

## **BILL ANALYSIS**

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S.B. 409  
By: Cain  
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### **DIGEST AND PURPOSE**

Currently, the Texas Turnpike Authority (TTA) division of the Texas Department of Transportation (TxDOT) has its own enabling statute, Chapter 361 (Texas Turnpike Authority), Transportation Code, while the North Texas Tollway Authority (NTTA), a regional toll authority which is a political subdivision of the state, is governed by Chapter 366 (Regional Tollway Authorities), Transportation Code. While Chapter 366 generally mirrors Chapter 361, there are unintended inconsistencies. As proposed, S.B. 409 eliminates inconsistencies between the two chapters and clarifies the rights and obligations of both the TTA and the NTTA in several other areas.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Turnpike Authority division of the Texas Department of Transportation in SECTION 4 (Section 361.042, Transportation Code) and SECTION 17 (Section 361.306, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subdivision (4), Section 361.001, Transportation Code, to redefine “turnpike project.”

SECTION 2. Amends Section 361.004, Transportation Code, to set forth guidelines concerning the scope of the cost of acquisition, construction, improvement, extension, or expansion of a turnpike project under this chapter. Authorizes the costs attributable to a turnpike project for which bonds are issued that are incurred before the issuance of the bonds to be reimbursed from the proceeds of the sale of the bonds.

SECTION 3. Amends Section 361.031 (b)-(g), Transportation Code, to authorize the Texas Turnpike Authority (authority) to perform, procure from other divisions of the Texas Department of Transportation (department), or procure from outside service providers any portion of the services the authority requires for roadway maintenance, toll revenue collection, or traffic operations. Deletes language requiring the authority to secure the approval of the Texas Transportation Commission (commission) beforehand.

SECTION 4. Amends Section 361.042(b), Transportation Code, to set forth guidelines concerning the specific powers granted to the authority, including the adoption of rules regarding speed and weight limits. Makes a conforming change.

SECTION 5. Amends 361.054, Transportation Code, to require the authority, notwithstanding any other law to the contrary, to have an independent certified public accountant audit the authority’s books and accounts at least annually. Provides that this section does not affect the ability of a state agency to audit the authority’s books and accounts.

SECTION 6. Amends Section 361.131, Transportation Code, by providing, except as otherwise provided by this chapter, that the authority, acting by and through the board of directors of the authority

(board), has the same powers and is authorized to use the same procedures as the commission or the department in acquiring property.

SECTION 7. Amends Section 361.132(a)-(c), Transportation Code, to authorize the authority, rather than the board, to acquire, in the name of the state, public or private real property it determines necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a turnpike project for or otherwise carrying out this chapter. Makes conforming changes.

SECTION 8. Amends Section 361.135(b), Transportation Code, to authorize the board, with the concurrence of the commission, to condemn real property under certain stated conditions. Makes a conforming change.

SECTION 9. Amends Section 361.137, Transportation Code, by adding Subsection (f) to require the case, after a declaration of taking is filed, to proceed as any other case in eminent domain under Chapter 21 (Eminent Domain), Property Code.

SECTION 10. Amends Section 361.141(a), Transportation Code, to prohibit an authority from paying compensation for public real property, parkways, streets, highways, or alleys, or reservations it takes, except for certain types of property.

SECTION 11. Amends Section 361.171, Transportation Code, by adding Subsection (g) to authorize the proceeds of a bond issue, in addition to other permitted uses, to be used to pay costs incurred before the issuance of the bonds, including costs of environmental review, design, planning, acquisition of property, relocation assistance, construction, and operation.

SECTION 12. Amends Section 361.179(a), Transportation Code, to authorize the authority, notwithstanding anything in Chapter 202 to the contrary, to contract with a person for the use of part of a turnpike project or lease or sell part of a turnpike project, including the right-of-way adjoining the paved portion, for any purpose, including placing on the adjoining right-of-way telecommunications facilities and equipment and set the terms for the use, lease, or sale.

SECTION 13. Amends Section 361.181(a), Transportation Code, to authorize the authority, notwithstanding Section 361.179 or any other provision of this chapter to the contrary, to pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of a proposed turnpike project by using money received from the department for feasibility studies undertaken at the request of the commission.

SECTION 14. Amends Section 361.182, Transportation Code, by adding Subsection (i) to authorize the commission to request that the authority conduct a feasibility study for any proposed turnpike project. Requires the expenses of a study requested by the commission to be paid for by the department. Requires that, if the turnpike project is constructed, the department be reimbursed for money paid to the authority from the proceeds of turnpike revenue bonds issued for, or other proceeds that may be used for the construction, improvement, extension, expansion, or operation of the project.

SECTION 15. Amends Section 361.232(c), Transportation Code, to require the authority, if feasible, to provide access to properties previously abutting (rather than moving and replacing, with an equal or better facility) a county or other public road that is taken for a turnpike project (rather than a road that a turnpike project affects or severs). Requires the authority to pay abutting property owners the expenses or any resulting damages for denial of access to the road. Makes conforming and nonsubstantive changes.

SECTION 16. Amends Section 361.234, Transportation Code, to redesignate existing Subsections (d), (e), and (f) as Subsections (f), (g), and (h), and to add new Subsections (d) and (e) as follows:

(d) Authorizes the authority to reduce the total costs to be paid by the authority by 10

percent for each 30-day period or portion of a 30-day period that the relocation exceeds the limit specified by the authority unless the public utility's failure to timely perform results from a material action or inaction by the authority or from conditions that the authority agrees were beyond the reasonable control of the utility. Requires the authority, if an owner of operator of a public utility facility does not timely remove or relocate the facility as required under Subsection (b) and the authority relocates the facility, to relocate the facility in a safe manner that complies with applicable law and utility construction standards recognized by the authority and that minimizes disruption of a utility service and notify the public utility of the relocation. Provides that relocation of a public utility facility by the authority is at the expense of the public utility unless the authority determines that the failure of the public utility to timely relocate the facility was the result of circumstances beyond the control of the utility, in which case the authority is required to pay the cost of the relocation.

(e) Provides that, notwithstanding anything in this chapter to the contrary, Chapter 181B, Utilities Code, applies to the laying and maintenance of pipes, mains, conductors, and other facilities used for conducting gas by a gas utility described in that subchapter through, under, along, across, and over a turnpike project constructed by the authority. Provides that the authority has the powers and duties assigned to the commission by Chapter 181B, Utilities Code.

SECTION 17. Amends Section 361.306(a), Transportation Code, to authorize the rules adopted by the authority to authorize the authority to impose a fee for reviewing proposals for private involvement in a turnpike project.

SECTION 18. Amends Section 545.354(e), (f), and (g), Transportation Code, to delete language regarding Sections 545.353 and 545.355 to 545.359 not applying to any part of a turnpike project constructed and maintained by the authority and covered under Subsection (d) unless a turnpike constructed by the authority becomes part of the state highway system, in which event the commission has the sole authority to alter prima facie speed limits on the turnpike project.

SECTION 19. Amends Section 621.102, Transportation Code, by amending Subsection (a) and adding Subsection (h), as follows:

(a) Makes a conforming change.

(h) Authorizes the authority to set, in the same manner as the commission, the maximum gross weight of certain vehicles and loads and combinations of such that may be moved over a turnpike project as defined by Section 361.001.

SECTION 20. Effective date: upon passage or September 1, 2001.