

BILL ANALYSIS

Senate Research Center
78R13606 JTS-D

S.B. 1927
By: Ogden
Infrastructure Development and Security
4/30/2003
As Filed

DIGEST AND PURPOSE

As proposed, S.B. 1927 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to establish a statewide transportation plan and sets forth requirements for the plan, including requiring TxDOT and other entities to cooperate in implementing the plan. This bill expands the definition of a highway and requires a public transportation provider to consider the advice and recommendations of the public transportation advisory committee. This bill also authorizes the Texas Transportation Commission to authorize TxDOT to construct rail facilities.

RULEMAKING AUTHORITY

Rulemaking is expressly granted to the Texas Transportation Commission in Article 1 (Sections 227.004, 227.049, Transportation Code), Article 2 (Sections 370.035, 370.037, 370.038, and 370.188, Transportation Code), Article 6 (Sections 91.004, 91.033, and 91.057, Transportation Code), Article 8 (Section 222.003, Transportation Code), Article 9 (Section 222.104, Transportation Code), and Article 10 (Section 201.112, Transportation Code) of this bill.

Rulemaking is expressly granted to the Texas Department of Transportation in Article 3 (Sections 201.954, and 201.956, Transportation Code) and Article 5 (Sections 708.002, 702.052, 708.153, and 708.154, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE I. TRANS-TEXAS CORRIDOR

SECTION 1.01. Amends the heading to Title 6, Transportation Code, to read as follows:

TITLE 6. ROADWAYS AND TRANS-TEXAS CORRIDOR

SECTION 1.02. Amends the heading to Subtitle B, Title 6, Transportation Code, to read as follows:

SUBTITLE B. STATE HIGHWAY SYSTEM AND TRANS-TEXAS CORRIDOR

SECTION 1.03. Amends Subtitle B, Title 6, Transportation Code, by adding Chapter 227, as follows:

CHAPTER 227. TRANS-TEXAS CORRIDOR SUBCHAPTER A. GENERAL PROVISIONS

Sec. 227.001. SHORT TITLE. Authorizes this chapter to be cited as the Trans-Texas Corridor Act.

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Sets forth the state's policy and goal as it relates to transportation and the Trans-Texas Corridor.

(b) Sets forth the purpose and general powers of this chapter.

(c) Sets forth the legislative intent of this chapter.

(d) Requires this chapter to be liberally construed to achieve its purposes.

Sec. 227.003. DEFINITIONS. Defines "bond," "construction," "facility," "fee," "operation," "public utility facility," "Trans-Texas Corridor," and "turnpike."

Sec. 227.004. RULES. Authorizes the Texas Transportation Commission (TTC) to adopt rules and the Texas Department of Transportation (TxDOT) to implement procedures and forms as necessary or convenient to implement and administer this chapter.

Sec. 227.005. APPLICABILITY OF OTHER LAW. (a) Provides that all laws governing the financing, design, construction, maintenance, or operation of a highway in the state highway system apply to the financing, design, construction, maintenance, or operation of a highway under this chapter unless in conflict with this chapter.

(b) Provides that all laws governing the financing, design, construction, maintenance, or operation of a turnpike by TxDOT apply to the financing, design, construction, maintenance, or operation of a turnpike under this chapter unless in conflict with this chapter.

[Reserves Sections 227.006-227.010 for expansion.]

SUBCHAPTER B. ESTABLISHMENT

Sec. 227.011. DESIGNATION. Requires TTC to designate facilities for the Trans-Texas Corridor.

Sec. 227.012. ROUTE SELECTION. Requires TTC to consider certain criteria when selecting a route for a segment of the Trans-Texas Corridor.

Sec. 227.013. PUBLIC PARTICIPATION. Requires TxDOT to hold at least one public hearing before designating a route for a segment of the Trans-Texas Corridor.

Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) Authorizes TTC, if it determines that the mobility needs of this state would be most efficiently and economically met by jointly operating two or more facilities as one operational and financial enterprise, to create a system composed of those facilities. Authorizes TTC to create more than one system and to combine two or more systems into one system. Authorizes TTC to finance, construct, and operate an additional facility as an expansion of a system if TTC determines that the facility would most efficiently and economically be constructed and operated if it were a part of the system and that the addition will benefit the system.

(b) Requires the revenue of a system to be accounted for separately and prohibits the revenue from being commingled with the revenue of a facility that is not a part of the system.

Sec. 227.015. LOCATION OF FACILITIES. Authorizes TxDOT, notwithstanding any other law, including Chapter 181, Utilities Code, Chapter 402, Local Government Code, and Section 49.220, Water Code, to specify the location of any facility on the Trans-Texas Corridor and to direct the time and manner of construction or operation of any facility on the Trans-Texas Corridor.

[Reserves Sections 227.016-227.020 for expansion.]

SUBCHAPTER C. DEVELOPMENT AND OPERATION

Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) Authorizes TxDOT to construct or operate any facility as part of the Trans-Texas Corridor or to authorize a governmental or private entity to construct or operate a facility that is part of the Trans-Texas Corridor.

(b) Authorizes TxDOT, subject to Section 227.029, to grant or deny access to the Trans-Texas Corridor.

Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) Requires a toll or non-toll highway on the Trans-Texas Corridor that is constructed or operated by another entity to be part of the state highway system. Provides that this subsection applies even if the entity constructing or operating the highway is not independently authorized to construct or operate a highway that is part of the state highway system.

(b) Provides that if TxDOT authorizes another governmental entity to construct or operate a facility on the Trans-Texas Corridor, that entity has each power of TxDOT under this chapter with respect to that facility, including the right to collect fees, except that any property acquired by the entity is required to be held in the name of the state.

(c) Authorizes, notwithstanding any other law, another governmental entity authorized by TxDOT to construct or operate a facility on the Trans-Texas Corridor, to operate the facility without regard to any geographic limit on the entity's jurisdiction.

(d) Provides that if TxDOT authorizes another governmental entity to construct or operate a facility on the Trans-Texas Corridor, that entity is liable for a claim relating to the Trans-Texas Corridor only to the extent that TxDOT would be liable if it were constructing or operating the facility.

Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) Requires TxDOT to encourage the participation of private entities in the construction and operation of facilities, to the maximum extent practical and economical.

(b) Requires TxDOT to contract with a private entity to operate a railroad using rail facilities owned by TxDOT and prohibits use of TxDOT employees to operate a railroad. Authorizes TxDOT to maintain a rail facility directly or through a private entity.

(c) Requires TxDOT, to remove barriers to participation by small and disadvantaged businesses, to apply the same procedures to exclusive development agreements that it applies to contracts entered under other construction and design contracts. Requires TxDOT to encourage participation by small and disadvantaged businesses in the performance of exclusive development agreements.

Sec. 227.024. HIGHWAYS. Provides that a highway, including a turnpike, on the Trans-Texas Corridor is a part of the state highway system.

Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) Authorizes TTC to authorize the operation of a vehicle that exceeds the height, length, or gross weight limitations of Subchapter C, Chapter 621, on a segment of a highway on the Trans-Texas Corridor if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety.

(b) Provides that this section does not authorize the operation of a vehicle that exceeds a maximum axle weight authorized by Chapter 621, 622, or 623.

Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) Authorizes TxDOT to

acquire rolling stock or other personal property under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement for use in connection with a facility.

(b) Authorizes TxDOT to enter into an agreement with a rail operator, transportation common carrier, transportation system, or any other entity for the common use of any facility.

(c) Authorizes TxDOT to enter into agreements with a public or private utility, the owner or operator of a communications system, utility common carrier, or transportation system, or another entity for the common use of a public utility facility.

Sec. 227.027. ENVIRONMENTAL REVIEW. (a) Requires TxDOT to conduct or approve each environmental evaluation or study required for an activity associated with the Trans-Texas Corridor.

(b) Authorizes TTC to allocate responsibilities for conducting environmental evaluations or studies or preparing environmental documentation among entities involved in the construction or operation of any facility of the Trans-Texas Corridor.

Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) Authorizes TxDOT to 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.

(b) Authorizes TxDOT to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of 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 has already been established for a particular project.

(c) Authorizes TxDOT, if authorized by the applicable regulatory authority, to pay a sum of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction or operation of any part of the Trans-Texas Corridor without regard to whether the need for mitigation has already been established for a particular project.

Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) Authorizes TxDOT to construct a grade separation at an intersection of a Trans-Texas Corridor facility with another facility and to change the line or grade of a facility to accommodate the facility to the design of a grade separation. Requires TxDOT to pay the cost of a grade separation and any damage incurred in changing a line or grade of a facility.

(b) Requires TxDOT, if it finds it necessary to change the location of a portion of a facility, to reconstruct the facility at the location TxDOT determines to be most favorable. Requires the reconstructed facility to be of substantially the same type and in as good condition as the original facility. Requires TxDOT to determine and pay the cost of the reconstruction and any damage incurred in changing the location of a facility.

(c) Provides that this section does not apply to the conversion of any highway that is a part of the state highway system to a highway of the Trans-Texas Corridor.

Sec. 227.030. UNAUTHORIZED USE. Authorizes TxDOT to remove unauthorized

personal property, including a vehicle, from the Trans-Texas Corridor without notice and at the owner's expense. Authorizes removed property to be stored until claimed by the owner. Requires a removed motor vehicle, if not claimed by the owner within 72 hours after the date and time of removal, to be considered abandoned within the meaning of Chapter 683. Provides that TxDOT and its employees are not liable for damage to property that is removed from the Trans-Texas Corridor under this section.

Sec. 227.031. EXCLUSIVE LANES. Authorizes TxDOT to dedicate one or more lanes of a highway on the Trans-Texas Corridor to the exclusive use of designated classes of vehicles.

[Reserves Sections 227.032-227.040 for expansion.]

SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

Sec. 227.041. POWERS AND PROCEDURES. (a) Authorizes TTC to acquire, in the name of the state, an interest in real property or a property right, including ownership, an easement, or an option, that may be necessary or convenient for the construction or operation of any facility that is part of the Trans-Texas Corridor. Authorizes TTC to acquire the interest or the right by condemnation or by purchase under any terms and conditions. Authorizes property to be purchased 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. Authorizes property to 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) 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 located in or contiguous to an existing or planned segment of the Trans-Texas Corridor and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Sets forth a list of primary purposes.

(c) Provides that unless in conflict with this chapter, all laws governing the acquisition of right-of-way for a state highway apply to the acquisition of right-of-way for the Trans-Texas Corridor. Provides that Sections 203.056, 203.057, and 203.058 apply to an acquisition by TxDOT from a state agency. Requires compensation to a state agency under those sections to be reasonable and provides that it is authorized to take the form of a single payment or a participation payment under Section 227.042.

Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL PROPERTY.

(a) Authorizes TxDOT, as an alternative to paying for an interest in real property or a real property right with a single fixed payment, to pay the owner by means of a corridor participation payment, with the owner's consent.

(b) Provides that a right to receive a corridor participation payment under this section is subordinate to any right to receive a fee as payment on the principal of or interest on a bond that is issued for the construction of the applicable segment of the Trans-Texas Corridor.

(c) Defines "corridor participation payment."

Sec. 227.043. LEGAL RIGHTS AS PAYMENT FOR REAL PROPERTY. Authorizes TxDOT, as an alternative to paying for an interest in real property or a property right with a single fixed payment, to pay the owner by means of an exclusive or nonexclusive right to use or operate a facility or a license to operate a public utility facility on the Trans-Texas Corridor, with the owner's consent.

Sec. 227.044. PURCHASE AND LEASEBACK. Authorizes TxDOT to acquire real

property for the Trans-Texas Corridor and immediately lease it back to the former owner for a fixed or indefinite term.

Sec. 227.045. **DECLARATION OF TAKING.** (a) Authorizes TxDOT file a declaration of taking with the clerk of the court in which TxDOT files a condemnation petition under Chapter 21, Property Code, or to which the case is assigned.

(b) Authorizes TxDOT to file the declaration of taking concurrently with or subsequent to the petition but prohibits filing the declaration after the special commissioners have made an award in the proceeding.

(c) Sets forth what is requires to be included in the declaration of taking.

(d) Requires a deposit to the registry of the court of an amount equal to the appraised value of the property to be condemned, as determined by TxDOT, to accompany the declaration of taking.

(e) Provides that 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.

(f) Requires the case, after a declaration of taking is filed, to proceed as any other case under Chapter 21, Property Code.

Sec. 227.046. **POSSESSION OF PROPERTY.** (a) Requires TxDOT, immediately on the filing of a declaration of taking, to 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. Requires TxDOT to file evidence of the service with the clerk of the court. Authorizes TxDOT, on filing of that evidence, to take possession of the property pending further proceedings.

(b) Prohibits TxDOT, if the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, from taking possession before the 91st day after the date of service under Subsection (a).

(c) Provides that 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. 227.047. **RIGHT OF ENTRY.** (a) Requires TxDOT or an authorized agent to enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination determined necessary or appropriate for the purposes of this chapter.

(b) Requires TxDOT, to ensure the safety and convenience of the public, when entering any real property, water, or premises on which is located a public utility facility to comply with applicable industry standard safety codes and practices and, notwithstanding Subsection (a), give the owner or operator of the facility not less than 10 days' notice before entering the real property, water, or premises.

(c) Provides that an entry under this section is not a trespass or an entry under a pending condemnation proceeding.

(d) Requires TxDOT to make reimbursement for actual damages to real property, water, or premises that result from an activity described by Subsection (a) or (b).

Sec. 227.048. **SEVERANCE OF REAL PROPERTY.** (a) Requires TxDOT, if the Trans-Texas Corridor severs an owner's real property by dividing it into two or more noncontiguous parcels, to pay the value of the property acquired and 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.

(b) Authorizes TxDOT to negotiate for and purchase the remainder of the severed real property or either part of the severed real property.

Sec. 227.049. DONATIONS. Authorizes TxDOT to accept donations of an interest in real property from any person for use in connection with the Trans-Texas Corridor. Authorizes TTC, notwithstanding any other law, including Chapter 575, Government Code, to adopt rules authorizing TxDOT to accept a gift of real property from any local, state, or federal governmental entity without formal acknowledgment by TTC.

Sec. 227.050. OTHER GOVERNMENTAL ENTITIES. Provides that if TxDOT authorizes another governmental entity to construct or operate a segment of or a facility on the Trans-Texas Corridor, that entity has all the powers and duties of TxDOT under this subchapter.

Sec. 227.051. COST OF RELOCATING PUBLIC UTILITY FACILITY. (a) Requires a telecommunications utility or a telecommunications utility holding a certificate of convenience and necessity, certificate of authority, or service provider certificate of authority, subject to TxDOT's reasonable regulations pertaining to public health, safety, and welfare, to recover from the TxDOT its reasonable costs to relocate a public utility facility to accommodate the development or construction of the Trans-Texas Corridor.

(b) Provides that an owner of a public utility facility is not obligated to relocate the utility facility on the Trans-Texas Corridor if the owner determines that another location is feasible.

(c) Requires TxDOT, if a public utility facility is located on the Trans-Texas Corridor, to grant the owner reasonable access to operate and maintain the utility facility.

[Reserves Sections 227.052-227.060 for expansion.]

SUBCHAPTER E. FINANCING

Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Authorizes TxDOT, to the full extent permitted by the constitution, but subject to Section 227.0615, to use any available source of funding in acquiring property for, constructing, and operating the Trans-Texas Corridor, and sets forth a list of permissible funding sources.

Sec. 227.0615. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. (a) Prohibits, the total amount disbursed by each fiscal year by TxDOT out of the state highway fund for acquiring property for and the initial construction of facilities of the Trans-Texas Corridor from exceeding 20 percent of the obligation authority under the federal-aid highway program that is distributed to this state in that year.

(b) Provides that the limitation under Subsection (a) does not apply in certain circumstances.

Sec. 227.062. REVENUE BONDS. (a) Authorizes TTC, by order, to authorize the issuance of bonds to pay all or part of the cost of a facility or system established under Section 227.014, to refund any bonds previously issued for the facility or system, or to pay for all or part of the cost of a facility or system that will become a part of another system.

(b) Sets forth the required content of bonds, as determined in the order authorizing the issuance, the bonds of each issue.

(c) Authorizes TTC to sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of TxDOT.

(d) Requires the proceeds of each bond issue to be disbursed in the manner and under any restrictions provided in the order authorizing the issuance.

(e) Authorizes additional bonds to be issued in the same manner to pay the costs of a facility or system. Requires, unless otherwise provided in the order authorizing the issuance, the additional bonds to be on a parity, without preference or priority, with bonds previously issued for that facility or system. Authorizes TTC, in addition, to issue bonds for a facility or system secured by a lien on the revenue of the facility or system subordinate to the lien on the revenue securing other bonds issued for the facility or system.

(f) Requires the surplus, if the proceeds of a bond issue exceed the cost of the facility or system for which the bonds were issued, to be segregated from the other money of TTC and used only for the purposes specified in the order authorizing the issuance.

(g) Provides that bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(h) Provides that bonds issued under this 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.

(i) Authorizes TTC, in issuing bonds the proceeds of which are to be used solely for a turnpike, to exercise any additional power granted by Subchapter E, Chapter 361.

Sec. 227.063. INTERIM BONDS. (a) Authorizes TTC to, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) Authorizes the interim bonds to be authorized and issued in accordance with this chapter, without regard to a requirement, restriction, or procedural provision in any other law.

(c) Authorizes an order authorizing interim bonds to provide that the interim bonds recite that the bonds are issued under this chapter. Provides that the recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Sec. 227.064. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED. (a) Provides that the principal of, interest on, and any redemption premium on bonds issued by TTC are payable solely from certain funds.

(b) Provides that bonds issued under this chapter do not constitute a debt of this state or a pledge of the faith and credit of this state. Requires each bond to contain on its face a statement to the effect that the state is 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 the faith and credit and taxing power of this state are not pledged to the payment of the principal of or interest on the bond.

(c) Prohibits TTC from incurring a financial obligation that cannot be paid from revenue derived from owning or operating a facility or system or from other revenue provided by law.

Sec. 227.065. EFFECT OF LIEN. (a) Sets forth the characteristics of a lien on or a pledge of revenue from a facility or system or other money under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter.

(b) Provides that an order authorizing the issuance of bonds is not required to be recorded except in the regular records of TxDOT.

Sec. 227.066. BOND INDENTURE. (a) Authorizes bonds under this chapter to be secured by a bond indenture between TTC and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) Authorizes a bond indenture to pledge or assign the fees and other revenue to be received and other money derived from another source available to TTC but prohibits it from conveying or mortgaging any part of a facility or system.

(c) Authorizes a bond indenture to perform certain functions.

(d) Authorizes an expense incurred in carrying out a trust agreement or indenture to be treated as part of the cost of operating a facility or system.

(e) Authorizes an owner or trustee of a bond issued under this chapter, in addition to all other rights by mandamus or other court proceeding, to enforce the owner's rights against TTC, TxDOT, or an agent or employee of TTC or TxDOT and is entitled to require TTC and TxDOT to impose and collect fees, charges, and other revenue sufficient to carry out any agreement contained in the order authorizing the issuance of the bond and to apply for and obtain the appointment of a receiver for the facility or system.

Sec. 227.067. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) Requires TTC to submit to the attorney general for examination the record of proceedings relating to bonds authorized under this chapter. Requires the record to include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) Requires the attorney general, if the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, to approve the bonds and deliver to the comptroller a copy of the legal opinion of the attorney general stating the approval the record of proceedings relating to the authorization of the bonds.

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

(d) Provides that 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. 227.068. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. (a) Authorizes a bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue to furnish indemnifying bonds or pledge securities that an authority requires.

(b) Authorizes bonds of TTC to secure the deposit of public money of this state or a political subdivision of this state to the extent of the lesser of the face value of the bonds or their market value.

Sec. 227.069. APPLICABILITY OF OTHER LAW; CONFLICTS. Provide that all laws affecting the issuance of bonds by local governmental entities, including Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued under this chapter. Provides that to the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail.

Sec. 227.070. LOANS AND OTHER FUNDING. Authorizes TxDOT to borrow money from the United States or use money in the state infrastructure bank created under Subchapter D, Chapter 222, to fund the construction or operation of a facility under this chapter.

SUBCHAPTER F. REVENUE

Sec. 227.071. FEES. (a) Authorizes TxDOT, notwithstanding any other law, including Chapters 161, 162, 163, and 181, Utilities Code, Chapter 402, Local Government Code, and Chapter 49, Water Code, and except as provided in Subsection (e), to require a person, including a governmental or private entity, to pay a fee as a condition of using any part of the Trans-Texas Corridor.

(b) Authorizes TTC to establish fees to be imposed by TxDOT under this chapter. Authorizes fees to be set as absolute amounts, as a percentage of revenue, as a percentage of actual use or throughput, as a designated portion or percentage of initial facility funding, or on any other reasonable basis. Authorizes TTC, subject to approval by a body having jurisdiction and authority to establish a tariff, to establish joint fees and divisions of fees.

(c) Authorizes a fee to exceed TxDOT's costs, but prohibits TTC from establishing a fee that is prohibitive or that discriminates unreasonably among users or potential users of a facility.

(d) Sets forth the criteria TTC is required to consider in establishing a fee or the amount of a fee under this section.

(e) Prohibits TxDOT, if a public road is replaced or eliminated by the Trans-Texas Corridor and a facility used the right-of-way of that road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter 402, Local Government Code, or Chapter 49, Water Code, from requiring the owner of that facility to pay a fee as a condition of using a segment of the Trans-Texas Corridor for the location of a replacement facility.

Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) Authorizes TxDOT to lease property on the Trans-Texas Corridor to any public or private entity. Authorizes a lease to be for a term not longer than 50 years.

(b) Authorizes TxDOT to grant a franchise to use or operate a facility on the Trans-Texas Corridor. Authorizes a franchise under this section to be granted for a term not longer than 50 years.

(c) Authorizes TxDOT to grant an exclusive or nonexclusive license to access or use any portion of the Trans-Texas Corridor for any purpose. Authorizes a license granted under this section to be for a definite or indefinite term.

(d) Authorizes property to be leased or a franchise or license granted for any purpose, including use as a facility and use for unrelated commercial, industrial, or agricultural purposes.

(e) Authorizes TxDOT, in return for a lease, franchise, or license, to accept anything of value as consideration and sets forth a list of examples.

Sec. 227.073. DISPOSITION OF FEES. Requires, to the extent that it is not dedicated to another purpose by the constitution, by statute, or by contract, revenue received by TxDOT under this chapter to be deposited to the credit of the state highway fund and authorizes it to be used for any purpose authorized by this chapter. Provides that Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to revenue received under this chapter.

SECTION 1.04. Amends Subchapter H, Chapter 545, Transportation Code, by adding Section 545.3531, as follows:

Sec. 545.3531. **AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR.** (a) Authorizes TTC, notwithstanding Section 545.352, by order recorded in its minutes and except as provided by Subsection (d), to determine and declare on a highway segment of the Trans-Texas Corridor designated under Chapter 227 a reasonable and safe prima facie speed limit in excess of a prima facie speed limit established by Section 545.352.

(b) Requires TTC, in determining whether a prima facie speed limit is reasonable and safe, to conduct an engineering and traffic investigation and to consider the width and condition of the pavement, the usual traffic on the highway segment, the suitability of existing safety features, and other circumstances.

(c) Provides that a prima facie speed limit that is declared by TTC under this section is effective when TxDOT erects signs giving notice of the new limit. Provides that a new limit that is enacted under this section is effective at all times or at other times as determined.

(d) Prohibits TTC from modifying the rules established by Section 545.351(b) or establishing a speed limit of more than 85 miles per hour.

(e) Requires TTC, in conducting the engineering and traffic investigation specified by Subsection (b), to follow the "Procedures for Establishing Speed Zones" as adopted by TTC.

SECTION 1.05. Effective date for the article: upon passage or September 1, 2003.

ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

SECTION 2.01. Amends Subtitle G, Title 6, Transportation Code, by adding Chapter 370, as follows:

CHAPTER 370. REGIONAL MOBILITY AUTHORITIES SUBCHAPTER A. GENERAL PROVISIONS

Sec. 370.001. **SHORT TITLE.** Authorizes this chapter to be cited as the Regional Mobility Authority Act.

Sec. 370.002. **PURPOSES; LIBERAL CONSTRUCTION.** (a) Sets forth this chapter's purposes.

(b) Requires this chapter to be liberally construed to effect its purposes.

Sec. 370.003. **DEFINITIONS.** Defines "authority," "board," "bond," "bond proceeding," "bond resolution," "bondholder," "exclusive development agreement," "governmental entity," "highway," "public utility facility," "revenue," "surplus revenue," "system," "transportation project," and "turnpike project."

Sec. 370.004. **CONSTRUCTION COSTS DEFINED.** (a) Provides that the cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes certain costs.

(b) Authorizes costs attributable to a transportation project and incurred before the issuance of bonds to finance the transportation project to be reimbursed from the proceeds of sale of the bonds.

[Reserves Sections 370.005-370.030 for expansion.]

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY. (a) Authorizes TTC, at the request of one or more counties, by order to authorize the creation of a regional mobility authority (authority) for the purposes of constructing, maintaining, and operating transportation projects in a region of this state. Provides that an authority is governed in accordance with Subchapter F.

(b) Prohibits an authority from being created without the approval of TTC under Subsection (a).

Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a) Authorizes one or more counties to petition TTC for approval to become part of an existing authority. Authorizes TTC to approve the petition only under certain circumstances.

(b) Authorizes one or more counties to petition TTC for approval to withdrawing from an authority. Authorizes TTC to approve the petition only under certain circumstances.

(c) Prohibits a county from becoming part of an authority or withdraw from an authority without the approval of TTC.

Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a) Provides that an authority is a body politic and corporate and a political subdivision of this state.

(b) Provides that an authority is a governmental unit as that term is defined in Section 101.001, Civil Practice and Remedies Code.

(c) Provides that the exercise by an authority of the powers conferred by this chapter in the acquisition, design, financing, construction, operation, and maintenance of a transportation project or system is in all respects for the benefit of the people of the counties in which an authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety; and an essential governmental function of the state.

(d) Provides that the operations of an authority are governmental, not proprietary, functions.

Sec. 370.033. GENERAL POWERS. (a) Sets forth the general powers of an authority through its board.

(b) Provides that except as provided by this subsection, property that is a part of a transportation project of an authority is not subject to condemnation or the exercise of the power of eminent domain by any person, including a governmental entity. Authorizes TxDOT to condemn property that is a part of a transportation project of an authority if the property is needed for the construction, reconstruction, or expansion of a state highway or rail facility.

(c) Authorizes an authority, if requested by TTC, to perform any function not specified by this chapter to promote or develop a transportation project in this state.

(d) Authorizes an authority to sue and be sued and plead and be impleaded in its own name.

(e) Authorizes an authority to rent, lease, franchise, license, or make portions of its properties available for use by others in furtherance of its powers under this chapter by increasing the feasibility or the revenue of a transportation project.

(f) Authorizes an authority and a governmental entity to enter into a contract, agreement, interlocal agreement, or other similar arrangement under which the authority may plan, design, construct, or operate a transportation project on behalf of the governmental entity. Authorizes an authority to enter into a contract with TxDOT under which the authority will plan, develop, operate, or maintain a transportation project on behalf of TxDOT.

(g) Provides that payments to be made to an authority under a contract described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract. Authorizes the contract to extend for the number of years as agreed to by the parties.

(h) Requires an authority to adopt a written drug and alcohol policy restricting and prohibiting certain behaviors. Authorizes an authority to adopt policies regarding the testing of employees suspected of being in violation of the authority's drug and alcohol policy. Requires the policy to provide that, unless required by court order or permitted by the person who is the subject of the testing, requires the authority to keep the results of the test confidential.

(i) Requires an authority to adopt written procedures governing its procurement of goods and services that are consistent with general laws applicable to the authority.

(j) Prohibits an authority from applying for federal highway or rail funds without the approval of TxDOT.

(k) Provides that the authority granted to an authority under Subsection (a)(10) does not include the authority to operate a public utility facility that provides retail public utility service.

(l) Prohibits the authority, if an authority establishes an airport in Central Texas, from establishing the airport at a location prohibited to the department by Section 21.069(c).

Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a) Authorizes an authority, if an authority determines that the traffic needs of the counties in which it operates and the traffic needs of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, to create a system made up of those transportation projects. Authorizes an authority to create more than one system and to combine two or more systems into one system. Authorizes an authority to finance, acquire, construct, and operate additional transportation projects as additions to or expansions of a system if the authority determines that the transportation project could most efficiently and economically be acquired or constructed if it were a part of the system and that the addition will benefit the system.

(b) Requires the revenue of a system to be accounted for separately and prohibits the revenue from being commingled with the revenue of a transportation project that is not a part of the system or with the revenue of another system.

Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY SYSTEM PROJECTS. (a) Authorizes TTC by order to convert a segment of the free state highway system to a turnpike project and transfer that segment to an authority, or to transfer an existing turnpike project that is part of the state highway system, whether previously tolled or not, to an authority under certain circumstances.

(b) Requires an authority to reimburse TTC for the cost of a transferred turnpike project unless TTC determines that the transfer will result in a substantial net benefit to the state, TxDOT, and the traveling public that equals or exceeds that

cost.

(c) Requires TTC, in computing the cost of the turnpike project, to include the total amount spent by TxDOT for the original construction of the turnpike project, including the costs associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights-of-way, and actual construction of the turnpike project and all necessary appurtenant facilities and to consider the anticipated future costs of expanding, improving, maintaining, operating, or extending the turnpike project to be incurred by the authority and not by TxDOT if the turnpike project is transferred.

(d) Authorizes TTC, at the time a turnpike project is transferred, to remove the turnpike project from the state highway system. Provides that after a transfer, TTC has no liability, responsibility, or duty for the maintenance or operation of the turnpike project.

(e) Requires TTC, before transferring a turnpike project that is part of the state highway system under this section, to conduct a public hearing at which interested persons shall be allowed to speak on the proposed transfer. Requires notice of the hearing to be published in the Texas Register, one or more newspapers of general circulation in the counties in which the turnpike project is located, and a newspaper, if any, published in the counties of the applicable authority.

(f) Requires TTC to adopt rules to implement this section. Requires rules to include criteria and guidelines for the approval of a transfer of a turnpike project.

(g) Requires an authority to adopt rules providing criteria and guidelines for approval of the transfer of a turnpike project under this section.

(h) Prohibits TTC from transferring the Queen Isabella Causeway in Cameron County to an authority under this section.

Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO DEPARTMENT.

(a) Authorizes an authority to transfer to TxDOT a turnpike project of the authority that has outstanding bonded indebtedness if TTC agrees to the transfer and agrees to assume the outstanding bonded indebtedness.

(b) Authorizes TTC to assume the outstanding bonded indebtedness only in certain circumstances.

(c) Requires the authority, if TTC agrees to the transfer under Subsection (a), to convey the turnpike project and any real property acquired to construct or operate the turnpike project to the department.

(d) Requires TTC, at the time of a conveyance under this section, to designate the turnpike project as part of the state highway system. Provides that after the designation, the authority has no liability, responsibility, or duty to maintain or operate the transferred turnpike project.

Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS. (a) Authorizes TTC, by order, to transfer a ferry operated under Section 342.001 to an authority under certain circumstances.

(b) Requires an authority to reimburse TTC for the cost of a transferred ferry unless TTC determines that the transfer will result in a substantial net benefit to the state, TxDOT, and the traveling public that equals or exceeds that cost.

(c) Requires TTC, in computing the cost of the ferry, to include the total amount spent by TxDOT for the original construction of the ferry, including the costs

associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights-of-way, and actual construction of the ferry and all necessary appurtenant facilities; and to consider the anticipated future costs of expanding, improving, maintaining, or operating the ferry to be incurred by the authority and not by TxDOT if the ferry is transferred.

(d) Requires TTC, at the time the ferry is transferred, to remove the ferry from the state highway system. Provides that after a transfer, TTC has no liability, responsibility, or duty for the maintenance or operation of the ferry.

(e) Requires TTC, before transferring a ferry that is a part of the state highway system under this section, to conduct a public hearing at which interested persons are required to be allowed to speak on the proposed transfer. Requires notice of the hearing to be published in the Texas Register, one or more newspapers of general circulation in the counties in which the ferry is located, and a newspaper, if any, published in the counties of the applicable authority.

(f) Requires TTC to adopt rules to implement this section. Requires the rules to include criteria and guidelines for the approval of a transfer of a ferry.

(g) Requires an authority to adopt rules establishing criteria and guidelines for approval of the transfer of a ferry under this section.

(h) Authorizes an authority to temporarily charge a toll for use of a ferry transferred under this section to pay the costs necessary for an expansion of the ferry. Authorizes an authority to permanently charge a toll for use of ferry facilities that are an expansion of the ferry transferred under this section.

Sec. 370.038. COMMISSION RULES. (a) Requires TTC to adopt certain rules.

(b) Requires TTC to appoint a rules advisory committee (committee) to advise TxDOT and TTC on the development of TTC's initial rules required by this section. Requires the committee to include one or more members representing an existing authority, if applicable. Provides that Chapter 2110, Government Code, does not apply to the committee. Provides that this subsection expires on the date TTC adopts initial rules under this section.

[Reserves Sections 370.039-370.070 for expansion.]

SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a) Authorizes an authority to pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by certain methods.

(b) Requires money spent under this section for a proposed transportation project to be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project.

(c) Provides that the use of any money of a transportation project to study the feasibility of another transportation project or used to repay any money used for that purpose does not constitute an operating expense of the transportation project producing the revenue and may be paid only from the surplus money of the transportation project as determined by the authority.

Sec. 370.072. FEASIBILITY STUDY FUND. (a) Authorizes an authority to maintain a

feasibility study fund. Provides that the fund is a revolving fund held in trust by a banking institution chosen by the authority and is required to be kept separate from the money for a transportation project.

(b) Authorizes an authority to transfer an amount from a surplus fund established for a transportation project to the authority's feasibility study fund if the remainder of the surplus fund after the transfer is not less than any minimum amount required by the bond proceedings to be retained for that transportation project.

(c) Authorizes money in the feasibility study fund to be used only to pay the expenses of studying the cost and feasibility and any other expenses relating to certain activities.

(d) Requires money spent under Subsection (c) for a proposed transportation project to be reimbursed from the proceeds of revenue bonds issued for, or other proceeds that are authorized to be used for, the acquisition, construction, improvement, extension, expansion, or operation of the transportation project.

(e) Authorizes an authority, for a purpose described by Subsection (c), to borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of its feasibility study fund, pledging money in the fund or to be placed in the fund.

Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) Authorizes one or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state to pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to certain expenses.

(b) Provides money spent under Subsection (a) for a proposed transportation project is reimbursable without interest and with the consent of the authority to the person paying the expenses described in Subsection (a) out of the proceeds from revenue bonds issued for or other proceeds authorizes to be used for the acquisition, construction, improvement, extension, expansion, maintenance, repair, or operation of the transportation project.

[Reserves Sections 370.074-370.110 for expansion.]

SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

Sec. 370.111. TRANSPORTATION REVENUE BONDS. (a) Authorizes an authority, by bond resolution, to authorize the issuance of bonds to pay all or part of the cost of a transportation project, to refund any bonds previously issued for the transportation project, or to pay for all or part of the cost of a transportation project that will become a part of another system.

(b) Sets forth the required content of the bonds as determined in the bond resolution.

(c) Authorizes an authority to 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 authority.

(d) Requires the proceeds of each bond issue to be disbursed in the manner and under any restrictions provided in the bond resolution.

(e) Authorizes additional bonds to be issued in the same manner to pay the costs of a transportation project. Requires, unless otherwise provided in the bond resolution, the additional bonds to be on a parity, without preference or priority,

with bonds previously issued and payable from the revenue of the transportation project. Authorizes an authority, in addition, to issue bonds for a transportation project secured by a lien on the revenue of the transportation project subordinate to the lien on the revenue securing other bonds issued for the transportation project.

(f) Requires the surplus, if the proceeds of a bond issue exceed the cost of the transportation project for which the bonds were issued, to be segregated from the other money of the authority and used only for the purposes specified in the bond resolution.

(g) Provides that bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(h) Provides that bonds issued under this 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.

(i) Requires bonds issued under this chapter to be considered authorized investments under Chapter 2256, Government Code, for this state, any governmental entity, and any other public entity proposing to invest in the bonds.

Sec. 370.112. INTERIM BONDS. (a) Authorizes an authority, before issuing definitive bonds, to issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) Authorizes the interim bonds to be authorized and issued in accordance with this chapter, without regard to a requirement, restriction, or procedural provision in any other law.

(c) Authorizes a bond resolution authorizing interim bonds to provide that the interim bonds recite that the bonds are issued under this chapter. Provides that the recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT. (a) Provides that the principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from certain funds.

(b) Provides that bonds issued under this chapter do not constitute a debt of this state or of a governmental entity, or a pledge of the faith and credit of this state or of a governmental entity. Requires each bond to contain on its face a statement to the effect that the state, the authority, or any governmental entity is 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 neither the faith and credit and taxing power of this state or of any governmental entity are pledged to the payment of the principal of or interest on the bond. Provides that this subsection does not apply to a governmental entity that has entered into an agreement under Section 370.303.

(c) Prohibits an authority from incurring a financial obligation that cannot be paid from revenue derived from owning or operating the authority's transportation projects or from other revenue provided by law.

Sec. 370.114. EFFECT OF LIEN. (a) Sets forth the characteristics of a lien on or a pledge of revenue from a transportation project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter.

(b) Provides that a bond resolution is not required to be recorded except in the regular records of the authority.

Sec. 370.115. BOND INDENTURE. (a) Authorizes bonds issued by an authority under this chapter to be secured by a bond indenture between the authority and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) Authorizes a bond indenture to pledge or assign the revenues to be received but prohibits conveying or mortgaging any part of a transportation project.

(c) Authorizes a bond indenture to perform certain activities.

(d) Authorizes an expense incurred in carrying out a trust agreement to be treated as part of the cost of operating the transportation project.

(e) Authorizes an owner or trustee of a bond issued under this chapter, in addition to all other rights by mandamus or other court proceeding, to enforce the owner's rights against an issuing authority, the authority's employees, the authority's board, or an agent or employee of the authority's board and is entitled to certain activities.

Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) Requires an authority to submit to the attorney general for examination the record of proceedings relating to bonds authorized under this chapter. Requires the record to include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) Requires the attorney general, if the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, to approve the bonds and deliver to the comptroller a copy of the legal opinion of the attorney general stating the approval and the record of proceedings relating to the authorization of the bonds.

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

(d) Provides that 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. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. (a) Authorizes a bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue to furnish indemnifying bonds or pledge securities that an authority requires.

(b) Authorizes bonds of an authority to secure the deposit of public money of this state or a political subdivision of this state to the extent of the lesser of the face value of the bonds or their market value.

Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. Provides that all laws affecting the issuance of bonds by local governmental entities, including Chapters 1201, 1202, 1204, and 1371, Government Code, apply to bonds issued under this chapter. Provides that to the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail.

[Reserves Sections 370.119-370.160 for expansion.]

SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF

TRANSPORTATION PROJECTS

Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER COUNTIES. (a) Authorizes an authority to acquire, construct, operate, maintain, expand, or extend a transportation project only in certain circumstances.

(b) Authorizes an authority, under an agreement with another governmental entity, to construct, operate, maintain, expand, or extend a transportation project in a county that is not part of the authority and is not owned by the authority.

Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. (a) Authorizes an authority to construct or improve a transportation project on real property, including a right-of-way acquired by the authority or provided to the authority for that purpose by the commission, a political subdivision of this state, or any other governmental entity.

(b) Provides that, except as provided by this chapter, an authority has the same powers and is authorized to use the same procedures as TTC in acquiring property.

Sec. 370.163. ACQUISITION OF PROPERTY. (a) Authorizes an authority to acquire in its name public or private property it determines necessary or convenient for the construction, operation, maintenance, expansion, or extension of a transportation project or for otherwise carrying out this chapter only if the primary purpose of an acquisition is the furtherance of a transportation project.

(b) Provides that the property an authority is authorized to acquire under this subchapter includes all or any portion of, and rights in and to, certain properties.

(c) Authorizes an authority to acquire real property by any method, including purchase and condemnation. Authorizes an authority to purchase public or private real property on the terms and at the price the authority and the property owner consider reasonable.

(d) Provides covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the authority are not binding against the authority and do not impair the authority's ability to use the property for a purpose authorized by this chapter. Prohibits the beneficiaries of the covenants, conditions, restrictions, or limitations from enjoining the authority from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek compensation for damages to the person's property under Section 17, Article I, Texas Constitution.

(e) Provides that Subsection (d) does not affect the obligation of the authority under other state law to compensate this state for acquiring or using property owned by or on behalf of the state.

Sec. 370.164. RIGHT OF ENTRY. (a) Authorizes an authority, to acquire property necessary or useful in connection with a transportation project, on or after the fourth day after the date the authority gives notice to the owner of the real property, water, or premises, to enter any real property, water, or premises to make a survey, geotechnical evaluation, sounding, or examination.

(b) Requires an authority, to ensure the safety and convenience of the public, when entering any real property, water, or premises on which is located a public utility facility to comply with applicable industry standard safety codes and practices and, notwithstanding Subsection (a), to give the owner or operator of the facility not less than 10 days' notice before entering the real property, water, or premises.

(c) Provides that an entry under Subsection (a) or (b) is not a trespass or an entry under a pending condemnation proceeding.

(d) Requires the authority to make reimbursements for any actual damages to real property, water, or premises that result from an activity described by Subsection (a) or (b).

Sec. 370.165. CONDEMNATION OF REAL PROPERTY. (a) Authorizes an authority, subject to Subsection (c), to acquire public or private real property in the name of the authority by the exercise of the power of condemnation under the laws applicable to the exercise of that power on property for public use under certain circumstances.

(b) Authorizes an authority to condemn real property that the authority determines meets certain criteria.

(c) Authorizes an authority to construct a supplemental facility only on real property the authority purchases.

(d) Provides that an authority's acquisition of any property of TTC under this section or any other section of this chapter or an authority's relocation, rerouting, disruption, or alteration of any facility of TTC is considered a conversion of a state highway under Section 370.035 and is subject to each requirement or approval of a conversion under that section.

(e) Provides that the authority granted under this section does not include the authority to condemn a bridge connecting this state to the United Mexican States that is owned by a county or municipality.

Sec. 370.166. DECLARATION OF TAKING. (a) Authorizes an authority to file a declaration of taking with the clerk of the court in which the authority files a condemnation petition under Chapter 21, Property Code or to which the case is assigned.

(b) Authorizes an authority to file the declaration of taking concurrently with or subsequent to the filing of the condemnation petition but prohibits an authority from filing the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) Sets forth the required content of the declaration of taking.

(d) Provides that a deposit to the registry of the court of an amount equal to the fair market value, as determined by the authority, of the property to be condemned and any damages to the remainder must accompany the declaration of taking.

(e) Authorizes an authority, instead of the deposit under Subsection (d), at its option, concurrently with the declaration of a taking, to tender in favor of the owner of the property a bond or other security in an amount sufficient to secure the owner for the value of the property taken and damages to remaining property, if the authority obtains the court's approval.

(f) Provides that the date on which the declaration is filed is the date of taking for the purpose of assessing the value of the property taken and damages to any remaining property to which an owner is entitled.

(g) Authorizes an owner to draw upon the deposit held by the court under Subsection (d) on the same terms and conditions as are applicable under state law to a property owner's withdrawal of a commissioners' award deposited under Section 21.021(a)(1), Property Code.

(h) Provides that a property owner who is a defendant in an eminent domain

action filed by an authority under this chapter has 20 days after the date of service of process of both a condemnation petition and a notice of declaration of taking to give notice to the court in which the action is pending of the property owner's preference that the condemnation petition be placed on the court's docket in the same manner as other cases pending in the court. Requires, on receipt of timely notice from the property owner, the court in which the action is pending to place the case on its docket in the same manner as other cases pending in the court.

Sec. 370.167. POSSESSION OF PROPERTY. (a) Requires an authority, immediately on the filing of a declaration of taking, to 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. Requires the authority to file evidence of the service with the clerk of the court. Authorizes the authority, on filing of that evidence, to take possession of the property on the same terms as if a commissioners hearing had been conducted, pending the litigation.

(b) Prohibits an authority, if the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, from taking possession before the 31st day after the date of service under Subsection (a).

(c) Provides that 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. 370.168. SEVERANCE OF REAL PROPERTY. (a) Requires the authority, if a transportation project of an authority severs a property owner's real property, the authority shall pay certain costs.

(b) Authorizes an authority, at its option, to negotiate for and purchase the severed real property or any part of the severed real property if the authority and the property owner agree on terms for the purchase. Authorizes an authority to sell and dispose of severed real property that it determines is not necessary or useful to the authority. Requires severed property must be appraised before being offered for sale by the authority.

Sec. 370.169. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. (a) Authorizes an authority to use real property, including submerged land, streets, alleys, and easements, owned by this state or a local government that the authority considers necessary for the construction or operation of a transportation project.

(b) Authorizes this state or a local government having charge of public real property to consent to the use of the property for a transportation project.

(c) Authorizes this state or a local government, except as provided by Section 370.035, to 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. Authorizes a conveyance, grant, or lease under this section to 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.

(d) Provides that this section does not deprive the School Land Board of the power to execute a lease for the development of oil, gas, and other minerals on state-owned real property adjoining a transportation project or in tidewater limits. Authorizes a lease to provide for directional drilling from the adjoining property or tidewater area.

(e) Provides that this section does not affect the obligation of the authority under

another law to compensate this state for acquiring or using property owned by or on behalf of this state. Provides that an authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Sec. 370.170. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. (a) Prohibits an authority, except as provided by Section 370.035 or 370.165(c), from paying compensation for public real property, parkways, streets, highways, alleys, or reservations it takes, other than certain properties.

(b) Requires public property damaged in the exercise of a power granted by this chapter to be restored or repaired and placed in its original condition as nearly as practicable.

(c) Provides that an authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local government that are necessary or convenient to construct, acquire, or efficiently operate a transportation project or system under this chapter. Provides this subsection does not affect the obligation of the authority under other law to compensate this state for the use or acquisition of an easement or right-of-way on property owned by or on behalf of this state. Provides that an authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Sec. 370.171. PUBLIC UTILITY FACILITIES. (a) Authorizes an authority to adopt rules for the installation, construction, operation, maintenance, repair, renewal, relocation, or removal of a public utility facility in, on, along, over, or under a transportation project.

(b) Requires, if an authority determines it is necessary that a public utility facility located in, on, along, over, or under a transportation project be relocated in the transportation project, removed from the transportation project, or carried along or across the transportation project by grade separation, the owner or operator of the facility to relocate or remove the facility in accordance with the requirements of the authority and in a manner that does not impede the design, financing, construction, operation, or maintenance of the transportation project.

(c) Requires the authority, as a part of the cost of the transportation project or the cost of operating the transportation project, to pay the cost of the relocation, removal, or grade separation of a public utility facility under Subsection (a), including certain costs.

(d) Authorizes the authority to reduce the total costs to be paid by the authority under Subsection (c) by 10 percent for each 30-day period or portion of a 30-day period by which the relocation or removal exceeds the reasonable limit specified by the authority unless the failure of the owner or operator of the facility to timely relocate or remove the facility results directly from certain circumstances.

(e) Authorizes the authority, if an owner or operator of a public utility facility does not timely relocate or remove the facility as required by Subsection (b), to do so at the expense of the owner or operator. Requires the authority, if the authority relocates or removes a facility under this subsection the authority to relocate or remove the facility in a safe manner that complies with applicable law and attempts to minimize the disruption of utility service.

(f) Requires the owner or operator of a public utility facility relocated or removed under Subsection (e) to reimburse the authority for the expenses incurred for the relocation or removal of the facility, except that the owner or operator is not required to reimburse the authority if the failure of the owner or operator to timely relocate or remove the facility was the direct result of circumstances beyond the

control of the owner or operator.

(g) Requires an authority, not later than 60 days before relocating or removing a public utility facility under Subsection (e), to provide to the utility with certain information.

(h) Provides that Subchapter C, Chapter 181, Utilities Code, applies to the erection, construction, maintenance, and operation of a line or pole owned by an electric utility, as that term is defined by Section 181.041, Utilities Code, over, under, across, on, and along a transportation project or system constructed by an authority. Provides that an authority has the powers and duties delegated to the commissioners court by that subchapter and exclusive jurisdiction and control of utilities located in its rights-of-way.

(i) Provides that Subchapter B, Chapter 181, Utilities Code, applies to the laying and maintenance of facilities used for conducting gas by a gas utility, as that term is defined by Section 181.021, Utilities Code, through, under, along, across, and over a transportation project or system constructed by an authority except as otherwise provided by this section. Provides that an authority has the power and duties delegated to the commissioners court by that subchapter and exclusive jurisdiction and control of utilities located in its right-of-way.

(j) Provides that the laws of this state applicable to the use of public roads, streets, and waters by a telephone or telegraph corporation apply to the erection, construction, maintenance, location, and operation of a line, pole, or other fixture by a telephone or telegraph corporation over, under, across, on, and along a transportation project constructed by an authority under this chapter.

Sec. 370.172. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION PROJECT. Authorizes an authority to lease, sell, or convey in any other manner a transportation project to a governmental entity with the approval of the governing body of the governmental entity to which the project is transferred.

Sec. 370.173. REVENUE. (a) Authorizes an authority to impose tolls, fees, fares, or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects and to contract with a person for the use of part of a transportation project, or lease or sell part of a transportation project, including the right-of-way adjoining the portion used to transport people and property, for any purpose, including placing on the adjoining right-of-way a gas station, garage, store, hotel, restaurant, parking facility, railroad track, billboard, livestock pasturage, telephone line or facility, telecommunication line or facility, data transmission line or facility, or electric line or facility, under terms set by the authority.

(b) Requires tolls, fees, fares, or other charges to be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an authority's transportation project, together with other revenue of the transportation project meet certain criteria.

(c) Provides that tolls, fees, fares, or other usage charges are not subject to supervision or regulation by any agency of this state or another governmental entity.

(d) Requires revenue derived from tolls, fees, and fares, and other revenue derived from a transportation project for which bonds are issued, other than any part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as provided in the bond proceedings, to be set aside at regular intervals as provided in the bond resolution or trust agreement in a sinking fund that is pledged to and charged with certain payments.

(e) Provides that use and disposition of money deposited to the credit of the sinking fund is subject to the bond proceedings.

(f) Authorizes revenue from one transportation project of an authority, to the extent permitted under the applicable bond proceedings, to be used to pay the cost of another transportation project of the authority.

(g) Prohibits an authority from using revenue from a transportation project in a manner not authorized by this chapter. Prohibits revenue derived from a transportation project, except as provided by this chapter, from being applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated to be for the benefit of a transportation project.

Sec. 370.174. **AUTHORITY REVOLVING FUND.** (a) Authorizes an authority to maintain a revolving fund to be held in trust by a banking institution chosen by the authority separate from any other funds and administered by the authority's board.

(b) Authorizes an authority to transfer into its revolving fund money from any permissible source, sets forth a list of sources.

(c) Authorizes an authority to use money in the revolving fund to perform certain activities.

(d) Requires money spent or advanced from the revolving fund for a transportation project to be reimbursed from the money of that transportation project. Requires a reasonable expectation of repayment at the time the expenditure or advancement is authorized.

Sec. 370.175. **USE OF SURPLUS REVENUE.** (a) Requires an authority, each year, if an authority determines that it has surplus revenue from transportation projects, to reduce tolls, spend the surplus revenue on other transportation projects in the counties of the authority in accordance with Subsection (b), or deposit the surplus revenue to the credit of the Texas Mobility Fund.

(b) Authorizes an authority, consistent with other law and TTC rule, to spend surplus revenue on other transportation projects by certain methods.

Sec. 370.176. **EXEMPTION FROM TAXATION OR ASSESSMENT.** (a) Provides that an authority is exempt from taxation of or assessments on certain items.

(b) Provides that an authority is exempt from payment of development fees, utility connection fees, assessments, and service fees imposed or assessed by any governmental entity or any property owners' or homeowners' association.

Sec. 370.177. **ACTIONS AFFECTING EXISTING ROADS.** (a) Authorizes an authority to impose a toll for transit over an existing free road, street, or public highway transferred to the authority under this chapter.

(b) Authorizes an authority to construct a grade separation at an intersection of a transportation project with a railroad or highway and change the line or grade of a highway to accommodate the design of the grade separation. Prohibits the action from affecting a segment of the state highway system without the TxDOT's consent. Requires the authority to pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the transportation project.

(c) Requires an authority, if feasible, to provide access to properties previously abutting a county road or other public road that is taken for a transportation project and to pay abutting property owners the expenses or any resulting damages

for a denial of access to the road.

(d) Requires an authority, if an authority changes the location of a segment of a county road as part of its development of a transportation project, on the request of the county, to reconstruct that segment of the road at a location that the authority determines, in its discretion, restores the utility of the road. Provides that the reconstruction and its associated costs are in furtherance of a transportation project.

Sec. 370.178. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) Requires the operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project to pay the proper toll. Provides that 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. Provides that an offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250.

(b) Provides in the event of nonpayment of the proper toll as required by Subsection (a), 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.

(c) Authorizes an authority to impose and collect the administrative fee to recover the cost of collecting the unpaid toll, not to exceed \$100. Requires the authority to 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 TxDOT by first class mail not later than the 30th day after the date of the alleged failure to pay and authorizes the authority to require payment not sooner than the 30th day after the date the notice was mailed. Requires the registered owner to pay a separate toll and administrative fee for each event of nonpayment under Subsection (a).

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

(e) Provides that it is an exception to the application of Subsection (b) or (d) that 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 authority a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible. Authorizes the authority, if the lessor provides the required information within the period prescribed, to 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. Provides that 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. Requires the lessee to pay a separate toll and administrative fee for each event of nonpayment. Provides that each failure to pay a toll or administrative fee under this subsection is a separate offense.

(f) Provides that it is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Subsection (a) 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 authority the name and address of the person to whom the vehicle was transferred. Authorizes an authority, if the former owner of the vehicle provides the required information within the period prescribed, to send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. Provides that 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. Requires the subsequent owner to pay a separate toll and administrative fee for each event of nonpayment under Subsection (a). Provides that each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) Provides that an offense under Subsection (d), (e), or (f) is a misdemeanor punishable by a fine not to exceed \$250.

(h) Requires the court in which a person is convicted of an offense under this section to also collect the proper toll and administrative fee and forward the toll and fee to the authority.

(i) Provides that 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. Authorizes the proof to be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence.

(j) Provides that it is a defense to prosecution under this section that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and was not recovered by the time of the failure to pay, but only if the theft was reported to the appropriate law enforcement authority before the earlier the occurrence of the failure to pay or eight hours after the discovery of the theft.

(k) Defines "registered owner."

Sec. 370.179. USE AND RETURN OF TRANSPONDERS. (a) Defines "transponder." Provides that a transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

(b) Authorizes any law enforcement or peace officer of an entity with which an authority has contracted under Section 370.182(c) to seize a stolen or insufficiently funded transponder and return it to the authority that issued the transponder. Prohibits an insufficiently funded transponder from being seized before the 30th day after the date that an authority has sent a notice of delinquency to the holder of the account.

(c) Sets forth the entities required to consider offering motor vehicle operators the option of using a transponder to pay tolls without stopping, to mitigate congestion at toll locations, to enhance traffic flow, and to otherwise increase the efficiency of operations.

Sec. 370.180. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a) Authorizes an authority, by order, to designate a turnpike project or a portion of a project as a controlled-access toll road.

(b) Sets forth a list of activities an authority is authorized, by order, to perform.

(c) Provides that denial of access to or from a segment of the state highway system is subject to the approval of TTC.

Sec. 370.181. PROMOTION OF TRANSPORTATION PROJECT. Authorizes an authority to promote the use of a transportation project, including a project that it operates on behalf of another entity, by appropriate means, including advertising or marketing as the authority determines appropriate.

Sec. 370.182. OPERATION OF TRANSPORTATION PROJECT. (a) Requires an authority to operate a transportation project with employees of the authority or by using services contracted under Subsection (b) or (c).

(b) Authorizes an authority to enter into an agreement with one or more persons to provide, on terms and conditions approved by the authority, personnel and services to design, construct, operate, maintain, expand, enlarge, or extend the transportation project of the authority.

(c) Authorizes an authority to contract with any state or local government for the services of peace officers of that agency.

Sec. 370.183. AUDIT. Requires an authority to have a certified public accountant audit the authority's books and accounts at least annually. Authorizes the cost of the audit to be treated as part of the cost of construction or operation of a transportation project.

Sec. 370.184. DISADVANTAGED BUSINESSES. (a) Requires an authority, consistent with general law, to perform certain duties.

(b) Provides that this section does not exempt an authority from competitive bidding requirements provided by other law.

Sec. 370.185. PROCUREMENT. Requires an authority to adopt rules governing the award of contracts for goods and services. Authorizes an authority, notwithstanding any other provision of state law, to procure goods and services, including materials, engineering, design, construction, operations, maintenance, and other goods and services, through any procedure authorized by this chapter. Provides that procurement of professional services is governed by Chapter 2254, Government Code.

Sec. 370.186. COMPETITIVE BIDDING. Authorizes a contract made by an authority to be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the authority's criteria.

Sec. 370.187. RESTRICTION ON LOCATION OF TURNPIKE PROJECTS. Prohibits an authority from constructing, maintaining, or operating a turnpike project in a county that, on November 6, 2001, was part of a regional tollway authority under Chapter 366 or operated a turnpike project under Chapter 284.

Sec. 370.188. PROJECT APPROVAL. (a) Prohibits an authority from beginning construction of a transportation project that will connect to the state highway system or to a department rail facility without the approval of TTC.

(b) Requires TTC by rule to establish procedures and criteria for an approval under this section. Requires the rules to require TTC to consider a request for project approval not later than the 60th day after the date TxDOT receives all information reasonably necessary to review the request.

Sec. 370.189. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS. (a) Requires an authority to adopt rules for environmental review of a transportation project that is not subject to review under the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.), as amended. Requires the rules to meet certain criteria.

(b) Requires an environmental review of a project to be conducted before the authority is authorized to approve the location or alignment of the project.

(c) Requires an authority to consider the results of the environmental review in executing its duties.

(d) Requires an authority to coordinate with the Texas Commission on Environmental Quality and the Parks and Wildlife Department in the preparation of an environmental review.

[Reserves Sections 370.190-370.250 for expansion.]

SUBCHAPTER F. GOVERNANCE

Sec. 370.251. BOARD OF DIRECTORS. (a) Provides that the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. Requires the commissioners court of each county that initially forms the authority to appoint at least two directors to the board. Authorizes additional directors to be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. Requires the commissioners court of a county that is subsequently added to the authority to appoint one director to the board. Requires the governor to appoint one director to the board who is required to serve as the presiding officer of the board and required to appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(b) Requires, unless the commissioners courts of the counties of the authority unanimously agree otherwise, the commissioners court of each county of an authority that contains an operating transportation project of the authority to appoint one additional director.

(c) Provides that 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.

(d) Requires one director appointed to the initial board of an authority by the commissioners court of a county to be designated by the court to serve a term of two years and one director designated to serve a term of four years. Provides that if one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees to determine the length of the appointees' terms, to comply with Subsection (c).

(e) Requires the appointing authority, if a vacancy occurs on the board, to promptly appoint a successor to serve for the unexpired portion of the term.

(f) Requires all appointments to the board to be made without regard to race, color, disability, sex, religion, age, or national origin.

(g) Sets forth a list of individuals who are ineligible to serve as a director.

(h) Provides that each director has equal status and is authorized to vote.

(i) Provides that the vote of a majority attending a board meeting is necessary for any action taken by the board. Provides that if a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(j) Authorizes TTC to refuse to authorize the creation of an authority if TTC

determines that the proposed board will not fairly represent political subdivisions in the counties of the authority that will be affected by the creation of the authority.

Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE AUTHORITY. Authorizes the turnpike authority or the county, if a county in which a turnpike authority under Chapter 366 operates or a county owning or operating a toll project under Chapter 284 is part of an authority, to submit to TTC a proposed structure for the board and a method of appointment to the board at certain times.

Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND EMPLOYEES. (a) Prohibits a director or employee of an authority from engaging in certain activities.

(b) Provides that a person is not eligible to serve as a director or chief administrative officer of an authority under certain circumstances.

(c) Provides that a person is not eligible to serve as a director or chief administrative officer of an authority if the person is engaged in certain professional endeavors.

(d) Defines "Texas trade association."

(e) Provides that a person is not ineligible to serve as a director or chief administrative officer of an authority if the person has received funds from TxDOT for acquisition of highway right-of-way unless the acquisition was for a project of the authority.

Sec. 370.253. SURETY BONDS. (a) Requires each director, before beginning a term, to execute a surety bond in the amount of \$25,000, and requires the secretary and treasurer to execute a surety bond in the amount of \$50,000.

(b) Requires each surety bond to meet certain criteria.

(c) Requires the authority to pay the expense of the bonds.

Sec. 370.254. REMOVAL OF DIRECTOR. (a) Sets forth the grounds for removal of a director from the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) Requires the chief administrative officer of the authority, if that person has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the ground. Requires the presiding officer to then notify the person that appointed the director that a potential ground for removal exists.

Sec. 370.255. COMPENSATION OF DIRECTOR. Entitles each director to reimbursement for the director's actual expenses necessarily incurred in the performance of the director's duties. Provides that a director is not entitled to any additional compensation for the director's services.

Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Provides that actions of an authority are the actions of its board and authorizes those actions to be evidenced in any legal manner, including a board resolution.

Sec. 370.257. PUBLIC ACCESS. Requires an authority to make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the authority and prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical,

mental, or developmental disability may be provided reasonable access to the authority's programs.

Sec. 370.258. INDEMNIFICATION. (a) Authorizes an authority to indemnify one or more of its directors or officers for necessary expenses and costs, including attorney's fees, incurred by the directors or officers in connection with any claim asserted against the directors or officers in their respective capacities as directors or officers.

(b) Authorizes the court in a proceeding in which any claim against a director or officer is asserted or any court with jurisdiction of an action instituted by the director or officer on a claim for indemnity, if an authority does not fully indemnify a director or officer as provided by Subsection (a), to assess indemnity against the authority, its receiver, or trustee only if the court finds that, in connection with the claim, the director or officer is not guilty of negligence or misconduct.

(c) Prohibits a court from assessing indemnity under Subsection (b) for an amount paid by the director or officer to the authority.

(d) Provides that this section applies to a current or former director or officer of the authority.

Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) Requires an authority to insure its officers and employees from liability arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the authority's transportation projects.

(b) Requires insurance coverage under this section to be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. Requires the form of the policy to be approved by the commissioner of insurance.

(c) Provides that this section is not a waiver of immunity of the authority or the counties in an authority from liability for the torts or negligence of an officer or employee of an authority.

(d) Defines "equipment."

Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a) Prohibits a director, agent, or employee of an authority from contracting with the authority or from being directly or indirectly interested in a contract with the authority or the sale of property to the authority.

(b) Provides that a person who violates Subsection (a) is liable for a civil penalty to the authority in an amount not to exceed \$1,000.

Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) Requires an authority to make a strategic plan for its operations. Requires a majority of the commissioners courts of the counties of the authority to by concurrent resolution determine the types of information required to be included in the strategic plan. Requires an authority, each even-numbered year, to issue a plan covering the succeeding five fiscal years, beginning with the next odd-numbered fiscal year.

(b) Requires an authority, not later than March 31 of each year, to file with the commissioners court of each county of the authority a written report on the authority's activities describing all transportation revenue bond issuances anticipated for the coming year, the financial condition of the authority, all project schedules, and the status of the authority's performance under the most recent strategic plan. Requires representatives of the board and the administrative head

of an authority, at the invitation of a commissioners court of a county of the authority, to appear before the commissioners court to present the report and receive questions and comments.

(c) Requires the authority to give notice to the commissioners court of each county of the authority not later than the 90th day before the date of issuance of revenue bonds.

Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a) Provides that 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.

(b) Provides that a telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(c) Requires a notice of a telephone conference call meeting that by law to be open to the public must specify the location of the meeting. Requires the location to be a conference room of the authority or other facility in a county of the authority that is accessible to the public.

(d) Requires each part of the telephone conference call meeting that by law must be open to the public to be audible to the public at the location specified in the notice and to be tape-recorded or documented by written minutes. Requires, on conclusion of the meeting, the tape recording or the written minutes of the meeting to be made available to the public.

[Reserves Sections 370.263-370.300 for expansion.]

SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND OPERATION OF TRANSPORTATION PROJECTS

Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS. (a) Authorizes TxDOT to agree with an authority to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system on terms agreed on by the commission or department, as applicable, and the authority. Prohibits the agreement from being inconsistent with the rights of the bondholders or persons operating the turnpike project under a lease or other contract.

(b) Authorizes TxDOT to use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct feasibility studies under Subsection (a).

(c) Provides that an obligation or expense incurred by TTC or TxDOT under this section is a part of the cost of the turnpike project for which the obligation or expense was incurred. Authorizes TTC or TxDOT to require money contributed by TTC or TxDOT under this section to be repaid from tolls or other revenue of the turnpike project on which the money was spent. Requires money repaid as required by TTC or TxDOT to be deposited to the credit of the fund from which the contribution was made. Provides that money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(d) Authorizes TTC or TxDOT to use federal money for any purpose described by this chapter.

(e) Prohibits a turnpike project developed by an authority from being part of the state highway system unless otherwise agreed to by the authority and TxDOT.

(f) Authorizes TTC to grant or loan TxDOT money to an authority for the acquisition of land for or the construction, maintenance, or operation of a turnpike project. Authorizes TTC to require the authority to repay money provided under this section from toll revenue or other sources on terms established by TTC.

(g) Requires money repaid as required by TTC to be deposited to the credit of the fund from which the money was provided. Provides that money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TRANSPORTATION PROJECTS. (a) Authorizes an authority to enter into an agreement with a public or private entity, including a toll road corporation, the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, another governmental entity, or a political subdivision, to permit the entity, independently or jointly with the authority, to study the feasibility of a transportation project or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a transportation project. Authorizes an authority and a private entity jointly to enter into an agreement with another governmental entity to study the feasibility of a transportation project or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a transportation project.

(b) Provides that an authority has broad discretion to negotiate certain provisions in a development agreement with a private entity.

(c) Prohibits an authority from incurring a financial obligation on behalf of, or guarantee the obligations of, a private entity that constructs, maintains, or operates a transportation project.

(d) Provides that an authority or a county in an authority is not liable for any financial or other obligation of a transportation project solely because a private entity constructs, finances, or operates any part of a transportation project.

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

Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) Authorizes a governmental entity other than a nonprofit corporation, consistent with the Texas Constitution, to issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority to acquire, construct, maintain, or operate a transportation project, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. Authorizes the entity to impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) Authorizes a governmental entity, in addition to the powers provided by Subsection (a) and to the extent constitutionally permitted, to agree with an authority to issue bonds, notes, or other obligations, create a taxing district or an entity to promote economic development, fund public improvements to promote economic development, or enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority. Authorizes an agreement to include a means for a local governmental entity to provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(c) Authorizes a governmental entity, to make payments under an agreement

under Subsection (b), to pay the interest on bonds issued under Subsection (b), or to provide a sinking fund for the bonds or the agreement, to pledge revenue from any available source, including annual appropriations; impose and collect taxes; or pledge revenue and impose and collect taxes.

(d) Prohibits the term of an agreement under this section from exceeding 40 years.

(e) Requires an election required to authorize action under this subchapter to be held in conformity with Chapter 1251, Government Code, or other law applicable to the governmental entity.

(f) Authorizes the governing body of any governmental entity issuing bonds, notes, or other obligations or entering into agreements under this section to exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, Government Code, except that the prohibition in that chapter on the repayment of an obligation with ad valorem taxes does not apply to an issuer exercising the authority granted by this section.

Sec. 370.304. **ADDITIONAL AGREEMENTS OF AUTHORITY.** Authorizes an authority to enter into any agreement necessary or convenient to achieve the purposes of this subchapter.

Sec. 370.305. **EXCLUSIVE DEVELOPMENT AGREEMENTS.** Authorizes an authority to use an exclusive development agreement to construct, maintain, repair, operate, extend, or expand a transportation project by invested private funding or by public funding, private funding, or any combination. Provides that an agreement under this section is not subject to a requirement or restriction of Section 222.103(i).

Sec. 370.306. **PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS.** (a) Requires the authority, if it enters into an exclusive development agreement, to use a competitive procurement process that provides the best value for the authority. Authorizes the authority to accept unsolicited proposals for a proposed transportation project or solicit proposals in accordance with this section.

(b) Requires the authority to establish rules and procedures for accepting unsolicited proposals that require the private entity to include certain items in the proposal.

(c) Requires the authority to publish a request for competing proposals and qualifications in the Texas Register that includes the criteria used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be under certain circumstances.

(d) Requires a proposal submitted in response to a request published under Subsection (c) to contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) Authorizes an authority to interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). Requires the authority to evaluate each proposal based on the criteria described in the notice. Requires the authority to qualify at least two private entities to submit detailed proposals for a project under Subsection (f) unless the authority does not receive more than one proposal or one response to a request under Subsection (c).

(f) Requires the authority to issue a request for detailed proposals from all private entities qualified under Subsection (e) if the authority proceeds with the further evaluation of a proposed project. Authorizes a request under this subsection to require certain additional information.

(g) Authorizes an authority, in issuing a request for proposals under Subsection (f), to solicit input from entities qualified under Subsection (e) or any other person. Authorizes an authority also to solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) Requires an authority to rank each proposal based on the criteria described in the request for proposals and select the private entity whose proposal offers the best value to the authority.

(i) Authorizes an authority to require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(j) Requires an authority to pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred in preparing that proposal. Requires the stipulated amount to be stated in the request for proposals and is prohibited from exceeding the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. Provides that after payment of the stipulated amount the authority owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design and the work product contained in the proposal becomes the property of the authority.

(k) Requires an authority to prescribe the general form of an exclusive development agreement and authorizes it to include any matter the authority considers advantageous to the authority. Requires the authority and the private entity to negotiate the specific terms of an exclusive development agreement.

(l) Provides that Subchapter A, Chapter 223, of this code and Chapter 2254, Government Code, do not apply to an exclusive development agreement entered into under Section 370.305.

Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS. Provides that, to encourage private entities to submit proposals under Section 370.306, certain 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.

Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. (a) Requires an authority, notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, to require a private entity entering into an exclusive development agreement under Section 370.005 to provide a performance and payment bond or an alternative form of security in an amount sufficient to perform certain duties.

(b) Requires a performance and payment bond or alternative form of security to be in an amount equal to the cost of constructing or maintaining the project.

(c) Requires the authority, if it determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), to set the amount of the bonds or the alternative forms of security.

(d) Provides that 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) Requires the amount of the payment security not to be less than the amount of the performance security.

(f) Authorizes an authority, in addition to performance and payment bonds, to require certain alternative forms of security.

(g) Requires an authority, by rule, to prescribe requirements for alternative forms of security provided under this section.

Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) Provides that a transportation project that is the subject of a development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to the authority that entered into the agreement.

(b) Authorizes an authority to 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 transportation project, including supplemental facilities. Requires, at the termination of the agreement, the transportation project, including the facilities, to be in a state of proper maintenance as determined by the authority and to be returned to the authority in satisfactory condition at no further cost.

Sec. 370.310. TERMS OF PRIVATE PARTICIPATION. Requires an authority to negotiate the terms of private participation in a transportation project, sets forth a list of terms.

Sec. 370.311. RULES, PROCEDURES, AND GUIDELINES GOVERNING NEGOTIATING PROCESS. (a) Requires an authority to adopt rules, procedures, and other guidelines governing negotiations to promote fairness, obtain private participants in transportation projects, and promote confidence among those participants. Requires the rules to contain criteria relating to the qualifications of the participants and the award of the contracts and provides that the rule may authorize the authority to impose a fee for reviewing proposals for private involvement in a transportation project.

(b) Requires an authority to have up-to-date procedures for participation in negotiations on transportation projects.

(c) Provides that an authority has exclusive judgment to determine the terms of an agreement.

(d) Provides that a proposal and related information submitted for private involvement in a transportation project, and all documents and information created by the authority or its agents during the authority's consideration of a proposal for private involvement in a transportation project, are excepted from disclosure, inspection, or copying under Chapter 552, Government Code, and are not subject to discovery, subpoena, or other means of legal compulsion for release, until the authority has entered into an agreement or until it has determined not to develop a proposed project through an agreement with a private entity.

(e) Authorizes an authority to agree to acquire the work product of an unsuccessful proposer for the development of a project through an exclusive development agreement or other form of private involvement in a transportation project if the payment for such work product does not exceed its value to the authority.

Sec. 370.312. PARTICIPATION ON CERTAIN OTHER BOARDS, COMMISSIONS, OR PUBLIC BODIES. (a) Authorizes an authority to participate in and designate board members to serve as representatives on boards, commissions, or public bodies, the purposes of which are to promote the development of joint toll facilities in this state,

between this state and other states of the United States, or between this state and the United Mexican States or states of the United Mexican States.

(b) Authorizes a fee or expense associated with authority participation under this section to be reimbursed from money in the authority's feasibility study fund.

Sec. 370.313. COMBINATION OF ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES. Authorizes an authority to procure a combination of engineering, design, and construction services in a single procurement for a transportation project provided that any contract awarded must be the one that results in the best value to the authority.

Sec. 370.314. PERFORMANCE AND PAYMENT BONDS AND SECURITY. Requires an authority, notwithstanding Chapter 2253, Government Code, to require any party to an agreement to operate or maintain a transportation project to provide performance and payment bonds or other forms of security in amounts considered by the authority to be adequate to protect the authority and to assure performance of all obligations to the authority and to subcontractors providing materials or labor for a transportation project.

Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. Requires an authority, in the event that an authority is requested by TTC to participate in the development of a transportation project that has been designated as part of the Trans-Texas Corridor, to have, in addition to all powers granted in this chapter, all powers of TxDOT related to the development of Trans-Texas Corridor projects.

[Reserves Sections 370.316-370.330 for expansion.]

SUBCHAPTER H. DISSOLUTION OF AUTHORITY

Sec. 370.331. VOLUNTARY DISSOLUTION. (a) Prohibits an authority from being dissolved unless the dissolution is approved by TTC.

(b) Authorizes a board to submit a request to TTC for approval to dissolve.

(c) Authorizes TTC to approve a request to dissolve only under certain circumstances.

Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) Authorizes TTC by order to require an authority to dissolve if TTC determines that the authority has not substantially complied with the requirements of a TTC rule or an agreement between TxDOT and the authority.

(b) Prohibits TTC from requiring dissolution except under certain circumstances.

SECTION 2.02. Repealer: Section 361.003 (Regional Mobility Authority), Transportation Code.

SECTION 2.03. (a) Effective date of this article: upon passage or September 1, 2003.

(b) Provides that this article does not affect the term of a member of the board of directors of a regional mobility authority serving on the effective date of this article.

ARTICLE 3. EXCLUSIVE DEVELOPMENT AGREEMENTS

SECTION 3.01. Amends Chapter 201, Transportation Code, by adding Subchapter N, as follows:

SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

Sec. 201.951. DEFINITIONS. Defines "exclusive development agreement" and "transportation project."

Sec. 201.9511. APPLICABILITY OF BIDDING PROCEDURE REQUIREMENT. Provides that an exclusive development agreement is not subject to a requirement or restriction of Section 222.103(i).

Sec. 201.952. AUTHORITY TO ENTER INTO EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) Authorizes TxDOT, subject to Section 201.953, to enter into exclusive development agreements.

(b) Authorizes TxDOT to negotiate provisions relating to professional and consulting services in connection with an exclusive development.

(c) Authorizes TxDOT, subject to Section 201.953, to use any constitutionally permissible source of funds without restriction on the number of exclusive development agreements that may be entered into.

Sec. 201.953. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. Prohibits the amount of money disbursed by TxDOT from the state highway fund during a federal fiscal year to pay the costs under an exclusive development agreement from exceeding 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Sec. 201.954. PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) Requires TxDOT, if it enters into an exclusive development agreement, to use a competitive procurement process that provides the best value for the department. Authorizes TxDOT to accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) Requires TxDOT to establish rules and procedures for accepting unsolicited proposals that require the private entity to include certain information in the proposal.

(c) Requires TxDOT to publish a request for competing proposals and qualifications in the Texas Register that includes the criteria used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received under certain circumstances.

(e) Authorizes TxDOT to interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). Requires TxDOT to evaluate each proposal based on the criteria described in the notice. Requires TxDOT to qualify at least two private entities to submit detailed proposals for a project under Subsection (f) unless TxDOT does not receive more than one proposal or one response to a request under Subsection (c).

(f) Requires TxDOT to issue a request for detailed proposals from all private entities qualified under Subsection (e) if TxDOT proceeds with the further evaluation of a proposed project. Authorizes a request under this subsection to require certain additional information.

(g) Authorizes TxDOT, in issuing a request for proposals under Subsection (f), to solicit input from entities qualified under Subsection (e) or any other person. Authorizes TxDOT also to solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) Requires TxDOT to rank each proposal based on the criteria described in the request for proposals and select the private entity whose proposal offers the best value to TxDOT.

(i) Authorizes TxDOT to require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(j) Authorizes TxDOT to pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred in preparing that proposal. Requires the stipulated amount to be stated in the request for proposals and prohibits it from exceeding the value of any work product contained in the proposal that can, as determined by TxDOT, be used by TxDOT in the performance of its functions. Provides that after payment of the stipulated amount TxDOT owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design, and the work product contained in the proposal becomes the property of TxDOT.

(k) Authorizes TxDOT to prescribe the general form of an exclusive development agreement and to include any matter the department considers advantageous to TxDOT. Requires TxDOT and the private entity to negotiate the specific terms of an exclusive development agreement.

(l) Provides that Subchapter A, Chapter 223, of this code and Chapter 2254, Government Code, do not apply to an exclusive development agreement entered into under Sections 201.952.

Sec. 201.955. CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS. Provides that, to encourage private entities to submit proposals under Section 201.954, certain 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.

Sec. 201.956. PERFORMANCE AND PAYMENT SECURITY. (a) Requires TxDOT, notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, to require a private entity entering into an exclusive development agreement under Section 201.952 to provide a performance and payment bond or an alternative form of security in an amount sufficient to ensure the proper performance of the agreement and protect TxDOT and 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) Requires a performance and payment bond or alternative form of security to be in an amount equal to the cost of constructing or maintaining the project.

(c) Requires TxDOT, if TxDOT determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), to set the amount of the bonds or the alternative forms of security.

(d) Provides that 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) Prohibits the amount of the payment security from being less than the amount of the performance security.

(f) Authorizes TxDOT, in addition to performance and payment bonds, to require certain alternative forms of security.

(g) Requires TxDOT, by rule, to prescribe requirements for alternative forms of

security provided under this section.

Sec. 201.957. EXPIRATION. Provides that this subchapter expires August 31, 2011.

SECTION 3.02. Repealer: Section 222.103(j) (Cost Participation), Transportation Code.

SECTION 3.03. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 4. ADVANCE ACQUISITION OF PROPERTY

SECTION 4.01. Amends the heading to Chapter 202, Transportation Code, to read as follows:

CHAPTER 202. CONTROL OF TRANSPORTATION ASSETS

SECTION 4.02. Amends Chapter 202, Transportation Code, by adding Subchapter F, as follows:

SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

Sec. 202.111. DEFINITION. Defines "advance acquisition."

Sec. 202.112. ADVANCE ACQUISITIONS. (a) Authorizes TTC to make an acquisition of property for possible use in or in connection with a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property. Authorizes an advance acquisition to be made under any terms and conditions TTC considers proper.

(b) Requires an advance acquisition to be made by TTC using the procedures authorized under Subchapter D of Chapter 203 or other law authorizing TTC of TxDOT to acquire real property or an interest in real property for a transportation facility. Authorizes TTC, if TTC acquires real property or an interest in real property under Subchapter D of Chapter 203 or other law, to make an advance acquisition in the manner provided by this subchapter.

(c) Prohibits TTC from making an advance acquisition by condemnation.

Sec. 202.113. MANAGEMENT. Requires property acquired by advance acquisition, if requested by TxDOT, to be managed by the General Land Office on behalf of TxDOT. Prohibits the property from being sold or encumbered in any way by the General Land Office except under a lease approved by TxDOT.

Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. Requires TTC to dispose of property acquired by advance acquisition that is not needed for a transportation facility in the manner provided by Subchapter B.

ARTICLE 5. DRIVER RESPONSIBILITY

SECTION 5.01. Amends Subtitle I, Title 7, Transportation Code, by adding Chapter 708, as follows:

CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM SUBCHAPTER A. GENERAL PROVISIONS

Sec. 708.001. DEFINITIONS. Defines "department" and "license."

Sec. 708.002. RULES. Requires TxDOT to adopt and enforce rules to implement and enforce this chapter.

Sec. 708.003. FINAL CONVICTIONS. Provides that for purposes of this chapter, a conviction for an offense to which this chapter applies is a final conviction, regardless of whether the sentence is probated.

[Reserves Sections 708.004-708.050 for expansion.]

SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

Sec. 708.051. NONAPPLICABILITY. Provides that this subchapter does not apply to a conviction that became final before September 1, 2003, or an offense covered by Subchapter C.

Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS. (a) Provides that the driver's license of a person accumulates a point under this subchapter as of the date the department records a conviction of the person under Section 521.042 or other applicable law.

(b) Requires TxDOT, for each conviction arising out of a separate transaction, to assign certain points to a person's license.

(c) Requires TxDOT by rule to designate the offenses that constitute a moving violation of the traffic law under this section.

Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Requires TxDOT, each year, to assess a surcharge on the license of a person who has accumulated six or more points under this subchapter during the preceding 36-month period.

Sec. 708.054. AMOUNT OF POINTS SURCHARGE. Provides that the amount of a surcharge under this chapter is \$100 for the first six points and \$25 for each additional point.

Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. Requires TxDOT to notify the holder of a driver's license of the assignment of a fifth point on that license by first class mail sent to the person's most recent address as shown on the records of TxDOT.

[Reserves Sections 708.056-708.100 for expansion.]

SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND LICENSE SUSPENSIONS

Sec. 708.101. NONAPPLICABILITY. Provides that this subchapter does not apply to a conviction that became final before September 1, 2003.

Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) Defines "offense relating to the operating of a motor vehicle while intoxicated."

(b) Requires TxDOT each year to assess a surcharge on the license of each person who during the preceding 36-month period has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated.

(c) Provides that the amount of a surcharge under this section is \$1,000 per year, except that for a third or subsequent conviction within a 36-month period, the amount of the surcharge is \$1,500 per year.

(d) Prohibits a surcharge under this section for the same conviction from being assessed in more than three years.

Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Requires TxDOT each year to a surcharge on the license of each person who during the preceding 36-month period has been convicted of an offense under Section 521.457, 601.191, or 601.371.

(b) Provides that the amount of a surcharge under this section is \$250 per year.

Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT VALID LICENSE. (a) Requires TxDOT each year to assess a surcharge on the license of a person who during the preceding 36-month period has been convicted of an offense under Section 521.021.

(b) Provides that the amount of a surcharge under this section is \$100 per year.

(c) Prohibits a surcharge under this section for the same conviction from being assessed in more than three years.

[Reserves Sections 708.105-708.150 for expansion.]

SUBCHAPTER D. COLLECTION OF SURCHARGES

Sec. 708.151. NOTICE OF SURCHARGE. Requires TxDOT to notify the holder of a driver's license of the assessment of a surcharge on that license by first class mail sent to the person's most recent address as shown on the records of TxDOT. Requires the notice to specify the date by which the surcharge must be paid and state the consequences of a failure to pay the surcharge.

Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) Provides that if before the 30th day after the date TxDOT sends a notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with TxDOT, the license of the person is automatically suspended.

(b) Provides that a license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.

Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) Requires TxDOT to by rule to provide for the payment of a surcharge in installments.

(b) Establishes the scope of a rule under this section.

Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) Authorizes TxDOT by rule to authorize the payment of a surcharge by use of a credit card. Requires the rules to require the person to pay all costs incurred by the department in connection with the acceptance of the credit card.

(b) Provides that if a surcharge or a related cost is paid by credit card and the amount is subsequently reversed by the issuer of the credit card, the license of the person is automatically suspended.

(c) Provides that a license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.

Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. Authorizes TxDOT to enter into a contract with a private attorney or a public or private vendor for the provision of services for the collection of surcharges receivable under this chapter.

Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO COMPTROLLER. Requires each surcharge collected by TxDOT under this chapter to be remitted to the comptroller as required by Section 780.002, Health and Safety Code.

SECTION 5.02. Amends Subtitle B, Title 9, Health and Safety Code, by adding Chapter 780 as follows:

CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

Sec. 780.001. DEFINITIONS. Defines "account," "commissioner," and "department."

Sec. 780.002. DEPOSITS TO ACCOUNT. (a) Requires the Department of Public Safety (DPS), on the first Monday of each month, to remit the surcharges collected during the previous month under the driver responsibility program operated by TxDOT under Chapter 708, Transportation Code, to the comptroller.

(b) Requires the comptroller to deposit 99 percent of the amount of the surcharges collected to the account established under this chapter. Requires the remaining one percent of the amount of the surcharges to be deposited to the general revenue fund and is authorizes it to be appropriated only to DPS for administration of the driver responsibility program operated by that department under Chapter 708, Transportation Code.

Sec. 780.003. ACCOUNT. (a) Provides that the designated trauma facility and emergency medical services account is created as an account in the state treasury. Authorizes money in the account to be appropriated only to the Texas Department of Health (TDH) for the purposes described by Section 780.004.

(b) Provides that the account is composed of money deposited to the credit of the account under Section 780.002, and the earnings of the account.

(c) Provides that Sections 403.095 and 404.071, Government Code, do not apply to the account.

Sec. 780.004. PAYMENTS FROM THE ACCOUNT. (a) Requires the commissioner of public health (commissioner), with advice and counsel from the chairpersons of the trauma service area regional advisory councils, to use money appropriated from the account established under this chapter to fund designated trauma facilities, county and regional emergency medical services, and trauma care systems in accordance with this section.

(b) Requires the commissioner to maintain a reserve of \$500,000 of money appropriated from the account for extraordinary emergencies.

(c) Requires the commissioner, in any fiscal year, to use at least 96 percent of the money appropriated from the account, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by TDH. Authorizes the administrator of a designated facility to request the presiding officer of a regional advisory council to petition TDH for disbursement of funds to a designated trauma facility in the chairperson's trauma service area that has provided uncompensated trauma care. Authorizes funds to be disbursed under this subsection based on a proportionate share of uncompensated trauma care provided in the state and to be used to fund innovative projects to enhance the delivery of patient care in the overall emergency medical services and trauma care system.

(d) Prohibits the commissioner, in any fiscal year, from using more than two percent of the money appropriated from the account, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund, in connection with an effort to provide coordination with the appropriate trauma service area, the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency medical

services. Requires the money to be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county. Requires the regional advisory council, to receive a distribution under this subsection, to be incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of the code. Requires the share of the money allocated to the eligible recipients in a county's geographic area to be based on the relative geographic size and population of the county and on the relative number of emergency or trauma care runs performed by eligible recipients in the county. Requires money that is not disbursed by a regional advisory council to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to be returned to TDH to be used in accordance with Subsection (c).

(e) Prohibits the commissioner, in any fiscal year, from using more than one percent of the money appropriated from the account, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, for operation of the 22 trauma service areas and for equipment, communications, and education and training for the areas. Requires money distributed under this subsection to be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county. Requires the regional advisory council to receive a distribution under this subsection, to be incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of the code. Requires a regional advisory council's share of money distributed under this section to be based on the relative geographic size and population of each trauma service area and on the relative amount of trauma care provided. Requires money that is not disbursed by a regional advisory council to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to be returned to TDH to be used in accordance with Subsection (c).

(f) Authorizes the commissioner, in any fiscal year, to use not more than one percent of money appropriated from the account, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund the administrative costs of the bureau of emergency management of TDH associated with administering the trauma program, the state emergency medical services program, and the account and to fund the costs of monitoring and providing technical assistance for those programs and that account.

Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT. Requires money distributed under Section 780.004 to be used in compliance with Section 780.004 on the authorization of the executive committee of the trauma service area regional advisory council.

Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. Prohibits TDH, for a period of not less than one year or more than three years, as determined by the commissioner, from disbursing money under Section 780.004 to a county, municipality, or local recipient that the commissioner finds used money in violation of that section.

SECTION 5.03. Requires TDH, not later than December 1, 2004, to submit to the lieutenant governor and the speaker of the house of representatives a report concerning the use of money under Chapter 780, Health and Safety Code, as added by this article, and any recommended changes to law to ensure appropriate funding and coordination of services.

ARTICLE 6. RAIL FACILITIES

SECTION 6.01. Sets forth legislative findings.

SECTION 6.02. Amends Title 5, Transportation Code, by adding Subtitle A, as follows:

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 91. RAIL FACILITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. Defines "commission," "construction," "department," "maintenance facility," "operation," "rail facility," "revenue," "right-of-way," "station," "surplus revenue," "trackwork," and "train controls."

Sec. 91.002. PUBLIC PURPOSE. Sets forth functions that are public and governmental functions, exercised for a public purpose, and matters of public necessity.

Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. Requires this chapter to be liberally construed to effect its purposes.

Sec. 91.004. RULES. Authorizes TTC to adopt rules and TxDOT to adopt procedures and prescribe forms necessary to implement this chapter.

Sec. 91.005. GENERAL POWERS. Establishes TxDOT's general powers.

Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. Requires TxDOT to contract with a private entity to operate a railroad using facilities owned by TxDOT and prohibits using TxDOT employees to operate a railroad. Authorizes TxDOT to maintain a railroad facility directly or through a private entity.

Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. Requires an agency or political subdivision of this state, within available resources, to cooperate with and assist TxDOT in exercising its powers and duties under this chapter.

Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires TxDOT, on receipt of notice of intent to abandon or discontinue rail service served under 49 C.F.R. Section 1152.20, as amended, to coordinate with the governing body of a municipality, county, or rural rail transportation district in which all or a segment of the line is located to make certain determinations.

[Reserves Sections 91.009-91.030 for expansion.]

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) Authorizes TTC, if TTC determines that the provision of rail transportation services would be most efficiently and economically met by jointly operating two or more rail facilities as one operational and financial enterprise, to create a system composed of those facilities.

(b) Authorizes TTC to create more than one system and to combine two or more systems into one system.

(c) Authorizes TxDOT to finance, acquire, construct, and operate additional rail facilities as additions to and expansions of the system if TTC determines that the facility would most efficiently and economically be acquired and constructed if it were a part of the system and that the addition will benefit the system.

(d) Requires the revenue of a system to be accounted for separately and prohibits it from being commingled with the revenue of a rail facility that is not part of the system.

Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) Authorizes TTC to authorize TxDOT to acquire an existing rail facility at a location and on a route TTC determines to be feasible and viable for rail transportation service.

(b) Authorizes TxDOT to enter into an agreement with the owner of an operating railroad for the acquisition or use of a rail facility on terms TxDOT considers to be in the best interest of the state.

(c) Authorizes TxDOT to acquire rolling stock or other personal property under certain circumstances.

Sec. 91.033. ENVIRONMENTAL REVIEW. (a) Requires TxDOT to conduct or approve all environmental evaluations or studies required for the construction, maintenance, or operation of a rail facility.

(b) Authorizes TTC to adopt rules to allocate responsibility for conducting an environmental evaluation or study or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility under this chapter.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) Authorizes TxDOT to 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, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(b) Authorizes TxDOT to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(c) Authorizes TxDOT, if authorized by the applicable regulatory authority, to pay an amount of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR PRIVATE ENTITY. Authorizes TxDOT, for the purpose of acquiring, constructing, maintaining, and operating freight or passenger rail facilities and systems in this state, to engage in certain activities.

Sec. 91.036. EXPENDITURE OF FUNDS. Authorizes TxDOT to receive, accept, and expend funds from this state, a federal agency, or other public or private source for certain activities.

[Reserves Sections 91.037-91.050 for expansion.]

SUBCHAPTER C. CONTRACTS

Sec. 91.051. AWARDING OF CONTRACTS. Requires a contract made by TxDOT for the construction, maintenance, or operation of a rail facility, unless otherwise provided by this subchapter, to be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with TxDOT's criteria.

Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE RAIL

FACILITIES. Authorizes TxDOT to enter into an agreement with a public entity, including a political subdivision of this state, to permit the entity, independently or jointly with TxDOT, to acquire, construct, maintain, or operate a rail facility or system.

Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) Authorizes TxDOT to enter into an exclusive development agreement with a private entity to construct, maintain, or operate a rail facility or system. Sets forth the authorized provisions of an exclusive development agreement.

(b) Requires TxDOT, when contracting with a private entity under this section, to use a competitive procurement process that provides the best value for TxDOT, including contracting through the issuance of requests for proposals. Requires TxDOT to publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the bidders and the relative weight given to the criteria. Authorizes TxDOT to accept unsolicited proposals for proposed projects provided that TxDOT issues a request for competing proposals for those proposed projects accepted for further evaluation. Authorizes TxDOT to require that a solicited or unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover TxDOT's cost to review the proposal.

(c) Provides that TxDOT has broad discretion to negotiate provisions in an exclusive development agreement with a private entity. Authorizes the provisions to relate to certain issues.

(d) Authorizes TxDOT to authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(e) Requires TxDOT to prescribe the form of an exclusive development agreement and authorizes it to include any matter TxDOT considers advantageous to the state.

(f) Provides that Section 91.051 does not apply to an agreement entered into under this section.

Sec. 91.054. PAYMENT FOR WORK PRODUCT. (a) Authorizes TxDOT to pay an unsuccessful private entity that submits a response to a request for proposals a stipulated amount of the final contract price for costs incurred in preparing that proposal. Requires the stipulated amount to be stated in the request for proposals and is prohibited from exceeding the value of any work product contained in the proposal that can, as determined by TxDOT, be used by TxDOT in the performance of its functions.

(b) Authorizes TxDOT, after payment of the stipulated amount, to make use of any work product contained in the proposal, including the work product contained in the project design.

Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. Prohibits TxDOT from incurring a financial obligation on behalf of, or otherwise guarantee the obligations of, a private entity that constructs, maintains, or operates a rail facility or system.

Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Provides that until a final contract is executed with respect to a proposed project, certain 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.

Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. (a) Requires TxDOT, notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, to require a private entity entering into an exclusive development agreement under Section

91.053 to provide performance and payment bonds or alternative forms of security in certain amounts.

(b) Requires the performance and payment bonds or alternative forms of security to be in an amount equal to the cost of constructing the project unless TxDOT determines that it is impracticable for the private entity to provide security in that amount, in which case TxDOT is required to set the amount of the bonds or the alternative forms of security. Prohibits the amount of the payment security from being less than the amount of the performance security.

(c) Provides that a payment and 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.

(d) Authorizes TxDOT, in addition to performance and payment bonds, to require certain alternative forms of security.

(e) Requires TTC by rule to prescribe requirements for alternative forms of security provided under this section.

Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) Requires TxDOT perform certain duties.

(b) Provides that this section does not exempt TxDOT from competitive bidding requirements imposed by other law.

[Reserves Sections 91.059-91.070 for expansion.]

SUBCHAPTER D. FINANCING OF RAIL FACILITIES

Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. Authorizes TxDOT to use any legally permissible source of funding in acquiring, constructing, maintaining, and operating a rail facility or system, including certain funds.

Sec. 91.072. REVENUE BONDS. (a) Authorizes TTC to authorize the issuance of bonds to pay all or part of the cost of acquiring, constructing, maintaining, or operating a rail facility or system or refund any bonds previously issued for the facility or system.

(b) Provides that Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued by TTC. Provides that to the extent there is a conflict between those laws and this chapter, the provisions of this chapter prevail.

Sec. 91.073. PAYMENT OF BONDS. Provides that the principal of, interest on, and any redemption premium on bonds issued by TTC under this chapter are payable solely from certain funds.

Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Provides that bonds issued under this chapter do not constitute a debt of the state or a pledge of the faith and credit of the state. Requires each bond to contain on its face a statement to the effect that the state is 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 neither the faith and credit nor taxing power of the state is pledged to the payment of the principal of or interest on the bond.

(b) Prohibits TTC and TxDOT from incurring financial obligations under this chapter that cannot be paid from revenue derived from owning or operating TxDOT's rail facilities and systems and from other revenue provided by law.

Sec. 91.075. GRANTS AND LOANS. Authorizes TxDOT to apply for, accept, and expend money from grants, loans, or reimbursements for any purpose of this chapter, including paying for the cost of the acquisition, construction, maintenance, and operation of a rail facility or system.

Sec. 91.076. REVENUE. (a) Authorizes TxDOT to require a person, including any public or private entity, to pay a fee as a condition of using any part of a rail facility or system.

(b) Requires TxDOT to establish and maintain rents or other compensation for the use of rail facilities or systems in an amount that is, together with other revenue of the department received under this chapter, sufficient to enable TxDOT to comply with the requirements of Section 91.073.

(c) Authorizes TxDOT to contract with a person for the use of all or part of a rail facility or system or to 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.

(d) Requires revenue received by TxDOT under this chapter to be deposited to the credit of the state highway fund, authorizes it to be used for any purpose authorized by this chapter and provides that it is exempt from the application of Section 403.095, Government Code.

[Reserves Sections 91.077-91.090 for expansion.]

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) Authorizes TTC to authorize TxDOT to acquire in the name of the state a right-of-way, a property right, or other interest in real property determined to be necessary or convenient for TxDOT's acquisition, construction, maintenance, or operation of rail facilities.

(b) Authorizes TTC to authorize TxDOT to acquire property by any method, including purchase and condemnation. Authorizes property to be purchased under any terms determined by TxDOT to be in the best interest of the state.

(c) Authorizes property to be purchased along alternative potential routes for a rail facility even if only one of those potential routes will ultimately be chosen as the final route.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL FACILITIES. Provides that property necessary or convenient for TxDOT's acquisition, construction, maintenance, or operation of rail facilities includes an interest in real property or a property right the commission determines is necessary or convenient to provide certain benefits.

Sec. 91.093. RIGHT OF ENTRY. (a) Authorizes TxDOT, to acquire property necessary or convenient for a rail facility, to enter any premises or real property, including a body of water, to make a survey, geotechnical evaluation, sounding, or examination.

(b) Provides that an entry under Subsection (a) is not a trespass an entry under a pending condemnation procedure.

(c) Requires TxDOT to make reimbursements for actual damages that result from an entry under Subsection (a).

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY. Authorizes the governing body of a municipality, county, political subdivision, or public agency, without advertisement, to convey the title to or a right in property determined to be necessary or convenient by TxDOT under this subchapter.

Sec. 91.095. DISPOSAL OF PROPERTY. Requires TxDOT to sell, convey, or otherwise dispose of any rights or other interests in real property acquired under this subchapter that TTC determines are no longer needed for TxDOT purposes.

[Reserves Sections 91.096-91.100 for expansion.]

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES. Authorizes TxDOT to contract with a county or other political subdivision of the state for TxDOT to provide rail transportation services on terms agreed to by the parties.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) Authorizes TxDOT to lease all or part of a rail facility or system to a rail operator. Authorizes TxDOT to contract with a rail operator for the use or operation of all or part of a rail facility or system.

(b) Requires TxDOT to encourage to the maximum extent practical the participation of private enterprise in the operation of rail facilities and systems.

(c) Requires a lease agreement to provide for TxDOT's monitoring of a rail operator's service and performance.

(d) Authorizes TxDOT to enter into an agreement with a rail operator to sell all or any part of state-owned rail facilities on terms TxDOT considers to be in the best interest of the state.

Sec. 91.103. JOINT USE OF RAIL FACILITIES. Authorizes TxDOT to enter into an agreement with a rail operator, public utility, private utility, communication system, common carrier, or transportation system for the common use of its facilities, installations, or properties and establish through routes, joint fares, and, subject to approval of a tariff-regulating body having jurisdiction, divisions of tariffs.

Sec. 91.104. ROUTINGS. Authorizes TxDOT to determine routings for rail facilities acquired, constructed, or operated by TxDOT under this chapter.

Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT.

(a) Provides that a utility has the same right to place its facilities, lines, or equipment in, over, or across right-of-way that is part of a state-owned rail facility as the utility has with respect to the right-of-way of a state highway under Chapter 181, Utilities Code. Requires a utility to notify TxDOT of the utility's intention to exercise authority over right-of-way that is part of state-owned rail facilities.

(b) Authorizes TxDOT, on receipt of notice under Subsection (a), to designate the location in the right-of-way where the utility may place its facilities, lines, or equipment.

(c) Authorizes TxDOT to require a utility to relocate the utility's facilities, lines, or equipment, at the utility's expense, to allow for the expansion or relocation of rail facilities owned by the state. Requires TxDOT to pay for the cost of the relocation if the utility acquired an easement or a leasehold interest in the real property occupied by the facility to be relocated before TxDOT acquired the right-of-way under this chapter.

(d) Authorizes a utility to use and operate a facility required to be relocated under this section at the new location for the same period and on the same terms as the utility had the right to do at the previous location of the facility.

SECTION 6.03. Repealer: Article 6550c-2 (Preservation of Rail Facilities by Texas Department of Transportation), V.T.C.S.

SECTION 6.04. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 7. DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

SECTION 7.01. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.058, to require each fee collected under this subchapter to be deposited to the credit of the Texas mobility fund.

SECTION 7.02. Amends Section 521.313, Transportation Code, by adding Subsection (c) to require each fee collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.03. Amends Section 521.3466, Transportation Code, by adding Subsection (e), to require each fee collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.04. Amends Subchapter R, Chapter 521, Transportation Code, by adding Section 521.427, as follows:

Sec. 521.427. DISPOSITION OF FEES. (a) Requires, except as provided by Subsection (b), each fee collected under this subchapter to be deposited to the credit of the Texas mobility fund.

(b) Provides that Subsection (a) does not apply to certain fees.

SECTION 7.05. Amends Section 522.029, Transportation Code, by adding Subsection (i) to require, except as provided by Section 662.011, each fee collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.06. Amends Section 524.051, Transportation Code, by adding Subsection (c) to require each fee collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.07. Amends Subchapter H, Chapter 548, Transportation Code, by adding Section 548.508 to require, except as provided by Section 382.0622, Health and Safety Code, and Section 548.5055, each fee collected by TxDOT under this subchapter to be deposited to the credit of the Texas mobility fund.

SECTION 7.08. Amends Section 644.153, Transportation Code, by adding Subsection (i) to require each penalty collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.09. Amends Section 724.046, Transportation Code, by adding Subsection (c) to require each fee collected under this section to be deposited to the credit of the Texas mobility fund.

SECTION 7.10. Repealer: Section 521.055(d) (Establishment of Interactive System), Transportation Code.

SECTION 7.11. Makes application of this article prospective.

ARTICLE 8. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

SECTION 8.01. Amends Subchapter A, Chapter 222, Transportation Code, by adding Section 222.003, as follows:

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND. (a) Authorizes TTC to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) Prohibits the aggregate principal amount of the bonds and other public securities that are issued from exceeding \$5 billion. Authorizes TTC to only issue bonds or other public securities in an aggregate principal amount of not more than \$1 billion each year.

(c) Requires proceeds from the sale of bonds and other public securities issued under this section to be used to fund state highway improvement projects. Requires at least 20 percent of the proceeds from the bonds or other public securities, of the aggregate principal amount of bonds and other public securities authorized to be issued under this section, to be used to fund highway safety improvement projects that correct or improve hazardous locations on the state highway system, as determined by TTC.

(d) Requires TTC by rule to prescribe criteria for selecting highway safety improvement projects eligible for funding under this section. Requires TTC, in establishing these criteria, to consider accident data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

(e) Prohibits the proceeds of bonds and other public securities issued under this section from being used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. Prohibits the proceeds of bonds and other public securities issued under this section from being used for the construction of a state highway or other facility on the Trans-Texas Corridor. Defines "Trans-Texas Corridor."

(f) Authorizes TTC to enter into bond enhancement agreements relating to the bonds and other public securities authorized by this section. Authorizes the agreements to be secured by and payable from the same sources as the bonds and other public securities.

(g) Provides that all laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to the issuing of bonds and other public securities and the entering into of bond enhancement agreements under this section.

(h) Authorizes the proceeds of bonds and other public securities issued under this section to be used to finance other funds relating to the public security, including debt service reserve and contingency and pay the cost or expense of the issuance of the public security.

(i) Prohibits bonds and other public securities and bond enhancement agreements authorized by this section from having a principal amount or terms that, at the time the bonds or other public securities are issued or the agreements entered into, are expected by TTC to cause annual expenditures with respect to the obligations to exceed 10 percent of the amount deposited to the credit of the state highway fund in the immediately preceding year.

(j) Authorizes bonds and other public securities issued under this section to be sold in such manner and subject to such terms and provisions as set forth in the

order authorizing their issuance, and requires such bonds and other public securities to mature not later than 20 years after their dates of issuance, subject to any refundings or renewals.

(k) Requires the comptroller to withdraw from the state highway fund and forward at the direction of TTC to another person the amounts as determined by TTC to permit timely payment of the principal of and interest on the bonds and other public securities that mature or become due and any cost related to the bonds and other public securities that become due, including payments under bond enhancement agreements.

SECTION 8.02. Provides that this article takes effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, that authorizes the legislature to provide for the issuance of bonds and other public securities secured by the state highway fund for highway improvement projects takes effect. Provides that if that amendment is not approved by the voters, this article has no effect.

ARTICLE 9. SHADOW TOLLS

SECTION 9.01. Amends Subchapter E, Chapter 222, Transportation Code, by adding Section 222.104, as follows:

Sec. 222.104. SHADOW TOLLS. (a) Defines "shadow toll."

(b) Authorizes TxDOT to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.

(c) Authorizes TxDOT to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to TxDOT as reimbursement for TxDOT's construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the public or private entity.

(d) Authorizes TxDOT to enter into an agreement with a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 that provides for certain payments.

(e) Authorizes TxDOT or other public entity to use any available funds for the purpose of making a shadow toll payment under this section.

(f) Authorizes TTC to adopt rules necessary to implement this section. Authorizes rules adopted under this subsection to establish criteria for determining the amount of shadow tolls to be paid under this section and 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.

SECTION 9.02. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 10. TEXAS TURNPIKE AUTHORITY

SECTION 10.01. Amends Section 201.112(a), Transportation Code, to authorize TTC by rule to establish procedures for the informal resolution of a claim arising out of a contract described by certain sections and chapters.

SECTION 10.02. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 11. PROPERTY TRANSFER

SECTION 11.01. Amends Section 201.103, Transportation Code, as follows:

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS. (a) Requires TTC to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

(b) Requires TTC to designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system. Authorizes TTC to remove a segment of the state highway system that it determines is not needed for the system. Requires TTC, in planning and making policies, to consider, for incorporation into the state highway system, turnpikes that other governmental or private entities are authorized to construct.

(c) and (d) Created from text of existing Subsections (a) and (b).

SECTION 11.02. Amends Section 202.021, Transportation Code, as follows:

Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) Authorizes TTC to recommend to the governor the sale or transfer of any interest in real property, including certain highway right-of-ways.

(b) Requires, except as provided by Subsection (c), real property to be sold to the general public.

(c) Requires a highway right-of-way to be transferred or sold with certain priorities.

(d) Redesignates this section from Subsection (c). Requires TTC to determine the fair value of the state's interest in the real property and, if the value is \$10,000 or more, advise the governor of the value.

(e) Authorizes TTC to waive payment for real property transferred to a governmental entity under this section if the estimated cost of future maintenance on the property equals or exceeds the fair value of the property.

(f) Redesignates this subsection from Subsection (d). Requires any revenue from the sale of property under this subchapter to be deposited to the credit of the state highway fund.

(g) Redesignates this subsection from Subsection (e).

(h) Authorizes TTC, if it determines that the value of the real property is less than \$10,000, to authorize the executive director to execute a deed conveying the state's interest in the property without a recommendation to the governor.

SECTION 11.03. Amends Section 202.030(a), Transportation Code, to require the attorney general to approve a transfer or conveyance that is made under this subchapter if the value of the real property transferred or conveyed is \$10,000 or more.

SECTION 11.04. Amends Subchapter B, Chapter 202, Transportation Code, by adding Section 202.033, as follows:

Sec. 202.033. TRANSFER OF HISTORIC BRIDGE. (a) Defines "historic bridge."

(b) Authorizes TxDOT to transfer ownership of a historic bridge scheduled for replacement to a governmental entity or a responsible private entity. Provides that the entity that accepts ownership of the bridge assumes all legal and financial responsibility for the bridge and is required to maintain and preserve the bridge and its historic features.

(c) Sets forth the list of laws that do not apply to a transfer under this section.

SECTION 11.05. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 12. MISCELLANEOUS PROVISIONS

SECTION 12.01. (a) Re-creates the tertiary care account under Section 46.003, Health and Safety Code, as a dedicated account in the general revenue fund.

(b) Amends Subchapter D, Chapter 542, Transportation Code, by adding Section 542.4031, as follows:

Sec. 542.4031. ADDITIONAL COURT COST. (a) Requires a person convicted of an offense under this subtitle, in addition to other costs, including a cost under Section 542.403, to pay \$30 as a court cost.

(b) Requires the officer who collects a cost under this section to send the cost to the comptroller. Sets forth the allocation of each \$30 court cost received by the comptroller.

(c) Amends Article 45.0511, Code of Criminal Procedure, by adding Subsection (r), as follows:

(r) Requires the justice, in addition to any other fee or special expense imposed on a defendant under this section, to require the defendant to pay \$30 as a court cost. Requires the officer who collects the cost required by this subsection to send the cost to the comptroller. Sets forth the allocation of each \$30 court cost received by the comptroller.

(d) Makes application of this article prospective.

ARTICLE 13. GENERAL PROVISIONS; EFFECTIVE DATE

SECTION 13.01. Provides that money required to be deposited to a specific fund or account by a change in law made by this Act is exempt from Section 403.095, Government Code.

SECTION 13.02. Effective date, except as otherwise provided: September 1, 2003.