

- SUBJECT:** Revising Texas Turnpike Authority duties and abolishing its board
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 6 ayes — Alexander, Hawley, Hamric, Hill, Noriega, Pickett
0 nays
3 absent — Y. Davis, Edwards, Swinford
- SENATE VOTE:** On final passage, March 1 — 30-0, on Local and Uncontested Calendar
- WITNESSES:** For — Pete Winstead, Texas Turnpike Authority; *Registered but did not testify:* Sandy Hentges, Greater Austin Chamber of Commerce
Against — None
On — David F. Brown, Southwestern Bell Telephone Co.; Phil Russell, Texas Department of Transportation
- BACKGROUND:** Three entities are authorized to operate toll roads in Texas: the Texas Turnpike Authority (TTA), a division of the Texas Department of Transportation (TxDOT) with its own governing board; the North Texas Tollway Authority, a multicounty regional entity; and the Harris County Toll Road Authority. Different statutes govern each authority.

TTA merged with TxDOT in 1997 as required by TxDOT's sunset legislation. Consequently, all TTA actions and decisions must be ratified by TxDOT's governing body, the Texas Transportation Commission (TTC). TTA currently operates no turnpikes but is working on four Central Texas projects, all or some of which may be operated as toll roads.
- DIGEST:** CSSB 409 would revise powers and duties of the TTA, abolish its board of directors, and transfer the board's powers and duties to the TTC.

TTA could build service roads, ramps, parking areas and structures, rest stops, parks, and other amenities. The bill would expand authorized project

costs to include acquisition, appraisals, legal expenses, and initial operating expenses of turnpikes. Costs incurred before issuance of bonds, such as for environmental review, design, property acquisition, relocation assistance, construction and operation, would be reimbursable from bond proceeds.

TTA would have to undergo an independent audit annually. This requirement would not affect the ability of a state agency to audit TTA's accounts.

TTA's rules governing negotiations with private participants in projects could include a fee for reviewing proposals for private involvement.

TTA's condemnation authority would include property necessary or convenient to mitigate environmental effects caused directly by projects. The bill would specify that condemnation cases would proceed like any other eminent domain case under Property Code, chapter 21, once a declaration of taking had been filed. Taking of public streets, highways, and alleys would not be compensated.

If a county or public road were taken for a project, TTA would have to provide access to owners of property that previously abutted the roads, if feasible, rather than moving and replacing them with equal or better roads. TTA would have to pay property owners expenses or any damages for access denial.

TxDOT would have to pay for any project feasibility studies TTC requested. If projects were built, TTA would have to reimburse TxDOT from project bond proceeds or from other proceeds.

TTA and public utilities would have 90 days from the date TTA issued a relocation notice to agree on a relocation completion period. The period could be extended by mutual written agreement. TTA could specify a reasonable period if the parties could not agree. For each complete or partial 30-day period by which a relocation exceeded the agreed-upon or specified period, TTA could reduce its total costs by 10 percent. The deduction would not be permitted if TTA contributed to causing the delay or if the delay was beyond the utility's control. The bill would add telecommunications facilities and equipment to the purposes for which TTA could contract for use of its right-of-way.

If TTA relocated a utility facility because the owner did not do so in a timely manner, it would have to do so safely and in compliance with applicable law and industry standards with minimal service disruption. TTA would have to notify the utility and appropriate regulatory agencies of the relocation. Utilities would have to reimburse TTA for reasonable relocation costs unless the utilities' failure to relocate was beyond their control. The provisions of Utilities Code, chapter 181 would apply to gas-conducting facilities located in turnpike projects.

TTA could adopt rules setting speed limits and maximum allowable vehicle and load weight limits on turnpikes, including maximum gross weights of combinations of vehicles and maximum axle and wheel loads. The bill would repeal Transportation Code, sec. 545.354(e), which exempts turnpikes from speed limits set by TTC, cities, counties, or military reservations unless the turnpikes became part of the state highway system.

CSSB 409 would abolish TTA's board of directors and would transfer all of the board's powers and duties to TTC, along with all contracts, leases, records, employees, property, and unspent and unobligated appropriations. The transfer would not affect existing TTA obligations, rules, decisions or other actions.

If the Legislature enacts SB 4 by Shapiro, all unspent and unobligated appropriations and other funds transferred to TTC by CSSB 409 would be transferred to the Texas Mobility Fund once SB 4 took effect. (SB 4 is contingent on enactment of SJR 16 and subsequent voter approval of the constitutional amendment it proposes.)

CSSB 409 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

Many of the statutes governing TTA are outmoded and should have been changed when TxDOT underwent sunset review in 1997. Many provisions also are inconsistent with those governing the North Texas Tollway Authority (NTTA), a comparable regional authority created after TTA. CSSB 409 would align TTA's statutes more closely with NTTA's statutes, which have proven effective in the Dallas-Fort Worth area.

TTA, an outgrowth of what originally was the governing body of the Dallas-Fort Worth Turnpike, needs broader authority and better administrative and operational practices to manage new projects effectively. This will be especially important if SB 342 by Shapiro, the “toll equity” bill, becomes law.

Abolishing the TTA board was proposed in 1997 in TxDOT’s sunset legislation, when TTA became a TxDOT division. Since then, all TTA actions and decisions have required TTC approval. This redundancy and duplication of authority create an unnecessary level of bureaucracy that should be removed. TTA itself would not be abolished but would remain a TxDOT division, reporting directly to TTC.

Transferring money from TTA into the proposed Texas Mobility Fund (SB 4 by Shapiro) would provide seed money to get the fund up and running — about \$2.3 million at the end of the current biennium, according to the Legislative Budget Board.

The utility relocation provisions would not apply to existing relocations or to the four proposed Central Texas projects, according to TxDOT.

OPPONENTS
SAY:

Even if Texas’ toll roads increase in number, they never will provide enough revenue to reduce significantly the huge number of other projects Texas needs to build. By requiring toll money to be transferred to what is essentially a highway bond fund if SB 4 is enacted, CSSB 409 would require toll roads to subsidize the state highway program. In fairness, toll revenue should be dedicated to toll road expansion. Toll roads already are at a financial disadvantage; CSSB 409 only would make the situation worse.

The bill would not provide clear guidance to the TTC on how to proceed with toll road policy. The Legislature should provide more specific direction for the TTC to use the proposed additional authority, such as by requiring the commission to integrate other modes of transportation.

OTHER
OPPONENTS
SAY:

TTA needs to be able to market and promote toll roads if they are going to compete effectively with non-toll projects. The bill should reinstate the advertising and development corporation provisions that would be removed by the House committee amendment.

NOTES:

The Senate engrossed version of SB 409 would allow TTA to market, advertise, and promote turnpike project development, contract for services for this purpose, and form a corporation to promote and develop turnpike projects with TTC concurrence. The House committee amendment would add the 90-day requirement and extension provisions for negotiating utility relocation; would abolish the TTA board and transfer its duties, funds, and assets to TTC; and would transfer unspent appropriations to the Texas Mobility Fund, contingent on enactment of SB 4.

A related bill, SB 342 by Shapiro, would allow TxDOT to spend money on toll roads without repayment and would abolish the TTA board of directors and place all its powers, duties, assets, and employees under TTC authority. The House passed SB 342 as amended on May 18. The Senate has requested a conference committee.

A similar bill in the 76th Legislature, SB 1647 by Cain, died in the House Calendars Committee.