certified public accountant audit the department's books and accounts for each toll project or system [~~activities under this chapter~~] at least annually. The audit shall be conducted in accordance with the requirements of any trust agreement securing bonds issued under Subchapter C [~~this chapter~~] that is in effect at the time of the audit. The cost of the audit may be treated

as part of the cost of construction or operation of a toll project or system [~~turnpike project~~]. This section does not affect the ability of a state agency to audit the department's books and accounts.

SECTION 2.39. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.010 to read as follows:

Sec. 228.010. ESTABLISHMENT OF TOLL SYSTEMS. (a) If the commission determines that the mobility needs of a region of this state could be most efficiently and economically met by jointly operating two or more toll projects in that region as one operational and financial enterprise, it may create a system composed of those projects. The commission may create more than one system in a region and may combine two or more systems in a region into one system. The department may finance, acquire, construct, and operate additional toll projects in the region as additions to or expansions of a system if the commission determines that the toll project could most efficiently and economically be acquired or constructed if it were part of the system and that the addition will benefit the system.

(b) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a toll project that is not part of the system or with the revenue of another system.

SECTION 2.40. Chapter 228, Transportation Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. USE AND OPERATION OF TOLL PROJECTS OR SYSTEMS

Sec. 228.051. DESIGNATION. Subject to Section 228.201,

the commission by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

Sec. 228.052. OPERATION OF TOLL PROJECT OR SYSTEM. The department may enter into an agreement with one or more persons to provide, on terms approved by the department, personnel, equipment, systems, facilities, and services necessary to operate a toll project or system, including the operation of toll plazas and lanes and customer service centers and the collection of tolls.

SECTION 2.41. Sections 361.179, 361.252, 361.253, 361.254, 361.255, and 361.256, Transportation Code, are transferred to Subchapter B, Chapter 228, Transportation Code, redesignated as Sections 228.053, 228.054, 228.055, 228.056, 228.057, and 228.058, Transportation Code, and amended to read as follows:

Sec. 228.053 [~~361.179~~]. REVENUE. (a) The department may:

(1) impose tolls for the use of each toll [~~turnpike~~] project or system and the different segments or parts of each [~~turnpike~~] project or system; and

(2) ~~in addition to the powers granted~~ notwithstanding ~~notwithstanding~~ anything ~~anything~~ in Chapter 202 to the contrary ~~to the contrary~~, contract with a person for the use of part of a toll [~~turnpike~~] project or system or lease part of a toll [~~turnpike~~] project or system for a gas station, garage, store, hotel, restaurant, railroad tracks, utilities, and telecommunications facilities and equipment and set the terms for the use or lease.

~~(a-1) A contract or lease agreement under Subsection (a)(2) may be entered into for the purpose of constructing and~~

~~operating a commercial facility only if, on the effective date of the contract or lease agreement, a facility that provides a service described by that subsection is not located within five miles of the part of the toll project to be used or leased.~~

(b) The tolls shall be set so that, at a minimum, the aggregate of tolls from the toll [~~turnpike~~] project or system:

(1) provides a fund sufficient with other revenue and contributions, if any, to pay:

(A) the cost of maintaining, repairing, and operating the project or system; and

(B) the principal of and interest on the bonds issued under Subchapter C for the project or system as those bonds become due and payable; and

(2) creates reserves for the purposes listed under Subdivision (1).

(c) The tolls are not subject to supervision or regulation by any other state agency.

(d) The tolls and other revenue derived from the toll [~~turnpike~~] project or system for which bonds were issued, except the part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as may be provided in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be set aside at regular intervals as may be provided in the order or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

(3) necessary charges of paying agents for paying principal and interest; and

(4) the redemption price or the purchase price of bonds retired by call or purchase as provided by the bonds.

(e) Use and disposition of money to the credit of the sinking fund are subject to the order authorizing the issuance of the bonds or to the trust agreement.

(f) The revenue and disbursements for each toll [~~turnpike~~] project or system shall be kept separately. The revenue from one [~~turnpike~~] project may not be used to pay the cost of another project except as authorized by Sections 228.0055 and 228.006 [~~Section 361.189~~].

(g) Money in the sinking fund, less the reserve provided by the order or trust agreement, if not used within a reasonable time to purchase bonds for cancellation, shall be applied to the redemption of bonds at the applicable redemption price.

Sec. 228.054 [~~361.252~~]. FAILURE OR REFUSAL TO PAY TOLL; OFFENSE. (a) The operator of a vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility shall pay the proper toll.

(b) The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense.

(c) An offense under this section is a misdemeanor punishable by a fine not to exceed $250.

(d) In this section, "authorized emergency vehicle" has

the meaning assigned by Section 541.201.

Sec. 228.055 [~~361.253~~]. ADMINISTRATIVE FEE; NOTICE; OFFENSE. (a) In the event of nonpayment of the proper toll as required by Section 228.054 [~~361.252~~], on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative fee.

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed $100. The department shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department by first class mail [~~not later than the 30th day after the date of the alleged failure to pay~~] and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 [~~361.252~~].

(c) The registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (b) and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the

notice of nonpayment is mailed provides to the department a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054 [~~361.252~~], with the name and address of the lessee clearly legible. If the lessor provides the required information within the period prescribed, the department may send a notice of nonpayment to the lessee at the address shown on the contract document by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 228.054 [~~361.252~~] occurred, submitted written notice of the transfer to the department in accordance with Section 520.023, and, before the 30th day after the date the notice of nonpayment is mailed, provides to the department the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the

department may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 [~~361.252~~]. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(f) An offense under this section is a misdemeanor punishable by a fine not to exceed $250.

(g) The court in which a person is convicted of an offense under this section shall also collect the proper toll and administrative fee and forward the toll and fee to the department for deposit in the depository bank used for that purpose.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the department or the analogous department or agency of another state or country.

(i) The department may contract, in accordance with Section 2107.003, Government Code, with a person to collect the unpaid toll and administrative fee before referring the matter

1 to a court with jurisdiction over the offense.

2 Sec. 228.056 [~~361.254~~]. PRESUMPTIONS; PRIMA FACIE
3 EVIDENCE; DEFENSES. (a) In the prosecution of an offense under
4 Section 228.054 [~~361.252~~] or 228.055 [~~361.253~~], proof that the
5 vehicle was driven or towed through the toll collection facility
6 without payment of the proper toll may be shown by a video
7 recording, photograph, electronic recording, or other
8 appropriate evidence, including evidence obtained by automated
9 enforcement technology.

10 (b) In the prosecution of an offense under Section
11 228.055(c) [~~361.253(c)~~], (d), or (e):

12 (1) it is presumed that the notice of nonpayment was
13 received on the fifth day after the date of mailing;

14 (2) a computer record of the department of the
15 registered owner of the vehicle is prima facie evidence of its
16 contents and that the defendant was the registered owner of the
17 vehicle when the underlying event of nonpayment under Section
18 228.054 [~~361.252~~] occurred; and

19 (3) a copy of the rental, lease, or other contract
20 document covering the vehicle on the date of the underlying
21 event of nonpayment under Section 228.054 [~~361.252~~] is prima
22 facie evidence of its contents and that the defendant was the
23 lessee of the vehicle when the underlying event of nonpayment
24 under Section 228.054 [~~361.252~~] occurred.

25 (c) It is a defense to prosecution under Section
26 228.055(c) [~~361.253(c)~~], (d), or (e) that the motor vehicle in
27 question was stolen before the failure to pay the proper toll

occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

Sec. 228.057 [~~361.255~~]. ELECTRONIC TOLL COLLECTION [~~USE AND RETURN OF TRANSPONDERS~~]. (a) For purposes of this section, a "transponder" means a device, placed on or within an automobile, that is capable of transmitting information used to assess or to collect tolls. A transponder is "insufficiently funded" when there are no remaining funds in the account in connection with which the transponder was issued.

(b) Any peace officer of this state may seize a stolen or insufficiently funded transponder and return it to the department, except that an insufficiently funded transponder may not be seized sooner than the 30th day after the date the department has sent a notice of delinquency to the holder of the account.

(c) The department may enter into an agreement with one or more persons to market and sell transponders for use on department toll roads.

(d) The department may charge reasonable fees for administering electronic toll collection customer accounts.

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

(f) A contract for the acquisition, construction, maintenance, or operation of a toll project must ensure the confidentiality of all electronic toll collection customer account information under Subsection (e).

Sec. 228.058 [~~361.256~~]. AUTOMATED ENFORCEMENT TECHNOLOGY. (a) To aid in the collection of tolls and in the enforcement of toll violations, the department may use automated enforcement technology that it determines is necessary, including automatic vehicle license plate identification photography and video surveillance, by electronic imaging or photographic copying.

(b) Automated enforcement technology approved by the department under Subsection (a) may be used only for the purpose of producing, depicting, photographing, or recording an image of a license plate attached to the front or rear of a vehicle.

(c) This section does not authorize the use of automated enforcement technology for any other purpose.

(d) Evidence obtained from technology approved by the department under Subsection (a) may not be used in the prosecution of an offense other than under Section 228.054 [~~361.252~~] or 228.055 or in the prosecution of a capital offense [~~361.253~~].

SECTION 2.42. Sections 361.004, 361.171, 361.172, 361.173, 361.174, 361.1751, 361.1752, 361.1753, 361.176, 361.177, 361.178, 361.183, 361.185, 361.186, 361.187, and 361.188, Transportation Code, are transferred to Chapter 228, Transportation Code, designated as Subchapter C, and amended to read as follows:

1 SUBCHAPTER C. TOLL REVENUE BONDS

2 Sec. 228.101 [~~361.004~~]. CONSTRUCTION COSTS. (a) The cost
3 of [~~acquisition,~~] construction, improvement, extension, or
4 expansion of a toll [~~turnpike~~] project or system under this
5 chapter includes the cost of:

6 (1) the actual acquisition, design, development,
7 planning, financing, construction, improvement, extension, or
8 expansion of the project or system;

9 (2) acquisition of real property, rights-of-way,
10 property rights, easements, and interests;

11 (3) the acquisition of machinery, [~~and~~] equipment,
12 software, and intellectual property;

13 (4) interest before, during, and for one year after
14 construction, improvement, extension, or expansion;

15 (5) traffic estimates, engineering, [~~and~~] legal and
16 other advisory services, plans, specifications, surveys,
17 appraisals, cost and revenue estimates, and other expenses
18 necessary or incident to determining the feasibility of the
19 construction, improvement, extension, or expansion;

20 (6) necessary or incidental administrative, legal,
21 and other expenses;

22 (7) financing; and

23 (8) placement of the project or system in operation
24 and expenses related to the initial operation of the [~~turnpike~~]
25 project or system.

26 (b) Costs attributable to a toll [~~turnpike~~] project or
27 system for which bonds are issued that are incurred before the

issuance of the bonds may be reimbursed from the proceeds of the sale of the bonds.

Sec. 228.102 [~~361.171~~]. ISSUANCE OF [~~TURNPIKE REVENUE~~] BONDS. (a) The commission by order may authorize the issuance of toll [~~turnpike~~] revenue bonds to pay all or part of the cost of a toll [~~turnpike~~] project or system. [~~Each project shall be financed and built by a separate bond issue.~~] The proceeds of a bond issue may be used solely for the payment of the project or system for which the bonds were issued and may not be divided between or among two or more projects. Each project is a separate undertaking, the cost of which shall be determined separately.

(b) As determined in the order authorizing the issuance, the bonds of each issue shall:

(1) be dated;

(2) bear interest at the rate or rates provided by the order and beginning on the dates provided by the order and as authorized by law, or bear no interest;

(3) mature at the time or times provided by the order, not exceeding 40 years from their date or dates; and

(4) be made redeemable before maturity, at the price or prices and under the terms provided by the order.

(c) The commission may sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of the department.

(d) The proceeds of each bond issue shall be disbursed in the manner and under the restrictions, if any, the commission

1 provides in the order authorizing the issuance of the bonds or
2 in the trust agreement securing the bonds.
3 (e) If the proceeds of a bond issue are less than the toll
4 [~~turnpike~~] project or system cost, additional bonds may be
5 issued in the same manner to pay the costs of a [~~turnpike~~]
6 project or system. Unless otherwise provided in the order
7 authorizing the issuance of the bonds or in the trust agreement
8 securing the bonds, the additional bonds are on a parity with
9 and are payable, without preference or priority, from the same
10 fund as the bonds first issued. In addition, the commission may
11 issue bonds for a [~~turnpike~~] project or system secured by a lien
12 on the revenue of the [~~turnpike~~] project or system subordinate
13 to the lien on the revenue securing other bonds issued for the
14 [~~turnpike~~] project or system.
15 (f) If the proceeds of a bond issue exceed the cost of the
16 toll [~~turnpike~~] project or system for which the bonds were
17 issued, the surplus shall be segregated from the other money of
18 the commission and used only for the purposes specified in the
19 order authorizing the issuance.
20 (g) In addition to other permitted uses, the proceeds of a
21 bond issue may be used to pay costs incurred before the issuance
22 of the bonds, including costs of environmental review, design,
23 planning, acquisition of property, relocation assistance,
24 construction, and operation.
25 (h) Bonds issued and delivered under this subchapter
26 [~~chapter~~] and interest coupons on the bonds are a security under
27 Chapter 8, Business & Commerce Code.

(i) Bonds issued under this subchapter [~~chapter~~] and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Sec. 228.103 [~~361.172~~]. APPLICABILITY OF OTHER LAW; CONFLICTS. All laws affecting the issuance of bonds by governmental entities, including Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued under this subchapter [~~chapter~~]. To the extent of a conflict between those laws and this subchapter [~~chapter~~], the provisions of this subchapter [~~chapter~~] prevail.

Sec. 228.104 [~~361.173~~]. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED. (a) The principal of, interest on, and any redemption premium on bonds issued by the commission under this subchapter [~~chapter~~] are payable solely from:

(1) the revenue of the toll [~~turnpike~~] project or system for which the bonds are issued, including tolls pledged to pay the bonds;

(2) the proceeds of bonds issued for the [~~turnpike~~] project or system;

(3) the amounts deposited in a debt service reserve fund as required by the trust agreement securing bonds issued for the [~~turnpike~~] project or system; [~~and~~]

(4) amounts received under a credit agreement relating to the [~~turnpike~~] project or system for which the bonds are issued;

(5) surplus revenue of another project or system as authorized by Section 228.006; and

(6) amounts received by the department:

(A) as pass-through tolls under Section 222.104;

(B) under an agreement with a local governmental entity entered into under Section 228.254;

(C) under other agreements with a local governmental entity relating to the project or system for which the bonds are issued; and

(D) under a comprehensive development agreement entered into under Section 223.201.

(b) Bonds issued under this subchapter [~~chapter~~] do not constitute a debt of the state or a pledge of the faith and credit of the state. Each bond must contain on its face a statement to the effect that:

(1) the state, the commission, and the department are not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond; and

(2) the faith and credit and the taxing power of the state are not pledged to the payment of the principal of or interest on the bond.

(c) The commission and the department may not incur financial obligations that cannot be paid from tolls or revenue derived from owning or operating toll [~~turnpike~~] projects or systems or from money provided by law.

Sec. 228.105 [~~361.174~~]. SOURCES OF PAYMENT OF AND SECURITY FOR TOLL REVENUE [~~TURNPIKE PROJECT~~] BONDS. Notwithstanding any other provisions of this subchapter, toll revenue [~~chapter,~~

~~turnpike project~~] bonds issued by the commission may:

(1) be payable from and secured by:

(A) payments made under an agreement with a local governmental entity as provided by Section 228.254 [~~Subchapter A, Chapter 362~~];

(B) the proceeds of bonds issued for the toll [~~turnpike~~] project or system; [~~or~~]

(C) amounts deposited in a debt service reserve fund as required by the trust agreement securing bonds issued for the [~~turnpike~~] project or system; or

(D) surplus revenue of another toll project or system as authorized by Section 228.006; and

(2) state on their faces any pledge of revenue or taxes and any security for the bonds under the agreement.

Sec. 228.106 [~~361.1751~~]. INTERIM BONDS. (a) The commission may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) An order authorizing interim bonds may provide that the interim bonds recite that the bonds are issued under this subchapter [~~chapter~~]. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Sec. 228.107 [~~361.1752~~]. EFFECT OF LIEN. (a) A lien on or a pledge of revenue, a contract payment, or a pledge of money to the payment of bonds issued under this subchapter is valid and effective in accordance with Chapter 1208, Government Code, and [~~from a turnpike project or on a reserve, replacement, or~~

1 ~~other fund established in connection with a bond issued under~~
2 ~~this chapter~~]:
3 (1) is enforceable in any court at the time of
4 payment for and delivery of the bond;
5 (2) applies to each item on hand or subsequently
6 received;
7 (3) applies without physical delivery of an item or
8 other act; and
9 (4) is enforceable in any court against any person
10 having a claim, in tort, contract, or other remedy, against the
11 commission or the department without regard to whether the
12 person has notice of the lien or pledge.
13 (b) An order authorizing the issuance of bonds is not
14 required to be recorded except in the regular records of the
15 department.
16 Sec. 228.108 [~~361.1753~~]. APPROVAL OF BONDS BY ATTORNEY
17 GENERAL. (a) The commission shall submit to the attorney
18 general for examination the record of proceedings relating to
19 bonds authorized under this subchapter [~~chapter~~]. The record
20 shall include the bond proceedings and any contract securing or
21 providing revenue for the payment of the bonds.
22 (b) If the attorney general determines that the bonds, the
23 bond proceedings, and any supporting contract are authorized by
24 law, the attorney general shall approve the bonds and deliver to
25 the comptroller:
26 (1) a copy of the legal opinion of the attorney
27 general stating the approval; and

(2) the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the record of proceedings.

(d) After approval by the attorney general, the bonds, the bond proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

Sec. 228.109 [~~361.176~~]. TRUST AGREEMENT. (a) Bonds issued under this subchapter [~~chapter~~] may be secured by a trust agreement between the commission and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) A trust agreement may pledge or assign the tolls and other revenue to be received but may not convey or mortgage any part of a toll [~~turnpike~~] project or system.

(c) A trust agreement may not evidence a pledge of the revenue of a toll [~~turnpike~~] project or system except:

(1) to pay the cost of maintaining, repairing, and operating the project or system;

(2) to pay the principal of, interest on, and any redemption premium on the bonds as they become due and payable;

(3) to create and maintain reserves for the purposes described by Subdivisions (1) and (2), as prescribed by Section

228.053 [~~361.179~~]; and

(4) as otherwise provided by law.

(d) Notwithstanding Subsection (c), surplus revenue may be used for a transportation or air quality [~~another turnpike~~] project as authorized by Section 228.006 [~~361.189~~].

(e) A trust agreement may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing corporate bonds and debentures; and

(3) contain provisions the commission determines reasonable and proper for the security of the bondholders.

(f) The expenses incurred in carrying out a trust agreement may be treated as part of the cost of operating the toll [~~turnpike~~] project or system.

Sec. 228.110 [~~361.177~~]. PROVISIONS PROTECTING AND ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS. A trust agreement or order providing for the issuance of bonds may contain provisions to protect and enforce the rights and remedies of the bondholders, including:

(1) covenants establishing the commission's duties relating to:

(A) the acquisition of property;

(B) the design, development, financing, construction, improvement, expansion, maintenance, repair, operation, and insurance of the toll [~~turnpike~~] project or

system in connection with which the bonds were authorized; and

(C) the custody, safeguarding, and application of money;

(2) covenants prescribing events that constitute default;

(3) [~~covenants prescribing terms on which any or all of the bonds become or may be declared due before maturity;~~

[~~(4)~~] covenants relating to the rights, powers, liabilities, or duties that arise on the breach of a duty of the commission, including the right of the trustee to bring actions against the commission or the department in any state court to enforce the covenants in the agreement, and the sovereign immunity of the state is waived for that purpose; and

(4) [~~(5)~~] provisions for the employment of consulting engineers in connection with the construction or operation of the [~~turnpike~~] project or system.

Sec. 228.111 [~~361.178~~]. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF SECURITIES. A bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that the department requires.

Sec. 228.112 [~~361.183~~]. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OR PRIVATE GROUP. (a) One or more municipalities, one or more counties, a combination of municipalities and counties, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to:

(1) the preparation and issuance of toll [~~turnpike~~] revenue bonds for the construction of a proposed toll [~~turnpike~~] project or system;

(2) the improvement, extension, or expansion of an existing project or system; or

(3) the use of private participation under Subchapter E, Chapter 223 [~~I~~].

(b) Money spent under Subsection (a) for a proposed toll project or system [~~turnpike~~] is reimbursable, with the consent of the commission, to the person paying the expenses out of the proceeds from toll [~~turnpike~~] revenue bonds issued for or other proceeds that may be used for the financing, design, development, construction, improvement, extension, expansion, or operation of the project.

Sec. 228.113 [~~361.185~~]. TRUST FUND. (a) All money received under this subchapter [~~chapter~~], whether as proceeds from the sale of bonds or as revenue, is a trust fund to be held and applied as provided by this subchapter [~~chapter~~]. Notwithstanding any other law, including Section 9, Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997, and without the prior approval of the comptroller, funds held under this subchapter [~~chapter~~] shall be held in trust by a banking institution chosen by the department or, at the discretion of the department, in trust in the state treasury outside the general revenue fund.

(b) The order authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that an officer

to whom or a bank or trust company to which the money is paid shall act as trustee of the money and shall hold and apply the money for the purpose of the order or trust agreement, subject to this subchapter [~~chapter~~] and the order or trust agreement.

Sec. 228.114 [~~361.186~~]. REMEDIES. Except to the extent restricted by a trust agreement, a holder of a bond issued under this subchapter [~~chapter~~] and a trustee under a trust agreement may:

(1) protect and enforce by a legal proceeding in any court a right under:

(A) this subchapter [~~chapter~~] or another law of this state;

(B) the trust agreement; or

(C) the order authorizing the issuance of the bond; and

(2) compel the performance of a duty this subchapter [~~chapter~~], the trust agreement, or the order requires the commission or the department or an officer of the commission or the department to perform, including the imposing of tolls.

Sec. 228.115 [~~361.187~~]. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) The commission is exempt from taxation of or assessments on:

(1) a toll [~~turnpike~~] project or system;

(2) property the department acquires or uses under this subchapter [~~chapter~~]; or

(3) income from property described by Subdivision (1) or (2).

(b) Bonds issued under this subchapter [~~chapter~~] and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Sec. 228.116 [~~361.188~~]. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC FUNDS. Bonds of the commission may secure the deposit of public funds of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

SECTION 2.43. Subchapter C, Chapter 228, Transportation Code, is amended by adding Section 228.117 to read as follows:

Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.

SECTION 2.44. Subchapter H, Chapter 361, Transportation Code, is transferred to Chapter 228, Transportation Code, redesignated as Subchapter D, and amended to read as follows:

SUBCHAPTER D [~~H~~]. TRANSFER OF TOLL [~~TURNPIKE~~] PROJECT

[~~Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:~~

[~~(1) a county with a population of more than 1.5 million;~~

[~~(2) a local government corporation serving a county with a population of more than 1.5 million;~~

[~~(3) an adjacent county in a joint turnpike authority~~

~~with a county with a population of more than 1.5 million;~~

[~~(4) a municipality with a population of more than 170,000 that is adjacent to the United Mexican States;~~

[~~(5) a regional tollway authority created under Chapter 366; or~~

[~~(6) a regional mobility authority organized under Chapter 370 or Section 361.003, as that section existed before June 22, 2003.~~]

Sec. 228.151 [~~361.282~~]. LEASE, SALE, OR TRANSFER [~~CONVEYANCE~~] OF TOLL [~~TURNPIKE~~] PROJECT OR SYSTEM. (a) The department may lease, sell, or transfer [~~convey~~] in another manner a toll [~~turnpike~~] project or system, including a nontolled state highway or a segment of a nontolled state highway converted to a toll project under Subchapter E, to a governmental entity that has the authority to operate a tolled highway [~~county, a municipality, regional tollway authority, regional mobility authority,~~] or a local government corporation created under Chapter 431.

(b) The commission and the governor must approve the transfer of the toll [~~turnpike~~] project or system as being in the best interests of the state and the entity receiving the [~~turnpike~~] project or system.

Sec. 228.152 [~~361.283~~]. DISCHARGE OF OUTSTANDING BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a toll [~~turnpike~~] project or system under Section 228.151 [~~361.282~~] must provide for the discharge and final payment or redemption of the department's outstanding bonded indebtedness for the

project or system.

Sec. 228.153 [~~361.284~~]. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a) Except as provided by Subsection (b), an agreement to lease, sell, or convey a toll [~~turnpike~~] project or system under Section 228.151 [~~361.282~~] must provide for the repayment of any expenditures of the department for the financing, design, development, construction, operation, or [~~and~~] maintenance of the highway [~~project~~] that have not been reimbursed with the proceeds of bonds issued for the highway [~~project~~].

(b) The commission may waive repayment of all or a portion of the expenditures if it finds that the transfer will result in substantial net benefits to the state, the department, and the public that equal or exceed the amount of repayment waived.

Sec. 228.154 [~~361.285~~]. APPROVAL OF AGREEMENT BY ATTORNEY GENERAL. (a) An agreement for the lease, sale, or conveyance of a toll [~~turnpike~~] project or system under this subchapter shall be submitted to the attorney general for approval as part of the records of proceedings relating to the issuance of bonds of the governmental entity [~~county, municipality, regional tollway authority, regional mobility authority, or local government corporation~~].

(b) If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the commission a copy of the legal opinion of the attorney general stating that approval.

SECTION 2.45. Chapter 228, Transportation Code, is amended

1 by adding Subchapter E to read as follows:

2 SUBCHAPTER E. LIMITATION ON TOLL FACILITY DETERMINATION;

3 CONVERSION OF NONTOLLED STATE HIGHWAY

4 Sec. 228.201. LIMITATION ON TOLL FACILITY DESIGNATION.

5 (a) Except as provided by Section 228.2015, the department may

6 not operate a nontolled state highway or a segment of a

7 nontolled state highway as a toll project, and may not transfer

8 a highway or segment to another entity for operation as a toll

9 project, unless:

10 (1) the commission by order designated the highway or

11 segment as a toll project before the contract to construct the

12 highway or segment was awarded;

13 (2) the highway or segment was open to traffic as a

14 turnpike project on or before September 1, 2005;

15 (3) the project was designated as a toll project in a

16 plan or program of a metropolitan planning organization on or

17 before September 1, 2005;

18 (4) the highway or segment is reconstructed so that

19 the number of nontolled lanes on the highway or segment is

20 greater than or equal to the number in existence before the

21 reconstruction;

22 (5) a facility is constructed adjacent to the highway

23 or segment so that the number of nontolled lanes on the

24 converted highway or segment and the adjacent facility together

25 is greater than or equal to the number in existence on the

26 converted highway or segment before the conversion;

27 (6) subject to Subsection (b), the highway or segment

1 was open to traffic as a high-occupancy vehicle lane on May 1,
2 2005; or
3 (7) the commission converts the highway or segment to
4 a toll facility by:
5 (A) making the determination required by Section
6 228.202;
7 (B) conducting the hearing required by Section
8 228.203; and
9 (C) obtaining county and voter approval as
10 required by Sections 228.207 and 228.208.
11 (b) The department may operate or transfer a high-
12 occupancy vehicle lane under Subsection (a)(6) as a tolled lane
13 only if the department or other entity operating the lane allows
14 vehicles occupied by a specified number of passengers to use the
15 lane without paying a toll.
16 Sec. 228.2015. LIMITATION TRANSITION. (a)
17 Notwithstanding Section 228.201, the department may operate a
18 nontolled state highway or a segment of a nontolled state
19 highway as a toll project if:
20 (1) a construction contract was awarded for the
21 highway or segment before September 1, 2005;
22 (2) the highway or segment had not at any time before
23 September 1, 2005, been open to traffic; and
24 (3) the commission designated the highway or segment
25 as a toll project before the earlier of:
26 (A) the date the highway or segment is opened to
27 traffic; or

(B) September 1, 2005.

(b) This section expires September 1, 2006.

SECTION 2.46. Section 362.0041, Transportation Code, is transferred to Subchapter E, Chapter 228, Transportation Code, redesignated as Sections 228.202-228.208, and amended to read as follows:

Sec. 228.202 [~~362.0041~~]. COMMISSION DETERMINATION [~~CONVERSION OF PROJECTS~~]. The [~~(a) Except as provided in Subsections (d) and (g), the~~] commission may by order convert a nontolled state highway or a segment of a nontolled state highway [~~the free state highway system~~] to a toll project [~~facility~~] if it determines that the conversion will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to that segment of the state highway system.

Sec. 228.203. PUBLIC HEARING. [~~(b)~~] Prior to converting a state highway or a segment of a [~~the~~] state highway [~~system~~] under this subchapter [~~section~~], the commission shall conduct a public hearing for the purpose of receiving comments from interested persons concerning the proposed conversion [~~transfer~~]. Notice of the hearing shall be published in the Texas Register, one or more newspapers of general circulation, and a newspaper, if any, published in the county or counties in which the involved highway is located.

Sec. 228.204. RULES. [~~(c)~~] The commission shall adopt rules implementing this subchapter [~~section~~], including criteria and guidelines for the approval of a conversion of a highway.

Sec. 228.205. QUEEN ISABELLA CAUSEWAY. [~~(d)~~] The commission may not convert the Queen Isabella Causeway in Cameron County to a toll project [~~facility~~].

Sec. 228.206. TOLL REVENUE. [~~(e) Subchapter G, Chapter 361, applies to a highway converted to a toll facility under this section.~~

[~~(f)~~] Toll revenue collected under this section:

(1) shall be deposited in the state highway fund;

(2) may be used by the department to finance the improvement, extension, expansion, or operation of the converted segment of highway and may not be collected except for those purposes; and

(3) is exempt from the application of Section 403.095, Government Code.

Sec. 228.207. COUNTY AND VOTER APPROVAL. [~~(g)~~] The commission may only convert a state highway or a segment of a [~~the~~] state highway [~~system~~] under this subchapter [~~section~~] if the conversion is approved by:

(1) the commissioners court of each county within which the highway or segment is located; and

(2) the qualified voters who vote in an election under Section 228.208 and who reside in the limits of:

(A) a county if any part of the highway or segment to be converted is located in an unincorporated area of the county; or

(B) a municipality in which the highway or segment to be converted is wholly located.

1 Sec. 228.208. ELECTION TO APPROVE CONVERSION. (a) If
2 notified by the department of the proposed conversion of a
3 highway or segment under this subchapter, and after approval of
4 the conversion by the appropriate commissioners courts as
5 required by Section 228.207(1), the commissioners court of each
6 county described by Section 228.207(2)(A) or the governing body
7 of a municipality described by Section 228.207(2)(B), as
8 applicable, shall call an election for the approval or
9 disapproval of the conversion.
10 (b) If a county or municipality orders an election, the
11 county or municipality shall publish notice of the election in a
12 newspaper of general circulation published in the county or
13 municipality at least once each week for three consecutive
14 weeks, with the first publication occurring at least 21 days
15 before the date of the election.
16 (c) An order or resolution ordering an election and the
17 election notice required by Subsection (b) must show, in
18 addition to the requirements of the Election Code, the location
19 of each polling place and the hours that the polls will be open.
20 (d) The proposition submitted in the election must
21 distinctly state the highway or segment proposed to be converted
22 and the limits of that highway or segment.
23 (e) At an election ordered under this section, the ballots
24 shall be printed to permit voting for or against the
25 proposition: "The conversion of (highway) from (beginning
26 location) to (ending location) to a toll project."
27 (f) A proposed conversion is approved only if it is

approved by a majority of the votes cast.

(g) A notice of the election and a certified copy of the order canvassing the election results shall be sent to the commission.

SECTION 2.47. Sections 362.001, 362.003, 362.006, and 362.007, Transportation Code, are transferred to Chapter 228, Transportation Code, designated as Subchapter F, and amended to read as follows:

SUBCHAPTER F. JOINT TOLL PROJECTS

Sec. 228.251 [~~362.001~~]. DEFINITIONS. In this subchapter:

(1) [~~(2)~~] "Bonds" includes certificates, notes, and other obligations of an issuer authorized by statute, municipal home-rule charter, or the Texas Constitution.

(2) [~~(3) "Cost" means those costs included under Section 361.004.~~

[~~(4)~~] "Local governmental entity" means a political subdivision of the state, including a municipality or a county, a political subdivision of a county, a group of adjoining counties, a defined district, or a nonprofit corporation, including a transportation corporation created under Chapter 431.

[~~(5) "Turnpike project" has the meaning assigned by Section 361.001.~~]

Sec. 228.252 [~~362.003~~]. APPLICABILITY OF OTHER LAW; CONFLICTS. (a) This subchapter [~~chapter~~] is cumulative of all laws affecting the issuance of bonds by local governmental entities, particularly, but not by way of limitation, provisions

of Chapters 1201 and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code, are applicable to and apply to all bonds issued under this subchapter [~~chapter~~], regardless of any classification of any such local governmental entities thereunder; provided, however, in the event of any conflict between such laws and this subchapter [~~chapter~~], the provisions of this subchapter [~~chapter~~] prevail.

(b) This subchapter [~~chapter~~] is cumulative of all laws affecting the commission, the department, and the local governmental entities, except that in the event any other law conflicts with this subchapter [~~chapter~~], the provisions of this subchapter [~~chapter~~] prevail. Chapters 1201 and 1371, Government Code, and Subchapters A, B, and C, Chapter 1207, Government Code, apply to bonds issued by the commission under this subchapter [~~chapter~~].

(c) The department may enter into all agreements necessary or convenient to effectuate the purposes of this subchapter [~~chapter~~].

Sec. 228.253 [~~362.006~~]. USE OF FEDERAL FUNDS. The department may use federal funds for any purpose described by this subchapter.

Sec. 228.254 [~~362.007~~]. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) Under authority of Section 52, Article III, Texas Constitution, a local governmental entity other than a nonprofit corporation may, upon the required vote of the qualified voters, in addition to all other debts, issue bonds or enter into and make payments under agreements with the

1 department, not to exceed 40 years in term, in any amount not to
2 exceed one-fourth of the assessed valuation of real property
3 within the local governmental entity, except that the total
4 indebtedness of any municipality shall never exceed the limits
5 imposed by other provisions of the constitution, and levy and
6 collect taxes to pay the interest thereon and provide a sinking
7 fund for the redemption thereof, for the purposes of
8 construction, maintenance, and operation of toll [~~turnpike~~]
9 projects or systems of the department, or in aid thereof.
10 (b) In addition to Subsection (a), a local governmental
11 entity may, within any applicable constitutional limitations,
12 agree with the department to issue bonds or enter into and make
13 payments under an agreement to construct, maintain, or operate
14 any portion of a toll [~~turnpike~~] project or system of the
15 department.
16 (c) To make payments under an agreement under Subsection
17 (b) or pay the interest on bonds issued under Subsection (b) and
18 to provide a sinking fund for the bonds or the contract, a local
19 governmental entity may:
20 (1) pledge revenue from any available source,
21 including annual appropriations;
22 (2) levy and collect taxes; or
23 (3) provide for a combination of Subdivisions (1) and
24 (2).
25 (d) The term of an agreement under this section may not
26 exceed 40 years.
27 (e) Any election required to permit action under this

subchapter must be held in conformance with Chapter 1251, Government Code, or other law applicable to the local governmental entity.

SECTION 2.48. Section 284.001(3), Transportation Code, is amended to read as follows:

(3) "Project" means a causeway, bridge, tunnel, turnpike, highway, or any combination of those facilities, including:

(A) a necessary overpass, underpass, interchange, entrance plaza, toll house, service station, approach, fixture, and accessory and necessary equipment <u>that has been designated as part of the project by order of a county</u>;

(B) necessary administration, storage, and other buildings <u>that have been designated as part of the project by order of a county</u>; and

(C) all property rights, easements, and related interests acquired.

SECTION 2.49. Section 284.008, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) <u>Except as provided by Subsection (d), a</u> [~~A~~] project becomes a part of the state highway system and the commission shall maintain the project without tolls when:

(1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid; or

(2) a sufficient amount for the payment of all bonds

and the interest on the bonds to maturity has been set aside in a trust fund held for the benefit of the bondholders.

(d) Before construction on a project under this chapter begins, a county may request that the commission adopt an order stating that the project will not become part of the state highway system under Subsection (c). If the commission adopts the order:

(1) Section 362.051 does not apply to the project;

(2) the project must be maintained by the county; and

(3) the project will not become part of the state highway system unless the county transfers the project under Section 284.011.

SECTION 2.50. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.011 to read as follows:

Sec. 284.011. TRANSFER OF PROJECT TO DEPARTMENT. (a) A county may transfer to the department a project under this chapter that has outstanding bonded indebtedness if the commission:

(1) agrees to the transfer; and

(2) agrees to assume the outstanding bonded indebtedness.

(b) The commission may assume the outstanding bonded indebtedness only if the assumption:

(1) is not prohibited under the terms of an existing trust agreement or indenture securing bonds or other obligations issued by the commission for another project;

(2) does not prevent the commission from complying

with covenants of the commission under an existing trust agreement or indenture; and

(3) does not cause a rating agency maintaining a rating on outstanding obligations of the commission to lower the existing rating.

(c) If the commission agrees to the transfer under Subsection (a), the county shall convey the project and any real property acquired to construct or operate the project to the department.

(d) At the time of a conveyance under this section, the commission shall designate the project as part of the state highway system. After the designation, the county has no liability, responsibility, or duty to maintain or operate the project.

SECTION 2.51. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.012 to read as follows:

Sec. 284.012. TRANSFER OF ASSETS. (a) A county, acting through the commissioners court of the county, may submit a request to the commission for authorization to create a regional mobility authority under Chapter 370 and to transfer all projects under this chapter to the regional mobility authority if:

(1) the creation of the regional mobility authority and transfer of projects is not prohibited under the bond proceedings applicable to the projects;

(2) adequate provision has been made for the assumption by the regional mobility authority of all debts,

obligations, and liabilities of the county arising out of the transferred projects; and

(3) the commissioners courts of any additional counties to be part of the regional mobility authority have approved the request.

(b) The county may submit to the commission a proposed structure for the initial board of directors of the regional mobility authority and a method for appointment to the board of directors at the creation of the regional mobility authority. Subsequent appointments to the board of directors are subject to the requirements of Subchapter F, Chapter 370.

(c) After commission authorization, the county may transfer each of its projects under this chapter to the regional mobility authority to the extent authorized by the Texas Constitution if property and contract rights in the projects and bonds issued for the projects are not affected unfavorably.

(d) The commission shall adopt rules governing the creation of a regional mobility authority and the transfer of projects under this section.

SECTION 2.52. Section 284.061(c), Transportation Code, is amended to read as follows:

(c) Except as provided by Section 284.0615 [~~361.1375~~], if applicable, the county is entitled to immediate possession of property subject to a condemnation proceeding brought by the county after:

(1) a tender of a bond or other security in an amount sufficient to secure the owner for damages; and

(2) the approval of the bond or security by the court.

SECTION 2.53. Subchapter C, Chapter 284, Transportation Code, is amended by adding Section 284.0615 to read as follows:

Sec. 284.0615. DECLARATION OF TAKING BY CERTAIN COUNTIES. (a) This section applies only to a county with a population of 3.3 million or more.

(b) If, in connection with a project under this chapter, the commissioners court of the county authorizes the county to proceed in the manner provided by Section 203.066:

(1) the county may file a declaration of taking and proceed in the manner provided by that section on the project; and

(2) a reference to the department in that section means the county.

SECTION 2.54. Section 284.064, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) If a county enters into an agreement with a person that includes the collection by the person of tolls for the use of a project, the person shall submit to the county for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the person will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for

1 late payment of a toll; and

2 (B) any charge to be imposed to recover the cost

3 of collecting a delinquent toll; and

4 (3) any proposed change in an approved methodology

5 for the setting of a toll or a plan for collecting the toll.

6 (e) An agreement with a person that includes the

7 collection by the person of tolls for the use of a project may

8 not be for a term longer than 50 years.

9 SECTION 2.55. Subchapter C, Chapter 284, Transportation

10 Code, is amended by adding Section 284.0665 to read as follows:

11 Sec. 284.0665. COMPENSATION OF OPERATING BOARD MEMBERS.

12 (a) In this section, "performing the duties of the operating

13 board" means substantive performance of the management or

14 business of a project:

15 (1) including participation in:

16 (A) board and committee meetings;

17 (B) other activities involving the substantive

18 deliberation of business; and

19 (C) pertinent educational programs related to a

20 project; and

21 (2) not including routine or ministerial activities

22 such as the execution of documents, self-preparation for

23 meetings, or other activities requiring a minimal amount of

24 time.

25 (b) This section applies only to an operating board:

26 (1) appointed by a local government corporation; or

27 (2) that is a local government corporation.

(c) A member of an operating board is entitled to receive as compensation not more than $150 a day for each day the member actually spends performing the duties of the operating board.

(d) The operating board shall set a limit on the amount of compensation a member of the operating board may receive in a year under this section not to exceed $7,200.

(e) In addition to Subsection (c), a member of the operating board is entitled to reimbursement of actual and necessary expenses incurred in performing duties of the operating board.

(f) To receive compensation or reimbursement under this section, a member of the operating board must file a verified statement with the local government corporation:

(1) showing the number of days the member actually spent performing duties of the operating board; and

(2) including a general description of the duties performed for each day of service.

SECTION 2.56. Section 284.067(c), Transportation Code, is amended to read as follows:

(c) Any [~~Each~~] county into which the project extends, by condemnation or another method under general law, may acquire the property necessary for the project, except that a county may not condemn property in another county until after the resolution required by Subsection (a) is adopted. The county issuing the bonds may use the bond proceeds to acquire property necessary for the project in any county into which the project extends.

SECTION 2.57. Section 366.004(a), Transportation Code, is amended to read as follows:

(a) The cost of acquisition, construction, improvement, extension, or expansion of a turnpike project or system under this chapter includes the cost of:

(1) the actual acquisition, construction, improvement, extension, or expansion of the turnpike project or system;

(2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;

(3) machinery and equipment;

(4) interest payable before, during, and after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;

(5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) compliance with laws, regulations, and administrative rulings;

(8) financing; [~~and~~]

(9) the assumption of debts, obligations, and liabilities of an entity relating to a turnpike project or

system transferred to an authority by that entity; and

(10) [~~(9)~~] expenses related to the initial operation of the turnpike project or system.

SECTION 2.58. Section 366.033, Transportation Code, is amended by amending Subsection (b) and adding Subsections (k) and (l) to read as follows:

(b) Rules adopted by the authority must be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority where the text may be read by any person. A rule takes effect 10 days after the date of the second publication of the notice under this subsection [~~comply with the procedures in Subchapter B, Chapter 2001, Government Code, and are subject to Section 2001.038, Government Code, except that the action may be brought only in a district court of a county located in the authority~~].

(k) If an authority enters into a contract or agreement to design, finance, construct, operate, maintain, or perform any other function for a turnpike project, system, or improvement authorized by law on behalf of a local governmental entity, the commission, the department, a regional mobility authority, or any other entity, the contract or agreement may provide that the authority, in performing the function, is governed by the applicable provisions of this chapter and the rules and

procedures adopted by the authority under this chapter, in lieu of the laws, rules, or procedures applicable to the other party for the performance of the same function.

(1) An authority, acting through its board, may agree with another entity to acquire a turnpike project or system from that entity and to assume any debts, obligations, and liabilities of the entity relating to a turnpike project or system transferred to the authority.

SECTION 2.59. Subchapter B, Chapter 366, Transportation Code, is amended by adding Section 366.036 to read as follows:

Sec. 366.036. TRANSFER OF TURNPIKE PROJECT OR SYSTEM. (a) An authority may transfer any of its turnpike projects or systems to one or more local governmental entities if:

(1) the authority has commitments from the governing bodies of the local governmental entities to assume jurisdiction over the transferred projects or systems;

(2) property and contract rights in the transferred projects or systems and bonds issued for the projects or systems are not affected unfavorably;

(3) the transfer is not prohibited under the bond proceedings applicable to the transferred projects or systems;

(4) adequate provision has been made for the assumption of all debts, obligations, and liabilities of the authority relating to the transferred projects or systems by the local governmental entities assuming jurisdiction over the transferred projects or systems;

(5) the local governmental entities are authorized to

assume jurisdiction over the transferred projects or systems and to assume the debts, obligations, and liabilities of the authority relating to the transferred projects or systems; and

(6) the transfer has been approved by the commissioners court of each county that is part of the authority.

(b) An authority may transfer to one or more local governmental entities any traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed by the authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project or system, and the authority's rights and obligations under any related agreements, if the requirements of Subsections (a)(1) and (6) are met.

(c) A local governmental entity shall, using any lawfully available funds, reimburse any expenditures made by an authority from its feasibility study fund or otherwise to pay the costs of work product transferred to the local governmental entity under Subsection (b) and any other amounts expended under related agreements transferred to the local governmental entity. The reimbursement may be made over time, as determined by the local governmental entity and the authority.

SECTION 2.60. Section 366.169(c), Transportation Code, is amended to read as follows:

(c) Except as provided by Section 228.201 [~~366.035~~], the state or a local governmental entity may convey, grant, or lease to an authority real property, including highways and other real

property already devoted to public use and rights or easements in real property, that may be necessary or convenient to accomplish the authority's purposes, including the construction or operation of a turnpike project. A conveyance, grant, or lease under this section may be made without advertising, court order, or other action other than the normal action of the state or local governmental entity necessary for a conveyance, grant, or lease.

SECTION 2.61. Section 366.179, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 2.62. Section 370.003, Transportation Code, is amended by amending Subdivision (14) and adding Subdivisions (16)-(19) to read as follows:

(14) "Transportation project" means:

(A) a turnpike project;

(B) a system;

(C) a passenger or freight rail facility, including:

(i) tracks;

(ii) a rail line;

(iii) switching, signaling, or other operating equipment;

(iv) a depot;

(v) a locomotive;

(vi) rolling stock;

(vii) a maintenance facility; and

(viii) other real and personal property associated with a rail operation;

(D) a roadway with a functional classification greater than a local road or rural minor collector;

(E) a ferry;

(F) an airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date;

(G) a pedestrian or bicycle facility;

(H) an intermodel hub;

(I) an automated conveyor belt for the movement of freight;

(J) a border crossing inspection station;

(K) an air quality improvement initiative;

(L) a public utility facility; [~~and~~]

(M) a transit system; and

(N) if applicable, projects and programs listed in the most recently approved state implementation plan for the area covered by the authority, including an early action compact.

(16) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by any means of surface, overhead, or underground

transportation, other than an aircraft or taxicab.

(17) "Service area" means the county or counties in which an authority or transit provider has established a transit system.

(18) "Transit provider" means an entity that provides mass transit for the public and that was created under Chapter 451, 452, 453, 454, 457, 458, or 460.

(19) "Transit system" means:

(A) property owned or held by an authority for mass transit purposes; and

(B) facilities necessary, convenient, or useful for:

(i) the use of or access to mass transit by persons or vehicles; or

(ii) the protection or environmental enhancement of mass transit.

SECTION 2.63. Section 370.004(a), Transportation Code, is amended to read as follows:

(a) The cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes the cost of:

(1) the actual acquisition, construction, improvement, extension, or expansion of the transportation project;

(2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;

(3) machinery and equipment;

(4) interest payable before, during, and for not more than three years after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;

(5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the acquisition, construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) compliance with laws, regulations, and administrative rulings, including any costs associated with necessary environmental mitigation measures;

(8) financing; [~~and~~]

(9) the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity; and

(10) expenses related to the initial operation of the transportation project.

SECTION 2.64. Section 370.031, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) A municipality that borders the United Mexican States and has a population of 105,000 or more has the same authority as a county, within its municipal boundaries, to create and participate in an authority. A municipality creating or participating in an authority has the same powers and duties as

a county participating in an authority, the governing body of the municipality has the same powers and duties as the commissioners court of a county participating in an authority, and an elected member of the municipality's governing body has the same powers and duties as a commissioner of a county that is participating in an authority.

SECTION 2.65. Section 370.033, Transportation Code, is amended by amending Subsection (m) and adding Subsections (o), (p), and (q) to read as follows:

(m) If an authority receives money from the general revenue fund, the Texas Mobility Fund, or the state highway fund it may use the money only to acquire, design, finance, construct, operate, or maintain a turnpike project under Section 370.003(14)(A) or (D) or a transit system under Section 370.351.

(o) Except as provided in Subchapter J, an authority may not provide mass transit services in the service area of another transit provider that has taxing authority and has implemented it anywhere in the service area unless the service is provided under a written agreement with the transit provider or under Section 370.186.

(p) Before providing public transportation or mass transit services in the service area of any other existing transit provider, including a transit provider operating under Chapter 458, an authority must first consult with that transit provider. An authority shall ensure there is coordination of services provided by the authority and an existing transit provider, including a transit provider operating under Chapter 458. An

1 authority is ineligible to participate in the formula or
2 discretionary program under Chapter 456 unless there is no other
3 transit provider, including a transit provider operating under
4 Chapter 458, providing public transportation or mass transit
5 services in the service area of the authority.
6 (q) An authority, acting through its board, may agree with
7 another entity to acquire a transportation project or system
8 from that entity and to assume any debts, obligations, and
9 liabilities of the entity relating to a transportation project
10 or system transferred to the authority.
11 SECTION 2.66. Subchapter B, Chapter 370, Transportation
12 Code, is amended by adding Section 370.039 to read as follows:
13 Sec. 370.039. TRANSFER OF TRANSPORTATION PROJECT OR
14 SYSTEM. (a) An authority may transfer any of its
15 transportation projects or systems to one or more governmental
16 entities if:
17 (1) the authority has commitments from the governing
18 bodies of the governmental entities to assume jurisdiction over
19 the transferred projects or systems;
20 (2) property and contract rights in the transferred
21 projects or systems and bonds issued for the projects or systems
22 are not affected unfavorably;
23 (3) the transfer is not prohibited under the bond
24 proceedings applicable to the transferred projects or systems;
25 (4) adequate provision has been made for the
26 assumption of all debts, obligations, and liabilities of the
27 authority relating to the transferred projects or systems by the

1 governmental entities assuming jurisdiction over the transferred
2 projects or systems;
3 (5) the governmental entities are authorized to
4 assume jurisdiction over the transferred projects or systems and
5 to assume the debts, obligations, and liabilities of the
6 authority relating to the transferred projects or systems; and
7 (6) the transfer has been approved by the
8 commissioners court of each county that is part of the
9 authority.
10 (b) An authority may transfer to one or more governmental
11 entities any traffic estimates, revenue estimates, plans,
12 specifications, surveys, appraisals, and other work product
13 developed by the authority in determining the feasibility of the
14 construction, improvement, extension, or expansion of a
15 transportation project or system, and the authority's rights and
16 obligations under any related agreements, if the requirements of
17 Subsections (a)(1) and (6) are met.
18 (c) A governmental entity shall, using any lawfully
19 available funds, reimburse any expenditures made by an authority
20 from its feasibility study fund or otherwise to pay the costs of
21 work product transferred to the governmental entity under
22 Subsection (b) and any other amounts expended under related
23 agreements transferred to the governmental entity. The
24 reimbursement may be made over time, as determined by the
25 governmental entity and the authority.
26 SECTION 2.67. Section 366.302, Transportation Code, is
27 amended by adding Subsections (f) and (g) to read as follows:

(f) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system, the private entity shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the entity will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(g) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system may not be for a term longer than 50 years.

SECTION 2.68. Section 370.163(a), Transportation Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, the governing body of an authority has the same powers and duties relating to the condemnation and acquisition of real property for a transportation project that the commission and the department have under Subchapter D, Chapter 203, [~~361, and Section 361.233~~] relating to the condemnation or purchase of

real property for a toll [~~turnpike~~] project. [~~Notwithstanding Section 361.135(a), the concurrence of the commission is not a prerequisite to the exercise of the power of condemnation by the governing body of the authority.~~]

SECTION 2.69. Section 370.168(c), Transportation Code, is amended to read as follows:

(c) Except as provided by Section 228.201 [~~370.035~~], this state or a local government may convey, grant, or lease to an authority real property, including highways and other real property devoted to public use and rights or easements in real property, that may be necessary or convenient to accomplish a purpose of the authority, including the construction or operation of a transportation project. A conveyance, grant, or lease under this section may be made without advertising, court order, or other action other than the normal action of this state or local government necessary for a conveyance, grant, or lease.

SECTION 2.70. Section 370.177(i), Transportation Code, is amended to read as follows:

(i) In the prosecution of an offense under this section, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including evidence obtained by automated

enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b).

SECTION 2.71. Section 370.178, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 2.72. Section 370.186, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as provided by Subsection (c), an [~~An~~] authority may not construct, maintain, or operate a turnpike or toll project in an area having a governmental entity established under Chapter 284 or 366 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken. An authority may not construct, maintain, or operate a transportation project that another governmental entity has determined to be a project under Chapter 451, 452, or 460 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken.

(c) Subsection (a) does not apply to a turnpike or toll project located in a county in which a regional tollway authority has transferred under Section 366.036 or 366.172:

(1) all turnpike projects of the regional tollway authority that are located in the county; and

(2) all work product developed by the regional tollway authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project to be located in the county.

(d) An authority may not construct, maintain, or operate a passenger rail facility within the boundaries of an intermunicipal commuter rail district created under Article 6550c-1, Vernon's Texas Civil Statutes, as those boundaries existed on September 1, 2005, unless the district and the authority enter into a written agreement specifying the terms and conditions under which the project will be undertaken.

SECTION 2.73. Sections 370.251(c) and (d), Transportation Code, are amended to read as follows:

(c) If permitted under the constitution of this state, directors [~~Directors~~] serve staggered six-year terms, with the terms of no more than one-third of the directors expiring on February 1 of each odd-numbered year. If six-year terms are not permitted under the constitution, directors serve two-year terms, with the terms of not more than one-half of the directors expiring on February 1 of each year.

(d) If six-year terms are permitted under the constitution of this state, one [~~One~~] director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of two years and one director designated to serve a term of four years. If six-year

terms are not permitted under the constitution, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of one year and one director designated to serve a term of two years. If one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (c).

SECTION 2.74. Section 370.252, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the prohibitions and restrictions of this section, directors are subject to Chapter 171, Local Government Code.

SECTION 2.75. Section 370.262(a), Transportation Code, is amended to read as follows:

(a) Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone conference call. The board may hold an open or closed meeting by telephone conference call subject to the requirements of Sections 551.125(c)-(f), Government Code, but is not subject to the requirements of Subsection (b) of that section.

SECTION 2.76. Chapter 370, Transportation Code, is amended by adding Subchapters I and J to read as follows:

SUBCHAPTER I. TRANSIT SYSTEMS

Sec. 370.351. TRANSIT SYSTEMS. (a) An authority may

1 construct, own, operate, and maintain a transit system.

2 (b) An authority shall determine each transit route,

3 including transit route changes.

4 (c) This chapter does not prohibit an authority,

5 municipality, or transit provider from providing any service

6 that complements a transit system, including providing parking

7 garages, special transportation for persons who are disabled or

8 elderly, or medical transportation services.

9 Sec. 370.352. PUBLIC HEARING ON FARE AND SERVICE CHANGES.

10 (a) In this section:

11 (1) "Service change" means any addition or deletion

12 resulting in the physical realignment of a transit route or a

13 change in the type or frequency of service provided in a

14 specific, regularly scheduled transit route.

15 (2) "Transit revenue vehicle mile" means one mile

16 traveled by a transit vehicle while the vehicle is available to

17 public passengers.

18 (3) "Transit route" means a route over which a

19 transit vehicle travels that is specifically labeled or numbered

20 for the purpose of picking up or discharging passengers at

21 regularly scheduled stops and intervals.

22 (4) "Transit route mile" means one mile along a

23 transit route regularly traveled by transit vehicles while

24 available to public passengers.

25 (b) Except as provided by Section 370.353, an authority

26 shall hold a public hearing on:

27 (1) a fare change;

1 (2) a service change involving:

2 (A) 25 percent or more of the number of transit

3 route miles of a transit route; or

4 (B) 25 percent or more of the number of transit

5 revenue vehicle miles of a transit route, computed daily, for

6 the day of the week for which the change is made; or

7 (3) the establishment of a new transit route.

8 (c) An authority shall hold the public hearing required by

9 Subsection (b) before the cumulative amount of service changes

10 in a fiscal year equals a percentage amount described in

11 Subsection (b)(2)(A) or (B).

12 Sec. 370.353. PUBLIC HEARING ON FARE AND SERVICE CHANGES:

13 EXCEPTIONS. (a) In this section, "experimental service change"

14 means an addition of service to an existing transit route or the

15 establishment of a new transit route.

16 (b) A public hearing under Section 370.352 is not required

17 for:

18 (1) a reduced or free promotional fare that is

19 instituted daily or periodically over a period of not more than

20 180 days;

21 (2) a headway adjustment of not more than five

22 minutes during peak-hour service and not more than 15 minutes

23 during nonpeak-hour service;

24 (3) a standard seasonal variation unless the number,

25 timing, or type of the standard seasonal variation changes; or

26 (4) an emergency or experimental service change in

27 effect for 180 days or less.

1 (c) A hearing on an experimental service change in effect
2 for more than 180 days may be held before or while the
3 experimental service change is in effect and satisfies the
4 requirement for a public hearing if the hearing notice required
5 by Section 370.354 states that the change may become permanent
6 at the end of the effective period. If a hearing is not held
7 before or while the experimental service change is in effect,
8 the service that existed before the change must be reinstituted
9 at the end of the 180th day after the change became effective
10 and a public hearing must be held in accordance with Section
11 370.352 before the experimental service change may be continued.
12 Sec. 370.354. NOTICE OF HEARING ON FARE OR SERVICE CHANGE.
13 (a) After calling a public hearing required by Section 370.352,
14 the authority shall:
15 (1) at least 30 days before the date of the hearing,
16 publish notice of the hearing at least once in a newspaper of
17 general circulation in the territory of the authority; and
18 (2) post notice in each transit vehicle in service on
19 any transit route affected by the proposed change for at least
20 two weeks within 30 days before the date of the hearing.
21 (b) The notice must contain:
22 (1) a description of each proposed fare or service
23 change, as appropriate;
24 (2) the time and place of the hearing; and
25 (3) if the hearing is required under Section
26 370.352(c), a description of the latest proposed change and the
27 previous changes.

1 (c) The requirement for a public hearing under Section
2 370.352 is satisfied at a public hearing required by federal law
3 if:
4 (1) the notice requirements of this section are met;
5 and
6 (2) the proposed fare or service change is addressed
7 at the meeting.
8 Sec. 370.355. CRIMINAL PENALTIES. (a) An authority by
9 resolution may prohibit the use of the transit system by a
10 person who fails to possess evidence showing that the
11 appropriate fare for the use of the system has been paid and may
12 establish reasonable and appropriate methods, including using
13 peace officers under Section 370.181(c), to ensure that persons
14 using the transit system pay the appropriate fare for that use.
15 (b) An authority by resolution may provide that a fare for
16 or charge for the use of the transit system that is not paid
17 incurs a penalty, not to exceed $100.
18 (c) The authority shall post signs designating each area
19 in which a person is prohibited from using the transit system
20 without possession of evidence showing that the appropriate fare
21 has been paid.
22 (d) A person commits an offense if:
23 (1) the person or another for whom the person is
24 criminally responsible under Section 7.02, Penal Code, uses the
25 transit system and does not possess evidence showing that the
26 appropriate fare has been paid; and
27 (2) the person fails to pay the appropriate fare or

other charge for the use of the transit system and any penalty on the fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty.

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the transit system.

(f) An offense under Subsection (d) is a Class C misdemeanor.

(g) An offense under Subsection (d) is not a crime of moral turpitude.

SUBCHAPTER J. ACQUIRING TRANSIT SYSTEMS

Sec. 370.361. TRANSFER OF TRANSIT SYSTEMS. (a) In this section, "unit of election" means a political subdivision that previously voted to join the service area of a transit provider.

(b) An authority may request in writing a transit provider to transfer the provider's transit system and taxing authority to the authority if the board determines that the traffic needs of the counties in which the authority operates could be most efficiently and economically met by the transfer.

(c) On receipt of a written request under Subsection (b), the governing body of the transit provider may authorize the authority to solicit public comment and conduct at least one public hearing on the proposed transfer in each unit of election in the transit provider's service area. Notice of a hearing

1 must be published in the Texas Register, one or more newspapers
2 of general circulation in the transit provider's service area,
3 and a newspaper, if any, published in the counties of the
4 requesting authority. The notice shall also solicit written
5 comments on the proposed transfer. The transit provider may
6 participate fully with the authority in conducting a public
7 hearing.
8 (d) A board may approve the acquisition of the transit
9 provider if the governing body of the transit provider approves
10 transfer of its operations to the authority and dissolution of
11 the transit provider is approved in an election ordered under
12 Subsection (e). Before approving the acquisition, the board
13 shall consider public comments received under Subsection (c).
14 (e) After considering public comments received under
15 Subsection (c), the governing body of the transit provider may
16 order an election to dissolve the transit provider and transfer
17 all services, property, funds, assets, employees, debts, and
18 obligations to the authority. The governing body of the transit
19 provider shall submit to the qualified voters in the units of
20 election in the transit provider's service area a proposition
21 that reads substantially as follows: "Shall (name of transit
22 provider) be dissolved and its services, property, funds,
23 assets, employees, debts, and obligations be transferred to
24 (name of regional mobility authority)?"
25 (f) An election under Subsection (e) shall be conducted so
26 that votes are separately tabulated and canvassed in each
27 participating unit of election in the transit provider's service

1 area.

2 (g) The governing body of the transit provider shall
3 canvass the returns and declare the results of the election
4 separately with respect to each unit of election. If a majority
5 of the votes received in a unit of election are in favor of the
6 proposition, the proposition is approved in that unit of
7 election. The transit provider is dissolved and its services,
8 property, funds, assets, employees, debts, and obligations are
9 transferred to the authority only if the proposition is approved
10 in every unit of election. If the proposition is not approved
11 in every unit of election, the proposition does not pass and the
12 transit provider is not dissolved.

13 (h) A certified copy of the order or resolution recording
14 the results of the election shall be filed with the department,
15 the comptroller, and the governing body of each unit of election
16 in the transit provider's service area.

17 (i) The authority shall assume all debts or other
18 obligations of the transferred transit provider in connection
19 with the acquisition of property under Subsection (g). The
20 authority may not use revenue from sales and use tax collected
21 under this subchapter or other revenue of the transit system in
22 a manner inconsistent with any pledge of that revenue for the
23 payment of any outstanding bonds, unless provisions have been
24 made for a full discharge of the bonds.

25 Sec. 370.362. SALES AND USE TAX. (a) If an authority
26 acquires a transit provider that has taxing authority, the
27 authority may impose a sales and use tax at a permissible rate

that does not exceed the rate approved by the voters residing in the service area of the transit provider's transit system at an election under this subchapter.

(b) The authority by resolution may:

(1) decrease the rate of the sales and use tax to a permissible rate; or

(2) call an election for the increase or decrease of the sales and use tax to a permissible rate.

(c) If an authority orders an election, the authority shall publish notice of the election in a newspaper of general circulation in the territory of the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election.

(d) A resolution ordering an election and the election notice required by Subsection (c) must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.

(e) A copy of the election notice required by Subsection (c) shall be furnished to the commission and the comptroller.

(f) The permissible rates for a sales and use tax imposed under this subchapter are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; or

(4) one percent.

(g) Chapter 322, Tax Code, applies to a sales and use tax imposed under this subchapter.

1 Sec. 370.363. MAXIMUM TAX RATE. (a) An authority may not
2 adopt a sales and use tax rate, including a rate increase, that
3 when combined with the rates of all sales and use taxes imposed
4 by all political subdivisions of this state having territory in
5 the service area of the transferred transit system exceeds two
6 percent in any location in the service area.
7 (b) An election to approve a sales and use tax or increase
8 the rate of an authority's sales and use tax has no effect if:
9 (1) the voters in the service area approve the
10 authority's sales and use tax rate or rate increase at an
11 election held on the same day on which a municipality or county
12 having territory in the jurisdiction of the service area adopts
13 a sales and use tax or an additional sales and use tax; and
14 (2) the combined rates of all sales and use taxes
15 imposed by the authority and all political subdivisions of this
16 state would exceed two percent in any part of the territory in
17 the service area.
18 Sec. 370.364. ELECTION TO CHANGE TAX RATE. (a) At an
19 election ordered under Section 370.362(b)(2), the ballots shall
20 be printed to permit voting for or against the proposition: "The
21 increase (decrease) of the local sales and use tax rate for mass
22 transit to (percentage)."
23 (b) The increase or decrease in the tax rate becomes
24 effective only if it is approved by a majority of the votes
25 cast.
26 (c) A notice of the election and a certified copy of the
27 order canvassing the election results shall be:

(1) sent to the commission and the comptroller; and

(2) filed in the deed records of the county.

Sec. 370.365. SALES TAX: EFFECTIVE DATES. (a) A sales and use tax implemented under this subchapter takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 370.364(c).

(b) An increase or decrease in the rate of a sales and use tax implemented under this subchapter takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 370.364(c); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the board that the comptroller requires more time to implement tax collection and reporting procedures.

SECTION 2.77. Section 370.302, Transportation Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project, the private entity shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the entity will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(i) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project may not be for a term longer than 50 years.

SECTION 2.78. Section 391.252(a), Transportation Code, is amended to read as follows:

(a) A [~~Subsequent to the effective date of this subchapter, a~~] person may not erect an off-premise sign that is adjacent to and visible from:

(1) U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;

(2) State Highway 317 between the northern city limits of the city of Belton to the southern city limits of the city of Valley Mills;

(3) State Highway 16 between the northern city limits of the city of Kerrville and Interstate Highway 20;

(4) U.S. Highway 77 between State Highway 186 and State Highway 44;

(5) U.S. Highway 281 between State Highway 186 and Interstate Highway 37;

(6) State Highway 17 between State Highway 118 and U.S. Highway 90;

(7) State Highway 67 between U.S. Highway 90 and Farm-to-Market Road 170;

(8) Farm-to-Market Road 170 between State Highway 67 and State Highway 118;

(9) State Highway 118 between Farm-to-Market Road 170 and State Highway 17;

(10) State Highway 105 between the western city limits of the city of Sour Lake to the eastern city limits of the city of Cleveland;

(11) State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;

(12) State Highway 21 between the southern city limits of the city of College Station and U.S. Highway 290; [~~or~~]

(13) a highway located in:

(A) the Sabine National Forest;

(B) the Davy Crockett National Forest; or

(C) the Sam Houston National Forest; or

(14) Segments 1 through 4 of State Highway 130.

SECTION 2.79. Section 395.001(a), Transportation Code, is amended to read as follows:

(a) This subchapter applies only to:

(1) the governing body of a toll road authority:

(A) in which a county with a population of 3.3 [~~2.4~~] million or more is located; or

(B) that is adjacent to a county with a population of 3.3 million or more and in which a municipality with a population of more than 60,000 is located; and

(2) an outdoor sign.

SECTION 2.80. Section 395.051(a), Transportation Code, is amended to read as follows:

(a) This subchapter applies only to a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million in which a municipality with a population of more than 60,000 is located.

SECTION 2.81. Section 451.554, Transportation Code, is amended to read as follows:

Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE DATE. (a) The addition of territory annexed under Section 451.551, or approved under Section 451.552 or 451.553, does not take effect if, before the effective date of the addition under Subsection (b), the board of the authority gives written notice to the governing body of the municipality that added new territory to the authority by virtue of annexation, or to the governing body of the municipality or the commissioners court of the county that held the election, that the addition would create a financial hardship on the authority because:

(1) the territory to be added is not contiguous to the territory of the existing authority; or

(2) the addition of the territory would impair the

imposition of the sales and use tax authorized by this chapter.

(b) In the absence of a notice under Subsection (a), the addition of territory takes effect on the 31st day after the date of the:

(1) municipal ordinance, if annexed by a municipality under Section 451.551; or

(2) election, if approved under Section 451.552 or 451.553 [~~approved under Section 451.552 or 451.553 takes effect on the 31st day after the date of the election~~].

SECTION 2.82. Section 472.031, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) A legislative member of a policy board may not be counted as absent at a meeting of the policy board during a legislative session.

~~SECTION 2.83. Title 6, Chapter 472, Transportation Code, is amended by adding a new Section 472.032 to read as follows:~~

~~Sec. 472.032. SAFETY OF PERSONS AND PROPERTY IN AND ADJACENT TO TRANSPORTATION FACILITIES, THOROUGHFARES, TRANSIT ROUTES, AND TRANSIT FACILITIES. (a) It is the policy of this state to protect the safety of persons and their property in the areas in and adjacent to public thoroughfares and transit systems in this state.~~

~~(b) This section applies to:~~

~~(1) the area occupied by a public thoroughfare of any class, including:~~

~~(A) an interstate highway;~~

~~(B) a state highway;~~

(C) a toll highway;

(D) a connector, service road, access road, ramp, or interchange;

(E) a local street or rural road;

(F) the Trans-Texas Corridor;

(G) a nontolled public road;

(H) a tolled public road;

(I) a bridge, overpass, underpass, toll entrance plaza, rest stop, public park, ferry, or causeway;

(2) passenger or freight rail facilities;

(3) transit routes and transit systems;

(4) an airport;

(5) pedestrian and bicycle facilities;

(6) a parking area or structure, rest stop, park, and any other improvement or amenity considered necessary, useful, or beneficial for the operation of a turnpike project;

(7) a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, or tunnel; and

(8) any area that is adjacent to a thoroughfare, facility or area described by Subdivisions (1)-(7).

(c)(1) A person commits an offense if, without the effective consent of the owner, the person breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft if the vehicle is located in an area to which this section applies.

(2) For purposes of this subsection:

(A) "Adjacent to" means any property from which a vehicle may lawfully directly or indirectly enter or exit a thoroughfare, facility or area described by Subsections (b)(1)-(7).

(B) "Enter" has the meaning assigned by Section 30.04, Penal Code.

(C) "Vehicle" has the meaning assigned by Section 30.01, Penal Code.

(d) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if:

(1) it is shown on the trial of the offense that the defendant has been previously convicted under this section or under Section 30.04, Penal Code; or

(2) the vehicle or part of the vehicle broken into or entered is a rail car.

(e) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section or the other law.

SECTION 2.84. Section 451.071, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) A referendum on a proposal to expand a system approved under this section may be held on any date specified in Section 41.001, Election Code, or a date chosen by order of the board of the authority, provided that:

(1) the referendum is held no earlier than the 62nd day after the date of the order; and

(2) the proposed expansion involves the addition of not more than 12 miles of track to the system.

SECTION 2.85. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1515 to read as follows:

Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES; PAID ADVERTISING. The commission may authorize the department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.

SECTION 2.86. Section 551.301, Transportation Code, is amended by amending Subdivision (2) and adding Subdivision (3) to read as follows:

(2) "Motor assisted scooter":

(A) means a self-propelled device with:

(i) [~~(A)~~] at least two wheels in contact with the ground during operation;

(ii) [~~(B)~~] a braking system capable of stopping the device under typical operating conditions;

(iii) [~~(C)~~] a gas or electric motor not exceeding 40 cubic centimeters;

(iv) [~~(D)~~] a deck designed to allow a person to stand or sit while operating the device; and

(v) [~~(E)~~] the ability to be propelled by human power alone; and

(B) does not include a pocket bike or minimotorbike.

(3) "Pocket bike or minimotorbike" means a self-propelled vehicle that is equipped with an electric motor or internal combustion engine having a piston displacement of less than 50 cubic centimeters, is designed to propel itself with not more than two wheels in contact with the ground, has a seat or saddle for the use of the operator, is not designed for use on a highway, and is ineligible for a certificate of title under Chapter 501. The term does not include:

(A) a moped or motorcycle;

(B) an electric bicycle or motor-driven cycle, as defined by Section 541.201;

(C) a motorized mobility device, as defined by Section 542.009;

(D) an electric personal assistive mobility device, as defined by Section 551.201; or

(E) a neighborhood electric vehicle.

SECTION 2.87. Subchapter D, Chapter 551, Transportation Code, is amended by adding Section 551.304 to read as follows:

Sec. 551.304. APPLICATION OF SUBCHAPTER TO POCKET BIKE OR MINIMOTORBIKE. This subchapter may not be construed to authorize the operation of a pocket bike or minimotorbike on any:

(1) highway, road, or street;

(2) path set aside for the exclusive operation of bicycles; or

(3) sidewalk.

SECTION 2.88. Section 101.022, Civil Practice and Remedies

Code, is amended to read as follows:

Sec. 101.022. DUTY OWED: PREMISE AND SPECIAL DEFECTS. (a) Except as provided in Subsection (c), if [~~If~~] a claim arises from a premise defect, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property, unless the claimant pays for the use of the premises.

(b) The limitation of duty in this section does not apply to the duty to warn of special defects such as excavations or obstructions on highways, roads, or streets or to the duty to warn of the absence, condition, or malfunction of traffic signs, signals, or warning devices as is required by Section 101.060.

(c) If a claim arises from a premise defect on a toll highway, road, or street, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property.

SECTION 2.89. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.033 to read as follows:

Sec. 791.033. CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE FACILITIES ON STATE HIGHWAY SYSTEM. (a) In this section, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

(b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll

project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) An agreement under this section must be approved by the Texas Department of Transportation.

(d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes to the extent permitted by law; or

(3) provide for a combination of Subdivisions (1) and (2).

(e) The term of an agreement under this section may not exceed 40 years.

(f) Any election required to permit action under this section must be held in conformance with the Election Code or other law applicable to the local government.

(g) In connection with an agreement under this section, a county or municipality may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(h) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other

acts and procedures authorized by this section by a local government without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A local government may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 2.90. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.111 to read as follows:

Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The authority may issue and sell obligations to finance one or more projects described by Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General Appropriations Act or other law.

(b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable.

(c) The legislature may appropriate money from any

available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code.

SECTION 2.91. Subtitle I, Title 9, Government Code, is amended by adding Chapter 1479 to read as follows:

CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON STATE HIGHWAY SYSTEM

Sec. 1479.001. DEFINITION. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) A county may issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

(b) To provide for the payment of bonds issued under this section, a county may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes subject to any

constitutional limitation; or

(3) provide for a combination of Subdivisions (1) and (2).

(c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law applicable to the county.

(d) A county that issues bonds under this section may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(e) A bond issued under this section must mature not later than 40 years after its date of issuance.

(f) This section is wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a county without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A county may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 2.92. Section 2166.302, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and

(c), the commission shall adopt uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project excluded from this chapter by Section 2166.003, but not including a contract for a project excluded from this chapter by Section 2166.004.

(c) Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation.

SECTION 2.93. Section 2262.002(b), Government Code, is amended to read as follows:

(b) This chapter does not apply to contracts of the Texas Department of Transportation that:

(1) relate to highway construction or highway engineering; or

(2) are subject to Section 201.112, Transportation Code.

SECTION 2.94. Section 21.042, Property Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsection (d), if a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of 5,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

SECTION 2.95. Section 11.11, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91, 223, or 227, Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

SECTION 2.96. Section 25.06, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91, 227, or 361, Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway

system.

SECTION 2.97. Section 25.07, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a) does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91, 227, or 361, Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system.

SECTION 2.98. (a) The Texas Department of Transportation shall conduct a study to determine how to maximize the use of highway rights-of-way by public utilities. The department shall submit a written report of its findings to the appropriate legislative committees not later than December 31, 2006.

(b) This section expires January 1, 2007.

~~SECTION 2.99. Section 21.021(c), Property Code, as amended by this Act, applies only to a condemnation proceeding the petition for which is filed on or after the effective date of this Act. A condemnation proceeding the petition for which is filed before the effective date of this Act is governed by the law in effect at the time the petition was filed, and that law~~

Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system.

SECTION 2.98. (a) The Texas Department of Transportation shall conduct a study to determine how to maximize the use of highway rights-of-way by public utilities. The department shall submit a written report of its findings to the appropriate legislative committees not later than December 31, 2006.

~~(b) This section expires January 1, 2007.~~

SECTION 2.99. Section 21.021(a), Property Code, as amended by this Act, applies only to a condemnation proceeding the petition for which is filed on or after the effective date of this Act. A condemnation proceeding the petition for which is filed before the effective date of this Act is governed by the law in effect at the time the petition was filed, and that law is continued in effect for that purpose.

SECTION 2.100. Notwithstanding any law to the contrary, neither the Texas Department of Transportation nor a regional mobility authority may acquire property, enter into a contract, grant a franchise, or lease or license property for the purpose of constructing or operating an ancillary facility to be used for a commercial purpose under Chapter 228 or 370, Transportation Code. This section does not apply to a segment of highway under the jurisdiction of a regional mobility

authority if the regional mobility authority awarded a comprehensive development agreement for the improvement of that segment before September 1, 2005. This section does not apply to a segment of the state highway system in Travis or Williamson County if the Texas Department of Transportation awarded an exclusive development agreement for the improvement of that segment before September 1, 2005. This section expires September 1, 2007.

~~SECTION 2.101. The following provisions of the~~ Transportation Code are repealed:

(1) Section 201.6061;

(2) Section 222.102;

(3) Sections 224.155-224.158 and 224.160;

(4) Section 284.009, as added by Chapter 953, Acts of the 78th Legislature, Regular Session, 2003;

(5) Section 284.009, as added by Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003;

(6) Section 361.002;

(7) Sections 361.031 and 361.050;

(8) Subchapter C, Chapter 361;

(9) Sections 361.131-361.136, 361.1375, and 361.140-361.142;

(10) Sections 361.175, 361.180, and 361.191;

(11) Sections 361.231, 361.232, and 361.234-361.238;

(12) Section 361.251;

(13) Sections 361.302-361.306;

(14) Subchapter J, Chapter 361;

(15) Sections 362.002 and 362.008;

~~is continued in effect for that purpose.~~

SECTION 2.100. Notwithstanding any law to the contrary, neither the Texas Department of Transportation nor a regional mobility authority may acquire property, enter into a contract, grant a franchise, or lease or license property for the purpose of constructing or operating an ancillary facility to be used for a commercial purpose under Chapter 227, 228, or 370, Transportation Code. This section does not apply to a segment of the state highway system if the Texas Department of Transportation awarded an exclusive development agreement for the improvement of that segment before September 1, 2005. ~~This section expires September 1, 2007.~~

SECTION 2.101. The following provisions of the Transportation Code are repealed:

(1) Section 201.6061;

(2) Section 222.102;

(3) Sections 224.155-224.158 and 224.160;

~~(4) Sections 227.002(d), (g), and~~

(5) Section 284.009, as added by Chapter 953, Acts of the 78th Legislature, Regular Session, 2003;

(6) Section 284.009, as added by Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003;

(7) Section 361.002;

(8) Sections 361.031 and 361.050;

(9) Subchapter C, Chapter 361;

(10) Sections 361.131-361.136, 361.1375, and 361.140-361.142;

(11) Sections 361.175, 361.180, and 361.191;

(12) Sections 361.231, 361.232, and 361.234-361.238;

(13) Section 361.251;

(14) Sections 361.302-361.306;

(15) Subchapter J, Chapter 361;

(16) Sections 362.002 and 362.008;

(17) Sections 366.035 and 366.165(d); and

(18) Sections 370.035 and 370.163(b).

SECTION 2.102. Section 370.161(b), Transportation Code, is repealed.

SECTION 2.103. The changes in law made by this Act to Chapter 370, Transportation Code, apply to a regional mobility authority created or participated in by a municipality described by Section 370.031(c), Transportation Code, as added by this Act, or Section 370.161(b), Transportation Code, as it existed before the effective date of this Act, in the same manner as they apply to any other entity that creates or participates in a regional mobility authority.

ARTICLE 3. VEHICLES

SECTION 3.01. (a) Article 45.051(f), Code of Criminal Procedure, is amended to read as follows:

(f) This article does not apply to:

(1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies; or

(2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, [~~traffic offense~~] committed by a person who holds a

commercial driver's license.

(b) The change in law made by this section applies only to an offense committed on or after September 1, 2005.

(c) An offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2005, if any element of the offense was committed before that date.

SECTION 3.02. Section 382.133, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A mass transit hydrogen-fueled fleet vehicle may be used to satisfy the percentage requirement under this section.

SECTION 3.03. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.618 to read as follows:

Sec. 201.618. HYDROGEN-FUELED VEHICLES AND REFUELING STATIONS. (a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section.

(b) If the department secures funding under Subsection (a), the department may establish and operate at least five hydrogen refueling stations. A refueling station established under this subsection must be located in an urbanized area along a major state highway and be accessible to the public.

(c) If the department secures funding under Subsection (a), the department may purchase to operate in an area in which

a refueling station is established under Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum:

(1) four vehicles with internal combustion engines that run on hydrogen; and

(2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus.

(d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code.

(e) The department may establish hydrogen refueling stations on the Trans-Texas Corridor under Chapter 227.

(f) The department shall:

(1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and

(2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental Quality.

(g) The department may charge the public a reasonable fee to use a hydrogen refueling station operated under Subsection (b). The amount of the fee shall be based on the department's estimate of the number of customers that will use the refueling stations and the direct and indirect costs that will be incurred by the department to operate the refueling stations. Fees

collected by the department under this section shall be deposited in the state highway fund, may be appropriated only to the department to implement this section, and are exempt from the application of Section 403.095, Government Code.

SECTION 3.04. (a) The Study Commission on Availability of Pre-Owned Heavy Duty Commercial Motor Vehicles is created as provided by this section.

(b) The commission is composed of three members as follows:

(1) one member appointed by the governor;

(2) one member appointed by the lieutenant governor; and

(3) one member appointed by the speaker of the house of representatives.

(c) Each member of the commission serves at the will of the person who appointed the member.

(d) The members of the commission shall select the presiding officer.

(e) A member of the commission is not entitled to receive compensation for service on the commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act.

(f) The commission may accept gifts and grants from any source to be used to carry out a function of the commission.

(g) The commission shall conduct public hearings and study public policy implications relating to any act by the Texas

1 Department of Transportation that would close existing
2 businesses in this state because of the ownership structure of
3 businesses that sell pre-owned heavy duty trucks that weigh in
4 excess of 11,000 pounds. The commission shall determine whether
5 such actions by the department could impact the use and
6 operation of rail and highway transportation facilities in this
7 state by heavy duty trucks.
8 (h) The study shall include:
9 (1) a review of the laws of other states regarding
10 whether there are restrictions on ownership structure of
11 businesses that sell heavy duty commercial trucks;
12 (2) a review of whether safety of pre-owned heavy
13 duty trucks on highways in this state could be compromised if
14 the Texas Department of Transportation closes businesses that
15 currently sell such trucks;
16 (3) a review of whether the Texas Department of
17 Transportation's application of Section 2301.476, Occupations
18 Code, could negatively impact competition in the pre-owned heavy
19 duty truck market as well as the impact that such a decision
20 could have on small, independent pre-owned truck dealerships and
21 independent owner/operators of trucking businesses in this
22 state; and
23 (4) other issues that the commission considers
24 relevant to protecting the public interest regarding safety and
25 availability of pre-owned heavy duty trucks that operate on the
26 highways of this state.
27 (i) Not later than December 1, 2006, the commission shall

issue a report to the governor, lieutenant governor, speaker of the house of representatives, and chair of the committee in the house and senate with jurisdiction of transportation issues. The report shall summarize the following:

(1) any hearings conducted by the commission;

(2) any studies conducted by the commission;

(3) any legislation proposed by the commission; and

(4) any other findings and recommendations of the commission.

SECTION 3.05. (a) In order to ensure the safety of persons and transportation in this state, the Texas Department of Transportation shall conduct a study of systems for issuing temporary tags for use on unregistered motor vehicles. In studying the systems, the department shall:

(1) compare the current system to other potential systems, including systems used in other states;

(2) seek input from interested parties, including members of the public, dealers, converters, and law enforcement; and

(3) consider issues of public and transportation safety, homeland security, costs, efficiency, and reliability.

(b) The department shall report its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives not later than November 1, 2006.

ARTICLE 4. COORDINATION OF PUBLIC TRANSPORTATION FOR HEALTH AND HUMAN SERVICES PROGRAMS

SECTION 4.01. Sections 455.004(a) and (b), Transportation Code, are amended to read as follows:

(a) A public transportation advisory committee consisting of 11 [~~nine~~] members shall:

(1) advise the commission on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

(2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action;

(3) advise the commission on the implementation of Chapter 461; and

(4) perform any other duty determined by the commission.

(b) The commission shall appoint members of the advisory committee. The membership of the committee shall include:

(1) four members who represent a diverse cross-section of public transportation providers;

(2) three members who represent a diverse cross-section of transportation users; [~~and~~]

(3) three [~~two~~] members who represent the general public; and

(4) one member with experience in the administration of health and human services programs.

SECTION 4.02. Section 461.012(g), Health and Safety Code, is amended to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the commission relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.03. Section 533.012(b), Health and Safety Code, is amended to read as follows:

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the department relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.04. Section 22.001(e), Human Resources Code, as added by Section 2.129, Chapter 198, and Section 13.06, Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(e) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the department relating to the provision of transportation services for~~] clients of eligible

programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.05. Section 40.002(f), Human Resources Code, is amended to read as follows:

(f) The department may contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the department relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.06. Section 91.021(g), Human Resources Code, is amended to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the commission relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.07. Section 101.0256(b), Human Resources Code, is amended to read as follows:

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of

Transportation to deliver public transportation services to [~~assume all responsibilities of the department relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.08. Section 111.0525(d), Human Resources Code, is amended to read as follows:

(d) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the commission relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.09. Section 301.063(f), Labor Code, is amended to read as follows:

(f) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to [~~assume all responsibilities of the commission relating to the provision of transportation services for~~] clients of eligible programs, except that the Texas Department of Transportation may not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION 4.10. Chapter 459, Transportation Code, is

1 repealed.

2 ARTICLE 5. REGIONAL TRANSIT SYSTEM REVIEW COMMITTEE

3 SECTION 5.01. (a) In this section, "region" means the
4 region formed by two contiguous counties each containing a
5 municipality having a population of at least 530,000 and the
6 counties adjacent to one or both of those counties.

7 (b) The Regional Transit System Review Committee is
8 created to conduct public hearings regarding, and study the
9 implications of, implementing regional transit service in the
10 region.

11 (c) The committee consists of:

12 (1) each member of the legislature who represents a
13 district that contains territory in the region;

14 (2) each mayor of a municipality in the region;

15 (3) each county judge and commissioner in the region;
16 and

17 (4) the executive director of each transportation
18 authority in the region.

19 (d) In conducting hearings and studies the committee
20 shall:

21 (1) examine whether a seamless system of transit
22 systems should be offered throughout the region;

23 (2) examine whether there should be a mechanism for
24 additional counties to participate in the regional transit
25 system; and

26 (3) perform a review of funding and financing
27 options.

(e) The initial meeting of the committee shall take place before September 30, 2005. At the initial meeting the committee shall adopt rules governing the committee and establish a work plan and schedule for future meetings.

(f) The committee may accept gifts, grants, technical support, or any other resources from any source to carry out the functions of the committee.

(g) Not later than September 1, 2006, the committee shall issue a report summarizing:

(1) hearings conducted by the committee;

(2) studies conducted by the committee;

(3) any legislation proposed by the committee; and

(4) any other findings or recommendations of the committee.

(h) This section expires September 1, 2007.

ARTICLE 6. CARRIERS TRANSPORTING HOUSEHOLD GOODS

SECTION 6.01. Section 643.051, Transportation Code, is amended to read as follows:

Sec. 643.051. REGISTRATION REQUIRED. <u>(a)</u> A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, or a tow truck on a road or highway of this state unless the carrier registers with the department under this subchapter.

<u>(b) A motor carrier may not operate a vehicle, regardless of size of the vehicle, to transport household goods for compensation unless the carrier registers with the department under this subchapter.</u>

SECTION 6.02. Section 643.153(b), Transportation Code, is amended to read as follows:

(b) The department may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a carrier's complaint record; and

(4) require a motor carrier transporting household goods to list a place of business with a street address in this state and the carrier's registration number issued under this article in any print advertising published in this state[~~;~~

[~~(5) require motor carriers that are required to register under Subsection (c) to file proof of cargo insurance in amounts to be determined by the department that do not exceed the amount required for a motor carrier transporting household goods under federal law and allow alternative evidence of financial responsibility, through surety bonds, letters of credit, or other means satisfactory to the department, for contractual obligations to customers that do not exceed $5,000 aggregate loss or damage to total cargo shipped at any one time;~~

[~~(6) require motor carriers that are required to register under Subsection (c) to conspicuously advise consumers concerning limitation of any carrier liability for loss or damage as determined under Subdivision (7); and~~

[~~(7) determine reasonable provisions governing limitation of liability for loss or damage of motor carriers required to register under Subsection (c), not to exceed 60 cents per pound per article~~].

SECTION 6.03. Section 643.155(c), Transportation Code, is amended to read as follows:

(c) The committee shall[~~:~~

[~~(1)~~] examine the rules adopted by the department under Sections 643.153(a) and (b) and make recommendations to the department on modernizing and streamlining the rules[~~;~~

[~~(2) conduct a study of the feasibility and necessity of requiring any vehicle liability insurance for household goods carriers required to register under Section 643.153(c); and~~

[~~(3) recommend a maximum level of liability limitation under Section 643.153(b)(7) that does not exceed 60 cents per pound~~].

SECTION 6.04. Section 643.252(a), Transportation Code, is amended to read as follows:

(a) The department may suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b),

(c), or (d) [~~or 643.153(b)~~];

(2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);

(3) fails to register a vehicle requiring registration;

(4) knowingly provides false information on any form filed with the department under this chapter; or

(5) violates a rule adopted under Section 643.063.

SECTION 6.05. Sections 643.253(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A person commits an offense if the person fails to:

(1) register as required by Subchapter B [~~or Section 643.153(c)~~];

(2) maintain insurance or evidence of financial responsibility as required by Subchapter C [~~or Section 643.153~~]; or

(3) keep a cab card in the cab of a vehicle as required by Section 643.059.

(b) A person commits an offense if the person solicits the transportation of household goods for compensation and is not registered as required by Subchapter B [~~or Section 643.153~~].

(e) An offense under Subsection <u>(b) or</u> (d) is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 6.06. Section 643.153(c), Transportation Code, is repealed.

ARTICLE 7. TEXAS DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE

DIVISION

SECTION 7.01. Sections 2301.002(2) and (10), Occupations Code, are amended to read as follows:

(2) "Board" has the meaning assigned by Section 2301.005 [~~means the Motor Vehicle Board of the Texas Department of Transportation~~].

(10) "Director" means the director [~~of the board and~~] of the division.

SECTION 7.02. Section 2301.005, Occupations Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means the director, except that a reference to the board means the commission if it is related to the adoption of rules [~~board~~].

(e) A reference in this chapter to a rule or to a board rule means a rule adopted by the commission, except that all board rules that were in effect on June 1, 2005, remain in effect until amended or repealed by the commission.

SECTION 7.03. Section 2301.101(c), Occupations Code, is amended to read as follows:

(c) The director serves at the will of the executive director [~~board~~].

SECTION 7.04. Section 2301.103, Occupations Code, is amended to read as follows:

Sec. 2301.103. PERSONNEL. [~~(a) The director shall appoint and employ personnel necessary to carry out the duties~~

~~and functions of the director and the board under this chapter.~~

[~~(b) A division employee is an employee of the department and is subject to the human resource rules and policies of the department and the transportation commission, except that, as applied to a division employee, any powers granted to the executive director by those rules and policies shall be exercised by the director.~~

[~~(c)~~] A division employee is subject to dismissal if the employee has an interest in or is related within the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who has an interest in a business that manufactures, distributes, converts, sells, or leases motor vehicles.

SECTION 7.05. Section 2301.154, Occupations Code, is amended to read as follows:

Sec. 2301.154. DELEGATION OF POWERS. The director [~~board~~] may delegate any of the director's [~~its~~] powers to[~~:~~

[~~(1) one or more of its members;~~

[~~(2) the director; or~~

[~~(3)~~] one or more of the division's [~~its~~] employees.

SECTION 7.06. The following provisions of the Occupations Code are repealed:

(1) Subchapter B, Chapter 2301; and

(2) Sections 2301.102, 2301.104, 2301.158, and 2301.159.

ARTICLE 8. TRANSITION PROVISIONS; EFFECTIVE DATE

SECTION 8.01. Section 101.022, Civil Practice and Remedies

Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect at the time the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 8.02. (a) On the effective date of this Act:

(1) the State Aircraft Pooling Board is abolished, and all powers, duties, obligations, rights, contracts, bonds, appropriations, records, and real or personal property of the State Aircraft Pooling Board are transferred to the Texas Department of Transportation;

(2) a rule, policy, procedure, or decision of the State Aircraft Pooling Board continues in effect as a rule, policy, procedure, or decision of the Texas Department of Transportation until superseded by an act of the Texas Department of Transportation;

(3) a reference in law to the State Aircraft Pooling Board means the Texas Department of Transportation;

(4) all temporary employees of the Texas Department of Transportation who were previously employed by the State Aircraft Pooling Board on August 31, 2003, become regular full-time employees of the Texas Department of Transportation; and

(5) notwithstanding Section 31.01, Chapter 3, Acts of the 78th Legislature, 3rd Called Session, 2003, any memorandum of understanding or interagency contract entered into between the Texas Department of Transportation and the State Aircraft

1 Pooling Board for the operation of state aircraft expires.

2 SECTION 8.03. This Act takes effect immediately if it
3 receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary
6 for immediate effect, this Act takes effect September 1, 2005.

(b) Before the executive director of the Texas Department of Transportation or the director's designee may authorize a person to use a state-operated aircraft, the person must sign an affidavit stating that the person is traveling on official state business. On filing of the affidavit, the person may be authorized to use state-operated aircraft for official state business for a period of one year. A member of the legislature is not required to receive any other additional authorization to use a state-operated aircraft.

House Bill 2702
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	ARTICLE 1. RAIL FACILITIES	
No equivalent provision.	SECTION _. Amends Section 91.001, Transportation Code, to include tri-track in the definition of "rail facility" and to add Subdivision (13) to read as follows: (13) "Tri-track" means a triangular monorail beam guideway: (A) constructed at a grade above surface modes of transportation; (B) for use by dual-mode vehicles capable of using the guideway or a highway; and (C) with entrances accessible from and exits accessible to highways. (FA11)	SECTION 1.01. Same as Senate version.
SECTION 1. Adds Sections 91.004 (b) and (c), Transportation Code, General Powers, to read as follows: (b) Except as provided by Subsection (c), money appropriated or allocated by the United States for the construction and maintenance in this state of rail facilities owned by any public or private entity shall be administered by the Texas Transportation Commission and may be spent only under the supervision of the department. (c) Subsection (b) does not apply to money appropriated or allocated: (1) for a fixed rail guideway system constructed by a transit authority described by Chapter 451, a transportation authority described by Chapter 452 or 460, or a transit department described by Chapter 453; or (2) for use by: (A) a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; or (B) a district created under Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil	No equivalent provision.	SECTION 1.02. Section 91.004, Transportation Code, is amended to read as follows: Sec. 91.004. GENERAL POWERS. (a) The department may: (1) plan and make policies for the location, construction, maintenance, and operation of a rail facility or system in this state; (2) acquire, finance, construct, maintain, and subject to Section 91.005, operate a passenger or freight rail facility, individually or as one or more systems; (3) for the purpose of acquiring or financing a rail facility or system, accept a grant or loan from a: (A) department or agency of the United States; (B) department, agency, or political subdivision of this state; or (C) public or private person; (4) contract with a public or private person to finance, construct, maintain, or operate a rail facility under this

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Statutes).		chapter; or (5) perform any act necessary to the full exercise of the department's powers under this chapter. (b) Except as provided by Subsection (c), money appropriated or allocated by the United States for the construction and maintenance in this state of rail facilities owned by any public or private entity shall be administered by the commission and may be spent only under the supervision of the department. (c) Subsection (b) does not apply to money appropriated or allocated: (1) to a transit authority described by Chapter 451, a transportation authority described by Chapter 452 or 460, or a transit department described by Chapter 453; or (2) for use by: (A) a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; or (B) a district created under Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes).
SECTION 2. Amends Section 91.051, Transportation Code, Awarding of Contracts, to read as follows: (a) Except for a contract entered into under Section 91.052, 91.054, or 91.102, a contract made by the department for the *financing, design*, construction, maintenance, or operation of a rail facility must be let by a competitive bidding procedure in which the contract is awarded to the	SECTION 1.01. Same as House version, except omits financing and design from the types of contracts made by the department that must be let by a competitive bidding procedure.	SECTION 1.03. Same as Senate version.

HOUSE VERSION

lowest responsible bidder that complies with the department's criteria.

SECTION 3. Adds Section 91.054, Transportation Code, as follows: Sec. 91.054. Comprehensive Development Agreements. (a) To the extent and in the manner that the department may enter into a comprehensive development agreement under *Chapter 361 with regard to a turnpike project*, the department may enter into a comprehensive development agreement under this chapter that provides for the financing, design, acquisition, construction, maintenance, or operation of a rail facility or system. All provisions of *Chapter 361* relating to comprehensive development agreements *for turnpike projects* apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.
(b) The department may combine in a comprehensive development agreement under this chapter a rail facility or system and a turnpike project as defined by Section 361.001.

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SECTION 2.18. (part) Amends Section 227.023(c) to read as follows: (c) To the extent and in the manner that the department may enter into comprehensive development agreements under *Chapter 223*, the department may enter into a comprehensive development agreement under this chapter that provides for the financing, *development, design, construction, or operation of a facility or a combination of facilities on the Trans-Texas Corridor*. All provisions of *Chapter 223* relating to comprehensive development agreements apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. *Claims arising under a comprehensive development agreement are subject to Section 201.112.*
SECTION 1.02. (part) Adds Section 91.054 (e) to read as follows:
(e) Claims arising under a comprehensive development agreement are subject to Section 201.112.

CONFERENCE

SECTION 1.04. Subchapter C, Chapter 91, Transportation Code, is amended by adding Section 91.054 to read as follows:
Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To the extent and in the manner that the department may enter into a comprehensive development agreement under Chapter 361 with regard to a turnpike project, the department may enter into a comprehensive development agreement under this chapter that provides for the financing, design, acquisition, construction, maintenance, or operation of a rail facility or system. All provisions of Chapter 361 relating to comprehensive development agreements for turnpike projects apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.
(b) The department may combine in a comprehensive development agreement under this chapter a rail facility or system and a turnpike project as defined by Section 361.001.
(c) The department may not enter into a comprehensive development agreement with a private entity under this chapter that provides for the lease or use of rights-of-way or related property by the private entity to construct, operate, or maintain a facility that is unrelated to the

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		operation of the rail facility or system.
No equivalent provision.	SECTION 1.02. (part) Adds Sections 91.054 - 91.061, Transportation Code, as follows:	
No equivalent provision.	Sec. 91.054. (part) Comprehensive Development Agreements. (a) The department may enter into a comprehensive development agreement with a private entity to acquire, construct, maintain, or operate a rail facility or system. (b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction of a rail facility or system and may also provide for the financing, acquisition, maintenance, or operation of the rail facility or system. (c) The department may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement. (d) The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section. (f) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.	*(See above.)*
No equivalent provision.	Sec. 91.055. Process For Entering Into Comprehensive Development Agreements. (a) If the department enters into a comprehensive development agreement, the department shall use a competitive procurement process	Same as House version.

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	that provides the best value for the department. The department may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section. (b) The department shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal: 1) information regarding the proposed project location, scope, and limits; (2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and (3) any other information the department considers relevant or necessary. (c) The department shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if: (1) the department decides to issue a request for qualifications for a proposed project; or (2) the department authorizes the further evaluation of an unsolicited proposal. (d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3). (e) The department may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The department shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and	

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	may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The department must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c). (f) The department shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the department proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to: (1) the private entity's qualifications and demonstrated technical competence; (2) the feasibility of developing the project as proposed; (3) engineering or architectural designs; (4) the private entity's ability to meet schedules; (5) a financial plan, including costing methodology and cost proposals; or (6) any other information the department considers relevant or necessary. (g) In issuing a request for proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). (h) The department shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department. (i) The department may enter into discussions with the private entity whose proposal offers the apparent best value. The discussions shall be limited to: (1)	

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	incorporation of aspects of other proposals for the purpose of achieving the overall best value for the department; (2) clarifications and minor adjustments in scheduling, cash flow, and similar items; and (3) matters that have arisen since the submission of the proposal. (j) If at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, the department may enter into negotiations with the private entity submitting the next highest ranking proposal. (k) The department may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The department may then publish a new request for competing proposals and qualifications. (l) The department may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal. (m) The department shall pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment	

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	of the stipulated amount: (1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and (2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department. (n) The department may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. The department and the private entity shall finalize the specific terms of a comprehensive development agreement. (o) Chapter 2254, Government Code, does not apply to a comprehensive development agreement entered into under Section 91.054.	
No equivalent provision.	Sec. 91.056. Confidentiality Of Information Relating To Comprehensive Development Agreements. (a) To encourage private entities to submit proposals under Section 91.055, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into: (1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information	Same as House version.

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	provided under Sections 91.055(b)(1) and (2), unless the private entity consents to the disclosure of the information; (2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement, unless the private entity consents to the disclosure of the information or material; and (3) information created or collected by the department or its agent during consideration of a proposal for a comprehensive development agreement. (b) After the department completes its final ranking of proposals under Section 91.055(h), the final rankings of each proposal under each of the published criteria cease to be confidential.	
No equivalent provision.	Sec. 91.057. Performance And Payment Security. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, the department shall require a private entity entering into a comprehensive development agreement under Section 91.054 to provide a performance and payment bond or an alternative form of security in an amount sufficient to: (1) ensure the proper performance of the agreement; and (2) protect: (A) the department; and (B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material. (b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project. (c) If the department determines that it is impracticable for	Same as House version.

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	a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the bonds or the alternative forms of security. (d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property. (e) The amount of the payment security must not be less than the amount of the performance security. (f) In addition to or instead of performance and payment bonds, the department may require the following alternative forms of security: (1) a cashier's check drawn on a financial entity specified by the department; (2) a United States bond or note; (3) an irrevocable bank letter of credit; or (4) any other form of security determined suitable by the department. (g) The commission by rule shall prescribe requirements for alternate forms of security provided under this section.	
No equivalent provision.	Sec. 91.058. Ownership Of Rail Facility Or System. (a) A rail facility or system that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall be owned by the department. (b) Notwithstanding Subsection (a), the department may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a rail facility or system. At the termination of the agreement, the	Same as House version.

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	rail facility or system is to be in a state of proper maintenance as determined by the department and shall be returned to the department in satisfactory condition at no further cost.	
No equivalent provision.	Sec. 91.059. Liability For Private Obligations. The department may not incur a financial obligation for a private entity that constructs, maintains, or operates a rail facility or system. The state or a political subdivision of the state is not liable for any financial or other obligations of a rail facility or system solely because a private entity constructs, finances, or operates any part of the project.	Same as House version.
No equivalent provision.	Sec. 91.060. Terms Of Private Participation. (a) The department shall negotiate the terms of private participation in a rail facility or system, including: (1) methods to determine the applicable cost, profit, and project distribution among the private participants and the department; (2) reasonable methods to determine and classify fare rates and responsibility for the setting of fares; (3) acceptable safety and policing standards; and (4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs. (b) A comprehensive development agreement entered into under Section 91.054 must include a provision authorizing the department to purchase, under terms and conditions agreed to by the parties, the interest of a private participant in a rail facility or system financed, constructed, operated, or maintained under the comprehensive development	Same as House version.

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	agreement.	
No equivalent provision.	Sec. 91.061. Rules, Procedures, And Guidelines Governing Selection And Negotiating Process. (a) The commission shall adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in rail facility projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts. (b) The department shall have up-to-date procedures for participation in negotiations on rail facility projects. (c) The department has exclusive judgment to determine the terms of an agreement.	Same as House version.
Section 91.071(b), Transportation Code, is repealed in SECTION 46.	SECTION 1.03. Amends 91.071(b), Transportation Code, and adds (c) to read as follows: (b) Each fiscal year, the total amount disbursed by the department from the state highway fund to implement this chapter may not exceed $50 million. This subsection does not apply to: (1) the acquisition of abandoned rail facilities described in Section 91.007; (2) funding derived from the issuance of bonds, private investment, and donations; (3) federal funds: (A) from the Federal Railroad Administration; (B) from the Federal Transit Administration; (C) apportioned under 23 U.S.C. Section 104(b)(2) for the congestion mitigation and air quality improvement program; or (D) authorized and designated	SECTION 1.05. Section 91.071(b), Transportation Code, is amended to read as follows: (b) The [~~Each fiscal year, the total amount disbursed by the~~] department may not spend money from the general revenue [~~state highway~~] fund to implement this chapter except pursuant to a line-item appropriation [~~may not exceed $12.5 million~~]. [~~This subsection does not apply to:~~ [~~(1) the acquisition of abandoned rail facilities described in Section 91.007;~~ [~~(2) funding derived from the issuance of bonds, private investment, and donations;~~ [~~(3) federal funds from the Federal Railroad Administration, from the Federal Transit Administration, or~~

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	[appropriated] by the United States Congress, or authorized and appropriated by the United States Congress for a specific project; (4) state matching funds for a federal rail project; (5) grants awarded by the governor from the Texas Enterprise Fund; and (6) grading and bed preparation. (c) In this section, "private investment" includes concession fees paid to the department and payments to the department under lease agreements and comprehensive development agreements. (FA12)	~~authorized and appropriated by the United States Congress for a specific project;~~ [~~(4) grants awarded by the governor from the Texas Enterprise Fund; and~~ [~~(5) grading and bed preparation.~~]
SECTION 4. Amends 91.074(c), Transportation Code, to provide that *any portion of a rail facility* or system that is used or leased by a private *person* under this subsection for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.	SECTION 1.04. Same as House version, except provides that *a rail facility* or system that is used or leased by a private *entity* under this subsection for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.	SECTION 1.06. Same as House version.
No equivalent provision.	SECTION 1.05. Adds Section 91.075, Transportation Code, Pass-Through Fares, to read as follows: (a) In this section, "pass-through fare" means: (1) a per passenger fee or a per passenger mile fee that is determined by the number of passengers using a passenger rail facility; or (2) a fee that is determined based on the number of carloads or commodity tonnages shipped using a freight rail facility. (b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through fares to the public or private entity as reimbursement for the acquisition, design, development, financing, construction, relocation, maintenance, or	SECTION 1.07. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	operation of a passenger rail facility or a freight rail facility by the entity. (c) The department may use any available funds for the purpose of making a pass-through fare payment under this section, including funds from the state infrastructure bank. (d) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for: (1) determining the amount of pass-through fares to be paid under this section; and (2) allocating the risk that ridership on a passenger rail facility or carloads or commodity tonnages shipped on a freight rail facility will be higher or lower than the parties to an agreement under this section anticipated in entering into the agreement.	
No equivalent provision.	SECTION __. Effective October 1, 2005, Article 6445, Revised Statutes, Power and Authority, is amended to transfer all powers and duties of the Railroad Commission relating to railroads and their regulation to the Texas Department of Transportation. (FA13)	SECTION 1.08. Same as Senate version.
No equivalent provision.	SECTION __. Effective October 1, 2005, adds Section 81.002, Natural Resources Code, Texas Energy Commission, to rename the Railroad Commission of Texas as renamed the Texas Energy Commission. (FA13)	Same as House version.
No equivalent provision.	SECTION __. Transition provisions relating to the above name change and transfer of powers and duties. (FA13)	SECTION 1.09. (a) On October 1, 2005: (1) all powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the

HOUSE VERSION	SENATE VERSION	CONFERENCE
		Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are transferred to the Texas Department of Transportation; (2) all rules, policies, forms, procedures, and decisions of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are continued in effect as rules, policies, forms, procedures, and decisions of the Texas Department of Transportation, until superseded by a rule or other appropriate action of the Texas Department of Transportation; (3) any investigation, complaint, action, contested case, or other proceeding involving the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads is transferred without change in status to the Texas Department of Transportation, and the Texas Department of Transportation assumes, without a change in status, the position of the Railroad Commission of Texas in any investigation, complaint, action, contested case, or other proceeding that relates primarily to railroads and the regulation of railroads involving the Railroad Commission of Texas; and (4) all employees of the Railroad Commission of Texas that perform duties relating primarily to railroads and the regulation of railroads become employees of the Texas Department of Transportation. (b) The transfer of the powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads to the Texas Department of Transportation does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition

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		made, any liability incurred, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Railroad Commission of Texas.
No equivalent provision.	SECTION __. As soon as possible after the effective date of this article but before October 1, 2005, the Railroad Commission of Texas shall determine and report to the Texas Department of Transportation on: (1) which obligations, contracts, records, assets, and property of the Railroad Commission of Texas relate primarily to railroads and the regulation of railroads; and (2) which employees of the Railroad Commission of Texas perform duties that relate primarily to railroads and the regulation of railroads. (FA13)	SECTION 1.10. Same as Senate version.
No equivalent provision.	ARTICLE 2. HIGHWAYS	
No equivalent provision.	SECTION 2.01. Amends Section 201.001, Transportation Code, to define "toll project" as follows: In this subtitle, "toll project" means one or more tolled lanes of a highway or an entire toll highway constructed, maintained, or operated as a part of the state highway system and any improvement, extension, or expansion to the highway, including: (1) a facility to relieve traffic congestion and promote safety; (2) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll booth, toll plaza,	SECTION 2.01. Section 201.001, Transportation Code, is amended to read as follows: Sec. 201.001. DEFINITIONS. (a) In this title: (1) "Commission" means the Texas Transportation Commission. (2) "Department" means the Texas Department of Transportation. (3) "Director" means the executive director of the Texas Department of Transportation.

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	service road, ramp, or service center; (3) an administration, storage, or other building, operations center, maintenance or other facility, equipment, or system the department considers necessary to operate the project; (4) property rights, easements, and interests the department acquires to construct, maintain, or operate the project; (5) a parking area or structure, rest stop, park, and any other improvement or amenity the department considers necessary, useful, or beneficial for the operation and maintenance of the project; and (6) a nontolled facility that is appurtenant to and necessary for the efficient operation and maintenance of the project, including a connector, service road, access road, ramp, interchange, bridge, or tunnel.	(b) In this subtitle, "toll project" means one or more tolled lanes of a highway or an entire toll highway constructed, maintained, or operated as a part of the state highway system and any improvement, extension, or expansion to the highway, including: (1) a facility to relieve traffic congestion and promote safety; (2) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll booth, toll plaza, service road, ramp, or service center; (3) an administration, storage, or other building, operations center, maintenance or other facility, equipment, or system the department considers necessary to operate the project; (4) property rights, easements, and interests the department acquires to construct, maintain, or operate the project; (5) a parking area or structure, rest stop, park, and any other improvement or amenity the department considers necessary, useful, or beneficial for the operation and maintenance of the project; and (6) a nontolled facility that is appurtenant to and necessary for the efficient operation and maintenance of the project, including a connector, service road, access road, ramp, interchange, bridge, or tunnel.
No equivalent provision.	SECTION __. Amends Section 201.1055, Transportation Code, Agreements With Private Entities, to read as follows: (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the	SECTION 2.02. Same as Senate version.

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	department and a private entity that offers the best value to the state may enter into an agreement for the: (1) acquisition, design, construction, or renovation, including site development, of a building or other facility required to support department operations located on real property owned or acquired by the department; or (2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements. (b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code. (c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2). (d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real under Subsection (a)(2). (e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must	

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	require the private entity to compensate the department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code. (FA27)	
No equivalent provision.	SECTION _. Adds Section 201.113(c), Transportation Code, to read as follows: (c) An agreement entered into under this section may provide that an improvement of a portion of the state highway system by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function. (FA14)	SECTION 2.03. Same as Senate version.
No equivalent provision.	SECTION 2.02. Amends Sections 201.115(a), (b), and (c), Transportation Code, as follows: (a) Provides that the commission may authorize the department to borrow money from any source to carry out the functions of the department. (b) Relating to a loan under this section, doubles the maximum allowable limit on the amount of the loan, combined with any amounts outstanding on other loans under this section, to two times the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan; and (3) the loan	SECTION 2.04. Same as Senate version.

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	may not create general obligation of the state and is payable only as authorized by legislative appropriation. (c) Provides that, if the department borrows money by the issuance of notes, the notes shall be considered a state security for purposes of Chapter 1231, Government Code. (FA1)	
No equivalent provision.	SECTION 2.03. Amends Section 201.615(a), Transportation Code, and adds (c) as follows: (a) Adds to the list of factors the department is required to consider when developing transportation projects that involve the construction, reconstruction, rehabilitation, or resurfacing of a highway, other than a maintenance resurfacing project: (6) except as provided by Subsection (c), the aesthetic character of the project, including input from each affected local community. (c) Provides that Subsection (a)(6) does not apply to transportation projects that involve the rehabilitation or resurfacing of a bridge or highway.	SECTION 2.05. Same as Senate version.
No equivalent provision.	SECTION __. Adds Section 201.617, Transportation Code, Hydrogen-Fueled Vehicles and Refueling Stations, to read as follows: (a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section. (b) If the department secures funding under Subsection (a), the department shall establish and operate at least five hydrogen refueling stations. The refueling stations must be	SECTION 3.03. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.618 to read as follows: <u>Sec. 201.618. HYDROGEN-FUELED VEHICLES AND REFUELING STATIONS. (a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section.</u>

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	located in San Antonio, Austin, Dallas, El Paso, and Houston near Interstate Highway 10 or Interstate Highway 35 and must be accessible to the public. (c) If the department secures funding under Subsection (a), the department may purchase to operate in each of the cities in Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum: (1) four vehicles with internal combustion engines that run on hydrogen; and (2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus. (d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code. (e) The department may establish hydrogen refueling stations on the Trans-Texas Corridor under Chapter 227. (f) The department shall: (1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and (2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental Quality. (FA26)	(b) If the department secures funding under Subsection (a), the department may establish and operate at least five hydrogen refueling stations. A refueling station established under this subsection must be located in an urbanized area along a major state highway and be accessible to the public. (c) If the department secures funding under Subsection (a), the department may purchase to operate in an area in which a refueling station is established under Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum: (1) four vehicles with internal combustion engines that run on hydrogen; and (2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus. (d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code. (e) The department may establish hydrogen refueling stations on the Trans-Texas Corridor under Chapter 227. (f) The department shall: (1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and (2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental

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		Quality. (g) The department may charge the public a reasonable fee to use a hydrogen refueling station operated under Subsection (b). The amount of the fee shall be based on the department's estimate of the number of customers that will use the refueling stations and the direct and indirect costs that will be incurred by the department to operate the refueling stations. Fees collected by the department under this section shall be deposited in the state highway fund, may be appropriated only to the department to implement this section, and are exempt from the application of Section 403.095, Government Code.
SECTION 5. Adds Section 201.903(c), Transportation Code, to read as follows: (c) Each department sign on Interstate Highway 35 that identifies an intersection of that highway and U.S. Highway 57 and includes the words "Eagle Pass" must also contain the words "Crystal City."	No equivalent provision.	Same as Senate version.
SECTION 6. Adds Section 201.907, Transportation Code, Contract for Enforcement.	SECTION 2.06. Same as House version.	SECTION 2.09. Subchapter K, Chapter 201, Transportation Code, is amended by adding Section 201.907 to read as follows: Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or a public or private entity contracted to operate a toll project may contract with an agency of this state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce

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		laws related to: (1) the regulation and control of vehicular traffic on a state highway; and (2) the payment of the proper toll on a toll project.
SECTION 7. Amends Section 201.943, Transportation Code, to provide that obligations may not be issued if the commission or the department requires that toll roads be included in a regional mobility plan in order for a local authority to receive an allocation from the fund, except that bond proceeds deposited in the fund and other money in the fund may be spent in the eight metropolitan areas, as identified in the department's transportation strategic plan and uniform transportation plan, regardless of whether the regional mobility plan includes toll roads.	No equivalent provision.	SECTION 2.08. Section 201.943, Transportation Code, is amended by adding Subsection (l) to read as follows: (l) Obligations may not be issued if the commission or the department requires that toll roads be included in a regional mobility plan in order for a local authority to receive an allocation from the fund.
No equivalent provision.	SECTION __. Adds Section 202.034, Transportation Code, Sale or Conveyance of Bridge, to read as follows: (a) The department shall sell or convey the part of the Presidio International Bridge owned by this state to the City of Presidio and Presidio County. (b) A sale or conveyance under this section must comply with all state and federal rules governing the transaction. (FA16)	Same as House version.
SECTION 8. Adds Section 202.112(d), Transportation Code, relating to expiration and renewal of an option to acquire property purchased under this section or Section	SECTION 2.04. Same as House version, except the term is limited to five years.	SECTION 2.06. Same as Senate version.

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227.041. Provides that an option to acquire property may not expire later than the 10th anniversary of the date the option was purchase.		
SECTION 9. Amends the heading to Section 203.004, Transportation Code, to read as follows: Mitigation of Adverse Environmental Impacts.	SECTION 2.05. Transfers Section 203.004, Transportation Code, to Subchapter H, Chapter 201, Transportation Code, redesignates it as Section 201.617, Transportation Code, Mitigation of Adverse Environmental Impacts, and amends it to read as follows:	SECTION 2.07. Section 203.004, Transportation Code, is transferred to Subchapter H, Chapter 201, Transportation Code, redesignated as Section 201.617, Transportation Code, and amended to read as follows:
SECTION 10. Amends Section 203.004(a), Transportation Code, and adds (a-1), relating to mitigation of adverse environmental impacts.	Sec. 201.617. Same as House version, except the transfer may be made to an agency designated by an agency of the United States and the transfer is without compensation.	Sec. 201.617 [~~203.004~~]. [~~CONTRACTS FOR MANAGEMENT OF PROPERTY USED FOR~~] MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS. (a) If authorized by an applicable regulatory authority, to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the [~~The~~] department may: (1) pay a fee to an appropriate public agency or private entity in lieu of acquiring or agreeing to manage property; (2) transfer real property to an entity designated by an agency of the United States without monetary consideration if the property is used or is proposed to be used for mitigation purposes; or (3) contract with any public or private entity for the management of property owned by the department and used for [~~the~~] mitigation purposes [~~of an adverse environmental impact directly resulting from the construction or maintenance of a state highway~~]. (a-1) Before the commission may acquire by purchase or

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		condemnation real property to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the department shall, if authorized by an applicable regulatory authority, offer to purchase a conservation easement from the owner of the real property. If the landowner does not accept the offer to execute a conservation easement before the 61st day after the date the offer is made, the department may acquire the property by purchase or condemnation. (b) A contract under this section is not subject to Chapter 771, Government Code. (c) In this section, "management" [~~"management," in connection with property,~~] means administration, control, or maintenance that is required by an agency of the United States.
No equivalent provision.	SECTION 2.07. Amends Section 203.052(b), Transportation Code, to provide that property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to, among other listed purposes: (4) store materials or equipment *for use* or used in the construction or maintenance of a state highway; (9) provide a location between the main lanes of a highway or between a department rail facility and highway for a gas station, convenience store, or similar facility that: (A) provides services to and directly benefits users of a state highway toll project; (B) is not within five miles of an	SECTION 2.10. Section 203.052(b), Transportation Code, is amended to read as follows: (b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to: (1) protect a state highway; (2) drain a state highway; (3) divert a stream, river, or other watercourse from the right-of-way of a state highway; (4) store materials or equipment for use or used in the construction or maintenance of a state highway; (5) construct or operate a warehouse or other facility used

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entrance or exit ramp; and (C) is not located within five miles of an existing privately owned establishment providing similar services; and
(10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project.

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in connection with the construction, maintenance, or operation of a state highway;
(6) lay out, construct, or maintain a roadside park;
(7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
(8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway; [~~or~~]
(9) provide a location between the main lanes of a highway or between a department rail facility and highway for a gas station, convenience store, or similar facility that:
(A) provides services to and directly benefits users of a state highway toll project;
(B) is not within five miles of an entrance or exit ramp; and
(C) is not located within five miles of an existing privately owned establishment providing similar services;
(10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
(11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

SECTION 11. Amends Section 203.0521, Transportation Code, Acquisition of Remainder, to read as follows: (a) If a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a remainder of the tract, the department may negotiate for

SECTION 2.08. Amends Section 203.0521, Transportation Code, Acquisition of Remainder, to read as follows: (a) If a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a remainder of the tract, the department may negotiate for

SECTION 2.11. SECTION 2.11. Section 203.0521, Transportation Code, is amended to read as follows:
Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a

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and purchase the remainder or any part of a severed *tract* if the department and the owner agree on terms for the purchase. Except as provided by Subsection (f), the department shall offer to purchase a remainder if the department determines that: (1) the remainder has little or no value or utility to the owner; or (2) the entire tract could be acquired for substantially the same compensation as the partial tract.

(b) In acquiring a tract of real property under Section 203.051, if the acquisition severs an owner's real property, the department shall pay: (1) the value of the property acquired; and (2) the damages to the remainder of the owner's property caused by the severance, including damages caused by *the inaccessibility of* one tract from the other.

(c) Instead of a single fixed payment for real property purchased under Subsection (a) for a toll project, the department may agree to a payment to the owner in the form of: (1) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or (2) a right to use, *without charge*, a segment or part of the toll project.

(d) A right to *receive* revenue under Subsection (c)(1) is subject to any pledge of the revenue under the terms of a trust agreement securing bonds issued for the applicable segment of the toll project.

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and purchase the remainder or any part of a severed (FA2) *real property* if the department and the owner agree on terms for the purchase. The department shall offer, except as provided by Subsection (f), to purchase a remainder if the department determines that: (1) the remainder has little or no value or utility to the owner; or (2) the entire tract could be acquired for substantially the same compensation as the partial tract.

(b) In acquiring real property under Section 203.051, if the acquisition severs an owner's real property (FA2), the department shall pay: (1) the value of the property acquired; and (2) the damages to the remainder of the owner's property caused by the severance, including damages caused by *the loss of reasonable access to* one tract from the other.

(c) Instead of a single fixed payment for real property purchased under Subsection (a) for a toll project, the department may agree to a payment to the owner in the form of: (1) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or (2) *an exclusive or nonexclusive* right to use *or operate* a segment or part of the toll project.

(d) A right to *received* revenue under Subsection (c)(1) is subject to any pledge of the revenue under the terms of a trust agreement securing bonds issued for the applicable segment of the toll project.

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remainder of the tract, the department may negotiate for and purchase the remainder or any part of a severed real property if the department and the owner agree on terms for the purchase. The department [~~commission~~] shall offer, except as provided by Subsection (f), to purchase a [~~the~~] remainder if the department [~~commission~~] determines that:

(1) the remainder has little or no value or utility to the owner; or

(2) the entire tract could be acquired for substantially the same compensation as the partial tract.

(b) In acquiring real property under Section 203.051, if the acquisition severs an owner's real property, the department shall pay:

(1) the value of the property acquired; and

(2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other [~~The department may acquire the remainder under this section only if the owner of the property consents to the acquisition of the remainder~~].

(b-1) If a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and that is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of 25,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

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		(c) Instead of a single fixed payment for real property purchased under Subsection (a) for a toll project, the department may agree to a payment to the owner in the form of: (1) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or (2) a right to use, without charge, a segment or part of the toll project [~~The department is not required to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances~~]. (d) A right to receive revenue under Subsection (c)(1) is subject to any pledge of the revenue under the terms of a trust agreement securing bonds issued for the applicable segment of the toll project.
(e) The department and its designated agents may enter the real property to conduct an appraisal, survey, or environmental investigation to determine whether the department will offer to acquire the real property. (f) The department is not required to make an offer on a remainder under Subsection (a) if an appraisal or environmental investigation indicates the presence of hazardous materials or substances.	(e) - (f) Same as House.	(e) The department and its designated agents may enter the real property [~~a remainder~~] to conduct an appraisal, survey, or environmental investigation to determine whether the department will offer to acquire the real property [~~remainder~~]. (f) The department is not required under Subsection (a) to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances.
No equivalent provision.	SECTION 2.09. Amends Section 203.055, Transportation	SECTION 2.12. Same as Senate version.

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	Code, Acquisition of Rights in Public Real Property, to read as follows: (a) The governing body of a political subdivision or public agency that owns or is in charge of public real property may consent to the use of the property for highway purposes. (b) The governing body of a political subdivision or public agency may, without advertisement, convey the title to or rights or easements in real property that the department needs for highway purposes. (c) Notwithstanding any law to the contrary, at the request of the department, a political subdivision or a state agency may lease, lend, grant, or convey to the department real property, including a highway or real property currently devoted to public use, that may be necessary or appropriate to accomplish the department's purposes. The political subdivision or state agency may lease, lend, grant, or convey the property: (1) on terms the subdivision or agency determines reasonable and fair; and (2) without advertisement, court order, or other action or formality other than the regular and formal action of the subdivision or agency concerned.	
No equivalent provision.	SECTION 2.10. (part) Transfers, amends, and redesignates Sections 361.138, 361.233, and 361.142, Transportation Code, as Sections 203.067, 203.068, and 203.069, Transportation Code, as follows: *(Note: Section 203.066, which is compared with SECTION 26 in the House version, makes Sections 203.066 and 203.067 applicable only to a taking for a toll project..)*	SECTION 2.13. Same as Senate

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No equivalent provision.	Sec. 203.067. Possession of Property *for Toll Project.* Specifies the filing of a declaration of taking *under Section 203.066.*	Sec. 203.067. Same as Senate version.
No equivalent provision.	Sec. 203.068. Right of Entry for Toll Project. Provides that the department and its authorized agents may enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination it determines necessary or appropriate for the purposes of the development of a toll project.	Sec. 203.068. Same as Senate version.
No equivalent provision.	Sec. 203.069. Covenants, Conditions, Restrictions, or Limitations. Makes no changes to current law.	Sec. 203.069. Same as Senate version.
SECTION 12. Amends Section 203.092(a), Transportation Code, and adds (e) as follows: (a) Provides that a utility shall make a relocation of a utility facility at the expense of this state if relocation of the utility facility is required by any improvement, extension, or expansion of the state highway system that has been designated or is converted to a toll project, rail facility, turnpike project, or system as defined in any title under this code, *if the relocation was begun not later than one year before the date of the designation or conversion.* (e) To the extent any public utility was not reimbursed previously for the relocation, removal, or adjustment of public utility facilities on, across, or along the toll project, rail facility, turnpike project, or system as provided in Subsection (a), any entity to which the project, facility, or	SECTION 2.11. Section 203.092. (a) A utility shall make a relocation of a utility facility at the expense of this state if relocation of the utility facility is required by improvement of a highway in this state established by appropriate authority as part of the National System of Interstate and Defense Highways and the relocation is eligible for federal participation; (2) any segment of the state highway system and the utility has a compensable property interest in the land occupied by the facility to be relocated; or (3) a segment of the state highway system that was designated by the commission as a turnpike project or toll project before September 1, 2005.	SECTION 2.14. Same as Senate version.

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system is to be transferred shall reimburse the public utility. *This subsection applies only to a relocation, removal, or adjustment that was begun one year before the date of the transfer.*		
No equivalent provision.	SECTION 2.12. Amends Section 221.001(1), Transportation Code, to read as follows: (1) "Highway" includes a public road or part of a public road and a bridge, culvert, building, or other necessary structure related to a public road. (FA27)	SECTION 2.15. Same as Senate version.
No equivalent provision.	SECTION __. Adds Section 222.035, Transportation Code, Private Activity Bonds, to read as follows: (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code (26 U.S.C. Section 141(a)). (b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the Internal Revenue Code to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used: (1) the determination shall be published in the Texas Register; and (2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register. (c) The attorney general shall monitor federal legislation for purposes of this section. (d) The department shall administer a program for private activity bonds issued for highway facilities or surface	SECTION 2.16. Subchapter B, Chapter 222, Transportation Code, is amended by adding Section 222.035 to read as follows: Sec. 222.035. PRIVATE ACTIVITY BONDS. (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code of 1986. (b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the Internal Revenue Code of 1986 to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used: (1) the determination shall be published in the Texas Register; and (2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register. (c) The attorney general shall monitor federal legislation

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	freight transfer facilities in this state. (e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities. (f) The department shall adopt rules to administer the program established under this section. (g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under 26 U.S.C. Section 146, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code. (FA3)	for purposes of this section. (d) The department shall establish and administer a program for private activity bonds issued for highway facilities or surface freight transfer facilities in this state. (e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities. (f) The department shall adopt rules to administer the program established under this section. (g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under Section 146, Internal Revenue Code of 1986, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code.
No equivalent provision.	SECTION. 2.13. Amends Section 222.104, Transportation Code, Pass-Through Tolls, to read as follows: (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway. (b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.	SECTION 2.18. Section 222.104, Transportation Code, is amended to read as follows: Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway. (b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private

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(c) The department may enter into an agreement with a private entity that provides for the payment of pass-through tolls to the department as reimbursement for the department's design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the department.
(d) The department and a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 may enter into an agreement that provides for:
(1) the payment of pass-through tolls to the authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility that the department estimates it would have incurred if the highway had not been converted; or (2) the payment by the authority or county of pass-through tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, develop, finance, construct, and maintain a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility.
(e) The department may use any available funds for the purpose of making a pass-through toll payment under this section.
(f) A regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 is authorized to secure and pay its obligations under an agreement under this section from any lawfully available funds.

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entity.
(c) The department may enter into an agreement with a private entity that provides for the payment of pass-through tolls to the department as reimbursement for the department's design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the department.
(d) The department and a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 may enter into an agreement [~~with a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284~~] that provides for:
(1) the payment of pass-through tolls to the authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility [~~of the authority or county~~] that the department estimates it would have incurred if the highway had not been converted; or
(2) the payment by the authority or county of pass-through tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, develop, finance, construct, and maintain a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility.
(e) [~~(d)~~] The department may use any available funds for the purpose of making a pass-through toll payment under this section.
(f) A regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 is

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(g) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for: (1) determining the amount of pass-through tolls to be paid under this section; and (2) allocating the risk that traffic volume will be higher or lower than the parties to an agreement under this section anticipated in entering the agreement.

(h) Money repaid to the department under this section shall be deposited to the credit of the fund from which the money was originally provided and is exempt from the application of Section 403.095, Government Code.

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with whom the department enters into an agreement under this section. (FA4)

(j) An agreement under this section must provide that a municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception. (FA4)

(k) An agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project. (FA4)

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authorized to secure and pay its obligations under an agreement under this section from any lawfully available funds.

(g) [~~(e)~~] The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include [~~establish~~] criteria for:

(1) determining the amount of pass-through tolls to be paid under this section; and

(2) allocating the risk that traffic volume will be higher or lower than the parties to an agreement under this section anticipated in entering the agreement.

(h) Money repaid to the department under this section shall be deposited to the credit of the fund from which the money was originally provided and is exempt from the application of Section 403.095, Government Code.

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with which the department enters into an agreement under this section.

(j) An agreement under this section must provide that the municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

(k) An agreement under this section must prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a

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		manner that will, to the maximum extent possible, expedite the development of the project.
No equivalent provision.	SECTION __. Adds Section 222.1045, Transportation Code, Contracts of Certain Public Entities, to read as follows: (a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority. (b) A public entity may contract with a private entity to act as the public entity's agent in: (1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or (2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(c). (c) A public entity shall: (1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and (2) enter into a project development agreement with the private entity. (d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity. (e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity. (FA 4)	SECTION 2.19. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section 222.1045 to read as follows: Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority. (b) A public entity may contract with a private entity to act as the public entity's agent in: (1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or (2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(c). (c) A public entity shall: (1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and (2) enter into a project development agreement with the private entity. (d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity. (e) A public entity may assign the public entity's right to

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SECTION 13. Amends Sections 223.041(b), (c), and (d), Transportation Code, and combines them into one subsection to read as follows: (b) The department, in setting a minimum level of expenditures in these engineering-related activities that will be paid to the private sector providers, shall provide that the expenditure level for a state fiscal year in all strategies paid to private sector providers for all department engineering-related services for transportation projects is not less than 35 percent of the total funds appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy A.1.2. of the General Appropriations Act for that state fiscal biennium. The department shall attempt to make expenditures for engineering-related services with private sector providers under this subsection with historically underutilized businesses, as defined by Section 2161.001, Government Code, in an amount consistent with the applicable provisions of the Government Code, any applicable state disparity study, and in accordance with the good-faith-effort procedures outlined in the rules adopted by the Texas Building and Procurement Commission.	No equivalent provision.	payment of pass-through tolls under Section 222.104(b) or (c) to the private entity. SECTION 2.20. Sections 223.041(b), (c), and (d), Transportation Code, are amended to read as follows: (b) The department, in setting a minimum level of expenditures in these engineering-related activities that will be paid to the private sector providers, shall provide that [~~index the level of expenditures from the amount set by rider in the General Appropriations Act enacted by the 75th Legislature at its regular session in 1997, expressed as a percentage of the total funds appropriated in Strategy A.1.1. Plan/Design/Manage.~~ [~~(c) Beginning in fiscal year 2000, the department shall increase its expenditures to private sector providers for engineering-related services at least one percentage point per year until~~] the expenditure level for a state fiscal year in all strategies paid to private sector providers for all department engineering-related services for transportation projects is not less than [~~reaches a minimum of~~] 35 percent of the total funds appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy A.1.2. of the General Appropriations Act for that state fiscal biennium. The department shall attempt to make expenditures for engineering-related services with private sector providers under this subsection with historically underutilized businesses, as defined by Section 2161.001, Government Code, in an amount consistent with the applicable provisions of the Government Code, any applicable state disparity study, and in accordance with the good-faith-

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		effort procedures outlined in the rules adopted by the Texas Building and Procurement [~~General Services~~] Commission. [~~(d) The commission shall provide for hearings at which private sector complaints relating to the selection process are heard.~~]
No equivalent provision.	SECTION 2.14. Adds Subchapter E to Chapter 223, Transportation Code, Comprehensive Development Agreements, to read as follows:	SECTION 2.21. Chapter 223, Transportation Code, is amended by adding Subchapter E to read as follows: SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS
No equivalent provision.	Sec. 223.201. Authority. (a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a: (1) toll project; (2) facility or a combination of facilities on the Trans-Texas Corridor; (3) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities; or (FA18) (4) state highway improvement project in which the private entity has an interest in the project. (b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction, rehabilitation, expansion, or improvement of a project described in Subsection (a) and may also provide for the financing,	Sec. 223.201. AUTHORITY. (a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a: (1) toll project; (2) facility or a combination of facilities on the Trans-Texas Corridor; (3) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities; (4) state highway improvement project in which the private entity has an interest in the project; or (5) state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

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	acquisition, maintenance, or operation of a project described in Subsection (a). (c) The department may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement. (d) Money disbursed by the department under a comprehensive development agreement is not included in the amount: (1) required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or (2) appropriated in Strategy A.1.1. Plan/Design/Manage of the General Appropriations Act for that biennium for the purpose of making the computation under Section 223.041. (e) The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section. (f) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.	(b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction, rehabilitation, expansion, or improvement of a project described in Subsection (a) and may also provide for the financing, acquisition, maintenance, or operation of a project described in Subsection (a). (c) The department may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement. (d) Money disbursed by the department under a comprehensive development agreement is not included in the amount: (1) required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or (2) appropriated in Strategy A.1.1. Plan/Design/Manage of the General Appropriations Act for that biennium for the purpose of making the computation under Section 223.041. (e) The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section. (f) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011. (g) The department may combine in a comprehensive development agreement under this subchapter a toll project and a rail facility as defined by Section 91.001.
No equivalent provision.	Sec. 223.202. Limitation on Department Financial	Sec. 223.202. LIMITATION ON DEPARTMENT

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	Participation. The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.	FINANCIAL PARTICIPATION. The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for that fiscal year.
No equivalent provision.	Sec. 223.203. Process For Entering Into Comprehensive Development Agreements. (a) If the department enters into a comprehensive development agreement, the department shall use a competitive procurement process that provides the best value for the department. The department may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section. (b) The department shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal: (1) information regarding the proposed project location, scope, and limits; (2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and (3) any other information the department considers relevant or necessary. (c) The department shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be	House-Senate Compromise Sec. 223.203. Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If the department enters into a comprehensive development agreement, the department shall use a competitive procurement process that provides the best value for the department. The department may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section. (b) The department shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal: (1) information regarding the proposed project location, scope, and limits; (2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and (3) any other information the department considers relevant or necessary. (c) The department shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to

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received if: (1) the department decides to issue a request for qualifications for a proposed project; or (2) the department authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) The department may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The department shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The department must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c).

(f) The department shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the department proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to: (1) the private entity's qualifications and demonstrated technical competence; (2) the feasibility of developing the project as proposed; (3) engineering or architectural designs; (4) the private entity's ability to meet schedules; (5) a financial plan, including costing methodology and cost proposals; or (6) any other information the department

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evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the department decides to issue a request for qualifications for a proposed project; or

(2) the department authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) The department may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The department shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The department must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c).

(e-1) Notwithstanding the requirements of this section, the department may prequalify a private entity to submit a detailed proposal to provide services under a design-build contract. The department is not required to publish a request under Subsection (c) for a design-build contract, and may enter into a design-build contract based solely on an evaluation of detailed proposals submitted in response to a request under Subsection (f) by prequalified private

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	considers relevant or necessary. (g) In issuing a request for proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). (h) The department shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department. (i) The department may enter into discussions with the private entity whose proposal offers the apparent best value. The discussions shall be limited to: (1) incorporation of aspects of other proposals for the purpose of achieving the overall best value for the department; (2) clarifications and minor adjustments in scheduling, cash flow, and similar items; and (3) matters that have arisen since the submission of the proposal. (j) If at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, the department may enter into negotiations with the private entity submitting the next highest ranking proposal. (k) The department may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The department may then publish a new request for competing proposals and qualifications. (l) The department may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.	entities. The commission shall adopt rules establishing criteria for the prequalification of a private entity that include the precertification requirements applicable to providers of engineering services and the qualification requirements for bidders on highway construction contracts. Rules for design-build projects adopted pursuant to this subsection shall also provide for an expedited selection process that includes design innovation as a selection criterion. (e-2) In this section, "design-build contract" means a comprehensive development agreement that includes the design and construction of a turnpike project, does not include the financing of a turnpike project, and may include the acquisition, maintenance, or operation of a turnpike project. (f) The department shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the department proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to: (1) the private entity's qualifications and demonstrated technical competence; (2) the feasibility of developing the project as proposed; (3) engineering or architectural designs; (4) the private entity's ability to meet schedules; (5) a financial plan, including costing methodology and cost proposals; or (6) any other information the department considers relevant or necessary.

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	(m) The department shall pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount: (1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and (2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department. (n) The department may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. The department and the private entity shall finalize the specific terms of a comprehensive development agreement. (o) Subchapter A of this chapter and Chapter 2254, Government Code, do not apply to a comprehensive	(g) In issuing a request for proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). (h) The department shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department. (i) The department may enter into negotiations with the private entity whose proposal offers the apparent best value. (j) If at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, the department may enter into negotiations with the private entity submitting the next highest ranking proposal. (k) The department may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The department may then publish a new request for competing proposals and qualifications. (l) The department may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal. (m) The department shall pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the

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	development agreement entered into under this subchapter.	value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount: (1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and (2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department. (n) The department may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. The department and the private entity shall finalize the specific terms of a comprehensive development agreement. (o) Subchapter A of this chapter and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.
No equivalent provision.	Sec. 223.204. Confidentiality Of Information. (a) To encourage private entities to submit proposals under this	Sec. 223.204. Same as Senate version.

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	subchapter, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into: (1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 223.203(b)(1) and (2), unless the private entity consents to the disclosure of the information; (2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement, unless the private entity consents to the disclosure of the information or material; and (3) information created or collected by the department or its agent during consideration of a proposal for a comprehensive development agreement. (b) After the department completes its final ranking of proposals under Section 223.203(h), the final rankings of each proposal under each of the published criteria are not confidential.	
No equivalent provision.	Sec. 223.205. Performance And Payment Security. (a) Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, the department shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to: (1) ensure the proper performance of the agreement; and	Sec. 223.205. Same as Senate.

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	(2) protect: (A) the department; and (B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material. (b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project. (c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the bonds or the alternative forms of security. (d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property. (e) The amount of the payment security must not be less than the amount of the performance security. (f) In addition to or instead of performance and payment bonds, the department may require the following alternative forms of security: (1) a cashier's check drawn on a financial entity specified by the department; (2) a United States bond or note; (3) an irrevocable bank letter of credit; or (4) any other form of security determined suitable by the department. (g) The department by rule shall prescribe requirements for alternative forms of security provided under this section.	
No equivalent provision.	Sec. 223.206. Ownership Of Highway. (a) A state highway or another facility described in Section 223.201(a) that is the subject of a comprehensive development	Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) A state highway or another facility described by Section 223.201(a) that is the subject of a comprehensive

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	agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall be owned by the department. (b) Notwithstanding Subsection (a), the department may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a project, including supplemental facilities. At the termination of the agreement, the highway or other facilities are to be in a state of proper maintenance as determined by the department and shall be returned to the department in satisfactory condition at no further cost. (c) For purposes of Section 11.11, Tax Code, a state highway or other facility that is licensed or leased to a private entity under a comprehensive development agreement is used for a public purpose if the highway or other facility is operated by the private entity to provide transportation services. A highway asset or toll project that is used or leased by a private entity under Section 202.052 or 228.053 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.	development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall be owned by the department. (b) Notwithstanding Subsection (a), the department may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a project, including supplemental facilities. At the termination of the agreement, the highway or other facilities are to be in a state of proper maintenance as determined by the department and shall be returned to the department in satisfactory condition at no further cost. (c) A highway asset or toll project that is used or leased by a private entity under Section 202.052 or 228.053 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards. (d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter or Section 227.023 that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.
No equivalent provision.	Sec. 223.207. Liability For Private Obligations. The department may not incur a financial obligation for a private entity that designs, develops, finances, constructs,	Sec. 223.207. Substantially the same as Senate version.

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	maintains, or operates a state highway or other facility under this subchapter. The state or a political subdivision of the state is not liable for any financial or other obligations of a project solely because a private entity constructs, finances, or operates any part of the project.	
No equivalent provision.	Sec. 223.208. Terms Of Private Participation. (a) The department shall negotiate the terms of private participation under this subchapter, including: (1) methods to determine the applicable cost, profit, and project distribution among the private participants and the department; (2) reasonable methods to determine and classify toll rates and responsibility for the setting of tolls; (3) acceptable safety and policing standards; and (4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs. (b) A comprehensive development agreement entered into under this subchapter or Section 227.023(c) may include any provision that the department considers appropriate, including provisions: (1) providing for the purchase by the department, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement; (2) establishing the purchase price for the interest of a private participant in the comprehensive development agreement and related property, which price may be determined in accordance	Sec. 223.208. Same as Senate version.

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	with the methodology established by the parties in the comprehensive development agreement; (3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish; (4) permitting the private participant to pledge its rights under the comprehensive development agreement; (5) concerning the private participant's right to operate and collect revenue from the project; and (6) restricting the right of the commission or the department to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made. (c) The department may enter into a comprehensive development agreement under this subchapter or under Section 227.023(c) with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan. (d) Section 223.207 does not apply to the obligations of the department under a comprehensive development agreement. (e) In addition to such legal and equitable remedies as may be available to a party to a comprehensive development agreement, and notwithstanding anything in Section	

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	201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter or Section 227.023(c) to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought pursuant to this subsection. (FA5) (f) A comprehensive development agreement entered into under this subchapter or Section 227.023(c) and any obligations incurred, issued, or owed thereunder shall not constitute a state security under Chapter 1231, Government Code. (g) If the department enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to the department for approval: (1) the methodology for: (A) the setting of tolls; and (B) increasing the amount of the tolls; (2) a plan outlining methods the private participant will use to collect the tolls, including: (A) any charge to be imposed as a penalty for late payment of a toll;	

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	and (B) any charge to be imposed to recover the cost of collecting a delinquent toll; and (3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll. (h) A comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may not be for a term longer than 50 years.	
No equivalent provision.	Sec. 223.209. Rules, Procedures, And Guidelines Governing Selection And Negotiating Process. (a) The commission shall adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts. (b) The department shall have up-to-date procedures for participation in negotiations under this subchapter. (c) The department has exclusive judgment to determine the terms of an agreement.	Sec. 223.209. Same as Senate version.
No equivalent provision.	SECTION 2.15. Amends Section 224.151(9), Transportation Code, to make a conforming change.	SECTION 2.15. Same as Senate version.
No equivalent provision.	SECTION __ . Adds Section 225.061, Transportation Code, Speaker Jimmy Turman Road, to read as follows: (a)	SECTION 2.23. Same as Senate version.

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	Farm-to-Market Road 68 in Fannin County is designated as Speaker Jimmy Turman Road. (b) The department shall design and construct markers indicating the road number, the designation as Speaker Jimmy Turman Road, and any other appropriate information. (c) Except as provided by Subsection (d), the department shall erect a marker at each end of the road and at appropriate intermediate sites along the road. (d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker. (e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund. (FA41)	
No equivalent provision.	SECTION 2.16. Amends Sections 227.001(4) and (9), Transportation Code. (4)(E) Removes restaurant from the definition of "facility." (9) Provides that "turnpike" has the meaning assigned to toll project under Section 201.001(b).	SECTION 2.24. Same as Senate version, except omits Subdivision (4).
SECTION 14. Adds Section 227.004, Transportation Code, Reports, to read as follows: (a) The department shall periodically prepare reports detailing: (1) the reasons for the immediate and future needs for each mode of transportation in each segment of a Trans-Texas Corridor project; and	No equivalent provision.	SECTION 2.25. Same as House version.

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(2) the reasonableness and necessity for each mode of transportation in each segment of a Trans-Texas Corridor project in the report. (b) Not later than the seventh day before the date the department submits a Tier 1 environmental impact statement and not later than the 90th day before the department submits a Tier 2 environmental impact statement to the federal government for any segment of a Trans-Texas Corridor route, the department shall: (1) post the most recent applicable report required by Subsection (a) on the department's Internet website; and (2) provide a copy of the report to each state senator or representative who represents all or part of the area in which the segment of the route is located and the commissioners court of each county in which the segment of the route is located.		
SECTION 15. Adds Section 227.021(f), Transportation Code, to read as follows: (f) The department may not limit the public's direct access to or from the Trans-Texas Corridor with the intent to benefit the economic viability of an ancillary facility.	No equivalent provision.	SECTION 2.26. Same as House version.
SECTION 16. Adds Section 227.023(d), Transportation Code, to read as follows: (d) If the department contracts with a private entity for the collection of a fee for the use of a facility or a combination of facilities that are part of the Trans-Texas Corridor, the private entity shall submit to the department for approval: (1) a plan outlining methods the entity will use to collect the fee, including: (A) any charge	No equivalent provision.	See below.

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to be imposed as a penalty for late payment of the fee; (B) any charge to be imposed to recover the cost of collecting a delinquent fee; and (C) the methodology for increasing the amount of the fee; and (2) any proposed change in an approved plan for collecting the fee.		
No equivalent provision.	SECTION 2.18. (part) Adds Section 227.023(d), (c), and (e), Transportation Code, to read as follows: (d) For the purposes of Section 11.11, Tax Code, a facility that is licensed or leased to a private entity under a comprehensive development agreement, other than a facility described by Section 227.001(4)(E) that is used for commercial purposes, is used for a public purpose if the facility is operated by the private entity to provide transportation or utility services. Property that is licensed or leased to a private entity under Section 227.082 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards. (e) If a contract between the department and a private entity includes the collection by the private entity of a fee for the use of a facility or a combination of facilities that are part of the Trans-Texas Corridor, the private entity shall submit to the department for approval: (1) the methodology for: (A) the setting of the amount of a fee; and (B) increasing the amount of the fee; (2) a plan outlining methods the entity will use to collect the fee, including: (A) any charge to be imposed as a penalty for late payment of the fee; and (B) any charge to be imposed to recover the cost of collecting a delinquent fee; and (3)	SECTION 2.27 Same as Senate version.

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	any proposed change in an approved methodology for the setting of the amount of a fee or a plan for collecting the fee. (f) A contract with a private entity that includes the collection by the private entity of a fee for the use of a facility may not be for a term longer than 50 years.	
SECTION 17. Amends Section 227.028(a), Transportation Code, to make its provisions subject to new Section 203.004(a-1).	SECTION 2.19. Same as House version.	SECTION 2.28. Same as House version.
SECTION 18. Amends Section 227.029(b), Transportation Code, relating to changing the location of a portion of a facility.	SECTION 2.20. Same as House version.	SECTION 2.29. Same as House version.
SECTION 19. Adds Sections 227.032, 227.033, and 227.034, Transportation Code, to read as follows:	SECTION 2.21. Adds Section 227.032, Transportation Code, as follows:	See below
Sec. 227.032. Highways Intersecting Trans-Texas Corridor. (a) The department shall ensure that, at each intersection of a segment of a state highway that is designated as part of the Trans-Texas Corridor and a segment of a highway that is designated as an interstate highway, state highway, or United States highway, the Trans-Texas Corridor and the interstate highway, state highway, or United States highway are directly accessible to each other. (b) The department shall make every reasonable effort to connect a segment of a state highway that is designated as	(a) Same as House version, except requires the department to solicit advice from regional mobility authorities and regional tollway authorities.	SECTION 2.30. Same as House version.

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part of the Trans-Texas Corridor with significant farm-to-market and ranch-to-market roads *and major county and city arterials included in the locally adopted long-range transportation plan* as determined by the department, taking into consideration: (1) financial feasibility; (2) advice solicited from: (A) county commissioners courts; (B) *governing bodies of municipalities*; and (C) *metropolitan planning organizations*; (3) circuity of travel for landowners; (4) access for emergency vehicles; and (5) traffic volume.	(b) The department shall make every reasonable effort to connect a segment of a state highway that is designated as part of the Trans-Texas Corridor with significant farm-to-market and ranch-to-market roads as determined by the department, taking into consideration: (1) financial feasibility; (2) advice solicited from county commissioners courts, *regional mobility authorities, and regional tollway authorities*; (3) circuity of travel for landowners; (4) access for emergency vehicles; and (5) traffic volume.	
Sec. 227.033. Groundwater, as follows:	No equivalent provision.	SECTION 2.30. as follows:
(a) After receipt of an offer to construct a facility for the transportation of groundwater from the county in which the groundwater is pumped or extracted, but not later than the 90th calendar day before entering into a lease agreement, license agreement, or franchise agreement for the use of any part of the Trans-Texas Corridor for that purpose, the department shall provide written notice of the offer to: (1) each groundwater conservation district, subsidence district, or other local water authority having territory in the county in which the groundwater is pumped or extracted; and (2) the commissioners court of the county in which the groundwater is pumped or extracted.	No equivalent provision.	(a) Same as House version.
(b) The department may not pump or extract, or allow the pumping or extracting, of groundwater from the right-of-	SECTION 2.17. Adds Section 227.021(f), Transportation Code. Same as House version.	(b) Same as House version.

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way of the Trans-Texas Corridor unless the groundwater is needed for the construction, operation, or maintenance of a facility other than a public utility facility. If a well drilled and operated on the Trans-Texas Corridor is located inside the boundaries of a groundwater conservation district, the well is subject to the rules of the district.		
227.034. Prohibition Against Limiting Construction Of Transportation Projects. (a) A contract for the acquisition, construction, maintenance, or operation of a facility on the Trans-Texas Corridor may not contain a provision that limits or prohibits construction or operation of a highway or other transportation project that is: (1) included in the unified transportation program of the department; (2) a project of a local government; or (3) constructed or operated for the safety of pedestrian or vehicular traffic. (b) In this section, "transportation project" has the meaning assigned by Section 370.003.	No equivalent provision.	SECTION 2.30. Sec. 227.034. ~~Substantially the~~ same as House version.
SECTION 20. Amends Section 227.041(b), Transportation Code, and adds (d) and (e) as follows:	SECTION 2.22. Amends Section 227.041, Transportation Code, to read as follows:	SECTION 2.31.
No equivalent provision.	(a) Makes conforming changes.	(a) Senate version.
(b) Provides that an interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is needed for mitigation of adverse environmental effects and if its acquisition will further the primary purposes of the Trans-Texas Corridor.	(b) Same as House version, except strikes Subdivision (5) from the list of primary purposes.	(b) Adopts a mixture of House and Senate versions

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Lists primary purposes, including (5) generating revenue, directly or indirectly, for use in constructing or operating the Trans-Texas Corridor from or for ancillary facilities that directly benefit users of the Trans-Texas Corridor.		
No equivalent provision.	(c) Removes language making all laws governing acquisition of right-of-way for a state highway applicable to such acquisitions for the Trans-Texas Corridor. Makes a conforming change.	Same as House version.
(d) Provides that the commission may not condemn property contiguous to an existing or planned segment of the Trans-Texas Corridor for an ancillary facility.	No equivalent provision.	~~Senate version.~~ House version
(e) Provides that, if the commission acquires property not immediately needed for department purposes, the department is encouraged to acquire an option to purchase the property under Subsection (a) or to lease back purchased land under Section 227.043 to continue the agricultural or recreational use of the property.	(d) If the commission acquires property not immediately needed for department purposes, the department is encouraged to acquire an option to purchase the property under Subsection (a) or to lease back purchased land under Section 227.043 to continue the agricultural or recreational use of the property.	(d) Same as House version.
SECTION 21. Adds Section 227.0415, Transportation Code, Development Rights, to read as follows: (a) In connection with the acquisition of property located in an existing or planned segment of the Trans-Texas Corridor for the purpose of providing a location for an ancillary facility, the owner of the property to be acquired may elect to retain the right to develop the property in accordance	No equivalent provision.	~~Same as Senate version.~~ House version with compromise language

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with the department's development plans. If more than one person owns an interest in the property, the election under this subsection must be made by unanimous written consent of all persons who own an interest in the property. (b) If the owner does not develop the property within the time period set out in the department's development plans, the department may acquire the development rights for the property by purchase or condemnation. (c) Property that is developed by the owner under this section is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.		
No equivalent provision.	SECTION __. Adds Section 227.047, Transportation Code, Alternative Access to Severed Property, to read as follows: If the department acquires a tract for the Trans-Texas Corridor that severs an owner's real property, the department may allow the owner to build, in compliance with federal law, an alternative access between the severed tracts at a grade below the facilities constructed on the tract acquired by the department. An owner must obtain department approval of the design specifications of the alternative access. (FA 25)	Same as House version.
SECTION 22. Adds Sections 227.047 and 227.048, Transportation Code, to read as follows:	No equivalent provision. *(But see SECTION 2.08, which is compared to SECTION 11 in the House version.)*	See below.
Sec. 227.047. Acquisition Of Remainder. (a) If a proposed acquisition of a tract of real property under Section 227.041 would leave the owner of the property a	No equivalent provision.	Same as Senate.

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remainder of the tract, the department may negotiate for and purchase the remainder or any part of a severed tract if the department and the owner agree on terms for the purchase. Except as provided by Subsection (d), the department shall offer to purchase a remainder if the department determines that: (1) the remainder has little or no value or utility to the owner; or (2) the entire tract could be acquired for substantially the same compensation as the partial tract. (b) In acquiring a tract of real property under Section 227.041, if the acquisition severs an owner's real property, the department shall pay: (1) the value of the property acquired; and (2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the loss of reasonable access between portions of a bisected tract. (c) The department and its designated agents may enter the real property to conduct an appraisal, survey, or environmental investigation to determine whether the department will offer to acquire the real property. (d) The department is not required under Subsection (a) to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances. (e) If the department acquires a tract that severs an owner's property, the department may allow the owner to build, in compliance with federal law, an alternative access between the severed tracts below the tract acquired by the department. An owner must obtain department approval of the design specifications of the alternative access.		

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Sec. 227.048. Loss Of Access. If a portion of a tract or parcel of real property is acquired under this subchapter, the department shall pay for loss of reasonable access to or from the remaining property in determining the damage to the property owner.	No equivalent provision.	Sec. 227.047. Same as House.
No equivalent provision.	SECTION 2.23. Amends Section 227.062(c), Transportation Code, and adds (h) to read as follows:	See below.
Section 227.062(c) is repealed in SECTION 46.	(c) Each fiscal year, the total amount disbursed by the department out of state and federal funds shall not exceed $50 million for the construction or purchase of non-highway facilities on the Trans-Texas Corridor. This subsection does not apply to: (1) funds derived from the issuance of bonds, private investment, and donations; (2) federal funds from the Federal Transit Administration or the Federal Railroad Administration; (3) funds apportioned under 23 U.S.C. 104(b)(2) for the congestion mitigation and air quality improvement program; (4) funds authorized and designated by the United States Congress, or authorized and appropriated by the United States Congress for a specific project; (5) state matching funds for a federal rail project; (6) activities that are subject to the limitation in Subsection (a); and (7) activities described in Subsection (b)(1). (FA12)	SECTION 2.33. House-Senate compromise.
No equivalent provision.	(h) In this section, "private investment" includes concession fees paid to the department and payments to the department	

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	under lease agreements and comprehensive development agreements. (FA12)	
No equivalent provision.	SECTION 2.24. Amends Sections 227.082(c) and (d), Transportation Code, to read as follows: (c) The department may grant an exclusive or nonexclusive license to access or use any portion of the Trans-Texas Corridor. A license granted under this section may be for a definite or indefinite term. The department may not grant an exclusive license to access or use a highway on the Trans-Texas Corridor. The department may not grant an exclusive license for use of the Trans-Texas Corridor by an owner of a public utility facility if the exclusive use is prohibited by other law. (d) Property may be leased or a franchise or license granted for any purpose reasonably necessary for the effective use or operation of a facility and to provide a location between the main lanes of a highway or between a highway and a department rail facility for a facility or a gas station, convenience store, or similar facility that: (1) provides services to and directly benefits users of the Trans-Texas Corridor; (2) is not within five miles of an entrance or exit ramp; and (3) is not located within five miles of an existing privately owned establishment providing similar services.	SECTION 2.33A. House-Senate compromise.
SECTION 23. Adds Section 227.082(f), Transportation Code, to read as follows: (f) The department may lease property or grant a franchise or license under this section only if each agreement has been approved by the	No equivalent provision.	~~Same as Senate.~~ Same as House

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commissioners court of the county in which the property, facility, or other part of the Trans-Texas Corridor is located. This subsection does not apply to a lease of property or a grant of a franchise or license to a private entity for the purpose of operating a highway, turnpike, rail facility, or utility facility under a comprehensive development agreement.		
No equivalent provision.	SECTION 2.25. SECTION 2.25. Subtitle B, Title 6, Transportation Code, is amended by adding Chapter 228, and Sections 361.001, 361.301, 361.307, and 361.032, Transportation Code, are transferred to Chapter 228, Transportation Code, designated as Subchapter A, and amended to read as follows: Chapter 228. State Highway Toll Projects. Subchapter A. General Provisions.	SECTION 2.34.
No equivalent provision.	Sec. 228.001. Definitions. In this chapter: (1) "Air quality project" means a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads. (2) "Bond" means bonds, notes, or other obligations issued under Subchapter C or another law with respect to a toll project or system. (3) "Region" means: (A) a metropolitan statistical area and any county contiguous to that metropolitan statistical area; or (B) two adjacent districts of the department. (4) "System" means a toll project or any combination of toll projects designated as a system under Section 228.010. (5) "Toll project" has	228.001. Senate

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	the meaning assigned by Section 201.001(b). (6) "Transportation project" means: (A) a tolled or nontolled state highway improvement project; (B) a toll project eligible for department cost participation under Section 222.103; (C) the acquisition, construction, maintenance, or operation of a rail facility or system under Chapter 91; (D) the acquisition, construction, maintenance, or operation of a state-owned ferry under Subchapter A, Chapter 342; (E) a public transportation project under Chapter 455 or 456; (F) the establishment, construction, or repair of an aviation facility under Chapter 21; and (G) a passenger rail project of another governmental entity.	
No equivalent provision.	228.002. Agreements With Public Entities. The department may enter into an agreement with a public entity to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or operate a toll project.	Sec. 228.002. Senate.
No equivalent provision.	228.003. Agreements With Other Governmental Agencies. (a) The department may, with the approval of the commission, enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a toll project, or to finance, construct, operate, and maintain a toll project. The department must obtain the approval of the governor to	228.003. Senate.

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	enter into an agreement with an agency of another state, the United Mexican States, or a state of the United Mexican States. (b) If the department enters into an agreement with a private entity, including a comprehensive development agreement under Subchapter E, Chapter 223, the department and the private entity may jointly enter into an agreement under Subsection (a).	
No equivalent provision.	228.004. Promotion Of Toll Project. The department may notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to promote the development and use of toll projects and may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers.	228.004. Senate.
SECTION 24. Reenacts and amends Section 284.009, Transportation Code, as added by Chapters 953 and 1325, Acts of the 78th Legislature, Regular Session, 2003, to read as follows: Sec. 284.009. Conversion And Transfer Of State Highway To County. (a) The commission may transfer [~~convey~~] a nontoll state highway or a segment of a nontoll state highway, including real property acquired to construct or operate the highway, to a county for the purpose of converting the highway to a toll facility to be operated and maintained as a project under this chapter, if: (1) the	SECTION 2.71. Repeals Section 284.009.	Same as Senate.

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commission determines that the proposed transfer will improve overall mobility in the region or is the most feasible and economic means of accomplishing necessary improvements to the highway; (2) any funds paid by the department for the construction, maintenance, and operation of the transferred highway are repaid to the department; and (3) the county agrees to assume all liability and responsibility for the maintenance and operation of the transferred highway on its transfer. (b) A county that receives a nontoll state highway or a segment of a nontoll state highway under Subsection (a) may own, operate, and maintain the highway as a pooled project under Section 284.065. (c) The commission shall, at the time of a transfer, remove the highway or segment of highway from the state highway system. After a transfer, the department has no liability, responsibility, or duty for the maintenance or operation of the highway or segment. (d) The commission may waive all or a portion of an amount due under Subsection (a)(2) if it finds that the transfer will result in substantial net benefits to the state, the department, and the traveling public that equal or exceed the amount of payment waived. (e) Before transferring a nontoll state highway or a segment of a nontoll state highway under this section, the commission shall conduct a public hearing to receive comments from interested persons concerning the proposed transfer. Notice of the hearing shall be published in the Texas Register and in one or more newspapers of general circulation in any county in which the highway or segment		

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is located. (f) A county may use toll revenue collected from a highway or segment of highway transferred under this section or from a highway or segment of highway described by Subsection (j) to fund a transportation project or an air quality project. (g) The commission shall adopt rules implementing this section, including criteria and guidelines for approval of a transfer of a highway or segment. (h) In this section: (1) "Air quality project" means a project or program of a county or another governmental entity that the county or other governmental entity determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads within the county. (2) "Transportation project" means the construction, improvement, maintenance, or operation of a transportation facility: (A) under the jurisdiction of a county, toll road authority, or another governmental entity; (B) located inside or outside the county or area served by the toll road authority; and (C) that the county or toll road authority determines will improve mobility within the county or area served by the toll road authority. (i) Funds received by the department under this section: (1) shall be deposited to the credit of the state highway fund; and (2) are exempt from the application of Section 403.095, Government Code. (j) The requirements of this section do not apply to a highway or segment: (1) that the commission by order designated as a toll project before the contract to construct the highway or segment was awarded, regardless of		

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whether the highway or segment is operated without tolls for a period before toll collection operations begin; (2) that was designated as a toll project in a plan or program of a metropolitan planning organization on or before May 1, 2005; (3) that is reconstructed so that the number of nontolled lanes on the highway or segment is greater than or equal to the number in existence before the reconstruction; (4) to which an adjacent facility is constructed with a number of nontolled lanes that, when combined with the number of nontolled lanes on the converted highway or segment, is greater than or equal to the number in existence on the converted highway or segment before the conversion; or (5) that was open to traffic as a high-occupancy vehicle lane on May 1, 2005.		
SECTION 25. Adds Sections 361.005 and 361.006, Transportation Code, to read as follows:	SECTION 2.26. Amends Subchapter A, Chapter 228, Transportation Code, by adding Sections 228.005 and 228.0055 to read as follows:	SECTION 2.35.
Sec. 361.005. Revenue of *Turnpike Project*. Except as provided by *Subchapter E*, toll revenue or other revenue derived from a *turnpike* project that is collected or received by the department under this chapter and *any* payment received by the department under a comprehensive development agreement for a *turnpike project*: (1) shall be deposited in the state highway fund; and (2) is exempt from the application of Section 403.095, Government Code.	Sec. 228.005. Revenue Of *Toll Project Or System*. Except as provided by *Subchapter C*, toll revenue or other revenue derived from a *toll* project *or system* that is collected or received by the department under this chapter, and *a* payment received by the department under a comprehensive development agreement *for a toll project or system*: (1) shall be deposited in the state highway fund; and (2) is exempt from the application of Section 403.095, Government Code. (FA6)	Sec. 228.005. Senate.

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Sec. 361.006. Use of Contract Payments.	Sec. 228.0055. Same as House version. (FA6)	Sec. 228.0055. House.
SECTION 26. Amends Section 361.137(c), Transportation Code, to provide that, if the property contains a business, farm, or ranch, the department may not file a declaration of taking before the completion of a written notification to the property owner that the occupants: (A) will not be required to move before the 90th day after the date of the notice; and (B) will receive, not later than the 30th day before the date by which the property must be vacated, a written notice specifying the date by which the property must be vacated.	SECTION 2.10. (part) Transfers, amends, and redesignates Section 361.137 as Section 203.066, and applies it only to a taking for a toll project. Provides that the filing of a declaration of taking does not affect the special commissioners' hearing or any other proceeding under Chapter 21, Property Code. Also provides that a taking under this section gives rise to compensable damages for early possession, as determined by the special commissioners under Chapter 21, Property Code.	SECTION 2.13. Senate
No equivalent provision.	SECTION 2.27. Sections 361.189 and 224.154, Transportation Code, are transferred to Subchapter A, Chapter 228, Transportation Code, redesignated as Sections 228.006 and 228.007, Transportation Code, and amended to read as follows:	SECTION 2.36.
No equivalent provision.	Sec. 228.006. Use Of Surplus Revenue. (a) The commission shall authorize the use of surplus revenue of a toll project or system to pay the costs of a transportation project, highway project, or air quality project within a department district in which any part of the turnpike project is located. (b) The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because of a payment under Subsection (a).	Sec. 228.006. Senate

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	(c) The commission may not take an action under this section that violates, impairs, or is inconsistent with a bond order, trust agreement, or indenture governing the use of the surplus revenue.	
No equivalent provision.	Sec. 228.007. Toll Lanes. (a) Subject to Section 228.201, the commission may by order authorize the department to charge a toll for the use of one or more lanes of a state highway, including a high occupancy vehicle lane designated under Section 224.153 or an exclusive lane designated under Section 224.1541. (b) If the commission authorizes the department to charge a toll under Subsection (a), the department may enter into an agreement with a regional tollway authority described in Chapter 366, a transit authority described in Chapter 451, 452, or 453, a coordinated county transportation authority under Chapter 460, a regional mobility authority under Chapter 370, a county acting under Chapter 284, or a transportation corporation: (1) to design, construct, operate, or maintain a toll lane under this section; and (2) to charge a toll for the use of one or more lanes of a state highway facility under this section. (c) The commission may by order authorize the department or the entity contracted to operate the toll lane to set the amount of toll charges. Any toll charges shall be imposed in a reasonable and nondiscriminatory manner. (d) Revenue generated from toll charges and collection fees assessed by an entity with whom the department contracts under this section shall be allocated as required by the terms of the agreement.	Sec. 228.007. Senate

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No equivalent provision.	SECTION 2.28. Transfers, amends, and redesignates Section 224.1541(d), Transportation Code, as Section 228.008 as follows: Sec. 228.008. Tolls On Exclusive Lane. Makes no changes to current law.	SECTION 2.37. Senate
No equivalent provision.	SECTION 2.29. Transfers, amends, and redesignates Section 361.033, Transportation Code, as Section 228.009, Transportation Code, as follows: Sec. 228.009. Audit. Makes conforming changes.	SECTION 2.38. Senate
No equivalent provision.	SECTION 2.30. Adds Section 228.010, Transportation Code, Establishment Of Toll Systems, to read as follows: Sec. 228.010. . (a) If the commission determines that the mobility needs of a region of this state could be most efficiently and economically met by jointly operating two or more toll projects in that region as one operational and financial enterprise, it may create a system composed of those projects. The commission may create more than one system in a region and may combine two or more systems in a region into one system. The department may finance, acquire, construct, and operate additional toll projects in the region as additions to or expansions of a system if the commission determines that the toll project could most efficiently and economically be acquired or constructed if it were part of the system and that the addition will benefit the system. (b) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of	SECTION 2.39. Senate

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	a toll project that is not part of the system or with the revenue of another system.	
SECTION 27. Amends Section 361.179(f), Transportation Code, as follows:	SECTION 2.32. (part) Transfers, amends, and redesignates Section 361.179, Transportation Code, as Section 228.053.	SECTION 2.41. Senate.
No equivalent provision.	(a)-(e) Authorizes the department to contract with a person for the use of part of a toll project or lease part of a toll project or system only for a gas station, convenience store, or similar facility that provides services to and directly benefits users of a toll project, provided that the facility is located between the main lanes of the toll project and is not within five miles of an entrance or exit ramp. Removes other types of facilities that were listed in the provision. Provides that such a contract or lease agreement may be entered into for the purpose of constructing and operating a commercial facility only if, on the effective date of the contract or lease agreement, a facility that provides a service described by that subsection is not located within five miles of the part of the toll project to be used or leased. Requires the tolls to be set so that, *at a minimum*, the aggregate of tolls from the toll project or system accomplish the goals set in the statute. Makes conforming changes.	(a-e) House-Senate compromise.
(f) The revenue and disbursements for each turnpike project shall be kept separately. The revenue from one turnpike project may not be used to pay the cost of another project except as authorized by Sections 361.189 and	(f) Same as House version, makes conforming changes citing Sections 228.0055 and 228.006. (FA6)	(f) House

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361.006.		
No equivalent provision.	SECTION 2.31. Adds Subchapter B to Chapter 228, Transportation Code, Use and Operation of Toll Projects or Systems, to read as follows:	SECTION 2.40.
No equivalent provision.	Sec. 228.051. Designation. Subject to Section 228.201, the commission by order may designate one or more lanes of a segment of the state highway system as a toll project or system.	Sec. 228.051. Senate
SECTION 28. Adds Section 361.237, Transportation Code, Operation of *Turnpike* Project, to read as follows: The department may enter into an agreement with one or more persons to provide, on terms approved by the department, personnel, equipment, systems, facilities, and services necessary to operate a *turnpike* project, including the operation of toll plazas and lanes and customer service centers and the collection of tolls.	Sec. 228.052. Operation Of *Toll* Project *Or System*. The department may enter into an agreement with one or more persons to provide, on terms approved by the department, personnel, equipment, systems, facilities, and services necessary to operate a *toll* project *or system*, including the operation of toll plazas and lanes and customer service centers and the collection of tolls.	Sec. 228.052. Senate
No equivalent provision.	SECTION 2.32. (part) Transfers, amends, and redesignates Sections 361.252, 361.253, 361.254, 361.255, and 361.256, Transportation Code, as Sections 228.054, 228.055, 228.056, 228.057, and 228.058, as follows:	SECTION 2.41.
No equivalent provision.	Sec. 228.054. Failure Or Refusal To Pay Toll; Offense. Makes no changes to current law.	Sec. 228.054. Senate
No equivalent provision.	Sec. 228.055. Administrative Fee; Notice; Offense. (a)	Sec. 228.055. Senate

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	Makes a conforming change. (b) Changes the time limits for notice and payment of an unpaid toll and administrative fee to provide that the department shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department by first class mail and may require payment not sooner than the 30th day after the date the notice was mailed. Makes a conforming change. (c) Makes no changes to current law. (d)-(e) Makes conforming changes. (f)-(i) Makes no changes to current law.	
No equivalent provision.	Sec. 228.056. Presumptions; Prima Facie Evidence; Defenses. Makes conforming changes.	228.056. Senate
SECTION 29. Amends the heading to Section 361.255, Transportation Code, to read as follows: Electronic Toll Collection.	No equivalent provision. *(But see Section 228.057 below.)*	SECTION 2.41.
SECTION 30. Adds Sections 361.255(c), (d), (e), and (f), Transportation Code, to read as follows:	Sec. 228.057. Changes section heading to read: Electronic Toll Collection. (a)-(b) Make no changes to current law.	Sec. 228.057. Senate
(c) The department may enter into an agreement with one or more persons to market and sell transponders for use on department toll roads. (d) The department may charge reasonable fees for administering electronic toll collection customer accounts.	(c)-(d) Same as House version.	(c) - (d) House

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(e) A contract for the acquisition, construction, maintenance, or operation of a toll project must ensure the confidentiality of all electronic toll collection customer account information, *including contact and payment information and trip data.*	(f) A contract for the acquisition, construction, maintenance, or operation of a toll project must ensure the confidentiality of all electronic toll collection customer account information *under Subsection (e).*	(f) Senate
(f) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.	(e) Same as House version.	(e) House
No equivalent provision.	SEC. 228.058. Automated Enforcement Technology. Makes conforming changes and adds to the permitted uses of evidence obtained from technology approved by the department under Subsection (a) the prosecution of a capital offense.	Sec. 228.058. Senate
No equivalent provision.	SECTION 2.33. Transfers, amends, and redesignates Sections 361.004, 361.171, 361.172, 361.173, 361.174, 361.1751, 361.1752, 361.1753, 361.176, 361.177, 361.178, 361.183, 361.185, 361.186, 361.187, and 361.188, Transportation Code, as Subchapter C, Toll Revenue Bonds, to read as follows:	SECTION 2.42.
No equivalent provision.	Sec. 228.101. (a) The cost of construction, improvement, extension, or expansion of a toll project or system under this chapter includes the cost of: (1) the actual acquisition, design, development, planning, financing, construction, improvement, extension, or	Sec. 228.101. Senate

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	expansion of the project or system; (2) acquisition of real property, rights-of-way, property rights, easements, and interests; (3) the acquisition of machinery, equipment, software, and intellectual property; (4) interest before, during, and for one year after construction, improvement, extension, or expansion; (5) traffic estimates, engineering, legal and other advisory services, plans, specifications, surveys, appraisals, cost and revenue estimates, and other expenses necessary or incident to determining the feasibility of the construction, improvement, extension, or expansion; (6) necessary or incidental administrative, legal, and other expenses; (7) financing; and (8) placement of the project or system in operation and expenses related to the initial operation of the project or system.	
No equivalent provision.	Sec. 228.102. Issuance Of Bonds. Makes conforming changes and deletes a provision requiring each project to be financed and built by a separate bond issue.	Sec. 228.102. Senate
No equivalent provision.	Sec. 228.103. Applicability Of Other Law; Conflicts. Makes conforming changes.	Sec. 228.103. Senate
No equivalent provision.	Sec. 228.104. Payment Of Bonds; Credit Of State Not Pledged. Makes conforming changes. Adds to the list of sources that the principal of, interest on, and any	Sec. 228.104. Senate

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	redemption premium on bonds issued by the commission under this subchapter are payable solely from: (5) surplus revenue of another project or system as authorized by Section 228.006; and (6) amounts received by the department: (A) as pass-through tolls under Section 222.104; (B) under an agreement with a local governmental entity entered into under Section 228.254; (C) under other agreements with a local governmental entity relating to the project or system for which the bonds are issued; and (D) under a comprehensive development agreement entered into under Section 223.201.	
No equivalent provision.	Sec. 228.105. Sources Of Payment Of And Security For Toll Revenue Bonds. Makes conforming changes and adds to the alternative sources that toll revenue bonds issued by the commission may be payable from and secured by: (D) surplus revenue of another toll project or system as authorized by Section 228.006.	Sec. 228.105. Senate
No equivalent provision.	Sec. 228.106. Interim Bonds. Makes a conforming change.	Sec. 228.106. Senate
No equivalent provision.	Sec. 228.107. Effect Of Lien. Provides that a lien on or a pledge of revenue, a contract payment, or a pledge of money to the payment of bonds issued under this subchapter is valid and effective in accordance with Chapter 1208, Government Code, and: (1) is enforceable in any court at the time of payment for and delivery of the bond; (2) applies to each item on hand or subsequently	Sec. 228.107. Senate

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	received; (3) applies without physical delivery of an item or other act; and (4) is enforceable in any court against any person having a claim, in tort, contract, or other remedy, against the commission or the department without regard to whether the person has notice of the lien or pledge.	
No equivalent provision.	Sec. 228.108. Makes a conforming change.	Sec. 228.108. Senate
No equivalent provision.	Sec. 228.109. Trust Agreement. Makes conforming changes and provides that surplus revenue may be used for a transportation or air quality project as authorized by Section 228.006.	Sec. 228.109. Senate
No equivalent provision.	Sec. 228.110. Provisions Protecting And Enforcing Rights And Remedies Of Bondholders. Makes conforming changes. Revises the list of provisions that may be included in a trust agreement in order to protect and enforce the rights and remedies of the bondholders, to remove covenants prescribing terms on which any or all of the bonds become or may be declared due before maturity. Expands covenants relating to the rights, powers, liabilities, or duties that arise on the breach of a duty of the commission to specify the right of the trustee to bring actions against the commission or the department in any state court to enforce the covenants in the agreement, and the sovereign immunity of the state is waived for that purpose. (FA5)	Sec. 228.110. Senate
No equivalent provision.	Sec. 228.111. Furnishing Of Indemnifying Bonds Or	Senate

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	Pledge Of Securities. Makes no changes to current law.	
No equivalent provision.	Sec. 228.112. Feasibility Study By Municipality, County, Or Private Group. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.113. Trust Fund. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.114. Remedies. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.115. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.116. Valuation Of Bonds Securing Deposit Of Public Funds. Makes no changes to current law.	Senate
No equivalent provision.	SECTION 2.34. Adds Section 228.117, Transportation Code, Funding for Department District, to read as follows: Funding For Department District. The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.	SECTION 2.43. Senate
No equivalent provision.	SECTION 2.35. Transfers, amends, and redesignates Subchapter H, Chapter 361, Transportation Code, as Subchapter D of Chapter 228, Transfer of Toll Project , to read as follows:	SECTION 2.44
No equivalent provision. *(But see Sec. 361.402,*	Strikes Section 361.281, Transportation Code, relating to	Senate

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Applicability of Subchapter.)	applicability of the subchapter.	
No equivalent provision.	Sec. 228.151. Lease, Sale, Or Transfer Of Toll Project Or System. (a) Provides that the department may lease, sell, or transfer in another manner a toll project or system, including a nontolled state highway or a segment of a nontolled state highway converted to a toll project under Subchapter E, to a governmental entity that has the authority to operate a tolled highway or a local government corporation created under Chapter 431. (b) Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.152. Discharge Of Outstanding Bonded Indebtedness. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.153. Repayment Of Department's Expenditures. Makes conforming changes.	Senate
No equivalent provision.	Sec. 228.154. Approval Of Agreement By Attorney General. Makes conforming changes.	Senate
SECTION 31. Adds Section 361.302(f), Transportation Code, to read as follows: The department may combine in a comprehensive development agreement under this chapter a turnpike project and a rail facility as defined by Section 91.001.	*Section 361.302 is repealed SECTION 2.71(13).*	Senate
SECTION 32. Adds Sections 361.3022(e-1) and (e-2),Transportation Code,) and amends (f), (i), and (j), as	No equivalent provision.	Senate

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follows: (e-1) Notwithstanding the requirements of this section, provides that the department may prequalify a private entity to submit a detailed proposal to provide services under a design-build contract. The department is not required to publish a request under Subsection (c) for a design-build contract, and may enter into a design-build contract based solely on an evaluation of detailed proposals submitted in response to a request under Subsection (f) by prequalified private entities. The commission shall adopt rules establishing criteria for the prequalification of a private entity that include the precertification requirements applicable to providers of engineering services and the qualification requirements for bidders on highway construction contracts. Rules for design-build projects adopted pursuant to this subsection shall also provide for an expedited selection process less costly to proposers, reasonable bonding requirements, appropriate sharing of risks, and incentives for proposers to develop innovative ideas. (e-2) Provides that, in this section, "design-build contract" means a comprehensive development agreement that includes the design and construction of a turnpike project, does not include the financing of a turnpike project, and may include the acquisition, maintenance, or operation of a turnpike project. (f) Provides that the department shall issue a request for detailed proposals from all private entities qualified under Subsection (e) *or (e-1)* if the department proceeds with the further evaluation of a proposed project. (i) Provides that The department may enter into		

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negotiations with the private entity whose proposal offers the apparent best value for the purpose of establishing the final terms of a comprehensive development agreement. (j) Replaces references to discussions with references to negotiations.		
SECTION 33. Amends Section 361.305(a), Transportation Code, relating to the list terms of private participation in a turnpike project to be negotiated by the department, to specify, *subject to Section 227.023(d)*, reasonable methods to determine and classify toll rates.	SECTION 2.71. Section 361.305 is repealed.	Senate
SECTION 34. Transfers, amends, and designates Section 362.0041, Transportation Code, as Subchapter K, Conversion of Nontolled Highway, as follows:	SECTION 2.36. (part) Adds Subchapter E, Limitation on Toll Facility Determination; Conversion of Nontolled State Highway, to Chapter 228, Transportation Code.	SECTION 2.45
No equivalent provision. *(But see Sec. 361.401 below.)*	SECTION 2.37. (part) Transfers, amends, and redesignates Section 362.0041, Transportation Code, as Sections 228.202-228.208, as follows:	SECTION 2.46
Sec. 361.401. Commission Determination. The commission may by order convert a nontolled state highway or a segment of a nontolled state highway to a *turnpike* project if the commission: (1) determines that the conversion will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to that segment of the state highway system; and (2) obtains county and voter approval as required by Section 361.406.	Sec. 228.202. Commission Determination. The commission may by order convert a nontolled state highway or a segment of a nontolled state highway to a *toll* project if it determines that the conversion will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to that segment of the state highway system.	Sec. 228.202. Senate

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Sec. 361.402. Applicability Of Subchapter. The requirements of this subchapter do not apply to a highway or segment:	SECTION 2.36. (part) Sec. 228.201. Limitation On Toll Facility Designation. Except as provided by Section 228.2015, the department may not operate a nontolled state highway or a segment of a nontolled state highway as a toll project, and may not transfer a highway or segment to another entity for operation as a toll project, unless:	SECTION 2.45 House-Senate compromise, as follows:
(1) that the commission by order designated as a toll project before the contract to construct the highway or segment was awarded, *regardless of whether the highway or segment is operated without tolls for a period before toll collection operations begin*;	(1) the commission by order designated the highway or segment as a toll project before the contract to construct the highway or segment was awarded;	(1) Senate
No equivalent provision.	(2) the highway or segment was open to traffic as a turnpike project on or before September 1, 2005;	(2) Senate
(2) that was designated as a toll project in a plan or program of a metropolitan planning organization on or before May 1, 2005;	(3) the project was designated as a toll project in a plan or program of a metropolitan planning organization on or before September 1, 2005;	(3) Senate
(3) that is reconstructed so that the number of nontolled lanes on the highway or segment is greater than or equal to the number in existence before the reconstruction;	(4) the highway or segment is reconstructed so that the number of nontolled lanes on the highway or segment is greater than or equal to the number in existence before the reconstruction;	(4) Senate
(4) to which an adjacent facility is constructed with a number of nontolled lanes that, when combined with the number of nontolled lanes on the converted highway or	(5) a facility is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted highway or segment and the adjacent facility	(5) Senate

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segment, is greater than or equal to the number in existence on the converted highway or segment before the conversion; or	together is greater than or equal to the number in existence on the converted highway or segment before the conversion; or	
(5) that was open to traffic as a high-occupancy vehicle lane on May 1, 2005.	No equivalent provision.	Senate
No equivalent provision.	(6) the commission converts the highway or segment to a toll facility by: (A) making the determination required by Section 228.202; (B) conducting the hearing required by Section 228.203; and (C) obtaining county and voter approval as required by Sections 228.207 and 228.208.	(6) House
		(b) Adds House-Senate compromise language regarding (a)(6).
No equivalent provision.	SECTION 2.36. (part) Sec. 228.2015. Limitation Transition. (a) Notwithstanding Section 228.201, the department may operate a nontolled state highway or a segment of a nontolled state highway as a toll project if: (1) a construction contract was awarded for the highway or segment before September 1, 2005; (2) the highway or segment had not at any time before September 1, 2005, been open to traffic; and (3) the commission designated the highway or segment as a toll project before the earlier of: (A) the date the highway or segment is opened to traffic; or (B) September 1, 2005. (b) This section expires September 1, 2006.	SECTION 2.45. Senate

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Sec. 361.403. Public Hearing.	SECTION 2.37. (part) Sec. 228.203. Same as House version.	SECTION 2.46. Sec. 228.203. House
Sec. 361.404. Rules. The commission shall adopt rules implementing this subchapter, including criteria and guidelines for the approval of a conversion of a highway.	Sec. 228.204. Same as House version.	Sec. 228.204. Senate
Sec. 361.405. Queen Isabella Causeway. The commission may not convert the Queen Isabella Causeway in Cameron County to a *turnpike* project.	Sec. 228.205. Same as House version, except prohibits conversion to a *toll* project.	228.205. Senate
No equivalent provision.	Sec. 228.206. Toll Revenue. Makes a conforming change.	228.206. Senate
Sec. 361.406. County and Voter Approval. Refers to the approval of the qualified voters who vote in an election under Section 361.407.	Sec. 228.207. Substantially the same as House version, except cites Section 228.208.	228.207. Senate
Sec. 361.407. Election To Approve Conversion. (a) If notified by the department of the proposed conversion of a highway or segment under this subchapter, the governing body of a county or municipality shall order an election for the approval of the conversion. (b) A governing body that orders an election shall publish notice of the election in a newspaper of general circulation published in the county or municipality at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election. (c) The proposition submitted in the election must distinctly describe the highway or segment proposed to be	Sec. 228.208. Election To Approve Conversion. (a) If notified by the department of the proposed conversion of a highway or segment under this subchapter, and after approval of the conversion by the appropriate commissioners courts as required by Section 228.207(1), the commissioners court of each county described by Section 228.207(2)(A) or the governing body of a municipality described by Section 228.207(2)(B), as applicable, shall call an election for the approval or disapproval of the conversion. (b) If a county or municipality orders an election, the county or municipality shall publish notice of the election	228.208. Senate

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converted and the limits of that highway or segment. (d) At an election ordered under this section, the ballot shall be printed to permit voting for or against the proposition: "The conversion of (highway) from (beginning location) to (ending location) to a toll project." (e) A proposed conversion is approved only if it is approved by a majority of the votes cast. (f) A notice of the election and a certified copy of the order canvassing the election results shall be sent to the commission. (g) The election shall be held on the first uniform election date under Section 41.001, Election Code, on which the county or municipality is holding another election that occurs on or after the 62nd day after the date the election is ordered.	in a newspaper of general circulation published in the county or municipality at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election. (c) An order or resolution ordering an election and the election notice required by Subsection (b) must show, in addition to the requirements of the Election Code, the location of each polling place and the hours that the polls will be open. (d) The proposition submitted in the election must distinctly state the highway or segment proposed to be converted and the limits of that highway or segment. (e) At an election ordered under this section, the ballots shall be printed to permit voting for or against the proposition: "The conversion of (highway) from (beginning location) to (ending location) to a toll project." (f) A proposed conversion is approved only if it is approved by a majority of the votes cast. (g) A notice of the election and a certified copy of the order canvassing the election results shall be sent to the commission.	
SECTION 35. Amends Section 366.035(a) and adds (h) and (i), Transportation Code, as follows: (a) Makes conforming changes. (h) Provides that the commission may transfer a segment of the state highway system to an authority under this section only if the transfer is approved by the commissioners court of each county in which the segment of highway to be transferred is located.	*Section 366.035, Transportation Code, is repealed in SECTION 2.71(16).*	Senate

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(i) Provides that the requirements of this section do not apply to a segment of the state highway system: (1) that the commission by order designated as a toll project before the contract to construct the highway or segment was awarded, regardless of whether the project is operated without tolls for a period before toll collection operations begin; (2) that was designated as a toll project in a plan or program of a metropolitan planning organization on or before May 1, 2005; (3) that is reconstructed so that the number of nontolled lanes on the segment of highway is greater than or equal to the number in existence before the reconstruction; (4) to which an adjacent facility is constructed with a number of nontolled lanes that, when combined with the number of nontolled lanes on the converted segment of highway, is greater than or equal to the number in existence on the converted highway or segment before the conversion; or (5) that was open to traffic as a high-occupancy vehicle lane on May 1, 2005.		
SECTION 36. Amends Section 370.035(a) and adds (i), Transportation Code, to read as follows: (a) The commission by order may transfer a nontolled segment of the state highway system to an authority for the purpose of converting the segment to a turnpike project, or may transfer an existing toll project that is part of the state highway system, whether previously tolled or not, to an authority if: (1) the commission determines that the proposed transfer is an integral part of the region's overall plan to improve mobility in the region; (2) the commission determines that the public has a reasonable alternative route	*Section 370.035, Transportation Code, is repealed in SECTION 2.71(17).*	Senate

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on nontoll roads; (3) the authority agrees to assume all liability and responsibility for the maintenance and operation of the turnpike project on its transfer; (4) the transfer is approved by the governor; and (5) in the case of a nontolled segment of the state highway system, the transfer is approved by the commissioners court of each county in which the segment of highway to be transferred is located. (i) The requirements of this section do not apply to a nontolled segment of the state highway system: (1) that the commission by order designated as a toll project before the contract to construct the segment of highway was awarded, regardless of whether the segment is operated without tolls for a period before toll collection operations begin; (2) that was designated as a toll project in a plan or program of a metropolitan planning organization on or before May 1, 2005; (3) that is reconstructed so that the number of nontolled lanes on the segment of highway is greater than or equal to the number in existence before the reconstruction; (4) to which an adjacent facility is constructed with a number of nontolled lanes that, when combined with the number of nontolled lanes on the converted segment of highway, is greater than or equal to the number in existence on the converted segment of highway before the conversion; or (5) that was open to traffic as a high-occupancy vehicle lane on May 1, 2005.		
No equivalent provision.	SECTION 2.38. Transfers, amends, and designates Sections 362.001, 362.003, 362.006, and 362.007, Transportation Code, as Subchapter F, Joint Toll Projects,	SECTION 2.47.

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	as follows:	
No equivalent provision.	Sec. 228.251. Definitions. Deletes the definitions of "costs" and "turnpike project."	Sec. 228.251. Senate
No equivalent provision.	Sec. 228.252. Applicability of Other Law; Conflicts. Makes conforming changes.	228.252. Senate
No equivalent provision.	Sec. 228.253. Use of Federal Funds. Makes no change to current law.	228.253. Senate
No equivalent provision.	Sec. 228.254. Agreements Between Authority And Local Governmental Entities. Makes conforming changes.	228.254. Senate
No equivalent provision.	SECTION 2.39. Amends Section 284.001(3), Transportation Code, to amend the definition of "project" to specify that it means a project that has been designated as part of the project by order of a county; (B) necessary administration, storage, and other buildings that have been designated as part of the project by order of a county.	SECTION 2.48. Senate
No equivalent provision.	SECTION 2.40. Amends Section 284.008(c) and adds (d), Transportation Code, to provide that before construction on a project under this chapter begins, a county may request that the commission adopt an order stating that the project will not become part of the state highway system under Subsection (c). If the commission adopts the order: (1) Section 362.051 does not apply to the project; (2) the project must be maintained by the county; and (3) the	SECTION 2.49. Senate

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No equivalent provision.	SECTION 2.42. Adds Section 284.012, Transportation Code, to read as follows: Sec. 284.012. Transfer of Assets. (a) A county, acting through the commissioners court of the county, may submit a request to the commission for authorization to create a regional mobility authority under Chapter 370 and to transfer all projects under this chapter to the regional mobility authority if: (1) the creation of the regional mobility authority and transfer of projects is not prohibited under the bond proceedings applicable to the projects; (2) adequate provision has been made for the assumption by the regional mobility authority of all debts, obligations, and liabilities of the county arising out of the transferred projects; and (3) the commissioners courts of any additional counties to be part of the regional mobility authority have approved the request. (b) The county may submit to the commission a proposed structure for the initial board of directors of the regional mobility authority and a method for appointment to the board of directors at the creation of the regional mobility authority. Subsequent appointments to the board of directors are subject to the requirements of Subchapter F, Chapter 370. (c) After commission authorization, the county may transfer each of its projects under this chapter to the regional mobility authority to the extent authorized by the Texas Constitution if property and contract rights in the projects and bonds issued for the projects are not affected unfavorably. (d) The commission shall adopt rules governing the	SECTION 2.51. Senate

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	creation of a regional mobility authority and the transfer of projects under this section.	
No equivalent provision.	SECTION 2.43. Amends Section 284.061(c), Transportation Code, to make a conforming change.	SECTION 2.52. Senate
No equivalent provision.	SECTION 2.44. Adds Section 284.0615, Transportation Code, to read as follows: Sec. 284.0615. Declaration of Taking By Certain Counties. (a) This section applies only to a county with a population of 3.3 million or more. (b) If, in connection with a project under this chapter, the commissioners court of the county authorizes the county to proceed in the manner provided by Section 203.066: (1) the county may file a declaration of taking and proceed in the manner provided by that section on the project; and (2) a reference to the department in that section means the county.	SECTION 2.53. Senate-House compromise
No equivalent provision.	SECTION 2.45. Adds Sections 284.064(d) and (e), Transportation Code, to read as follows: (d) If a county enters into an agreement with a person that includes the collection by the person of tolls for the use of a project, the person shall submit to the county for approval: (1) the methodology for the setting of tolls and increasing the amount of the tolls; (2) a plan outlining methods the person will use to collect the tolls, including any charge to be imposed as a penalty for late payment of a toll and any charge to be imposed to	SENATE 2.54. Senate

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	recover the cost of collecting a delinquent toll; and (3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll. (e) An agreement with a person that includes the collection by the person of tolls for the use of a project may not be for a term longer than 50 years.	
No equivalent provision.	SECTION 2.46. Adds Section 284.0665, Transportation Code, to read as follows: Sec. 284.0665. Compensation of Operating Board Members. (a) In this section, "performing the duties of the operating board" means substantive performance of the management or business of a project: (1) including participation in: (A) board and committee meetings; (B) other activities involving the substantive deliberation of business; and (C) pertinent educational programs related to a project; and (2) not including routine or ministerial activities such as the execution of documents, self-preparation for meetings, or other activities requiring a minimal amount of time. (b) This section applies only to an operating board: (1) appointed by a local government corporation; or (2) that is a local government corporation. (c) A member of an operating board is entitled to receive as compensation not more than $150 a day for each day the member actually spends performing the duties of the operating board. (d) The operating board shall set a limit on the amount of compensation a member of the operating board may receive in a year under this section not to exceed $7,200.	SECTION 2.55 Senate

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	(e) In addition to Subsection (c), a member of the operating board is entitled to reimbursement of actual and necessary expenses incurred in performing duties of the operating board. (f) To receive compensation or reimbursement under this section, a member of the operating board must file a verified statement with the local government corporation: (1) showing the number of days the member actually spent performing duties of the operating board; and (2) including a general description of the duties performed for each day of service.	
No equivalent provision.	SECTION 2.47. Amends Section 284.067(c), Transportation Code, to provide that any county into which the project extends, by condemnation or another method under general law, may acquire the property necessary for the project, except that a county may not condemn property in another county until after the resolution required by Subsection (a) is adopted.	SECTION 2.56. Senate
No equivalent provision.	SECTION __. Amends Section 361.301, Transportation Code, to read as follows: Sec. 361.301. Agreements With Public Entities. (a) The department may enter into an agreement with a public entity to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or operate turnpike projects. (b) An agreement entered into under this section with a regional tollway authority governed by Chapter 366 may	SECTION 2.34. Senate

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	provide that a function described in Subsection (a) that is performed by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function. (FA14)	
No equivalent provision.	SECTION 2.48. Amends Section 366.004(a), Transportation Code, to include the costs of the assumption of debts, obligations, and liabilities of an entity relating to a turnpike project or system transferred to an authority by that entity in the cost of acquisition, construction, improvement, extension, or expansion of a turnpike project or system under this chapter.	SECTION 2.57. Senate
No equivalent provision.	SECTION 2.49. Amends Section 366.033(b) and adds (k), Transportation Code, to read as follows: (b) Rules adopted by the authority must be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority where the text may be read by any person. A rule becomes effective 10 days after the date of the second publication of the notice under this subsection.	SECTION 2.58. Senate

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	(k) If an authority enters into a contract or agreement to design, finance, construct, operate, maintain, or perform any other function for a turnpike project, system, or improvement authorized by law on behalf of a local governmental entity, the commission, the department, a regional mobility authority, or any other entity, the contract or agreement may provide that the authority, in performing the function, is governed by the applicable provisions of this chapter and the rules and procedures adopted by the authority under this chapter, in lieu of the laws, rules, or procedures applicable to the other party for the performance of the same function. (FA14)	
No equivalent provision.	SECTION 2.50. Adds Section 366.036, Transportation Code, to read as follows: Sec. 366.036. Transfer of Turnpike Project Or System. (a) An authority may transfer any of its turnpike projects or systems to one or more local governmental entities if: (1) the authority has commitments from the governing bodies of the local governmental entities to assume jurisdiction over the transferred projects or systems; (2) property and contract rights in the transferred projects or systems and bonds issued for the projects or systems are not affected unfavorably; (3) the transfer is not prohibited under the bond proceedings applicable to the transferred projects or systems; (4) adequate provision has been made for the assumption of all debts, obligations, and liabilities of the authority relating to the transferred projects or systems by the local governmental entities assuming jurisdiction over the transferred projects or systems; (5) the local	SECTION 2.59. Senate

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	governmental entities are authorized to assume jurisdiction over the transferred projects or systems and to assume the debts, obligations, and liabilities of the authority relating to the transferred projects or systems; and (6) the transfer has been approved by the commissioners court of each county that is part of the authority. (b) An authority may transfer to one or more local governmental entities any traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed by the authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project or system, and the authority's rights and obligations under any related agreements, if the requirements of Subsections (a)(1) and (6) are met. (c) A local governmental entity shall, using any lawfully available funds, reimburse any expenditures made by an authority from its feasibility study fund or otherwise to pay the costs of work product transferred to the local governmental entity under Subsection (b) and any other amounts expended under related agreements transferred to the local governmental entity. The reimbursement may be made over time, as determined by the local governmental entity and the authority.	
No equivalent provision.	SECTION 2.51. Amends Section 366.169(c), Transportation Code, to make a conforming change.	SECTION 2.60. Senate
No equivalent provision.	SECTION __. Adds Section 366.179(d),Transportation	SECTION 2.61. Senate

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	Code, to read as follows: (d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code. (FA20)	
No equivalent provision.	SECTION 2.52. Amends Section 370.003(14), Transportation Code, and adds (16)-(19. (14) In the definition of "transportation project," specifies an airport, *other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate air transportation, as those terms were defined by 14 C.F.R., Section 1.1 on that date*; (FA20) and adds *a transit system.* (16) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by any means of surface, overhead, or underground transportation, other than an aircraft or taxicab. (17) "Service area" means the county or counties in which an authority or transit provider has established a transit system. (18) "Transit provider" means an entity that provides mass transit for the public and that was created under Chapter 451, 452, 453, 454, 457, 458, or 460. (19) "Transit system" means: (A) property owned or held by an authority for mass transit purposes; and (B) facilities necessary, convenient, or useful for: (i) the use of or access to mass transit by persons or vehicles; or (ii) the protection or environmental enhancement of mass transit.	SECTION 2.62. House-Senate compromise

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No equivalent provision.	SECTION 2.53. Amends Section 370.004(a), Transportation Code, to add the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity in the cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter.	SECTION 2.63. Senate
No equivalent provision.	SECTION 2.54. Adds Section 370.031(c), Transportation Code, to read as follows: (c) A municipality that borders the United Mexican States and has a population of 105,000 or more has the same authority as a county within its municipal boundaries to create and participate in an authority. A municipality creating or participating in an authority has the same powers and duties as a county participating in an authority, the governing body of the municipality has the same powers and duties as the commissioners court of a county participating in an authority, and an elected member of the municipality's governing body has the same powers and duties as a commissioner of a county that is participating in an authority. (FA21)	SECTION 2.64. Senate
No equivalent provision.	SECTION 2.55. Amends Section 370.033(m), Transportation Code, and adds (o), (p), and (q), to read as follows: (m) If an authority receives money from the general revenue fund, the Texas Mobility Fund, or the state highway fund it may use the money only to acquire, design,	SECTION 2.65. Senate

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	finance, construct, operate, or maintain a turnpike project under Section 370.003(14)(A) or (D) or a transit system under Section 370.351. (o) Except as provided in Subchapter J, an authority may not provide mass transit services in the service area of another transit provider that has taxing authority and has implemented it anywhere in the service area unless the service is provided under a written agreement with the transit provider or under Section 370.186. (p) Prior to providing public transportation or mass transit services in the service area of any other existing transit provider, including a transit provider operating under Chapter 458, an authority must first consult with that transit provider. An authority shall ensure there is coordination of services provided by the authority and an existing transit provider, including a transit provider operating under Chapter 458. An authority is ineligible to participate in the formula or discretionary program provided by Chapter 456 unless there is no other transit provider, including a transit provider operating under Chapter 458, providing public transportation or mass transit services in the service area of the authority. (FA22) (q) An authority, acting through its board, may agree with another entity to acquire a transportation project or system from that entity and to assume any debts, obligations, and liabilities of the entity relating to a transportation project or system transferred to the authority. (FA22)	
No equivalent provision.	SECTION 2.56. Adds Section 370.039, Transportation Code, to read as follows:	SECTION 2.66. Senate

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	Sec. 370.039. Transfer of Transportation Project Or System. (a) An authority may transfer any of its transportation projects or systems to one or more governmental entities if: (1) the authority has commitments from the governing bodies of the governmental entities to assume jurisdiction over the transferred projects or systems; (2) property and contract rights in the transferred projects or systems and bonds issued for the projects or systems are not affected unfavorably; (3) the transfer is not prohibited under the bond proceedings applicable to the transferred projects or systems; (4) adequate provision has been made for the assumption of all debts, obligations, and liabilities of the authority relating to the transferred projects or systems by the governmental entities assuming jurisdiction over the transferred projects or systems; (5) the governmental entities are authorized to assume jurisdiction over the transferred projects or systems and to assume the debts, obligations, and liabilities of the authority relating to the transferred projects or systems; and (6) the transfer has been approved by the commissioners court of each county that is part of the authority. (b) An authority may transfer to one or more governmental entities any traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed by the authority in determining the feasibility of the construction, improvement, extension, or expansion of a transportation project or system, and the authority's rights and obligations under any related agreements, if the requirements of Subsections (a)(1) and (6) are met.	

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	(c) A governmental entity shall, using any lawfully available funds, reimburse any expenditures made by an authority from its feasibility study fund or otherwise to pay the costs of work product transferred to the governmental entity under Subsection (b) and any other amounts expended under related agreements transferred to the governmental entity. The reimbursement may be made over time, as determined by the governmental entity and the authority.	
No equivalent provision.	SECTION 2.57. Adds Sections 366.302(f) and (g), Transportation Code, to read as follows: (f) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system, the private entity shall submit to the authority for approval: (1) the methodology for: (A) the setting of tolls; and (B) increasing the amount of the tolls; (2) a plan outlining methods the entity will use to collect the tolls, including: (A) any charge to be imposed as a penalty for late payment of a toll; and (B) any charge to be imposed to recover the cost of collecting a delinquent toll; and (3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll. (g) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system may not be for a term longer than 50 years.	SECTION 2.67. House-Senate

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No equivalent provision.	SECTION 2.58. Amends Section 370.163(a), Transportation Code, to make conforming changes and remove a provision that concurrence of the commission is not a prerequisite to the exercise of the power of condemnation by the governing body of the authority.	SECTION 2.68. Senate
No equivalent provision.	SECTION 2.59. Amends Section 370.168(c), Transportation Code, to make a conforming change.	SECTION 2.69. Senate
No equivalent provision.	SECTION __. Amends Section 370.177(i), Transportation Code, to include in the proof that may establish nonpayment of a toll evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b). (FA7)	SECTION 2.70. Senate
No equivalent provision.	SECTION __. Adds Section 370.178(d), Transportation Code, to read as follows: (d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code. (FA7)	SECTION 2.71. Senate
No equivalent provision.	SECTION 2.60. Amends Section 370.186(a), Transportation Code, and adds (c) and (d) to read as follows: (a) *Except as provided by Subsection (c),* an authority may not construct, maintain, or operate a turnpike or toll project in an area having a governmental entity established under Chapter 284 or 366 unless the governmental entity and the	SECTION 2.72. Senate

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	authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken. An authority may not construct, maintain, or operate a transportation project that another governmental entity has determined to be a project under Chapter 451, 452, or 460 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken. (c) Subsection (a) does not apply to a turnpike or toll project located in a county in which a regional tollway authority has transferred under Section 366.036 or 366.172: (1) all turnpike projects of the regional tollway authority that are located in the county; and (2) all work product developed by the regional tollway authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project to be located in the county. (d) An authority may not construct, maintain, or operate a passenger rail facility within the boundaries of an intermunicipal commuter rail district created under Article 6550c-1, Vernon's Texas Civil Statutes, as those boundaries existed on September 1, 2005, unless the district and the authority enter into a written agreement specifying the terms and conditions under which the project will be undertaken.	
No equivalent provision.	SECTION __. Amends Sections 370.251(c) and (d), Transportation Code, to read as follows: (c) If permitted under the constitution of this state,	SECTION 2.73. Senate

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	directors serve staggered six-year terms, with the terms of no more than one-third of the directors expiring on February 1 of each odd-numbered year. If six-year terms are not permitted under the constitution, directors serve two-year terms, with the terms of not more than one-half of the directors expiring on February 1 of each year. (d) If six-year terms are permitted under the constitution of this state, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of two years and one director designated to serve a term of four years. If six-year terms are not permitted under the constitution, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of one year and one director designated to serve a term of two years. If one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (c). (FA7)	
No equivalent provision.	SECTION __. Adds Section 370.252(f), Transportation Code, to read as follows: (f) In addition to the prohibitions and restrictions of this section, directors are subject to Chapter 171, Local Government Code. (FA7)	SECTION 2.74. Senate
No equivalent provision.	SECTION __. Amends Section 370.262(a), Transportation Code, to provide that the board may hold an	SECTION 2.75. Senate

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	open or closed meeting by telephone conference call subject to the requirements of Sections 551.125(c)-(f), Government Code, but is not subject to the requirements of Subsection (b) of that section. (FA7)	
No equivalent provision.	SECTION 2.61. Adds Subchapters I and J, Chapter 370, Transportation Code, to read as follows:	SECTION 2.76. Senate
No equivalent provision.	Subchapter I. Transit Systems	Senate
No equivalent provision.	Sec. 370.351. Transit Systems. (a) An authority may construct, own, operate, and maintain a transit system. (b) An authority shall determine each transit route, including transit route changes. (c) This chapter does not prohibit an authority, municipality, or transit provider from providing any service that complements a transit system, including providing parking garages, special transportation for persons who are disabled or elderly, or medical transportation services.	Senate
No equivalent provision.	Sec. 370.352. Public Hearing On Fare And Service Changes. (a) In this section: (1) "Service change" means any addition or deletion resulting in the physical realignment of a transit route or a change in the type or frequency of service provided in a specific, regularly scheduled transit route. (2) "Transit revenue vehicle mile" means one mile traveled by a transit vehicle while the vehicle is available to public passengers. (3) "Transit route" means a route over which a transit vehicle travels that is	Senate

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	specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops and intervals. (4) "Transit route mile" means one mile along a transit route regularly traveled by transit vehicles while available to public passengers. (b) Except as provided by Section 370.353, an authority shall hold a public hearing on: (1) a fare change; (2) a service change involving: (A) 25 percent or more of the number of transit route miles of a transit route; or (B) 25 percent or more of the number of transit revenue vehicle miles of a transit route, computed daily, for the day of the week for which the change is made; or (3) the establishment of a new transit route. (c) An authority shall hold the public hearing required by Subsection (b) before the cumulative amount of service changes in a fiscal year equals a percentage amount described in Subsection (b)(2)(A) or (B).	
No equivalent provision.	Sec. 370.353. Public Hearing On Fare And Service Changes: Exceptions. (a) In this section, "experimental service change" means an addition of service to an existing transit route or the establishment of a new transit route. (b) A public hearing under Section 370.352 is not required for: (1) a reduced or free promotional fare that is instituted daily or periodically over a period of not more than 180 days; (2) a headway adjustment of not more than five minutes during peak-hour service and not more than 15 minutes during nonpeak-hour service; (3) a standard seasonal variation unless the number, timing, or type of the standard seasonal variation changes; or (4) an emergency or	Senate

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	experimental service change in effect for 180 days or less. (c) A hearing on an experimental service change in effect for more than 180 days may be held before or while the experimental service change is in effect and satisfies the requirement for a public hearing if the hearing notice required by Section 370.354 states that the change may become permanent at the end of the effective period. If a hearing is not held before or while the experimental service change is in effect, the service that existed before the change must be reinstituted at the end of the 180th day after the change became effective and a public hearing must be held in accordance with Section 370.352 before the experimental service change may be continued.	
No equivalent provision.	Sec. 370.354. Notice Of Hearing On Fare Or Service Change. (a) After calling a public hearing required by Section 370.352, the authority shall: (1) at least 30 days before the date of the hearing, publish notice of the hearing at least once in a newspaper of general circulation in the territory of the authority; and (2) post notice in each transit vehicle in service on any transit route affected by the proposed change for at least two weeks within 30 days before the date of the hearing. (b) The notice must contain: (1) a description of each proposed fare or service change, as appropriate; (2) the time and place of the hearing; and (3) if the hearing is required under Section 370.352(c), a description of the latest proposed change and the previous changes. (c) The requirement for a public hearing under Section 370.352 is satisfied at a public hearing required by federal	Senate

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	law if: (1) the notice requirements of this section are met; and (2) the proposed fare or service change is addressed at the meeting.	
No equivalent provision.	Sec. 370.355. Criminal Penalties. (a) An authority by resolution may prohibit the use of the transit system by a person who fails to possess evidence showing that the appropriate fare for the use of the system has been paid and may establish reasonable and appropriate methods, including using peace officers under Section 370.181(c), to ensure that persons using the transit system pay the appropriate fare for that use. (b) An authority by resolution may provide that a fare for or charge for the use of the transit system that is not paid incurs a penalty, not to exceed $100. (c) The authority shall post signs designating each area in which a person is prohibited from using the transit system without possession of evidence showing that the appropriate fare has been paid. (d) A person commits an offense if: (1) the person or another for whom the person is criminally responsible under Section 7.02, Penal Code, uses the transit system and does not possess evidence showing that the appropriate fare has been paid; and (2) the person fails to pay the appropriate fare or other charge for the use of the transit system and any penalty on the fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty. (e) The notice required by Subsection (d)(2) may be	Senate

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	included in a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the transit system. (f) An offense under Subsection (d) is a Class C misdemeanor. (g) An offense under Subsection (d) is not a crime of moral turpitude.	
No equivalent provision.	Subchapter J. Acquiring Transit Systems	Senate
No equivalent provision.	Sec. 370.361. Transfer Of Transit Systems. (a) In this section, "unit of election" means a political subdivision that previously voted to join the service area of a transit provider. (b) An authority may request in writing a transit provider to transfer the provider's transit system and taxing authority to the authority if the board determines that the traffic needs of the counties in which the authority operates could be most efficiently and economically met by the transfer. (c) On receipt of a written request under Subsection (b), the governing body of the transit provider may authorize the authority to solicit public comment and conduct at least one public hearing on the proposed transfer in each unit of election in the transit provider's service area. Notice of a hearing must be published in the Texas Register, one or more newspapers of general circulation in the transit provider's service area, and a newspaper, if any, published	Senate

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	in the counties of the requesting authority. The notice shall also solicit written comments on the proposed transfer. The transit provider may participate fully with the authority in conducting a public hearing. (d) A board may approve the acquisition of the transit provider if the governing body of the transit provider approves transfer of its operations to the authority and dissolution of the transit provider is approved in an election ordered under Subsection (e). Before approving the acquisition, the board shall consider public comments received under Subsection (c). (e) After considering public comments received under Subsection (c), the governing body of the transit provider may order an election to dissolve the transit provider and transfer all services, property, funds, assets, employees, debts, and obligations to the authority. The governing body of the transit provider shall submit to the qualified voters in the units of election in the transit provider's service area a proposition that reads substantially as follows: "Shall (name of transit provider) be dissolved and its services, property, funds, assets, employees, debts, and obligations be transferred to (name of regional mobility authority)?" (f) An election under Subsection (e) shall be conducted so that votes are separately tabulated and canvassed in each participating unit of election in the transit provider's service area. (g) The governing body of the transit provider shall canvass the returns and declare the results of the election separately with respect to each unit of election. If a majority of the votes received in a unit of election are in favor of the	

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	proposition, the proposition is approved in that unit of election. The transit provider is dissolved and its services, property, funds, assets, employees, debts, and obligations are transferred to the authority only if the proposition is approved in every unit of election. If the proposition is not approved in every unit of election, the proposition does not pass and the transit provider is not dissolved. (h) A certified copy of the order or resolution recording the results of the election shall be filed with the department, the comptroller, and the governing body of each unit of election in the transit provider's service area. (i) The authority shall assume all debts or other obligations of the transferred transit provider in connection with the acquisition of property under Subsection (g). The authority may not use revenue from sales and use tax collected under this subchapter or other revenue of the transit system in a manner inconsistent with any pledge of that revenue for the payment of any outstanding bonds, unless provisions have been made for a full discharge of the bonds.	
No equivalent provision.	Sec. 370.362. Sales And Use Tax. (a) If an authority acquires a transit provider with taxing authority, the authority may impose a sales and use tax at a permissible rate that does not exceed the rate approved by the voters who reside in the service area of the transit provider's transit system at an election under this subchapter. (b) The authority by resolution may: (1) decrease the rate of the sales and use tax to a permissible rate; or (2) call an election for the increase or decrease of the sales and use tax to a permissible rate.	Senate

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	(c) If an authority orders an election, the authority shall publish notice of the election in a newspaper of general circulation in the territory of the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election. (d) A resolution ordering an election and the election notice required by Subsection (c) must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts. (e) A copy of the election notice required by Subsection (c) shall be furnished to the commission and the comptroller. (f) The permissible rates for a sales and use tax imposed under this subchapter are: (1) one-quarter of one percent; (2) one-half of one percent; (3) three-quarters of one percent; or (4) one percent. (g) Chapter 322, Tax Code, applies to a sales and use tax imposed under this subchapter.	
No equivalent provision.	Sec. 370.363. Maximum Tax Rate. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by all political subdivisions of this state having territory in the service area of the transferred transit system exceeds two percent in any location in the service area. (b) An election to approve a sales and use tax or increase the rate of an authority's sales and use tax has no effect if: (1) the voters in the service area approve the authority's sales and use tax rate or rate increase at an election held on the same day on which a municipality or county having territory in the jurisdiction of the service area adopts a sales	Senate

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	and use tax or an additional sales and use tax; and (2) the combined rates of all sales and use taxes imposed by the authority and all political subdivisions of this state would exceed two percent in any part of the territory in the service area.	
No equivalent provision.	Sec. 370.364. Election To Change Tax Rate. (a) At an election ordered under Section 370.362(b)(2), the ballots shall be printed to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate for mass transit to (percentage)." (b) The increase or decrease in the tax rate becomes effective only if it is approved by a majority of the votes cast. (c) A notice of the election and a certified copy of the order canvassing the election results shall be: (1) sent to the commission and the comptroller; and (2) filed in the deed records of the county.	Senate
No equivalent provision.	Sec. 370.365. Sales Tax: Effective Dates. (a) A sales and use tax implemented under this subchapter takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 370.364(c). (b) An increase or decrease in the rate of a sales and use tax implemented under this subchapter takes effect on: (1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 370.364(c); or (2) the first day of the second	Senate

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	calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the board that the comptroller requires more time to implement tax collection and reporting procedures.	
No equivalent provision.	SECTION 2.62. Adds Sections 370.302(h) and (i), Transportation Code, to read as follows: (h) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project, the private entity shall submit to the authority for approval: (1) the methodology for: (A) the setting of tolls; and (B) increasing the amount of the tolls; (2) a plan outlining methods the entity will use to collect the tolls, including: (A) any charge to be imposed as a penalty for late payment of a toll; and (B) any charge to be imposed to recover the cost of collecting a delinquent toll; and (3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll. (i) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project may not be for a term longer than 50 years.	SECTION 2.77. Senate
No equivalent provision.	SECTION ___. Amends Section 391.252(a), Transportation Code, which provides that a person may not erect an off-premise sign that is adjacent to and visible from a specified list of highways, to add segments 1	SECTION 2.78. Senate

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	through 4 of State Highway 130. (FA44)	
No equivalent provision.	SECTION 2.63. Amends Section 395.001(a), Transportation Code, to read as follows: (a) This subchapter applies only to: (1) the governing body of a toll road authority: (A) in which a county with a population of 3.3 million or more is located; or (B) that is adjacent to a county with a population of 3.3 million or more and in which a municipality with a population of more than 60,000 is located; and (2) an outdoor sign.	SECTION 2.79. Senate
No equivalent provision.	SECTION 2.64. Amends Section 395.051(a), Transportation Code, to read as follows: (a) This subchapter applies only to a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million in which a municipality with a population of more than 60,000 is located.	SECTION 2.80. Senate
No equivalent provision.	SECTION 2.65. Amends Section 451.554, Transportation Code, Board Approval Of Annexation; Effective Date, to read as follows: (a) The addition of territory annexed under Section 451.551, or approved under Section 451.552 or 451.553, does not take effect if, before the effective date of the addition under Subsection (b), the board of the authority gives written notice to the governing body of the municipality that added new territory to the authority by virtue of annexation, or to the governing body of the municipality or the commissioners court of the county that	SECTION 2.81. Senate

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	held the election, that the addition would create a financial hardship on the authority because: (1) the territory to be added is not contiguous to the territory of the existing authority; or (2) the addition of the territory would impair the imposition of the sales and use tax authorized by this chapter. (b) In the absence of a notice under Subsection (a), the addition of territory takes effect on the 31st day after the date of the: (1) municipal ordinance, if annexed by a municipality under Section 451.551; or (2) election, if approved under Section 451.552 or 451.553.	
No equivalent provision.	SECTION 2.66. Adds Section 472.031(c), Transportation Code, to provide that a legislative member of a policy board may not be counted as absent at a meeting of the policy board during a legislative session.	~~SECTION 2.82. Senate~~ SECTION 2.82 Senate
No equivalent provision.	SECTION ___. Adds Section 472.032, Transportation Code, Safety of Persons and Property in and Adjacent to Transportation Facilities, Thoroughfares, Transit Routes and Transit Facilities, to read as follows: (a) It is the policy of this state to protect the safety of persons and their property in the areas in and adjacent to public thoroughfares and transit systems in this state. (b) This section applies to: (1) the area occupied by a public thoroughfare of any class, including: (A) an interstate highway; (B) a state highway; (C) a toll highway; (D) a connector, service road, access road, ramp, or interchange; (E) a local street or rural road; (F) the Trans	~~SECTION 2.83. Senate~~ Same as House

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Texas Corridor; (G) a non-tolled public road; (H) a tolled public road; (I) a bridge, overpass, underpass, toll entrance plaza, rest stop, public park, ferry, or causeway; (2) passenger or freight rail facilities; (3) transit routes and transit systems; (4) an airport; (5) pedestrian and bicycle facilities; (6) a parking area or structure, rest stop, park, and any other improvement or amenity considered necessary, useful, or beneficial for the operation of a turnpike project; (7) a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, or tunnel; and (8) any area that is adjacent to a thoroughfare, facility or area described by Subsections (b)(1)-(7). (c)(1) A person commits an offense if, without the effective consent of the owner, he breaks into and enters a vehicle or any part of a vehicle with intent to commit any felony or theft if the vehicle is located in an area to which this section applies. (2) For purposes of this Subsection: (A) "enter" means to intrude: (1) any part of the body; or (2) any physical object connected with the body; and (B) "adjacent to" means any property from which a vehicle may lawfully directly or indirectly enter or exit a thoroughfare, facility or area described by Subsections (b)(1)-(7). (d) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if: (1) it is shown on the trial of the offense that the defendant has been previously convicted under this section; or (2) the vehicle or part of the vehicle broken into or entered is a rail car. (FA39)	

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 2.67. Adds Section 451.071(f), Transportation Code, to provide that a referendum on a proposal to expand a system approved under this section may be held on any date specified in Section 41.001, Election Code, or a date chosen by order of the board of the authority, provided that: (1) the referendum is held no earlier than the 62nd day after the date of the order; and (2) the proposed expansion involves the addition of no more than 12 miles of track to the system.	SECTION 2.84. Senate
No equivalent provision.	SECTION __. Amends Sections 455.0015(c) and (d), Transportation Code, as added by Section 2.127, Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, to read as follows: (c) The Health and Human Services Commission shall contract with the department for the department to deliver public transportation services to clients of eligible programs, except that the department shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (d) Each health and human service agency and the Texas Workforce Commission shall maximize the availability of federal funding for transportation. If federal funding or supplemental rebate revenue is received by a health and human service agency or by the Texas Workforce Commission, that agency shall reimburse the department from those federal funds or supplemental rebate revenue in an amount equal to the ratio between total state funding on associated transportation expenditures and total state funding on all functions with which the federal funds or supplemental rebate revenue is associated.	House

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(e) The department may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services. (FA8)	
No equivalent provision.	SECTION ___. Amends Sections 455.004(a) and (b), Transportation Code, to change the number of members on a public transportation advisory committee from nine to 11, adding one member with experience in the administration of health and human services programs and three, rather than two, members who represent the general public. (FA9)	SECTION 4.01. Senate
SECTION 37. Adds Section 502.1515, Transportation Code, Outsourcing Production Of Renewal Notices; Paid Advertising, to provide that the commission may authorize the department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.	No equivalent provision.	SECTION 2.85. House
SECTION 38. Amends the heading to Section 542.203, Transportation Code, to read: On Local Authorities.	No equivalent provision.	Senate
SECTION 39. Adds Sections 542.203(d) and (e), Transportation Code, to read as follows: (d) A local authority may not implement or operate a photographic traffic signal enforcement system with respect to a highway under its jurisdiction. The attorney general shall enforce this subsection.	No equivalent provision.	Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
(e) In this section, "photographic traffic signal enforcement system" means a system that: (1) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal; (2) is capable of producing one or more recorded photographic or digital images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal; and (3)is designed to enforce compliance with the instructions of the traffic-control signal by imposition of a civil or administrative penalty against the owner of the motor vehicle.		
No equivalent provision.	SECTION __. Adds Section 545.0535, Transportation Code, Passing Bicyclist on Highway or Street, to read as follows: (a) An operator of a motor vehicle passing a bicyclist operating on a highway or street shall pass at a safe distance. (d) A violation of Subsection (a) is a Class B misdemeanor if the vehicle being passed is a bicycle. (e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or under both sections. (FA30, FA31, FA43)	House
SECTION 40. Amends Section 551.301, Transportation Code, by amending Subdivision (2) and adding Subdivision (3) to read as follows: (2) "Motor assisted scooter" means a self-propelled device with at least two wheels in contact	No equivalent provision.	SECTION 2.86. House

HOUSE VERSION	SENATE VERSION	CONFERENCE
with the ground during operation; a braking system capable of stopping the device under typical operating conditions; a gas or electric motor not exceeding 40 cubic centimeters; a deck designed to allow a person to stand or sit while operating the device; and the ability to be propelled by human power alone. It does not include a pocket bike or minimotorbike. (3) "Pocket bike or minimotorbike" means a self-propelled vehicle that is equipped with an electric motor or internal combustion engine having a piston displacement of less than 50 cubic centimeters, is designed to propel itself with not more than two wheels in contact with the ground, has a seat or saddle for the use of the operator, is not designed for use on a highway, and is ineligible for a certificate of title under Chapter 501. The term does not include: a moped or motorcycle; an electric bicycle or motor-driven cycle, as defined by Section 541.201; a motorized mobility device, as defined by Section 542.009; an electric personal assistive mobility device, as defined by Section 551.201; or a neighborhood electric vehicle.		
SECTION 41. Adds Section 551.304, Transportation Code, Application of Subchapter to Pocket Bike or Minimotorbike, to provide that this subchapter may not be construed to authorize the operation of a pocket bike or minimotorbike on any highway, road, or street; path set aside for the exclusive operation of bicycles; or sidewalk.	No equivalent provision.	SECTION 2.87. House
No equivalent provision.	SECTION __. Amends Section 643.051, Transportation	SECTION 6.01. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Code, to provide that a motor carrier may not operate a vehicle, regardless of size of the vehicle, to transport household goods for compensation unless the carrier registers with the department under this subchapter. (FA40)	
No equivalent provision.	SECTION __. Amends Section 643.153(b), Transportation Code, relating to the rules that the department may adopt to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. Deletes from the list of requirements for the rules ones that: (5) require motor carriers that must register to file proof of cargo insurance in certain amounts; (6) require motor carriers that must register to conspicuously advise consumers concerning limitation of certain carrier liability; and (7) determine reasonable provisions governing limitation of liability for loss or damage of motor carriers that must, not to exceed certain limits. (FA40)	SECTION 6.02. Senate
No equivalent provision.	SECTION __. Repeals Section 643.153(c), Transportation Code. (FA40)	SECTION 6.06. Senate
No equivalent provision.	SECTION __. Amends Section 643.155(c), Transportation Code, to remove the requirements that the committee (2) conduct a study of the feasibility and necessity of requiring any vehicle liability insurance for household goods carriers that must register; and (3) recommend a maximum level of liability limitation that does not exceed certain limits. (FA40)	SECTION 6.03. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION __. Amends Section 643.252(a), Transportation Code, to remove a reference to Section 643.153(b) relating to a requirement to maintain insurance or evidence of financial responsibility. (FA40)	SECTION 6.04. Senate
No equivalent provision.	SECTION __. Amends Sections 643.253(a), (b), and (e), Transportation Code, to make conforming changes and to provide that it is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation if a person solicits the transportation of household goods for compensation and is not registered as required by Subchapter B. (FA40)	SECTION 6.05. Senate
No equivalent provision.	SECTION 2.68. Amends Section 101.022, Civil Practice and Remedies Code, Duty Owed: Premise And Special Defects, to provide that if a claim arises from a premise defect on a toll highway, road, or street, the governmental unit owes to the claimant only the duty that a private person owes to a licensee on private property.	SECTION 2.88. Senate
No equivalent provision.	SECTION __. (a) Amends Article 45.051(f), Code of Criminal Procedure, to provide that the article does not apply to a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who holds a commercial driver's license. (b) Provides that the change in law made by this section applies only to an offense committed on or after September 1, 2005.	SECTION 3.01. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(c) Provides that an offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2005, if any element of the offense was committed before that date. (FA35)	
No equivalent provision.	SECTION __. Adds Section 791.033, Government Code, Contracts to Construct, Maintain, or Operate Facilities on State Highway System, to read as follows: (a) In this section, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code. (b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government. (c) An agreement under this section must be approved by the Texas Department of Transportation. (d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may: (1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code; (2) pledge, levy, and collect	SECTION 2.89. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	taxes to the extent permitted by law; or (3) provide for a combination of Subdivisions (1) and (2). (e) The term of an agreement under this section may not exceed 40 years. (f) Any election required to permit action under this section must be held in conformance with the Election Code or other law applicable to the local government. (g) In connection with an agreement under this section, a county or municipality may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371. (h) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a local government without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A local government may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section. (FA4)	
No equivalent provision.	SECTION __. Adds Section 1232.111, Government Code, Certain Projects by Texas Department of Transportation, to read as follows: (a) The authority may issue and sell obligations to finance one or more projects described by	SECTION 2.90. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General Appropriations Act or other law. (b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable. (c) The legislature may appropriate money from any available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code. (FA27)	
No equivalent provision.	SECTION __. Adds Chapter 1479, County Bonds for Facilities on State Highway System, to Subtitle I, Title 9, Government Code, to read as follows: Sec. 1479.001. Definition. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code. Sec. 1479.002. Authority to Issue Bonds. (a) A county may issue bonds to provide funds for the design, development, financing, construction, maintenance,	SECTION 2.91. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county. (b) To provide for the payment of bonds issued under this section, a county may: (1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code; (2) pledge, levy, and collect taxes subject to any constitutional limitation; or (3) provide for a combination of Subdivisions (1) and (2). (c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law applicable to the county. (d) A county that issues bonds under this section may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371. (e) A bond issued under this section must mature not later than 40 years after its date of issuance. (f) This section is wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a county without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A county may use any law not in conflict with this section to	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section. (FA4)	
No equivalent provision.	SECTION __. Amends Section 2166.302(a), Government Code, and adds Section 2166.302(c), relating to adoption of uniform general conditions to be incorporated into all building construction contracts made by the state, to provide that the provision does not apply to a project constructed by and for the Texas Department of Transportation. (FA27)	SECTION 2.92. Senate
No equivalent provision.	SECTION __. Amends Section 2262.002(b), Government Code, to add that this chapter does not apply to contracts of the Texas Department of Transportation that are subject to Section 201.112, Transportation Code. (FA15)	SECTION 2.93. Senate
No equivalent provision.	SECTION __. Adds Section 382.133(d), Health and Safety Code, to provide that a mass transit hydrogen-fueled fleet vehicle may be used to satisfy the percentage requirement under this section. (FA26)	SECTION 3.02. Senate
No equivalent provision.	SECTION __. Amends Section 461.012(g), Health and Safety Code, to provide that the commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case	SECTION 4.02. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	management, or coordination or authorization of benefits. (FA8)	
No equivalent provision.	SECTION __. Amends Section 533.012(b), Health and Safety Code, to provide that the department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	SECTION 4.03. Senate
No equivalent provision.	SECTION __. Amends Section 22.001(e), Human Resources Code, as added by Section 2.129, Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, to provide that the department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	SECTION 4.04. Senate
No equivalent provision.	SECTION __. Amends Section 40.002(f), Human Resources Code, to provide that the department may contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs,	SECTION 4.05. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	
No equivalent provision.	SECTION __. Amends Section 91.021(g), Human Resources Code, to provide that the commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	SECTION 4.06. Senate
No equivalent provision.	SECTION __. Amends Section 101.0256(b), Human Resources Code, to provide that the department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	SECTION 4.07. Senate
No equivalent provision.	SECTION __. Amends Section 111.0525(d), Human Resources Code, to provide that the commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public	SECTION 4.08. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	
No equivalent provision.	SECTION __. Amends Section 301.063(f), Labor Code, to provide that the commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. (FA8)	SECTION 4.09. Senate
No equivalent provision.	SECTION __. Amends Sections 2301.002 (2) and (10), Occupations Code, to read as follows: (2) "Board" has the meaning assigned by section 2301.005. (10) "Director means the director of the division. (FA42)	SECTION 7.01. Senate
No equivalent provision.	SECTION __. Amends Section 2301.005(a), Occupations Code, to provide that a reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means the director, except that a reference to the board means the commission if it relates to the promulgation of rules. (FA42)	SECTION 7.02. Senate
No equivalent provision.	SECTION __. Adds Section 2301.005(e), Occupations Code, to provide that a reference in this chapter to a rule or	SECTION 7.02. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	to a board rule means a rule adopted by the commission, except that all board rules that were in effect on the effective date of this legislation shall remain in effect. (FA42)	
No equivalent provision.	SECTION __. Amends Section 2301.101(c), Occupations Code, to provide that the director serves at the will of the executive director. (FA42)	SECTION 7.03. Senate
No equivalent provision.	SECTION __. Section 2301.103, Occupations Code, is amended to read as follows: Sec. 2301.103. Personnel. A division employee is subject to dismissal if the employee has an interest in or is related within the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who has an interest in a business that manufactures, distributes, converts, sells, or leases motor vehicles. (FA42)	SECTION 7.04. Senate
No equivalent provision.	SECTION __. Section 2301.154, Occupations Code, is amended to read as follows: Sec. 2301.154. Delegation of Powers. The director may delegate any of the director's powers to one or more of the division's employees. (FA42)	SECTION 7.05. Senate
No equivalent provision.	SECTION ____. The following provisions are repealed: (1) Subchapter B, Chapter 2301, Occupations Code; (2) Section 2301.102, Occupations Code; (3) Section 2301.104, Occupations Code; (4) Section 2301.158, Occupations Code; and (5) Section 2301.159, Occupations	SECTION 7.06. Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Code. (FA42)	
No equivalent provision.	SECTION __. Section 21.001, Property Code, is amended to read as follows: Sec. 21.001. Concurrent Jurisdiction. District courts and county courts at law have concurrent jurisdiction in eminent domain cases in every county in the state, notwithstanding any other law. A county court has no jurisdiction in eminent domain cases. (FA33)	House
No equivalent provision.	SECTION __. Section 21.013, Property Code, is amended to read as follows: Sec. 21.013. Venue; Fees And Processing For Action Filed In District Court. (a) The venue of a condemnation proceeding is the county in which the owner of the property being condemned resides if the owner resides in a county in which part of the property is located. Otherwise, the venue of a condemnation proceeding is any county in which at least part of the property is located. (b) Except where otherwise provided by law, a party initiating a condemnation proceeding shall file the petition with any clerk authorized to handle such filings for a court that has jurisdiction in eminent domain cases. (c) The filing fee shall be due at the time of filing in accordance with Section 51.317, Government Code. (d) District and county clerks shall assign an equal number of eminent domain cases in rotation to each court with jurisdiction that the clerk serves. (FA33)	House

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 2.69. Adds Section 21.042(g), Property Code, to provide that if a portion of a tract or parcel of real property is condemned for state highway system purposes, the special commissioners shall consider the decreased access to or from the remaining property in determining the damage to the property owner.	SECTION 2.94. Senate
SECTION 42. Adds Section 11.11(j), Tax Code, to provide that, for the purposes of this section, *any portion of a facility* owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under *Chapter 91, 227, or 361*, Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.	SECTION 2.70. Similar to House version. Provides that for the purposes of this section, *a facility* owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under *Chapter 91, 223, or 227*, Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.	SECTION 2.95. House
SECTION 43. Adds Section 25.06(c), Tax Code, to read as follows: (c) This section does not apply to: (1) any portion of a facility owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91, 227, or 361, Transportation Code; or (2) a leasehold or other possessory	No equivalent provision.	SECTION 2.96. House

HOUSE VERSION	SENATE VERSION	CONFERENCE
interest granted by the Texas Department of Transportation in a facility owned by that department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system.		
SECTION 44. Adds Section 25.07(c), Tax Code, to read as follows: (c) Subsection (a) does not apply to: (1) any portion of a facility owned by the Texas Department of Transportation that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91, 227, or 361, Transportation Code; or (2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is part of the Trans-Texas Corridor, is a rail facility or system, or is a highway in the state highway system.	No equivalent provision.	SECTION 2.97. House
SECTION 45. Amends Section 21.021(a), Property Code, and adds (e) as follows: (a) Provides that, after the special commissioners have made an award in a condemnation proceeding, except as provided by Subsection (c), the condemnor may take possession of the condemned property pending the results of further litigation if the condemnor, in addition to other actions: (4) obtains from the court a writ of possession or other order entitling the condemnor to possession of the condemned property. (e) Provides that Subsection (a)(4) does not apply to a condemnation by the Texas Department of Transportation.	No equivalent provision.	Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 46. Repeals provisions of the Transportation Code as follows:	SECTION 2.71. Repeals provisions of the Transportation Code as follows:	SECTION 2.101. Senate
Sec. 91.071(b).	*Sec. 91.071(b) is amended in SECTION 1.03, not repealed.*	Senate
No equivalent provision.	(1) Sec. 201.6061.	Senate
No equivalent provision.	(2) Sec. 222.102 and Sec. 222.103(h).	Senate
No equivalent provision.	(3) Sec. 224.155- Sec. 224.158 and Sec. 224.160.	Senate
Sec. 227.062(c).	*Sec. 227.062(c) is amended in SECTION 2.23, not repealed.*	Senate
Sec. 227.062(d)-(g).	No equivalent provision.	Senate
No equivalent provision.	(4) Sec. 284.009, as added by Chapter 953, Acts of the 78th Legislature, Regular Session, 2003.	Senate
No equivalent provision.	(5) Sec. 284.009, as added by Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003.	Senate
No equivalent provision.	(6) Sec. 361.002.	Senate
No equivalent provision.	(7) Sec. 361.031 and Sec. 361.050.	Senate
No equivalent provision.	(8) Subchapter C, Chapter 361, Sec. 361.101-Sec. 361.104.	Senate
No equivalent provision.	(9) Sec. 361.131-Sec. 361.136, Sec. 361.1375, and Sec.	Senate

HOUSE VERSION	SENATE VERSION	CONFERENCE
	361.140-Sec. 361.142.	
Sec. 361.180.	(10) *Sec. 361.175*, Sec. 361.180, and *Sec. 361.191.*	Senate
No equivalent provision.	(11) Sec. 361.231, Sec. 361.232, and Sec. 361.234-Sec. 361.238.	Senate
No equivalent provision.	(12) Sec. 361.251.	Senate
Sec. 361.302 is amended in SECTION 31, not repealed.	(13) Sec. 361.302-Sec. 361.306.	Senate
No equivalent provision.	(14) Subchapter J, Chapter 361, Sec. 361.331-Sec. 361.335.	Senate
No equivalent provision.	(15) Sec. 362.002 and Sec. 362.008.	Senate
Sec. 366.035 is amended in SECTION 35, not repealed.	(16) Sec. 366.035 and Sec. 366.165(d).	Senate
Sec. 370.035 is amended in SECTION 36, not repealed.	(17) Sec. 370.035.	Senate
Sec. 370.163(b).	(17) Sec. 370.163(b).	Senate
Sec. 542.202(b)(3).	No equivalent provision.	Senate
No equivalent provision.	SECTION 2.72. Section 370.161(b), Transportation Code, is repealed.	SECTION 2.102. Senate
No equivalent provision.	SECTION __. Repeals Section 13.02, Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003; and Chapter	House

HOUSE VERSION	SENATE VERSION	CONFERENCE
	459, Transportation Code. (FA8)	
No equivalent provision.	SECTION __. Amends the heading to Article 4413(37), Revised Statutes, to read: Automobile Burglary and Theft Prevention Authority. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 1, Article 4413(37), Revised Statutes, to provide that: (1) "Authority" means the Automobile Burglary and Theft Prevention Authority; and (2) "Economic automobile theft" means automobile burglary or theft committed for financial gain. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 2, Article 4413(37), Revised Statutes, to make a conforming change. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 6A(d), Article 4413(37), Revised Statutes, to make a conforming change. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 7(b), Article 4413(37), Revised Statutes, to make conforming changes. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 8(a), Article 4413(37), Revised Statutes, to make a conforming change. (FA38)	House
No equivalent provision.	SECTION __. Amends Section 11(a), Article 4413(37), Revised Statutes, to make a conforming change. (FA38)	House
SECTION 47. Regional Transit System Review Committee.	SECTION __. Same as House version. (FA37)	SECTION 5.01. House

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No equivalent provision.	Section __. (a) The Study Commission on Availability of Pre-Owned Heavy Duty Commercial Motor Vehicles is created as provided by this section. (b) The commission is composed of three members as follows: (1) one member appointed by the governor; (2) one member appointed by the lieutenant governor; (3) one member appointed by the speaker of the house of representatives. (c) Each member of the commission serves at the will of the person who appointed the member. (d) The members of the commission shall select the presiding officer. (e) A member of the commission is not entitled to receive compensation for service on the commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act. (f) The commission may accept gifts and grants from any source to be used to carry out a function of the commission. (g) The commission shall conduct public hearings and study public policy implications relating to any act by the Texas Department of Transportation that would close existing businesses in this state because of the ownership structure of businesses that sell pre-owned heavy duty trucks that weigh in excess of 11,000 pounds. The commission shall determine whether such actions by the department could impact the use and operation of rail and highway transportation facilities in this state by heavy duty trucks. (h) The study shall include: (1) a review of the laws of	SECTION 3.04. Senate

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	other states regarding whether there are restrictions on ownership structure of businesses that sell heavy duty commercial trucks; (2) a review of whether safety of pre-owned heavy duty trucks on highways in this state could be compromised if the Texas Department of Transportation closes businesses that currently sell such trucks; (3) a review of whether the Texas Department of Transportation's application of Section 2301.476 of the Occupations Code could negatively impact competition in the pre-owned heavy duty truck market as well as the impact that such a decision could have on small, independent pre-owned truck dealerships, and independent owner/operators of trucking businesses in this state; (4) other issues that the commission considers relevant to protecting the public interest regarding safety and availability of pre-owned heavy duty trucks that operate on the highways of this state. (i) Not later than December 1, 2006, the commission shall issue a report to the governor, lieutenant governor, speaker of the house of representatives, and the chair of the committee in the house and senate with jurisdiction of transportation issues. The report shall summarize the following: (1) any hearings conducted by the commission; (2) any studies conducted by the commission; (3) any legislation proposed by the commission; and, (4) any other findings and recommendations of the commission. (FA34)	
No equivalent provision.	SECTION ___. (a) In order to ensure the safety of persons and transportation in this state, the Texas Department of Transportation shall conduct a study of systems for issuing	SECTION 3.05. Senate

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	temporary tags for use on unregistered motor vehicles. In studying the systems, the department shall: (1) compare the current system to other potential systems, including systems used in other states; (2) seek input from interested parties, including members of the public, dealers, converters, and law enforcement; and (3) consider issues of public and transportation safety, homeland security, costs, efficiency, and reliability. (b) The department shall report its findings and recommendations to the Governor, Lieutenant Governor and Speaker of the House of Representatives not later than November 1, 2006. (FA47)	
No equivalent provision.	SECTION 2.73. The changes in law made by this Act to Chapter 370, Transportation Code, apply to a regional mobility authority created or participated in by a municipality described by Section 370.031(c), Transportation Code, as added by this Act, or Section 370.161(b), Transportation Code, as it existed before the effective date of this Act, in the same manner as they apply to any other entity that creates or participates in a regional mobility authority.	SECTION 2.103. Senate
No equivalent provision.	ARTICLE 3. AVIATION	House
No equivalent provision.	SECTION 3.01. Amends the heading to Subchapter A, Chapter 2205, Government Code, to read as follows: State Aircraft Pooling; General Provisions.	House

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No equivalent provision.	SECTION 3.02. Amends Section 2205.002(1), Government Code, and adds (1-a) to read as follows: (1) "Commission" means the Texas Transportation Commission. (1-a) "Department" means the Texas Department of Transportation.	House
No equivalent provision.	SECTION 3.03. Amends Section 2205.032, Government Code, Custody, Control, Operation, And Maintenance, to read as follows: Sec. 2205.032. (a) The department shall operate a pool for the custody, control, operation, and maintenance of all aircraft owned or leased by the state. (b) The department may purchase aircraft with funds appropriated for that purpose. (c) The department shall develop a long-range plan for its pool of aircraft. The long-range plan must include estimates of future aircraft replacement needs and other fleet management needs, including any projected need to increase or decrease the number of aircraft in the pool. In developing the long-range plan, the department shall consider at a minimum for each aircraft in the pool: (1) how much the aircraft is used and the purposes for which it is used; (2) the cost of operating the aircraft and the revenue generated by the aircraft; and (3) the demand for the aircraft or for that type of aircraft. (d) This section does not apply to aircraft owned or operated by: (1) the Department of Public Safety or the Parks and Wildlife Department that are used for law enforcement purposes; (2) the Texas Department of Criminal Justice that are used for criminal justice purposes; or (3) The University of Texas System. (FA10)	House

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No equivalent provision.	SECTION 3.04. Amends Section 2205.034, Government Code, Facilities, to make conforming changes.	House
No equivalent provision.	SECTION 3.05. Amends Section 2205.035, Government Code, Aircraft Leases, to read as follows: (a) The department may lease state-owned aircraft to a state agency. (b) The lease may provide for operation or maintenance by the department or the state agency. (c) A state agency may not expend appropriated funds for the lease of an aircraft unless the department executes the lease or approves the lease. (d) A state agency may not use money appropriated by the legislature to rent or lease aircraft except from the department or as provided by Subsection (e). For purposes of this subsection and Subsection (e), payments of mileage reimbursements provided for by the General Appropriations Act are not rentals or leases of aircraft. (e) If the department determines that no state-owned aircraft is available to meet a transportation need that has arisen or that a rental or lease of aircraft would reduce the state's transportation costs, the department shall authorize a state agency to expend funds for the rental or lease of aircraft, which may include a helicopter.	House
No equivalent provision.	SECTION 3.06. Amends Section 2205.036, Government Code, Passenger Transportation, to make conforming changes and to provide that the department may monitor and ensure compliance with the requirements of this	House

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	section.	
No equivalent provision.	SECTION 3.07. Amends Section 2205.038, Government Code, Aircraft Operations Manual, to make conforming changes.	House
No equivalent provision.	SECTION 3.08. Amends Section 2205.039, Government Code, Travel Log, to make conforming changes and to provide that the department may monitor and ensure compliance by state agencies with the requirements of this section.	House
No equivalent provision.	SECTION 3.09. Amends Section 2205.040, Government Code, Rates And Billing Procedures, to read as follows: (a) The department shall adopt rates for interagency aircraft services that are sufficient to recover, in the aggregate and to the extent possible, all direct costs for the services provided, including a state agency's pro rata share of major maintenance, overhauls of equipment and facilities, and pilots' salaries. (b) The department shall deposit all revenue received under this chapter to the credit of the state highway fund. Money deposited to the credit of the state highway fund under this chapter is exempt from the application of Section 403.095. (c) The department may spend money from the state highway fund for expenses incurred under this chapter. (d) It is the intent of the legislature that receipts and expenditures that relate to the state highway fund under this chapter be balanced over time so that, to the extent	House

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	practicable, the receipts and expenditures do not result in a net gain or net loss to the fund.	
No equivalent provision.	SECTION 3.10. Amends Section 2205.041(a), Government Code, to make conforming changes.	House
No equivalent provision.	SECTION 3.11. Amends Section 2205.043(b), Government Code, to read as follows: (b) The commission shall adopt rules, consistent with federal regulations and Subtitle A, Title 11, governing the color, size, and location of marks of identification required by this section.	House
No equivalent provision.	SECTION 3.12. Amends Section 2205.044, Government Code, Fuel And Maintenance, to read as follows: The department may provide aircraft fuel or aircraft maintenance services to a state or federal governmental agency or a political subdivision if the agency or political subdivision reimburses the department at the current rates for the fuel or services.	House
No equivalent provision.	SECTION 3.13. Amends Section 2205.045(a), Government Code, to make conforming changes and to provide that the department may, rather than shall, purchase liability insurance to protect the officers and employees of each state agency from loss arising from the operation of state-owned aircraft.	House
No equivalent provision.	SECTION 3.14. Amends, Section 2205.046, Government Code, Aircraft For Flight Training Programs, make	House

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	conforming changes.	
No equivalent provision.	SECTION 3.15. Amends Section 2205.047, Government Code, Information Posted On The Internet, to make conforming changes.	House
No equivalent provision.	SECTION 3.16. Amends Section 2175.134(c), Government Code, to read as follows: (c) Proceeds from the sale of surplus and salvage property formerly belonging to the State Aircraft Pooling Board shall be deposited to the credit of the state highway fund to be used for the purpose of administering Chapter 2205.	House
No equivalent provision.	SECTION 3.17. Amends Section 2175.191(c), Government Code, to read as follows: (c) Proceeds from the sale of surplus and salvage property formerly belonging to the State Aircraft Pooling Board shall be deposited to the credit of the state highway fund to be used for the purpose of administering Chapter 2205.	House
No equivalent provision.	SECTION 3.18. The following laws are repealed: (1) Sec. 2205.003-Sec. 2205.019 and Sec. 2205.042, Government Code; and (2) Sec. 31.01, Chapter 3, Acts of the 78th Legislature, 3rd Called Session, 2003.	House
No equivalent provision.	SECTION __. Amends Sections 21.069(a) and (e), Transportation Code, to read as follows: (a) The department, in consultation with the State Aircraft Pooling Board, shall establish a state airport in Central Texas that is	House

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	open to the general public. (e) The department may utilize only federal matching funds, federal grants, in-kind contributions, private sector funds, nonprofit grants, department funds appropriated for aviation services, and local government funding for the establishment of this facility. (FA36)	
SECTION 48. (a) The Texas Department of Transportation shall conduct a study to determine how to maximize the use of highway rights-of-way by public utilities. The department shall submit a written report of its findings to the appropriate legislative committees not later than December 31, 2006. (b) This section expires January 1, 2007.	No equivalent provision.	Senate
No equivalent provision.	ARTICLE 4. TRANSITION; EFFECTIVE DATE	Article 10.
SECTION 49. Section 21.021(a), Property Code, as amended by this Act, applies only to a condemnation proceeding the petition for which is filed on or after the effective date of this Act. A condemnation proceeding the petition for which is filed before the effective date of this Act is governed by the law in effect at the time the petition was filed, and that law is continued in effect for that purpose.	No equivalent provision.	~~SECTION 2.99. House~~ Senate
No equivalent provision.	SECTION 4.01. Section 101.022, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of	SECTION 8.01. Senate

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	this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect at the time the cause of action accrued, and that law is continued in effect for that purpose.	
No equivalent provision.	SECTION 4.02. On the effective date of this Act: (1) the State Aircraft Pooling Board is abolished, and all powers, duties, obligations, rights, contracts, bonds, appropriations, records, and real or personal property of the State Aircraft Pooling Board are transferred to the Texas Department of Transportation; (2) a rule, policy, procedure, or decision of the State Aircraft Pooling Board continues in effect as a rule, policy, procedure, or decision of the Texas Department of Transportation until superseded by an act of the Texas Department of Transportation; (3) a reference in law to the State Aircraft Pooling Board means the Texas Department of Transportation; (4) all temporary employees of the Texas Department of Transportation who were previously employed by the State Aircraft Pooling Board on August 31, 2003, become regular full-time employees of the Texas Department of Transportation; and (5) notwithstanding Section 31.01, Chapter 3, Acts of the 78th Legislature, 3rd Called Session, 2003, any memorandum of understanding or interagency contract entered into between the Texas Department of Transportation and the State Aircraft Pooling Board for the operation of state aircraft expires.	SECTION 8.02. Senate
SECTION 50. This Act takes effect immediately if it	SECTION 4.03. Same as House version.	SECTION 8.03. House.

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receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.		