

- SUBJECT:** Restricting promotion of toll projects by TxDOT
- COMMITTEE:** Transportation — favorable, without amendment
- VOTE:** 11 ayes — Phillips, Darby, Bonnen, Y. Davis, Fletcher, Harper-Brown, Lavender, Martinez, McClendon, Pickett, Rodriguez
- 0 nays
- WITNESSES:** For — Terri Hall, Texas TURF, Texans for Accountable Government; (*Registered, but did not testify:* Melissa Cubria, Texas Public Interest Research Group (TexPIRG); John McBeth, Texas Transit Association)
- Against — None
- On — (*Registered, but did not testify:* John Barton, Texas Department of Transportation)
- BACKGROUND:** Transportation Code, sec. 228.004 allows the Texas Department of Transportation (TxDOT) to engage in marketing, advertising, and other activities to promote the development and use of toll projects. TxDOT may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers.
- DIGEST:** HB 634 would prohibit TxDOT from promoting the development and use of toll projects. TxDOT would not be allowed to engage in marketing, advertising, or other activities to influence public opinion about toll roads or the use of tolls as a financial mechanism or to promote or advocate for the benefits of toll roads.
- HB 634 would allow TxDOT to engage in marketing, advertising, and other activities to provide information relating to the status of pending or ongoing toll projects or the use and availability of toll tags or other toll-related resources available to the public. TxDOT also would be able to enter into contracts or agreements necessary to procure marketing, advertising, or informational services from outside service providers to provide information to the public.

HB 634 would take effect on September 1, 2011, and would apply only to a contract or agreement entered into or renewed on or after the effective date.

**SUPPORTERS
SAY:**

State funding should not be used to influence public opinion on toll roads. These types of activities distort the democratic process. In Issue 4 of the current TxDOT review, the Sunset Advisory Commission recommended that TxDOT be prohibited from using money or engaging in activities to influence the passage or defeat of a legislative measure. This bill would prohibit TxDOT from engaging in activities designed to influence public opinion.

TxDOT would continue to have the authority to conduct marketing and advertising activities to inform the public on the status of pending and ongoing toll projects and on the use and availability of toll tags.

**OPPONENTS
SAY:**

Marketing toll roads as an alternative to congested highways is important to relieving traffic on other state roads. It is unclear whether TxDOT would be allowed to spend money on advertising for existing toll roads because the ability to provide “information” could be narrowly interpreted.

The bill also could provide an advantage to private toll roads, which are under no similar marketing restrictions. Creating a disadvantage for public toll roads could impact future revenue, since money from public toll roads is deposited to the state highway fund.

NOTES:

During the 2009 regular session, a similar bill, HB 2142 by McClendon, passed the House by 132-1 and the Senate by 31-0, but was vetoed by the governor on June 19, 2009. Unlike HB 634, HB 2142 would not have allowed TxDOT to provide information on toll tags.