

1 AN ACT

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

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

7 ARTICLE 1. RAIL FACILITIES

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

11 (6) "Rail facility" means real or personal property,
12 or any interest in that property, that is determined to be necessary
13 or convenient for the provision of a freight or passenger rail
14 facility or system, including commuter rail, intercity rail, ~~and~~
15 high-speed rail, and tri-track. The term includes all property or
16 interests necessary or convenient for the acquiring, providing,
17 using, or equipping of a rail facility or system, including
18 rights-of-way, trackwork, train controls, stations, and
19 maintenance facilities.

20 (13) "Tri-track" means a triangular monorail beam
21 guideway:

22 (A) constructed at a grade above surface modes of
23 transportation;

24 (B) for use by dual-mode vehicles capable of

1 using the guideway or a highway; and

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

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

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

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

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

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

15 (A) department or agency of the United States;

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

18 (C) public or private person;

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

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

24 (b) Except as provided by Subsection (c), money
25 appropriated or allocated by the United States for the construction
26 and maintenance in this state of rail facilities owned by any public
27 or private entity shall be administered by the commission and may be

1 spent only under the supervision of the department.

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

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

7 (2) for use by:

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

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

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

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

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

25 Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To
26 the extent and in the manner that the department may enter into a
27 comprehensive development agreement under Chapter 223, the

1 department may enter into a comprehensive development agreement
2 under this chapter that provides for the financing, design,
3 acquisition, construction, maintenance, or operation of a rail
4 facility or system. All provisions of Chapter 223 relating to
5 comprehensive development agreements apply to comprehensive
6 development agreements for facilities under this chapter,
7 including provisions relating to the confidentiality of
8 information. Claims arising under a comprehensive development
9 agreement are subject to Section 201.112.

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

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

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

20 (b) The ~~[Each fiscal year, the total amount disbursed by~~
21 ~~the] department may not spend money from the general revenue ~~[state~~
22 ~~highway]~~ fund to implement this chapter except pursuant to a
23 line-item appropriation ~~[may not exceed \$12.5 million]. [This~~
24 ~~subsection does not apply to:~~~~

25 ~~[(1) the acquisition of abandoned rail facilities~~
26 ~~described in Section 91.007,~~

27 ~~[(2) funding derived from the issuance of bonds,~~

1 ~~private investment, and donations,~~

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

6 ~~[(4) grants awarded by the governor from the Texas~~
7 ~~Enterprise Fund, and~~

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

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

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

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

24 Sec. 91.075. PASS-THROUGH FARES. (a) In this section,
25 "pass-through fare" means:

26 (1) a per passenger fee or a per passenger mile fee
27 that is determined by the number of passengers using a passenger

1 rail facility; or

2 (2) a fee that is determined based on the number of
3 carloads or commodity tonnages shipped using a freight rail
4 facility.

5 (b) The department may enter into an agreement with a public
6 or private entity that provides for the payment of pass-through
7 fares to the public or private entity as reimbursement for the
8 acquisition, design, development, financing, construction,
9 relocation, maintenance, or operation of a passenger rail facility
10 or a freight rail facility by the entity.

11 (c) The department may use any available funds for the
12 purpose of making a pass-through fare payment under this section,
13 including funds from the state infrastructure bank.

14 (d) The commission may adopt rules necessary to implement
15 this section. Rules adopted under this subsection may include
16 criteria for:

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

19 (2) allocating the risk that ridership on a passenger
20 rail facility or carloads or commodity tonnages shipped on a
21 freight rail facility will be higher or lower than the parties to an
22 agreement under this section anticipated in entering into the
23 agreement.

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

26 Art. 6445. POWER AND AUTHORITY. (a) Power and authority
27 are hereby conferred upon the Texas Department of Transportation

1 ~~[Railroad Commission of Texas]~~ over all railroads, and suburban,
2 belt and terminal railroads, and over all public wharves, docks,
3 piers, elevators, warehouses, sheds, tracks and other property used
4 in connection therewith in this State, and over all persons,
5 associations and corporations, private or municipal, owning or
6 operating such railroad, wharf, dock, pier, elevator, warehouse,
7 shed, track or other property to fix, and it is hereby made the duty
8 of the said department ~~[Commission]~~ to adopt all necessary rates,
9 charges and regulations, to govern and regulate such railroads,
10 persons, associations and corporations, and to correct abuses and
11 prevent unjust discrimination in the rates, charges and tolls of
12 such railroads, persons, associations and corporations, and to fix
13 division of rates, charges and regulations between railroads and
14 other utilities and common carriers where a division is proper and
15 correct, and to prevent any and all other abuses in the conduct of
16 their business and to do and perform such other duties and details
17 in connection therewith as may be provided by law.

18 (b) All powers and duties of the Railroad Commission of
19 Texas that relate primarily to railroads and the regulation of
20 railroads are transferred to the Texas Department of
21 Transportation.

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

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

26 (1) all powers, duties, obligations, rights,
27 contracts, leases, records, assets, property, funds, and

1 appropriations of the Railroad Commission of Texas that relate
2 primarily to railroads and the regulation of railroads are
3 transferred to the Texas Department of Transportation;

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

10 (3) any investigation, complaint, action, contested
11 case, or other proceeding involving the Railroad Commission of
12 Texas that relates primarily to railroads and the regulation of
13 railroads is transferred without change in status to the Texas
14 Department of Transportation, and the Texas Department of
15 Transportation assumes, without a change in status, the position of
16 the Railroad Commission of Texas in any investigation, complaint,
17 action, contested case, or other proceeding that relates primarily
18 to railroads and the regulation of railroads involving the Railroad
19 Commission of Texas; and

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

24 (b) The transfer of the powers and duties of the Railroad
25 Commission of Texas that relate primarily to railroads and the
26 regulation of railroads to the Texas Department of Transportation
27 does not affect the validity of a right, privilege, or obligation

1 accrued, a contract or acquisition made, any liability incurred, a
2 permit or license issued, a penalty, forfeiture, or punishment
3 assessed, a rule adopted, a proceeding, investigation, or remedy
4 begun, a decision made, or other action taken by or in connection
5 with the Railroad Commission of Texas.

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

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

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

16 ARTICLE 2. HIGHWAYS

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

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

20 (1) "Commission" means the Texas Transportation
21 Commission.

22 (2) "Department" means the Texas Department of
23 Transportation.

24 (3) "Director" means the executive director of the
25 Texas Department of Transportation.

26 (b) In this subtitle, "toll project" means one or more
27 tolled lanes of a highway or an entire toll highway constructed,

1 maintained, or operated as a part of the state highway system and
2 any improvement, extension, or expansion to the highway, including:

3 (1) a facility to relieve traffic congestion and
4 promote safety;

5 (2) a bridge, tunnel, overpass, underpass,
6 interchange, entrance plaza, approach, toll booth, toll plaza,
7 service road, ramp, or service center;

8 (3) an administration, storage, or other building,
9 operations center, maintenance or other facility, equipment, or
10 system the department considers necessary to operate the project;

11 (4) property rights, easements, and interests the
12 department acquires to construct, maintain, or operate the project;

13 (5) a parking area or structure, rest stop, park, and
14 any other improvement or amenity the department considers
15 necessary, useful, or beneficial for the operation and maintenance
16 of the project; and

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

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

23 Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a)
24 Notwithstanding any other law, including Subchapter A, Chapter
25 2254, Government Code, Chapters 2165, 2166, and 2167, Government
26 Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001
27 of this code, the department and a private entity that offers the

1 best value to the state may enter into an agreement for the [~~that~~
2 ~~includes~~]:

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

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

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

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

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

26 (c) Notwithstanding Section 202.024, the commission may
27 authorize the executive director to execute a deed exchanging

1 department-owned real property under Subsection (a)(2).

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

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

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

17 (c) An agreement entered into under this section may provide
18 that an improvement of a portion of the state highway system by a
19 regional tollway authority is governed by the provisions of Chapter
20 366 applicable to the performance of the same function for a
21 turnpike project under that chapter and the rules and procedures
22 adopted by the regional tollway authority under that chapter, in
23 lieu of the laws, rules, or procedures applicable to the department
24 for the performance of the same function.

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

27 (a) The commission may authorize the department to borrow

1 money from any source to carry out the functions of the department.

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

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

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

12 (3) the loan may not create general obligation of the
13 state and is payable only as authorized by legislative
14 appropriation.

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

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

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

- 1 (1) the extent to which the project promotes safety;
- 2 (2) the durability of the project;
- 3 (3) the economy of maintenance of the project;
- 4 (4) the impact of the project on:
- 5 (A) the natural and artificial environment;
- 6 (B) the scenic and aesthetic character of the
- 7 area in which the project is located;
- 8 (C) preservation efforts; and
- 9 (D) each affected local community and its
- 10 economy; ~~and~~
- 11 (5) the access for other modes of transportation,
- 12 including those that promote physically active communities; and
- 13 (6) except as provided by Subsection (c), the
- 14 aesthetic character of the project, including input from each
- 15 affected local community.

16 (c) Subsection (a)(6) does not apply to transportation

17 projects that involve the rehabilitation or resurfacing of a bridge

18 or highway.

19 SECTION 2.06. Section 202.112, Transportation Code, is

20 amended by adding Subsection (d) to read as follows:

21 (d) An option to acquire property purchased under this

22 section or Section 227.041 may not expire later than the fifth

23 anniversary of the date the option was purchased and may be renewed

24 for subsequent periods that expire not later than the fifth

25 anniversary of the date the option was renewed, by agreement of the

26 commission and the grantor of the option or the grantor's heirs or

27 assigns.

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

5 Sec. 201.617 [~~203.004~~]. [~~CONTRACTS FOR MANAGEMENT OF~~
6 ~~PROPERTY USED FOR~~] MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.

7 (a) If authorized by an applicable regulatory authority, to
8 mitigate an adverse environmental impact that is a direct result of
9 a state highway improvement project, the [The] department may:

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

12 (2) transfer real property to an appropriate public
13 agency or private entity with or without monetary consideration if
14 the property is used or is proposed to be used for mitigation
15 purposes; or

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

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

1 property by purchase or condemnation.

2 (b) A contract under this section is not subject to Chapter
3 771, Government Code.

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

7 SECTION 2.08. Section 201.943, Transportation Code, is
8 amended by adding Subsection (1) to read as follows:

9 (1) Obligations may not be issued if the commission or the
10 department requires that toll roads be included in a regional
11 mobility plan in order for a local authority to receive an
12 allocation from the fund.

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

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

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

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

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

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

1 necessary or convenient to:

2 (1) protect a state highway;

3 (2) drain a state highway;

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

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

8 (5) construct or operate a warehouse or other facility
9 used in connection with the construction, maintenance, or operation
10 of a state highway;

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

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

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

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

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

26 (11) accomplish any other purpose related to the
27 location, construction, improvement, maintenance, beautification,

1 preservation, or operation of a state highway.

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

4 Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a
5 proposed acquisition of a tract of real property under Section
6 203.052 would leave the owner of the property a remainder of the
7 tract, the department may negotiate for and purchase the remainder
8 or any part of a severed real property if the department and the
9 owner agree on terms for the purchase. The department [~~commission~~]
10 shall offer, except as provided by Subsection (f), to purchase a
11 [~~the~~] remainder if the department [~~commission~~] determines that:

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

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

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

19 (1) the value of the property acquired; and

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

25 (b-1) If a portion of a tract or parcel of real property
26 that, for the then current tax year was appraised for ad valorem tax
27 purposes under a law enacted under Section 1-d or 1-d-1, Article

1 VIII, Texas Constitution, and that is outside the municipal limits
2 or the extraterritorial jurisdiction of a municipality with a
3 population of 25,000 or more is condemned for state highway
4 purposes, the special commissioners shall consider the loss of
5 reasonable access to or from the remaining property in determining
6 the damage to the property owner.

7 (c) Instead of a single fixed payment for real property
8 purchased under Subsection (a) for a toll project, the department
9 may agree to a payment to the owner in the form of:

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

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

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

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

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

1 substances.

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

4 Sec. 203.055. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY
5 ~~[CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR~~
6 ~~PUBLIC AGENCY]~~. (a) The governing body of a political subdivision
7 or public agency that owns or is in charge of public real property
8 may consent to the use of the property for highway purposes.

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

12 ~~[(1) is owned by the political subdivision or public~~
13 ~~agency, and~~

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

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

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

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

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

3 SECTION 2.13. Sections 361.137, 361.138, 361.233, and
4 361.142, Transportation Code, are transferred to Subchapter D,
5 Chapter 203, Transportation Code, redesignated as Sections
6 203.066, 203.067, 203.068, and 203.069, Transportation Code, and
7 amended to read as follows:

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

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

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

15 (2) to which the case is assigned.

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

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

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

25 (2) all public hearings and meetings, including those
26 held in connection with the environmental process and under
27 Sections 201.604 and 203.021, that are required by federal or state

1 law; ~~and~~

2 (3) all notifications required by Section 203.022; and

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

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

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

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

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

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

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

18 (B) the street address of the property; and

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

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

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

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

1 (f) [~~(d-1)~~] A deposit to the registry of the court of an
2 amount equal to the appraised value, as determined by the
3 department, of the property to be condemned must accompany the
4 declaration of taking.

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

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

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

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

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

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

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

7 (b) An entry under this section is not:

8 (1) a trespass; or

9 (2) an entry under a pending condemnation proceeding.

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

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

24 SECTION 2.14. Section 203.092, Transportation Code, is
25 amended by amending Subsection (a) and adding Subsections (a-1),
26 (a-2), and (a-3) to read as follows:

27 (a) A utility shall make a relocation of a utility facility

1 at the expense of this state if[+]

2 [~~(1)~~] relocation of the utility facility is required
3 by improvement of:

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

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

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

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

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

26 (a-3) Notwithstanding Subsection (a), the department and the
27 utility shall share equally the cost of the relocation of a utility

1 facility that is made before September 1, 2007, and required for the
2 construction on a new location of a turnpike project or toll project
3 or the expansion of such a turnpike project or toll project. This
4 subsection expires September 1, 2007.

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

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

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

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

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

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

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

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

1 (d) The department shall establish and administer a program
2 for private activity bonds issued for highway facilities or surface
3 freight transfer facilities in this state.

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

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

10 (g) To the extent that private activity bonds for highway
11 facilities or surface freight transfer facilities are subject to
12 the state ceiling under Section 146, Internal Revenue Code of 1986,
13 the issuance of bonds for those facilities is governed by Chapter
14 1372, Government Code.

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

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

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

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

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

1 or private entity that provides for the payment of pass-through
2 tolls to the public or private entity as reimbursement for the
3 design, development, financing, construction, maintenance, or
4 operation of a toll or nontoll facility on the state highway system
5 by the public or private entity.

6 (c) The department may enter into an agreement with a
7 private entity that provides for the payment of pass-through tolls
8 to the department as reimbursement for the department's design,
9 development, financing, construction, maintenance, or operation of
10 a toll or nontoll facility on the state highway system that is
11 financed by the department.

12 (d) The department and a regional mobility authority, a
13 regional tollway authority, or a county acting under Chapter 284
14 may enter into an agreement [~~with a regional mobility authority, a~~
15 ~~regional tollway authority, or a county acting under Chapter 284~~]
16 that provides for:

17 (1) the payment of pass-through tolls to the authority
18 or county as compensation for the payment of all or a portion of the
19 costs of maintaining a state highway or a portion of a state highway
20 transferred to the authority or county after being converted to a
21 toll facility [~~of the authority or county~~] that the department
22 estimates it would have incurred if the highway had not been
23 converted; or

24 (2) the payment by the authority or county of
25 pass-through tolls to the department as reimbursement for all or a
26 portion of the costs incurred by the department to design, develop,
27 finance, construct, and maintain a state highway or a portion of a

1 state highway transferred to the authority or county after being
2 converted to a toll facility.

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

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

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

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

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

17 (h) Money repaid to the department under this section shall
18 be deposited to the credit of the fund from which the money was
19 originally provided and is exempt from the application of Section
20 403.095, Government Code.

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

27 (j) An agreement under this section must provide that the

1 municipality, county, regional mobility authority, or regional
2 tollway authority is required to meet state design criteria,
3 construction specifications, and contract administration
4 procedures unless the department grants an exception.

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

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

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

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

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

19 (2) the maintenance of a state highway or a portion of
20 a state highway subject to an agreement under Section
21 222.104(d)(1).

22 (c) A public entity shall:

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

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

1 (d) A private entity selected shall comply with Chapter
2 1001, Occupations Code, and all laws related to procuring
3 engineering services and construction bidding that are applicable
4 to the public entity that selected the private entity.

5 (e) A public entity may assign the public entity's right to
6 payment of pass-through tolls under Section 222.104(b) or (d)(1) to
7 the private entity.

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

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

17 ~~[(c) Beginning in fiscal year 2000, the department shall~~
18 ~~increase its expenditures to private sector providers for~~
19 ~~engineering-related services at least one percentage point per year~~
20 ~~until]~~ the expenditure level for a state fiscal year in all
21 strategies paid to private sector providers for all department
22 engineering-related services for transportation projects is not
23 less than ~~[reaches a minimum of]~~ 35 percent of the total funds
24 appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy
25 A.1.2. of the General Appropriations Act for that state fiscal
26 biennium. The department shall attempt to make expenditures for
27 engineering-related services with private sector providers under

1 this subsection with historically underutilized businesses, as
2 defined by Section 2161.001, Government Code, in an amount
3 consistent with the applicable provisions of the Government Code,
4 any applicable state disparity study, and in accordance with the
5 good-faith-effort procedures outlined in the rules adopted by the
6 Texas Building and Procurement [~~General Services~~] Commission.

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

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

12 SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

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

17 (1) toll project;

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

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

23 (4) state highway improvement project in which the
24 private entity has an interest in the project; or

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

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

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

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

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

14 (2) appropriated in Strategy A.1.1.
15 Plan/Design/Manage of the General Appropriations Act for that
16 biennium for the purpose of making the computation under Section
17 223.041.

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

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

23 (g) The department may combine in a comprehensive
24 development agreement under this subchapter a toll project and a
25 rail facility as defined by Section 91.001.

26 Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL
27 PARTICIPATION. The amount of money disbursed by the department

1 from the state highway fund and the Texas mobility fund during a
2 federal fiscal year to pay the costs under comprehensive
3 development agreements may not exceed 40 percent of the obligation
4 authority under the federal-aid highway program that is distributed
5 to this state for that fiscal year.

6 Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE
7 DEVELOPMENT AGREEMENTS. (a) If the department enters into a
8 comprehensive development agreement, the department shall use a
9 competitive procurement process that provides the best value for
10 the department. The department may accept unsolicited proposals
11 for a proposed project or solicit proposals in accordance with this
12 section.

13 (b) The department shall establish rules and procedures for
14 accepting unsolicited proposals that require the private entity to
15 include in the proposal:

16 (1) information regarding the proposed project
17 location, scope, and limits;

18 (2) information regarding the private entity's
19 qualifications, experience, technical competence, and capability
20 to develop the project; and

21 (3) any other information the department considers
22 relevant or necessary.

23 (c) The department shall publish a notice advertising a
24 request for competing proposals and qualifications in the Texas
25 Register that includes the criteria to be used to evaluate the
26 proposals, the relative weight given to the criteria, and a
27 deadline by which proposals must be received if:

1 (1) the department decides to issue a request for
2 qualifications for a proposed project; or

3 (2) the department authorizes the further evaluation
4 of an unsolicited proposal.

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

8 (e) The department may interview a private entity
9 submitting an unsolicited proposal or responding to a request under
10 Subsection (c). The department shall evaluate each proposal based
11 on the criteria described in the request for competing proposals
12 and qualifications and may qualify or shortlist private entities to
13 submit detailed proposals under Subsection (f). The department
14 must qualify or shortlist at least two private entities to submit
15 detailed proposals for a project under Subsection (f) unless the
16 department does not receive more than one proposal or one response
17 to a request under Subsection (c).

18 (e-1) Notwithstanding the requirements of this section, the
19 department may prequalify a private entity to submit a detailed
20 proposal to provide services under a design-build contract. The
21 department is not required to publish a request under Subsection
22 (c) for a design-build contract, and may enter into a design-build
23 contract based solely on an evaluation of detailed proposals
24 submitted in response to a request under Subsection (f) by
25 prequalified private entities. The commission shall adopt rules
26 establishing criteria for the prequalification of a private entity
27 that include the precertification requirements applicable to

1 providers of engineering services and the qualification
2 requirements for bidders on highway construction contracts. Rules
3 for design-build projects adopted pursuant to this subsection shall
4 also provide for an expedited selection process that includes
5 design innovation as a selection criterion.

6 (e-2) In this section, "design-build contract" means a
7 comprehensive development agreement that includes the design and
8 construction of a turnpike project, does not include the financing
9 of a turnpike project, and may include the acquisition,
10 maintenance, or operation of a turnpike project.

11 (f) The department shall issue a request for detailed
12 proposals from all private entities qualified or shortlisted under
13 Subsection (e) or prequalified under Subsection (e-1) if the
14 department proceeds with the further evaluation of a proposed
15 project. A request under this subsection may require additional
16 information relating to:

17 (1) the private entity's qualifications and
18 demonstrated technical competence;

19 (2) the feasibility of developing the project as
20 proposed;

21 (3) engineering or architectural designs;

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

23 (5) a financial plan, including costing methodology
24 and cost proposals; or

25 (6) any other information the department considers
26 relevant or necessary.

27 (g) In issuing a request for proposals under Subsection (f),

1 the department may solicit input from entities qualified under
2 Subsection (e) or any other person. The department may also solicit
3 input regarding alternative technical concepts after issuing a
4 request under Subsection (f).

5 (h) The department shall evaluate each proposal based on the
6 criteria described in the request for detailed proposals and select
7 the private entity whose proposal offers the apparent best value to
8 the department.

9 (i) The department may enter into negotiations with the
10 private entity whose proposal offers the apparent best value.

11 (j) If at any point in negotiations under Subsection (i) it
12 appears to the department that the highest ranking proposal will
13 not provide the department with the overall best value, the
14 department may enter into negotiations with the private entity
15 submitting the next highest ranking proposal.

16 (k) The department may withdraw a request for competing
17 proposals and qualifications or a request for detailed proposals at
18 any time. The department may then publish a new request for
19 competing proposals and qualifications.

20 (l) The department may require that an unsolicited proposal
21 be accompanied by a nonrefundable fee sufficient to cover all or
22 part of its cost to review the proposal.

23 (m) The department shall pay an unsuccessful private entity
24 that submits a responsive proposal in response to a request for
25 detailed proposals under Subsection (f) a stipulated amount in
26 exchange for the work product contained in that proposal. The
27 stipulated amount must be stated in the request for proposals and

1 may not exceed the value of any work product contained in the
2 proposal that can, as determined by the department, be used by the
3 department in the performance of its functions. The use by the
4 department of any design element contained in an unsuccessful
5 proposal is at the sole risk and discretion of the department and
6 does not confer liability on the recipient of the stipulated amount
7 under this section. After payment of the stipulated amount:

8 (1) the department owns with the unsuccessful proposer
9 jointly the rights to, and may make use of any work product
10 contained in, the proposal, including the technologies,
11 techniques, methods, processes, ideas, and information contained
12 in the project design; and

13 (2) the use by the unsuccessful proposer of any
14 portion of the work product contained in the proposal is at the sole
15 risk of the unsuccessful proposer and does not confer liability on
16 the department.

17 (n) The department may prescribe the general form of a
18 comprehensive development agreement and may include any matter the
19 department considers advantageous to the department. The
20 department and the private entity shall finalize the specific terms
21 of a comprehensive development agreement.

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

25 Sec. 223.204. CONFIDENTIALITY OF INFORMATION. (a) To
26 encourage private entities to submit proposals under this
27 subchapter, the following information is confidential, is not

1 subject to disclosure, inspection, or copying under Chapter 552,
2 Government Code, and is not subject to disclosure, discovery,
3 subpoena, or other means of legal compulsion for its release until a
4 final contract for a proposed project is entered into:

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

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

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

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

19 Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY.

20 (a) Notwithstanding Section 223.006 and the requirements of
21 Subchapter B, Chapter 2253, Government Code, the department shall
22 require a private entity entering into a comprehensive development
23 agreement under this subchapter to provide a performance and
24 payment bond or an alternative form of security in an amount
25 sufficient to:

26 (1) ensure the proper performance of the agreement;

27 and

1 (2) protect:

2 (A) the department; and

3 (B) payment bond beneficiaries who have a direct
4 contractual relationship with the private entity or a subcontractor
5 of the private entity to supply labor or material.

6 (b) A performance and payment bond or alternative form of
7 security shall be in an amount equal to the cost of constructing or
8 maintaining the project.

9 (c) If the department determines that it is impracticable
10 for a private entity to provide security in the amount described by
11 Subsection (b), the department shall set the amount of the bonds or
12 the alternative forms of security.

13 (d) A payment or performance bond or alternative form of
14 security is not required for the portion of an agreement that
15 includes only design or planning services, the performance of
16 preliminary studies, or the acquisition of real property.

17 (e) The amount of the payment security must not be less than
18 the amount of the performance security.

19 (f) In addition to or instead of a performance and payment
20 bond, the department may require one or more of the following
21 alternative forms of security:

22 (1) a cashier's check drawn on a financial entity
23 specified by the department;

24 (2) a United States bond or note;

25 (3) an irrevocable bank letter of credit; or

26 (4) any other form of security determined suitable by
27 the department.

1 (g) The department by rule shall prescribe requirements for
2 an alternative form of security provided under this section.

3 Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) A state highway
4 or another facility described by Section 223.201(a) that is the
5 subject of a comprehensive development agreement with a private
6 entity, including the facilities acquired or constructed on the
7 project, is public property and shall be owned by the department.

8 (b) Notwithstanding Subsection (a), the department may
9 enter into an agreement that provides for the lease of
10 rights-of-way, the granting of easements, the issuance of
11 franchises, licenses, or permits, or any lawful uses to enable a
12 private entity to construct, operate, and maintain a project,
13 including supplemental facilities. At the termination of the
14 agreement, the highway or other facilities are to be in a state of
15 proper maintenance as determined by the department and shall be
16 returned to the department in satisfactory condition at no further
17 cost.

18 (c) A highway asset or toll project that is used or leased by
19 a private entity under Section 202.052 or 228.053 for a commercial
20 purpose is not exempt from ad valorem taxation and is subject to
21 local zoning regulations and building standards.

22 (d) The department may not enter into a comprehensive
23 development agreement with a private entity under this subchapter
24 or Section 227.023 that provides for the lease, license, or other
25 use of rights-of-way or related property by the private entity for
26 the purpose of constructing, operating, or maintaining an ancillary
27 facility that is used for commercial purposes.

1 Sec. 223.207. LIABILITY FOR PRIVATE OBLIGATIONS. The
2 department may not incur a financial obligation for a private
3 entity that designs, develops, finances, constructs, maintains, or
4 operates a state highway or other facility under this subchapter.
5 The state or a political subdivision of the state is not liable for
6 any financial or other obligations of a project solely because a
7 private entity constructs, finances, or operates any part of the
8 project.

9 Sec. 223.208. TERMS OF PRIVATE PARTICIPATION. (a) The
10 department shall negotiate the terms of private participation under
11 this subchapter, including:

12 (1) methods to determine the applicable cost, profit,
13 and project distribution among the private participants and the
14 department;

15 (2) reasonable methods to determine and classify toll
16 rates and responsibility for the setting of tolls;

17 (3) acceptable safety and policing standards; and

18 (4) other applicable professional, consulting,
19 construction, operation, and maintenance standards, expenses, and
20 costs.

21 (b) A comprehensive development agreement entered into
22 under this subchapter or Section 227.023(c) may include any
23 provision that the department considers appropriate, including
24 provisions:

25 (1) providing for the purchase by the department,
26 under terms and conditions agreed to by the parties, of the interest
27 of a private participant in the comprehensive development agreement

1 and related property, including any interest in a highway or other
2 facility designed, developed, financed, constructed, operated, or
3 maintained under the comprehensive development agreement;

4 (2) establishing the purchase price for the interest
5 of a private participant in the comprehensive development agreement
6 and related property, which price may be determined in accordance
7 with the methodology established by the parties in the
8 comprehensive development agreement;

9 (3) providing for the payment of obligations incurred
10 pursuant to the comprehensive development agreement, including any
11 obligation to pay the purchase price for the interest of a private
12 participant in the comprehensive development agreement, from any
13 lawfully available source, including securing such obligations by a
14 pledge of revenues of the commission or the department derived from
15 the applicable project, which pledge shall have such priority as
16 the department may establish;

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

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

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

25 (c) The department may enter into a comprehensive
26 development agreement under this subchapter or under Section
27 227.023(c) with a private participant only if the project is

1 identified in the department's unified transportation program or is
2 located on a transportation corridor identified in the statewide
3 transportation plan.

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

6 (e) Notwithstanding anything in Section 201.112 or other
7 law to the contrary, and subject to compliance with the dispute
8 resolution procedures set out in the comprehensive development
9 agreement, an obligation of the commission or the department under
10 a comprehensive development agreement entered into under this
11 subchapter or Section 227.023(c) to make or secure payments to a
12 person because of the termination of the agreement, including the
13 purchase of the interest of a private participant or other investor
14 in a project, may be enforced by mandamus against the commission,
15 the department, and the comptroller in a district court of Travis
16 County, and the sovereign immunity of the state is waived for that
17 purpose. The district courts of Travis County shall have exclusive
18 jurisdiction and venue over and to determine and adjudicate all
19 issues necessary to adjudicate any action brought under this
20 subsection. The remedy provided by this subsection is in addition
21 to any legal and equitable remedies that may be available to a party
22 to a comprehensive development agreement.

23 (f) A comprehensive development agreement entered into
24 under this subchapter or Section 227.023(c) and any obligations
25 incurred, issued, or owed under the agreement does not constitute a
26 state security under Chapter 1231, Government Code.

27 (g) If the department enters into a comprehensive

1 development agreement with a private participant that includes the
2 collection by the private participant of tolls for the use of a toll
3 project, the private participant shall submit to the department for
4 approval:

5 (1) the methodology for:

6 (A) the setting of tolls; and

7 (B) increasing the amount of the tolls;

8 (2) a plan outlining methods the private participant
9 will use to collect the tolls, including:

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

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

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

16 (h) Except as provided by this section, a comprehensive
17 development agreement with a private participant that includes the
18 collection by the private participant of tolls for the use of a toll
19 project may be for a term not longer than 50 years. The
20 comprehensive development agreement may be for a term not longer
21 than 70 years if the agreement:

22 (1) contains an explicit mechanism for setting the
23 price for the purchase by the department of the interest of the
24 private participant in the comprehensive development agreement and
25 related property, including any interest in a highway or other
26 facility designed, developed, financed, constructed, operated, or
27 maintained under the agreement; and

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

3 Sec. 223.209. RULES, PROCEDURES, AND GUIDELINES GOVERNING
4 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt
5 rules, procedures, and guidelines governing selection of a
6 developer for a comprehensive development agreement and
7 negotiations to promote fairness, obtain private participants in
8 projects, and promote confidence among those participants. The
9 rules must contain criteria relating to the qualifications of the
10 participants and the award of the contracts.

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

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

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

17 (9) "Restricted lane" includes:

18 (A) a high occupancy vehicle lane;

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

20 and

21 (C) an exclusive lane.

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

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

27 (b) The department shall design and construct markers

1 indicating the road number, the designation as Speaker Jimmy Turman
2 Road, and any other appropriate information.

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

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

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

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

14 (9) "Turnpike" has the meaning assigned to toll
15 [turnpike] project under Section 201.001(b) [361.001].

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

18 Sec. 227.004. ENVIRONMENTAL DOCUMENTATION. (a) The
19 department shall include in a draft or final environmental impact
20 statement prepared as part of the environmental review of a
21 Trans-Texas Corridor project information detailing:

22 (1) the reasons for the immediate and future needs of
23 the project;

24 (2) the reasonableness of and necessity for the
25 project; and

26 (3) after a segment of the project has advanced:

27 (A) the reasons for the immediate and future

1 needs for each mode of transportation in that segment of the
2 project; and

3 (B) the reasonableness and necessity for each
4 mode of transportation in that segment of the project.

5 (b) After receiving approval from the federal government,
6 the department shall:

7 (1) post the final environmental impact statement on
8 the department's Internet website, along with information
9 concerning where a copy of the environmental impact statement may
10 be reviewed or obtained; and

11 (2) provide notice to each state senator and
12 representative who represents all or part of the area in which a
13 segment of the project is located, and the commissioners court of
14 each county in which a segment of the project is located, that the
15 environmental impact statement is available on the department's
16 Internet website.

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

19 (f) The department may not limit the public's direct access
20 to or from the Trans-Texas Corridor with the intent to benefit the
21 economic viability of an ancillary facility.

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

25 (c) To the extent and in the manner that the department may
26 enter into comprehensive development agreements under Chapter 223
27 [~~361 with regard to turnpikes~~], the department may enter into a

1 comprehensive development agreement under this chapter that
2 provides for the financing, development, design, construction, or
3 operation of a facility or a combination of facilities on the
4 Trans-Texas Corridor. All provisions of Chapter 223 [~~361~~] relating
5 to comprehensive development agreements [~~for turnpikes~~] apply to
6 comprehensive development agreements for facilities under this
7 chapter, including provisions relating to the confidentiality of
8 information. Claims arising under a comprehensive development
9 agreement are subject to Section 201.112.

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

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

19 (1) the methodology for:

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

21 (B) increasing the amount of the fee;

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

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

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

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

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

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

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

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

17 (b) If the department finds it necessary to change the
18 location of a portion of a facility, it shall reconstruct the
19 facility at a [the] location that the department determines
20 restores the utility of the facility [~~to be most favorable~~]. The
21 reconstructed facility must be of substantially the same type and
22 in as good condition as the original facility. The department shall
23 determine and pay the cost of the reconstruction and any damage
24 incurred in changing the location of a facility.

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

1 Sec. 227.032. HIGHWAYS INTERSECTING TRANS-TEXAS CORRIDOR.

2 (a) The department shall ensure that, at each intersection of a
3 segment of a state highway that is designated as part of the
4 Trans-Texas Corridor and a segment of a highway that is designated
5 as an interstate highway, state highway, or United States highway,
6 the Trans-Texas Corridor and the interstate highway, state highway,
7 or United States highway are directly accessible to each other.

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

14 (1) financial feasibility;

15 (2) advice solicited from:

16 (A) county commissioners courts;

17 (B) governing bodies of municipalities; and

18 (C) metropolitan planning organizations;

19 (3) circuitry of travel for landowners;

20 (4) access for emergency vehicles; and

21 (5) traffic volume.

22 Sec. 227.033. GROUNDWATER. (a) After receipt of an
23 unsolicited proposal or after soliciting proposals to construct a
24 facility for the transportation of groundwater from the county in
25 which the groundwater is pumped or extracted, but not later than the
26 90th calendar day before entering into a lease agreement, license
27 agreement, or franchise agreement for the use of any part of the

1 Trans-Texas Corridor for that purpose, the department shall provide
2 written notice of the proposal or the solicitation to:

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

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

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

17 Sec. 227.034. PROHIBITION AGAINST LIMITING OR PROHIBITING
18 CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A contract for the
19 acquisition, construction, maintenance, or operation of a facility
20 on the Trans-Texas Corridor may not contain a provision that limits
21 or prohibits construction or operation of a highway or other
22 transportation project that is:

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

25 (2) a project of a local government; or

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

1 (b) In this section, "transportation project" has the
2 meaning assigned by Section 370.003.

3 SECTION 2.31. Section 227.041, Transportation Code, is
4 amended by amending Subsections (a) and (b) and adding Subsections
5 (b-1), and (d), and (e) to read as follows:

6 (a) Except as otherwise provided by this subchapter, the
7 commission has the same powers and duties relating to the
8 condemnation and acquisition of real property for a facility of the
9 Trans-Texas Corridor that the commission and the department have
10 relating to the condemnation or purchase of real property under
11 Subchapter D, Chapter 203, [~~361, and Section 361.233~~] for a toll
12 [~~turnpike~~] project. The commission may purchase an option to
13 purchase property, other than real property, a property right, or a
14 right-of-way used for a public utility facility, that the
15 commission is considering for possible use as part of the
16 Trans-Texas Corridor even if it has not been finally decided that
17 the Trans-Texas Corridor will be located on that property. An
18 option to purchase may be purchased along alternative potential
19 routes for the Trans-Texas Corridor even if only one of those
20 potential routes will be selected as the final route.

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

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

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

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

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

9 (5) providing a location for a gas station,
10 convenience store, or similar facility [~~generating revenue,~~
11 ~~directly or indirectly, for use in constructing or operating the~~
12 ~~Trans-Texas Corridor from or for ancillary facilities that directly~~
13 ~~benefit users of the Trans-Texas Corridor]~~.

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

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

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

25 (d) If the commission acquires property not immediately
26 needed for department purposes, the department is encouraged to
27 acquire an option to purchase the property under Subsection (a) or

1 to lease back purchased land under Section 227.043 to continue the
2 agricultural or recreational use of the property.

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

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

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

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

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

27 (b) If the owner does not develop the property within the

1 time period set out in the department's development plans, the
2 department may acquire the development rights for the property by
3 purchase or condemnation.

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

7 SECTION 2.33. Section 227.062(c), Transportation Code, is
8 amended to read as follows:

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

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

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

21 SECTION 2.33A. Section 227.082, Transportation Code, is
22 amended by amending Subsections (c) and (d) and adding Subsection
23 (f) to read as follows:

24 (c) The department may grant an exclusive or nonexclusive
25 license to access or use any portion of the Trans-Texas Corridor
26 [~~for any purpose~~]. A license granted under this section may be for
27 a definite or indefinite term. The department may not grant an

1 exclusive license to access or use a highway on the Trans-Texas
2 Corridor. The department may not grant an exclusive license for use
3 of the Trans-Texas Corridor by an owner of a public utility facility
4 if the exclusive use is prohibited by other law.

5 (d) Property may be leased or a franchise or license granted
6 for any purpose reasonably necessary for the effective~~[, including]~~
7 use or operation of a facility and to provide a location between the
8 main lanes of a highway or between a highway and a department rail
9 facility for a gas station, convenience store, or a similar
10 facility that:

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

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

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

26 SECTION 2.34. Subtitle B, Title 6, Transportation Code, is
27 amended by adding Chapter 228, and Sections 361.001, 361.301,

1 361.307, and 361.032, Transportation Code, are transferred to
2 Chapter 228, Transportation Code, designated as Subchapter A, and
3 amended to read as follows:

4 CHAPTER 228. STATE HIGHWAY TOLL PROJECTS

5 SUBCHAPTER A. GENERAL PROVISIONS

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

7 (1) "Air quality project" means a project or program
8 of the department or another governmental entity that the
9 commission determines will mitigate or prevent air pollution caused
10 by the construction, maintenance, or use of public roads.

11 [~~"Authority" means the Texas Turnpike Authority division of the~~
12 ~~Texas Department of Transportation.~~]

13 (2) "Bond" means bonds, notes, or other obligations
14 issued under Subchapter C or another law with respect to a toll
15 project or system. [~~"Owner" includes a person having title to or an~~
16 ~~interest in any property, rights, easements, and interests~~
17 ~~authorized to be acquired under this chapter.~~]

18 (3) "Region" means:

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

21 (B) two adjacent districts of the department.

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

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

1 ~~highway and includes:~~

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

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

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

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

11 ~~[(E) a parking area or structure, rest stop,~~
12 ~~park, and any other improvement or amenity the department considers~~
13 ~~necessary, useful, or beneficial for the operation of a turnpike~~
14 ~~project; and~~

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

19 (6) "Transportation project" means:

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

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

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

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

1 342;

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

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

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

9 Sec. 228.002 [~~361.301~~]. AGREEMENTS WITH PUBLIC [~~OR~~
10 ~~PRIVATE~~] ENTITIES [~~TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE~~
11 ~~TURNPIKE PROJECTS~~]. (a) The [~~Notwithstanding Section 361.231 and~~
12 ~~Subchapter A, Chapter 2254, Government Code, the~~] department may
13 enter into an agreement with a public [~~or private~~] entity[~~,~~
14 ~~including a toll road corporation,~~] to permit the entity,
15 independently or jointly with the department, to design, develop,
16 finance, construct, maintain, repair, or [~~and~~] operate a toll
17 project [~~turnpike projects~~].

18 (b) An agreement entered into under this section with a
19 regional tollway authority governed by Chapter 366 may provide that
20 a function described by Subsection (a) that is performed by a
21 regional tollway authority is governed by the provisions of Chapter
22 366 applicable to the performance of the same function for a
23 turnpike project under that chapter and the rules and procedures
24 adopted by the regional tollway authority under that chapter, in
25 lieu of the laws, rules, or procedures applicable to the department
26 for the performance of the same function. [~~The department may~~
27 authorize the investment of public and private money, including

1 ~~debt and equity participation, to finance a function described by~~
2 ~~this section.]~~

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

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

22 Sec. 228.004. PROMOTION OF TOLL PROJECT.
23 [~~361.032. GENERAL POWERS AND DUTIES. (a) The commission shall~~
24 ~~adopt rules for the implementation and administration of this~~
25 ~~chapter.~~

26 [~~(b)~~] The department may, [~~+~~
27 [~~(1)~~] ~~construct, maintain, repair, and operate~~

1 ~~turnpike projects in this state;~~

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

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

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

11 ~~[(5) employ consulting engineers, accountants,~~
12 ~~construction and financial experts, superintendents, managers, and~~
13 ~~other employees and agents the department considers necessary and~~
14 ~~set their compensation;~~

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

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

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

27 SECTION 2.35. Subchapter A, Chapter 228, Transportation

1 Code, is amended by adding Sections 228.005 and 228.0055 to read as
2 follows:

3 Sec. 228.005. REVENUE OF TOLL PROJECT OR SYSTEM. Except as
4 provided by Subchapter C, toll revenue or other revenue derived
5 from a toll project or system that is collected or received by the
6 department under this chapter, and a payment received by the
7 department under a comprehensive development agreement for a toll
8 project or system:

- 9 (1) shall be deposited in the state highway fund; and
10 (2) is exempt from the application of Section 403.095,
11 Government Code.

12 Sec. 228.0055. USE OF CONTRACT PAYMENTS. Payments received
13 by the department under a comprehensive development agreement may
14 be used by the department to finance the construction, maintenance,
15 or operation of a transportation project or air quality project in
16 the region.

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

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

27 (b) The commission may not revise the formula as provided in

1 the department's unified transportation program, or its successor
2 document, in a manner that results in a decrease of a district's
3 allocation because of a payment under Subsection (a).

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

9 Sec. 228.007 [~~224.154~~]. TOLL LANES. (a) Subject to
10 Section 228.201 [~~Notwithstanding any law of this state relating to~~
11 ~~charging tolls on existing free public highways, and subject to~~
12 ~~Section 224.1541(d)~~], the commission may by order authorize the
13 department to charge a toll for the use of one or more lanes of a
14 state highway [~~facility~~], including a high occupancy vehicle lane
15 designated under Section 224.153 or an exclusive lane designated
16 under Section 224.1541 [~~, for the purposes of congestion~~
17 ~~mitigation~~].

18 (b) If the commission authorizes the department to charge a
19 toll under Subsection (a), the department may enter into an
20 agreement with a regional tollway authority described in Chapter
21 366, a transit authority described in Chapter 451, 452, or 453, a
22 coordinated county transportation authority under Chapter 460, a
23 regional mobility authority under Chapter 370 [~~361~~], a county
24 acting under Chapter 284, or a transportation corporation:

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

27 (2) to charge a toll for the use of one or more lanes of

1 a state highway facility under this section.

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

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

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

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

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

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

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

27 SECTION 2.38. Section 361.033, Transportation Code, is

1 transferred to Subchapter A, Chapter 228, Transportation Code,
2 redesignated as Section 228.009, Transportation Code, and amended
3 to read as follows:

4 Sec. 228.009 [~~361.033~~]. AUDIT. Notwithstanding any other
5 law to the contrary, the department shall have an independent
6 certified public accountant audit the department's books and
7 accounts for each toll project or system [~~activities under this~~
8 ~~chapter~~] at least annually. The audit shall be conducted in
9 accordance with the requirements of any trust agreement securing
10 bonds issued under Subchapter C [~~this chapter~~] that is in effect at
11 the time of the audit. The cost of the audit may be treated as part
12 of the cost of construction or operation of a toll project or system
13 [~~turnpike project~~]. This section does not affect the ability of a
14 state agency to audit the department's books and accounts.

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

17 Sec. 228.010. ESTABLISHMENT OF TOLL SYSTEMS. (a) If the
18 commission determines that the mobility needs of a region of this
19 state could be most efficiently and economically met by jointly
20 operating two or more toll projects in that region as one
21 operational and financial enterprise, it may create a system
22 composed of those projects. The commission may create more than one
23 system in a region and may combine two or more systems in a region
24 into one system. The department may finance, acquire, construct,
25 and operate additional toll projects in the region as additions to
26 or expansions of a system if the commission determines that the toll
27 project could most efficiently and economically be acquired or

1 constructed if it were part of the system and that the addition will
2 benefit the system.

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

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

9 SUBCHAPTER B. USE AND OPERATION OF TOLL PROJECTS OR SYSTEMS

10 Sec. 228.051. DESIGNATION. Subject to Section 228.201, the
11 commission by order may designate one or more lanes of a segment of
12 the state highway system as a toll project or system.

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

19 SECTION 2.41. Sections 361.179, 361.252, 361.253, 361.254,
20 361.255, and 361.256, Transportation Code, are transferred to
21 Subchapter B, Chapter 228, Transportation Code, redesignated as
22 Sections 228.053, 228.054, 228.055, 228.056, 228.057, and 228.058,
23 Transportation Code, and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

- 1 (1) interest on the bonds as it becomes due;
2 (2) principal of the bonds as it becomes due;
3 (3) necessary charges of paying agents for paying
4 principal and interest; and
5 (4) the redemption price or the purchase price of
6 bonds retired by call or purchase as provided by the bonds.

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

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

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

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

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

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

1 (d) In this section, "authorized emergency vehicle" has the
2 meaning assigned by Section 541.201.

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

9 (b) The department may impose and collect the
10 administrative fee, so as to recover the cost of collecting the
11 unpaid toll, not to exceed \$100. The department shall send a
12 written notice of nonpayment to the registered owner of the vehicle
13 at that owner's address as shown in the vehicle registration
14 records of the department by first class mail [~~not later than the~~
15 ~~30th day after the date of the alleged failure to pay~~] and may
16 require payment not sooner than the 30th day after the date the
17 notice was mailed. The registered owner shall pay a separate toll
18 and administrative fee for each event of nonpayment under Section
19 228.054 [~~361.252~~].

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

26 (d) It is an exception to the application of Subsection (a)
27 or (c) if the registered owner of the vehicle is a lessor of the

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

17 (e) It is an exception to the application of Subsection (a)
18 or (c) if the registered owner of the vehicle transferred ownership
19 of the vehicle to another person before the event of nonpayment
20 under Section 228.054 [~~361.252~~] occurred, submitted written notice
21 of the transfer to the department in accordance with Section
22 520.023, and, before the 30th day after the date the notice of
23 nonpayment is mailed, provides to the department the name and
24 address of the person to whom the vehicle was transferred. If the
25 former owner of the vehicle provides the required information
26 within the period prescribed, the department may send a notice of
27 nonpayment to the person to whom ownership of the vehicle was

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

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

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

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

22 (i) The department may contract, in accordance with Section
23 2107.003, Government Code, with a person to collect the unpaid toll
24 and administrative fee before referring the matter to a court with
25 jurisdiction over the offense.

26 Sec. 228.056 [~~361.254~~]. PRESUMPTIONS; PRIMA FACIE
27 EVIDENCE; DEFENSES. (a) In the prosecution of an offense under

1 Section 228.054 [~~361.252~~] or 228.055 [~~361.253~~], proof that the
2 vehicle was driven or towed through the toll collection facility
3 without payment of the proper toll may be shown by a video
4 recording, photograph, electronic recording, or other appropriate
5 evidence, including evidence obtained by automated enforcement
6 technology.

7 (b) In the prosecution of an offense under Section
8 228.055(c) [~~361.253(c)~~], (d), or (e):

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

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

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

22 (c) It is a defense to prosecution under Section 228.055(c)
23 [~~361.253(c)~~], (d), or (e) that the motor vehicle in question was
24 stolen before the failure to pay the proper toll occurred and had
25 not been recovered before the failure to pay occurred, but only if
26 the theft was reported to the appropriate law enforcement authority
27 before the earlier of:

- (1) the occurrence of the failure to pay; or
- (2) eight hours after the discovery of the theft.

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

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

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

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

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

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

1 Sec. 228.058 [~~361.256~~]. AUTOMATED ENFORCEMENT TECHNOLOGY.

2 (a) To aid in the collection of tolls and in the enforcement of
3 toll violations, the department may use automated enforcement
4 technology that it determines is necessary, including automatic
5 vehicle license plate identification photography and video
6 surveillance, by electronic imaging or photographic copying.

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

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

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

17 SECTION 2.42. Sections 361.004, 361.171, 361.172, 361.173,
18 361.174, 361.1751, 361.1752, 361.1753, 361.176, 361.177, 361.178,
19 361.183, 361.185, 361.186, 361.187, and 361.188, Transportation
20 Code, are transferred to Chapter 228, Transportation Code,
21 designated as Subchapter C, and amended to read as follows:

22 SUBCHAPTER C. TOLL REVENUE BONDS

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

27 (1) the actual acquisition, design, development,

1 planning, financing, construction, improvement, extension, or
2 expansion of the project or system;

3 (2) acquisition of real property, rights-of-way,
4 property rights, easements, and interests;

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

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

9 (5) traffic estimates, engineering, [~~and~~] legal and
10 other advisory services, plans, specifications, surveys,
11 appraisals, cost and revenue estimates, and other expenses
12 necessary or incident to determining the feasibility of the
13 construction, improvement, extension, or expansion;

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

16 (7) financing; and

17 (8) placement of the project or system in operation
18 and expenses related to the initial operation of the [~~turnpike~~]
19 project or system.

20 (b) Costs attributable to a toll [~~turnpike~~] project or
21 system for which bonds are issued that are incurred before the
22 issuance of the bonds may be reimbursed from the proceeds of the
23 sale of the bonds.

24 Sec. 228.102 [~~361.171~~]. ISSUANCE OF [~~TURNPIKE REVENUE~~]
25 BONDS. (a) The commission by order may authorize the issuance of
26 toll [~~turnpike~~] revenue bonds to pay all or part of the cost of a
27 toll [~~turnpike~~] project or system. [~~Each project shall be financed~~

1 ~~and built by a separate bond issue.]~~ The proceeds of a bond issue
2 may be used solely for the payment of the project or system for
3 which the bonds were issued and may not be divided between or among
4 two or more projects. Each project is a separate undertaking, the
5 cost of which shall be determined separately.

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

8 (1) be dated;

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

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

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

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

19 (d) The proceeds of each bond issue shall be disbursed in
20 the manner and under the restrictions, if any, the commission
21 provides in the order authorizing the issuance of the bonds or in
22 the trust agreement securing the bonds.

23 (e) If the proceeds of a bond issue are less than the toll
24 [~~turnpike~~] project or system cost, additional bonds may be issued
25 in the same manner to pay the costs of a [~~turnpike~~] project or
26 system. Unless otherwise provided in the order authorizing the
27 issuance of the bonds or in the trust agreement securing the bonds,

1 the additional bonds are on a parity with and are payable, without
2 preference or priority, from the same fund as the bonds first
3 issued. In addition, the commission may issue bonds for a
4 ~~[turnpike]~~ project or system secured by a lien on the revenue of the
5 ~~[turnpike]~~ project or system subordinate to the lien on the revenue
6 securing other bonds issued for the ~~[turnpike]~~ project or system.

7 (f) If the proceeds of a bond issue exceed the cost of the
8 toll ~~[turnpike]~~ project or system for which the bonds were issued,
9 the surplus shall be segregated from the other money of the
10 commission and used only for the purposes specified in the order
11 authorizing the issuance.

12 (g) In addition to other permitted uses, the proceeds of a
13 bond issue may be used to pay costs incurred before the issuance of
14 the bonds, including costs of environmental review, design,
15 planning, acquisition of property, relocation assistance,
16 construction, and operation.

17 (h) Bonds issued and delivered under this subchapter
18 ~~[chapter]~~ and interest coupons on the bonds are a security under
19 Chapter 8, Business & Commerce Code.

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

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

1 laws and this subchapter [~~chapter~~], the provisions of this
2 subchapter [~~chapter~~] prevail.

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

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

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

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

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

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

19 (6) amounts received by the department:

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

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

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

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

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

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

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

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

16 Sec. 228.105 [~~361.174~~]. SOURCES OF PAYMENT OF AND SECURITY
17 FOR TOLL REVENUE [~~TURNPIKE PROJECT~~] BONDS. Notwithstanding any
18 other provisions of this subchapter, toll revenue [~~chapter~~,
19 ~~turnpike project~~] bonds issued by the commission may:

20 (1) be payable from and secured by:

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

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

26 (C) amounts deposited in a debt service reserve
27 fund as required by the trust agreement securing bonds issued for

1 the [~~turnpike~~] project or system; or

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

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

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

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

13 Sec. 228.107 [~~361.1752~~]. EFFECT OF LIEN. (a) A lien on or
14 a pledge of revenue, a contract payment, or a pledge of money to the
15 payment of bonds issued under this subchapter is valid and
16 effective in accordance with Chapter 1208, Government Code, and
17 [~~from a turnpike project or on a reserve, replacement, or other fund~~
18 ~~established in connection with a bond issued under this chapter~~]:

19 (1) is enforceable in any court at the time of payment
20 for and delivery of the bond;

21 (2) applies to each item on hand or subsequently
22 received;

23 (3) applies without physical delivery of an item or
24 other act; and

25 (4) is enforceable in any court against any person
26 having a claim, in tort, contract, or other remedy, against the
27 commission or the department without regard to whether the person

1 has notice of the lien or pledge.

2 (b) An order authorizing the issuance of bonds is not
3 required to be recorded except in the regular records of the
4 department.

5 Sec. 228.108 [~~361.1753~~]. APPROVAL OF BONDS BY ATTORNEY
6 GENERAL. (a) The commission shall submit to the attorney general
7 for examination the record of proceedings relating to bonds
8 authorized under this subchapter [~~chapter~~]. The record shall
9 include the bond proceedings and any contract securing or providing
10 revenue for the payment of the bonds.

11 (b) If the attorney general determines that the bonds, the
12 bond proceedings, and any supporting contract are authorized by
13 law, the attorney general shall approve the bonds and deliver to the
14 comptroller:

15 (1) a copy of the legal opinion of the attorney general
16 stating the approval; and

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

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

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

27 Sec. 228.109 [~~361.176~~]. TRUST AGREEMENT. (a) Bonds

1 issued under this subchapter [~~chapter~~] may be secured by a trust
2 agreement between the commission and a corporate trustee that is a
3 trust company or a bank that has the powers of a trust company.

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

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

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

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

13 (3) to create and maintain reserves for the purposes
14 described by Subdivisions (1) and (2), as prescribed by Section
15 228.053 [~~361.179~~]; and

16 (4) as otherwise provided by law.

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

20 (e) A trust agreement may:

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

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

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

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

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

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

11 (A) the acquisition of property;

12 (B) the design, development, financing,
13 construction, improvement, expansion, maintenance, repair,
14 operation, and insurance of the toll [~~turnpike~~] project or system
15 in connection with which the bonds were authorized; and

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

18 (2) covenants prescribing events that constitute
19 default;

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

22 [~~4~~] covenants relating to the rights, powers,
23 liabilities, or duties that arise on the breach of a duty of the
24 commission, including the right of the trustee to bring actions
25 against the commission or the department in any state court to
26 enforce the covenants in the agreement, and the sovereign immunity
27 of the state is waived for that purpose; and

1 (4) [~~(5)~~] provisions for the employment of consulting
2 engineers in connection with the construction or operation of the
3 [~~turnpike~~] project or system.

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

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

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

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

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

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

1 the project.

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

12 (b) The order authorizing the issuance of bonds or the trust
13 agreement securing the bonds shall provide that an officer to whom
14 or a bank or trust company to which the money is paid shall act as
15 trustee of the money and shall hold and apply the money for the
16 purpose of the order or trust agreement, subject to this subchapter
17 [~~chapter~~] and the order or trust agreement.

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

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

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

26 (B) the trust agreement; or

27 (C) the order authorizing the issuance of the

1 bond; and

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

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

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

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

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

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

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

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

24 Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The
25 commission may not revise the formula as provided in the
26 department's unified transportation program, or its successor
27 document, in a manner that results in a decrease of a district's

1 allocation because revenue bonds are issued for a toll project
2 located within the department district.

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

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

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

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

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

13 [~~(3) an adjacent county in a joint turnpike authority~~
14 ~~with a county with a population of more than 1.5 million;~~

15 [~~(4) a municipality with a population of more than~~
16 ~~170,000 that is adjacent to the United Mexican States;~~

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

19 [~~(6) a regional mobility authority organized under~~
20 ~~Chapter 370 or Section 361.003, as that section existed before June~~
21 ~~22, 2003.]~~

22 Sec. 228.151 [~~361.282~~]. LEASE, SALE, OR TRANSFER
23 [~~CONVEYANCE~~] OF TOLL [~~TURNPIKE~~] PROJECT OR SYSTEM. (a) The
24 department may lease, sell, or transfer [~~convey~~] in another manner
25 a toll [~~turnpike~~] project or system, including a nontolled state
26 highway or a segment of a nontolled state highway converted to a
27 toll project under Subchapter E, to a governmental entity that has

1 the authority to operate a tolled highway [~~county, a municipality,~~
2 ~~regional tollway authority, regional mobility authority,~~] or a
3 local government corporation created under Chapter 431.

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

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

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

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

26 Sec. 228.154 [~~361.285~~]. APPROVAL OF AGREEMENT BY ATTORNEY
27 GENERAL. (a) An agreement for the lease, sale, or conveyance of a

1 toll [~~turnpike~~] project or system under this subchapter shall be
2 submitted to the attorney general for approval as part of the
3 records of proceedings relating to the issuance of bonds of the
4 governmental entity [~~county, municipality, regional tollway~~
5 ~~authority, regional mobility authority, or local government~~
6 ~~corporation~~].

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

11 SECTION 2.45. Chapter 228, Transportation Code, is amended
12 by adding Subchapter E to read as follows:

13 SUBCHAPTER E. LIMITATION ON TOLL FACILITY DETERMINATION;

14 CONVERSION OF NONTOLLED STATE HIGHWAY

15 Sec. 228.201. LIMITATION ON TOLL FACILITY DESIGNATION. (a)
16 Except as provided by Section 228.2015, the department may not
17 operate a nontolled state highway or a segment of a nontolled state
18 highway as a toll project, and may not transfer a highway or segment
19 to another entity for operation as a toll project, unless:

20 (1) the commission by order designated the highway or
21 segment as a toll project before the contract to construct the
22 highway or segment was awarded;

23 (2) the highway or segment was open to traffic as a
24 turnpike project on or before September 1, 2005;

25 (3) the project was designated as a toll project in a
26 plan or program of a metropolitan planning organization on or
27 before September 1, 2005;

1 (4) the highway or segment is reconstructed so that
2 the number of nontolled lanes on the highway or segment is greater
3 than or equal to the number in existence before the reconstruction;

4 (5) a facility is constructed adjacent to the highway
5 or segment so that the number of nontolled lanes on the converted
6 highway or segment and the adjacent facility together is greater
7 than or equal to the number in existence on the converted highway or
8 segment before the conversion;

9 (6) subject to Subsection (b), the highway or segment
10 was open to traffic as a high-occupancy vehicle lane on May 1, 2005;
11 or

12 (7) the commission converts the highway or segment to
13 a toll facility by:

14 (A) making the determination required by Section
15 228.202;

16 (B) conducting the hearing required by Section
17 228.203; and

18 (C) obtaining county and voter approval as
19 required by Sections 228.207 and 228.208.

20 (b) The department may operate or transfer a high-occupancy
21 vehicle lane under Subsection (a)(6) as a tolled lane only if the
22 department or other entity operating the lane allows vehicles
23 occupied by a specified number of passengers to use the lane without
24 paying a toll.

25 Sec. 228.2015. LIMITATION TRANSITION. (a) Notwithstanding
26 Section 228.201, the department may operate a nontolled state
27 highway or a segment of a nontolled state highway as a toll project

1 if:

2 (1) a construction contract was awarded for the
3 highway or segment before September 1, 2005;

4 (2) the highway or segment had not at any time before
5 September 1, 2005, been open to traffic; and

6 (3) the commission designated the highway or segment
7 as a toll project before the earlier of:

8 (A) the date the highway or segment is opened to
9 traffic; or

10 (B) September 1, 2005.

11 (b) This section expires September 1, 2006.

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

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

25 Sec. 228.203. PUBLIC HEARING. [~~(b)~~] Prior to converting a
26 state highway or a segment of a [~~the~~] state highway [~~system~~] under
27 this subchapter [~~section~~], the commission shall conduct a public

1 hearing for the purpose of receiving comments from interested
2 persons concerning the proposed conversion [~~transfer~~]. Notice of
3 the hearing shall be published in the Texas Register, one or more
4 newspapers of general circulation, and a newspaper, if any,
5 published in the county or counties in which the involved highway is
6 located.

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

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

13 Sec. 228.206. TOLL REVENUE. [~~(e)~~ ~~Subchapter C, Chapter~~
14 ~~361, applies to a highway converted to a toll facility under this~~
15 ~~section.~~

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

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

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

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

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

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

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

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

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

10 Sec. 228.208. ELECTION TO APPROVE CONVERSION. (a) If
11 notified by the department of the proposed conversion of a highway
12 or segment under this subchapter, and after approval of the
13 conversion by the appropriate commissioners courts as required by
14 Section 228.207(1), the commissioners court of each county
15 described by Section 228.207(2)(A) or the governing body of a
16 municipality described by Section 228.207(2)(B), as applicable,
17 shall call an election for the approval or disapproval of the
18 conversion.

19 (b) If a county or municipality orders an election, the
20 county or municipality shall publish notice of the election in a
21 newspaper of general circulation published in the county or
22 municipality at least once each week for three consecutive weeks,
23 with the first publication occurring at least 21 days before the
24 date of the election.

25 (c) An order or resolution ordering an election and the
26 election notice required by Subsection (b) must show, in addition
27 to the requirements of the Election Code, the location of each

1 polling place and the hours that the polls will be open.

2 (d) The proposition submitted in the election must
3 distinctly state the highway or segment proposed to be converted
4 and the limits of that highway or segment.

5 (e) At an election ordered under this section, the ballots
6 shall be printed to permit voting for or against the proposition:
7 "The conversion of (highway) from (beginning location) to (ending
8 location) to a toll project."

9 (f) A proposed conversion is approved only if it is approved
10 by a majority of the votes cast.

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

14 SECTION 2.47. Sections 362.001, 362.003, 362.006, and
15 362.007, Transportation Code, are transferred to Chapter 228,
16 Transportation Code, designated as Subchapter F, and amended to
17 read as follows:

18 SUBCHAPTER F. JOINT TOLL PROJECTS

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

20 (1) [~~(2)~~] "Bonds" includes certificates, notes, and
21 other obligations of an issuer authorized by statute, municipal
22 home-rule charter, or the Texas Constitution.

23 (2) [~~(3)~~] "~~Cost~~" ~~means those costs included under~~
24 ~~Section 361.004.~~

25 [~~(4)~~] "Local governmental entity" means a political
26 subdivision of the state, including a municipality or a county, a
27 political subdivision of a county, a group of adjoining counties, a

1 defined district, or a nonprofit corporation, including a
2 transportation corporation created under Chapter 431.

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

5 Sec. 228.252 [~~362.003~~]. APPLICABILITY OF OTHER LAW;
6 CONFLICTS. (a) This subchapter [~~chapter~~] is cumulative of all
7 laws affecting the issuance of bonds by local governmental
8 entities, particularly, but not by way of limitation, provisions of
9 Chapters 1201 and 1371, Government Code, and Subchapters A-C,
10 Chapter 1207, Government Code, are applicable to and apply to all
11 bonds issued under this subchapter [~~chapter~~], regardless of any
12 classification of any such local governmental entities thereunder;
13 provided, however, in the event of any conflict between such laws
14 and this subchapter [~~chapter~~], the provisions of this subchapter
15 [~~chapter~~] prevail.

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

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

27 Sec. 228.253 [~~362.006~~]. USE OF FEDERAL FUNDS. The

1 department may use federal funds for any purpose described by this
2 subchapter.

3 Sec. 228.254 [~~362.007~~]. AGREEMENTS BETWEEN AUTHORITY AND
4 LOCAL GOVERNMENTAL ENTITIES. (a) Under authority of Section 52,
5 Article III, Texas Constitution, a local governmental entity other
6 than a nonprofit corporation may, upon the required vote of the
7 qualified voters, in addition to all other debts, issue bonds or
8 enter into and make payments under agreements with the department,
9 not to exceed 40 years in term, in any amount not to exceed
10 one-fourth of the assessed valuation of real property within the
11 local governmental entity, except that the total indebtedness of
12 any municipality shall never exceed the limits imposed by other
13 provisions of the constitution, and levy and collect taxes to pay
14 the interest thereon and provide a sinking fund for the redemption
15 thereof, for the purposes of construction, maintenance, and
16 operation of toll [~~turnpike~~] projects or systems of the department,
17 or in aid thereof.

18 (b) In addition to Subsection (a), a local governmental
19 entity may, within any applicable constitutional limitations,
20 agree with the department to issue bonds or enter into and make
21 payments under an agreement to construct, maintain, or operate any
22 portion of a toll [~~turnpike~~] project or system of the department.

23 (c) To make payments under an agreement under Subsection (b)
24 or pay the interest on bonds issued under Subsection (b) and to
25 provide a sinking fund for the bonds or the contract, a local
26 governmental entity may:

27 (1) pledge revenue from any available source,

1 including annual appropriations;

2 (2) levy and collect taxes; or

3 (3) provide for a combination of Subdivisions (1) and
4 (2).

5 (d) The term of an agreement under this section may not
6 exceed 40 years.

7 (e) Any election required to permit action under this
8 subchapter must be held in conformance with Chapter 1251,
9 Government Code, or other law applicable to the local governmental
10 entity.

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

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

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

20 (B) necessary administration, storage, and other
21 buildings that have been designated as part of the project by order
22 of a county; and

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

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

1 (c) Except as provided by Subsection (d), a [A] project
2 becomes a part of the state highway system and the commission shall
3 maintain the project without tolls when:

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

7 (2) a sufficient amount for the payment of all bonds
8 and the interest on the bonds to maturity has been set aside in a
9 trust fund held for the benefit of the bondholders.

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

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

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

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

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

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

24 (1) agrees to the transfer; and

25 (2) agrees to assume the outstanding bonded
26 indebtedness.

27 (b) The commission may assume the outstanding bonded

1 indebtedness only if the assumption:

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

5 (2) does not prevent the commission from complying
6 with covenants of the commission under an existing trust agreement
7 or indenture; and

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

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

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

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

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

26 (1) the creation of the regional mobility authority
27 and transfer of projects is not prohibited under the bond

1 proceedings applicable to the projects;

2 (2) adequate provision has been made for the
3 assumption by the regional mobility authority of all debts,
4 obligations, and liabilities of the county arising out of the
5 transferred projects; and

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

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

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

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

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

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

1 after:

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

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

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

7 Sec. 284.0615. DECLARATION OF TAKING BY CERTAIN COUNTIES.

8 (a) This section applies only to a county with a population of 3.3
9 million or more.

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

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

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

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

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

22 (1) the methodology for:

23 (A) the setting of tolls; and

24 (B) increasing the amount of the tolls;

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

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

1 payment of a toll; and

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

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

6 (e) An agreement with a person that includes the collection
7 by the person of tolls for the use of a project may not be for a term
8 longer than 50 years.

9 SECTION 2.55. Subchapter C, Chapter 284, Transportation
10 Code, is amended by adding Section 284.0665 to read as follows:

11 Sec. 284.0665. COMPENSATION OF OPERATING BOARD MEMBERS.

12 (a) In this section, "performing the duties of the operating board"
13 means substantive performance of the management or business of a
14 project:

15 (1) including participation in:

16 (A) board and committee meetings;

17 (B) other activities involving the substantive
18 deliberation of business; and

19 (C) pertinent educational programs related to a
20 project; and

21 (2) not including routine or ministerial activities
22 such as the execution of documents, self-preparation for meetings,
23 or other activities requiring a minimal amount of time.

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

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

26 (2) that is a local government corporation.

27 (c) A member of an operating board is entitled to receive as

1 compensation not more than \$150 a day for each day the member
2 actually spends performing the duties of the operating board.

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

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

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

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

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

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

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

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

27 (a) The cost of acquisition, construction, improvement,

1 extension, or expansion of a turnpike project or system under this
2 chapter includes the cost of:

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

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

8 (3) machinery and equipment;

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

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

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

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

21 (8) financing; ~~and~~

22 (9) the assumption of debts, obligations, and
23 liabilities of an entity relating to a turnpike project or system
24 transferred to an authority by that entity; and

25 (10) [~~9~~] expenses related to the initial operation
26 of the turnpike project or system.

27 SECTION 2.58. Section 366.033, Transportation Code, is

1 amended by amending Subsection (b) and adding Subsections (k) and
2 (l) to read as follows:

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

16 (k) If an authority enters into a contract or agreement to
17 design, finance, construct, operate, maintain, or perform any other
18 function for a turnpike project, system, or improvement authorized
19 by law on behalf of a local governmental entity, the commission, the
20 department, a regional mobility authority, or any other entity, the
21 contract or agreement may provide that the authority, in performing
22 the function, is governed by the applicable provisions of this
23 chapter and the rules and procedures adopted by the authority under
24 this chapter, in lieu of the laws, rules, or procedures applicable
25 to the other party for the performance of the same function.

26 (l) An authority, acting through its board, may agree with
27 another entity to acquire a turnpike project or system from that

1 entity and to assume any debts, obligations, and liabilities of the
2 entity relating to a turnpike project or system transferred to the
3 authority.

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

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

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

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

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

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

22 (5) the local governmental entities are authorized to
23 assume jurisdiction over the transferred projects or systems and to
24 assume the debts, obligations, and liabilities of the authority
25 relating to the transferred projects or systems; and

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

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

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

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

19 (c) Except as provided by Section 228.201 [~~366.035~~], the
20 state or a local governmental entity may convey, grant, or lease to
21 an authority real property, including highways and other real
22 property already devoted to public use and rights or easements in
23 real property, that may be necessary or convenient to accomplish
24 the authority's purposes, including the construction or operation
25 of a turnpike project. A conveyance, grant, or lease under this
26 section may be made without advertising, court order, or other
27 action other than the normal action of the state or local

1 governmental entity necessary for a conveyance, grant, or lease.

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

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

7 SECTION 2.62. Section 370.003, Transportation Code, is
8 amended by amending Subdivision (14) and adding Subdivisions
9 (16)-(19) to read as follows:

10 (14) "Transportation project" means:

11 (A) a turnpike project;

12 (B) a system;

13 (C) a passenger or freight rail facility,

14 including:

15 (i) tracks;

16 (ii) a rail line;

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

19 (iv) a depot;

20 (v) a locomotive;

21 (vi) rolling stock;

22 (vii) a maintenance facility; and

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

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

27 (E) a ferry;

1 (F) an airport, other than an airport that on
2 September 1, 2005, was served by one or more air carriers engaged in
3 scheduled interstate transportation, as those terms were defined by
4 14 C.F.R. Section 1.1 on that date;

5 (G) a pedestrian or bicycle facility;

6 (H) an intermodel hub;

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

9 (J) a border crossing inspection station;

10 (K) an air quality improvement initiative;

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

12 (M) a transit system; and

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

16 (16) "Mass transit" means the transportation of
17 passengers and hand-carried packages or baggage of a passenger by
18 any means of surface, overhead, or underground transportation,
19 other than an aircraft or taxicab.

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

23 (18) "Transit provider" means an entity that provides
24 mass transit for the public and that was created under Chapter 451,
25 452, 453, 454, 457, 458, or 460.

26 (19) "Transit system" means:

27 (A) property owned or held by an authority for

1 mass transit purposes; and

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

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

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

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

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

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

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

18 (3) machinery and equipment;

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

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

27 (6) necessary or incidental administrative, legal,

1 and other expenses;

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

5 (8) financing; ~~and~~

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

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

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

13 (c) A municipality that borders the United Mexican States
14 and has a population of 105,000 or more has the same authority as a
15 county, within its municipal boundaries, to create and participate
16 in an authority. A municipality creating or participating in an
17 authority has the same powers and duties as a county participating
18 in an authority, the governing body of the municipality has the same
19 powers and duties as the commissioners court of a county
20 participating in an authority, and an elected member of the
21 municipality's governing body has the same powers and duties as a
22 commissioner of a county that is participating in an authority.

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

26 (m) If an authority receives money from the general revenue
27 fund, the Texas Mobility Fund, or the state highway fund it may use

1 the money only to acquire, design, finance, construct, operate, or
2 maintain a turnpike project under Section 370.003(14)(A) or (D) or
3 a transit system under Section 370.351.

4 (o) Except as provided in Subchapter J, an authority may not
5 provide mass transit services in the service area of another
6 transit provider that has taxing authority and has implemented it
7 anywhere in the service area unless the service is provided under a
8 written agreement with the transit provider or under Section
9 370.186.

10 (p) Before providing public transportation or mass transit
11 services in the service area of any other existing transit
12 provider, including a transit provider operating under Chapter 458,
13 an authority must first consult with that transit provider. An
14 authority shall ensure there is coordination of services provided
15 by the authority and an existing transit provider, including a
16 transit provider operating under Chapter 458. An authority is
17 ineligible to participate in the formula or discretionary program
18 under Chapter 456 unless there is no other transit provider,
19 including a transit provider operating under Chapter 458, providing
20 public transportation or mass transit services in the service area
21 of the authority.

22 (q) An authority, acting through its board, may agree with
23 another entity to acquire a transportation project or system from
24 that entity and to assume any debts, obligations, and liabilities
25 of the entity relating to a transportation project or system
26 transferred to the authority.

27 SECTION 2.66. Subchapter B, Chapter 370, Transportation

1 Code, is amended by adding Section 370.039 to read as follows:

2 Sec. 370.039. TRANSFER OF TRANSPORTATION PROJECT OR SYSTEM.

3 (a) An authority may transfer any of its transportation projects or
4 systems to one or more governmental entities if:

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

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

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

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

18 (5) the governmental entities are authorized to assume
19 jurisdiction over the transferred projects or systems and to assume
20 the debts, obligations, and liabilities of the authority relating
21 to the transferred projects or systems; and

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

24 (b) An authority may transfer to one or more governmental
25 entities any traffic estimates, revenue estimates, plans,
26 specifications, surveys, appraisals, and other work product
27 developed by the authority in determining the feasibility of the

1 construction, improvement, extension, or expansion of a
2 transportation project or system, and the authority's rights and
3 obligations under any related agreements, if the requirements of
4 Subsections (a)(1) and (6) are met.

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

13 SECTION 2.67. Section 366.302, Transportation Code, is
14 amended by adding Subsections (f) and (g) to read as follows:

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

19 (1) the methodology for:

20 (A) the setting of tolls; and

21 (B) increasing the amount of the tolls;

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

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

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

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

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

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

8 (a) Except as otherwise provided by this subchapter, the
9 governing body of an authority has the same powers and duties
10 relating to the condemnation and acquisition of real property for a
11 transportation project that the commission and the department have
12 under Subchapter D, Chapter 203, [~~361, and Section 361.233~~]
13 relating to the condemnation or purchase of real property for a toll
14 [~~turnpike~~] project. [~~Notwithstanding Section 361.135(a), the~~
15 ~~concurrence of the commission is not a prerequisite to the exercise~~
16 ~~of the power of condemnation by the governing body of the~~
17 ~~authority.]~~

18 SECTION 2.69. Section 370.168(c), Transportation Code, is
19 amended to read as follows:

20 (c) Except as provided by Section 228.201 [~~370.035~~], this
21 state or a local government may convey, grant, or lease to an
22 authority real property, including highways and other real property
23 devoted to public use and rights or easements in real property, that
24 may be necessary or convenient to accomplish a purpose of the
25 authority, including the construction or operation of a
26 transportation project. A conveyance, grant, or lease under this
27 section may be made without advertising, court order, or other

1 action other than the normal action of this state or local
2 government necessary for a conveyance, grant, or lease.

3 SECTION 2.70. Section 370.177(i), Transportation Code, is
4 amended to read as follows:

5 (i) In the prosecution of an offense under this section,
6 proof that the vehicle passed through a toll collection facility
7 without payment of the proper toll together with proof that the
8 defendant was the registered owner or the driver of the vehicle when
9 the failure to pay occurred, establishes the nonpayment of the
10 registered owner. The proof may be by testimony of a peace officer
11 or authority employee, video surveillance, or any other reasonable
12 evidence, including evidence obtained by automated enforcement
13 technology that the authority determines is necessary, including
14 automated enforcement technology described by Sections 228.058(a)
15 and (b).

16 SECTION 2.71. Section 370.178, Transportation Code, is
17 amended by adding Subsection (d) to read as follows:

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

21 SECTION 2.72. Section 370.186, Transportation Code, is
22 amended by amending Subsection (a) and adding Subsections (c) and
23 (d) to read as follows:

24 (a) Except as provided by Subsection (c), an [An] authority
25 may not construct, maintain, or operate a turnpike or toll project
26 in an area having a governmental entity established under Chapter
27 284 or 366 unless the governmental entity and the authority enter

1 into a written agreement specifying the terms and conditions under
2 which the project shall be undertaken. An authority may not
3 construct, maintain, or operate a transportation project that
4 another governmental entity has determined to be a project under
5 Chapter 451, 452, or 460 unless the governmental entity and the
6 authority enter into a written agreement specifying the terms and
7 conditions under which the project shall be undertaken.

8 (c) Subsection (a) does not apply to a turnpike or toll
9 project located in a county in which a regional tollway authority
10 has transferred under Section 366.036 or 366.172:

11 (1) all turnpike projects of the regional tollway
12 authority that are located in the county; and

13 (2) all work product developed by the regional tollway
14 authority in determining the feasibility of the construction,
15 improvement, extension, or expansion of a turnpike project to be
16 located in the county.

17 (d) An authority may not construct, maintain, or operate a
18 passenger rail facility within the boundaries of an intermunicipal
19 commuter rail district created under Article 6550c-1, Vernon's
20 Texas Civil Statutes, as those boundaries existed on September 1,
21 2005, unless the district and the authority enter into a written
22 agreement specifying the terms and conditions under which the
23 project will be undertaken.

24 SECTION 2.73. Sections 370.251(c) and (d), Transportation
25 Code, are amended to read as follows:

26 (c) If permitted under the constitution of this state,
27 directors [~~Directors~~] serve staggered six-year terms, with the

1 terms of no more than one-third of the directors expiring on
2 February 1 of each odd-numbered year. If six-year terms are not
3 permitted under the constitution, directors serve two-year terms,
4 with the terms of not more than one-half of the directors expiring
5 on February 1 of each year.

6 (d) If six-year terms are permitted under the constitution
7 of this state, one [One] director appointed to the initial board of
8 an authority by the commissioners court of a county shall be
9 designated by the court to serve a term of two years and one
10 director designated to serve a term of four years. If six-year
11 terms are not permitted under the constitution, one director
12 appointed to the initial board of an authority by the commissioners
13 court of a county shall be designated by the court to serve a term of
14 one year and one director designated to serve a term of two years.
15 If one or more directors are subsequently appointed to the board,
16 the directors other than the subsequent appointees shall determine
17 the length of the appointees' terms, to comply with Subsection (c).

18 SECTION 2.74. Section 370.252, Transportation Code, is
19 amended by adding Subsection (f) to read as follows:

20 (f) In addition to the prohibitions and restrictions of this
21 section, directors are subject to Chapter 171, Local Government
22 Code.

23 SECTION 2.75. Section 370.262(a), Transportation Code, is
24 amended to read as follows:

25 (a) Chapter 551, Government Code, does not prohibit any open
26 or closed meeting of the board, a committee of the board, or the
27 staff, or any combination of the board or staff, from being held by

1 telephone conference call. The board may hold an open or closed
2 meeting by telephone conference call subject to the requirements of
3 Sections 551.125(c)-(f), Government Code, but is not subject to the
4 requirements of Subsection (b) of that section.

5 SECTION 2.76. Chapter 370, Transportation Code, is amended
6 by adding Subchapters I and J to read as follows:

7 SUBCHAPTER I. TRANSIT SYSTEMS

8 Sec. 370.351. TRANSIT SYSTEMS. (a) An authority may
9 construct, own, operate, and maintain a transit system.

10 (b) An authority shall determine each transit route,
11 including transit route changes.

12 (c) This chapter does not prohibit an authority,
13 municipality, or transit provider from providing any service that
14 complements a transit system, including providing parking garages,
15 special transportation for persons who are disabled or elderly, or
16 medical transportation services.

17 Sec. 370.352. PUBLIC HEARING ON FARE AND SERVICE CHANGES.

18 (a) In this section:

19 (1) "Service change" means any addition or deletion
20 resulting in the physical realignment of a transit route or a change
21 in the type or frequency of service provided in a specific,
22 regularly scheduled transit route.

23 (2) "Transit revenue vehicle mile" means one mile
24 traveled by a transit vehicle while the vehicle is available to
25 public passengers.

26 (3) "Transit route" means a route over which a transit
27 vehicle travels that is specifically labeled or numbered for the

1 purpose of picking up or discharging passengers at regularly
2 scheduled stops and intervals.

3 (4) "Transit route mile" means one mile along a
4 transit route regularly traveled by transit vehicles while
5 available to public passengers.

6 (b) Except as provided by Section 370.353, an authority
7 shall hold a public hearing on:

8 (1) a fare change;

9 (2) a service change involving:

10 (A) 25 percent or more of the number of transit
11 route miles of a transit route; or

12 (B) 25 percent or more of the number of transit
13 revenue vehicle miles of a transit route, computed daily, for the
14 day of the week for which the change is made; or

15 (3) the establishment of a new transit route.

16 (c) An authority shall hold the public hearing required by
17 Subsection (b) before the cumulative amount of service changes in a
18 fiscal year equals a percentage amount described in Subsection
19 (b)(2)(A) or (B).

20 Sec. 370.353. PUBLIC HEARING ON FARE AND SERVICE CHANGES:
21 EXCEPTIONS. (a) In this section, "experimental service change"
22 means an addition of service to an existing transit route or the
23 establishment of a new transit route.

24 (b) A public hearing under Section 370.352 is not required
25 for:

26 (1) a reduced or free promotional fare that is
27 instituted daily or periodically over a period of not more than 180

1 days;

2 (2) a headway adjustment of not more than five minutes
3 during peak-hour service and not more than 15 minutes during
4 nonpeak-hour service;

5 (3) a standard seasonal variation unless the number,
6 timing, or type of the standard seasonal variation changes; or

7 (4) an emergency or experimental service change in
8 effect for 180 days or less.

9 (c) A hearing on an experimental service change in effect
10 for more than 180 days may be held before or while the experimental
11 service change is in effect and satisfies the requirement for a
12 public hearing if the hearing notice required by Section 370.354
13 states that the change may become permanent at the end of the
14 effective period. If a hearing is not held before or while the
15 experimental service change is in effect, the service that existed
16 before the change must be reinstated at the end of the 180th day
17 after the change became effective and a public hearing must be held
18 in accordance with Section 370.352 before the experimental service
19 change may be continued.

20 Sec. 370.354. NOTICE OF HEARING ON FARE OR SERVICE CHANGE.

21 (a) After calling a public hearing required by Section 370.352, the
22 authority shall:

23 (1) at least 30 days before the date of the hearing,
24 publish notice of the hearing at least once in a newspaper of
25 general circulation in the territory of the authority; and

26 (2) post notice in each transit vehicle in service on
27 any transit route affected by the proposed change for at least two

1 weeks within 30 days before the date of the hearing.

2 (b) The notice must contain:

3 (1) a description of each proposed fare or service
4 change, as appropriate;

5 (2) the time and place of the hearing; and

6 (3) if the hearing is required under Section
7 370.352(c), a description of the latest proposed change and the
8 previous changes.

9 (c) The requirement for a public hearing under Section
10 370.352 is satisfied at a public hearing required by federal law if:

11 (1) the notice requirements of this section are met;
12 and

13 (2) the proposed fare or service change is addressed
14 at the meeting.

15 Sec. 370.355. CRIMINAL PENALTIES. (a) An authority by
16 resolution may prohibit the use of the transit system by a person
17 who fails to possess evidence showing that the appropriate fare for
18 the use of the system has been paid and may establish reasonable and
19 appropriate methods, including using peace officers under Section
20 370.181(c), to ensure that persons using the transit system pay the
21 appropriate fare for that use.

22 (b) An authority by resolution may provide that a fare for
23 or charge for the use of the transit system that is not paid incurs a
24 penalty, not to exceed \$100.

25 (c) The authority shall post signs designating each area in
26 which a person is prohibited from using the transit system without
27 possession of evidence showing that the appropriate fare has been

1 paid.

2 (d) A person commits an offense if:

3 (1) the person or another for whom the person is
4 criminally responsible under Section 7.02, Penal Code, uses the
5 transit system and does not possess evidence showing that the
6 appropriate fare has been paid; and

7 (2) the person fails to pay the appropriate fare or
8 other charge for the use of the transit system and any penalty on
9 the fare on or before the 30th day after the date the authority
10 notifies the person that the person is required to pay the amount of
11 the fare or charge and the penalty.

12 (e) The notice required by Subsection (d)(2) may be included
13 in a citation issued to the person by a peace officer under Article
14 14.06, Code of Criminal Procedure, in connection with an offense
15 relating to the nonpayment of the appropriate fare or charge for the
16 use of the transit system.

17 (f) An offense under Subsection (d) is a Class C
18 misdemeanor.

19 (g) An offense under Subsection (d) is not a crime of moral
20 turpitude.

21 SUBCHAPTER J. ACQUIRING TRANSIT SYSTEMS

22 Sec. 370.361. TRANSFER OF TRANSIT SYSTEMS. (a) In this
23 section, "unit of election" means a political subdivision that
24 previously voted to join the service area of a transit provider.

25 (b) An authority may request in writing a transit provider
26 to transfer the provider's transit system and taxing authority to
27 the authority if the board determines that the traffic needs of the

1 counties in which the authority operates could be most efficiently
2 and economically met by the transfer.

3 (c) On receipt of a written request under Subsection (b),
4 the governing body of the transit provider may authorize the
5 authority to solicit public comment and conduct at least one public
6 hearing on the proposed transfer in each unit of election in the
7 transit provider's service area. Notice of a hearing must be
8 published in the Texas Register, one or more newspapers of general
9 circulation in the transit provider's service area, and a
10 newspaper, if any, published in the counties of the requesting
11 authority. The notice shall also solicit written comments on the
12 proposed transfer. The transit provider may participate fully with
13 the authority in conducting a public hearing.

14 (d) A board may approve the acquisition of the transit
15 provider if the governing body of the transit provider approves
16 transfer of its operations to the authority and dissolution of the
17 transit provider is approved in an election ordered under
18 Subsection (e). Before approving the acquisition, the board shall
19 consider public comments received under Subsection (c).

20 (e) After considering public comments received under
21 Subsection (c), the governing body of the transit provider may
22 order an election to dissolve the transit provider and transfer all
23 services, property, funds, assets, employees, debts, and
24 obligations to the authority. The governing body of the transit
25 provider shall submit to the qualified voters in the units of
26 election in the transit provider's service area a proposition that
27 reads substantially as follows: "Shall (name of transit provider)

1 be dissolved and its services, property, funds, assets, employees,
2 debts, and obligations be transferred to (name of regional mobility
3 authority)?"

4 (f) An election under Subsection (e) shall be conducted so
5 that votes are separately tabulated and canvassed in each
6 participating unit of election in the transit provider's service
7 area.

8 (g) The governing body of the transit provider shall canvass
9 the returns and declare the results of the election separately with
10 respect to each unit of election. If a majority of the votes
11 received in a unit of election are in favor of the proposition, the
12 proposition is approved in that unit of election. The transit
13 provider is dissolved and its services, property, funds, assets,
14 employees, debts, and obligations are transferred to the authority
15 only if the proposition is approved in every unit of election. If
16 the proposition is not approved in every unit of election, the
17 proposition does not pass and the transit provider is not
18 dissolved.

19 (h) A certified copy of the order or resolution recording
20 the results of the election shall be filed with the department, the
21 comptroller, and the governing body of each unit of election in the
22 transit provider's service area.

23 (i) The authority shall assume all debts or other
24 obligations of the transferred transit provider in connection with
25 the acquisition of property under Subsection (g). The authority
26 may not use revenue from sales and use tax collected under this
27 subchapter or other revenue of the transit system in a manner

1 inconsistent with any pledge of that revenue for the payment of any
2 outstanding bonds, unless provisions have been made for a full
3 discharge of the bonds.

4 Sec. 370.362. SALES AND USE TAX. (a) If an authority
5 acquires a transit provider that has taxing authority, the
6 authority may impose a sales and use tax at a permissible rate that
7 does not exceed the rate approved by the voters residing in the
8 service area of the transit provider's transit system at an
9 election under this subchapter.

10 (b) The authority by resolution may:

11 (1) decrease the rate of the sales and use tax to a
12 permissible rate; or

13 (2) call an election for the increase or decrease of
14 the sales and use tax to a permissible rate.

15 (c) If an authority orders an election, the authority shall
16 publish notice of the election in a newspaper of general
17 circulation in the territory of the authority at least once each
18 week for three consecutive weeks, with the first publication
19 occurring at least 21 days before the date of the election.

20 (d) A resolution ordering an election and the election
21 notice required by Subsection (c) must show, in addition to the
22 requirements of the Election Code, the hours of the election and
23 polling places in election precincts.

24 (e) A copy of the election notice required by Subsection (c)
25 shall be furnished to the commission and the comptroller.

26 (f) The permissible rates for a sales and use tax imposed
27 under this subchapter are:

- 1 (1) one-quarter of one percent;
- 2 (2) one-half of one percent;
- 3 (3) three-quarters of one percent; or
- 4 (4) one percent.

5 (g) Chapter 322, Tax Code, applies to a sales and use tax
6 imposed under this subchapter.

7 Sec. 370.363. MAXIMUM TAX RATE. (a) An authority may not
8 adopt a sales and use tax rate, including a rate increase, that when
9 combined with the rates of all sales and use taxes imposed by all
10 political subdivisions of this state having territory in the
11 service area of the transferred transit system exceeds two percent
12 in any location in the service area.

13 (b) An election to approve a sales and use tax or increase
14 the rate of an authority's sales and use tax has no effect if:

15 (1) the voters in the service area approve the
16 authority's sales and use tax rate or rate increase at an election
17 held on the same day on which a municipality or county having
18 territory in the jurisdiction of the service area adopts a sales and
19 use tax or an additional sales and use tax; and

20 (2) the combined rates of all sales and use taxes
21 imposed by the authority and all political subdivisions of this
22 state would exceed two percent in any part of the territory in the
23 service area.

24 Sec. 370.364. ELECTION TO CHANGE TAX RATE. (a) At an
25 election ordered under Section 370.362(b)(2), the ballots shall be
26 printed to permit voting for or against the proposition: "The
27 increase (decrease) of the local sales and use tax rate for mass

1 transit to (percentage)."

2 (b) The increase or decrease in the tax rate becomes
3 effective only if it is approved by a majority of the votes cast.

4 (c) A notice of the election and a certified copy of the
5 order canvassing the election results shall be:

6 (1) sent to the commission and the comptroller; and

7 (2) filed in the deed records of the county.

8 Sec. 370.365. SALES TAX: EFFECTIVE DATES. (a) A sales and
9 use tax implemented under this subchapter takes effect on the first
10 day of the second calendar quarter that begins after the date the
11 comptroller receives a copy of the order required to be sent under
12 Section 370.364(c).

13 (b) An increase or decrease in the rate of a sales and use
14 tax implemented under this subchapter takes effect on:

15 (1) the first day of the first calendar quarter that
16 begins after the date the comptroller receives the notice provided
17 under Section 370.364(c); or

18 (2) the first day of the second calendar quarter that
19 begins after the date the comptroller receives the notice, if
20 within 10 days after the date of receipt of the notice the
21 comptroller gives written notice to the board that the comptroller
22 requires more time to implement tax collection and reporting
23 procedures.

24 SECTION 2.77. Section 370.302, Transportation Code, is
25 amended by adding Subsections (h) and (i) to read as follows:

26 (h) If an authority enters into an agreement with a private
27 entity that includes the collection by the private entity of tolls

1 for the use of a transportation project, the private entity shall
2 submit to the authority for approval:

3 (1) the methodology for:

4 (A) the setting of tolls; and

5 (B) increasing the amount of the tolls;

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

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

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

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

14 (i) An agreement with a private entity that includes the
15 collection by the private entity of tolls for the use of a
16 transportation project may not be for a term longer than 50 years.

17 SECTION 2.78. Section 391.252(a), Transportation Code, is
18 amended to read as follows:

19 (a) A [~~Subsequent to the effective date of this subchapter,~~
20 ~~a]~~ person may not erect an off-premise sign that is adjacent to and
21 visible from:

22 (1) U.S. Highway 290 between the western city limits
23 of the city of Austin and the eastern city limits of the city of
24 Fredericksburg;

25 (2) State Highway 317 between the northern city limits
26 of the city of Belton to the southern city limits of the city of
27 Valley Mills;

1 (3) State Highway 16 between the northern city limits
2 of the city of Kerrville and Interstate Highway 20;

3 (4) U.S. Highway 77 between State Highway 186 and
4 State Highway 44;

5 (5) U.S. Highway 281 between State Highway 186 and
6 Interstate Highway 37;

7 (6) State Highway 17 between State Highway 118 and
8 U.S. Highway 90;

9 (7) State Highway 67 between U.S. Highway 90 and
10 Farm-to-Market Road 170;

11 (8) Farm-to-Market Road 170 between State Highway 67
12 and State Highway 118;

13 (9) State Highway 118 between Farm-to-Market Road 170
14 and State Highway 17;

15 (10) State Highway 105 between the western city limits
16 of the city of Sour Lake to the eastern city limits of the city of
17 Cleveland;

18 (11) State Highway 73 between the eastern city limits
19 of the city of Winnie to the western city limits of the city of Port
20 Arthur;

21 (12) State Highway 21 between the southern city limits
22 of the city of College Station and U.S. Highway 290; [~~or~~]

23 (13) a highway located in:

24 (A) the Sabine National Forest;

25 (B) the Davy Crockett National Forest; or

26 (C) the Sam Houston National Forest; or

27 (14) Segments 1 through 4 of State Highway 130.

1 SECTION 2.79. Section 395.001(a), Transportation Code, is
2 amended to read as follows:

3 (a) This subchapter applies only to:

4 (1) the governing body of a toll road authority:

5 (A) in which a county with a population of 3.3
6 [2.4] million or more is located; or

7 (B) that is adjacent to a county with a
8 population of 3.3 million or more and in which a municipality with a
9 population of more than 60,000 is located; and

10 (2) an outdoor sign.

11 SECTION 2.80. Section 395.051(a), Transportation Code, is
12 amended to read as follows:

13 (a) This subchapter applies only to a county with a
14 population of more than 3.3 million or a county adjacent to a county
15 with a population of more than 3.3 million in which a municipality
16 with a population of more than 60,000 is located.

17 SECTION 2.81. Section 451.554, Transportation Code, is
18 amended to read as follows:

19 Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE DATE.

20 (a) The addition of territory annexed under Section 451.551, or
21 approved under Section 451.552 or 451.553, does not take effect if,
22 before the effective date of the addition under Subsection (b), the
23 board of the authority gives written notice to the governing body of
24 the municipality that added new territory to the authority by
25 virtue of annexation, or to the governing body of the municipality
26 or the commissioners court of the county that held the election,
27 that the addition would create a financial hardship on the

1 authority because:

2 (1) the territory to be added is not contiguous to the
3 territory of the existing authority; or

4 (2) the addition of the territory would impair the
5 imposition of the sales and use tax authorized by this chapter.

6 (b) In the absence of a notice under Subsection (a), the
7 addition of territory takes effect on the 31st day after the date of
8 the:

9 (1) municipal ordinance, if annexed by a municipality
10 under Section 451.551; or

11 (2) election, if approved under Section 451.552 or
12 451.553 [~~approved under Section 451.552 or 451.553 takes effect on~~
13 ~~the 31st day after the date of the election~~].

14 SECTION 2.82. Section 472.031, Transportation Code, is
15 amended by adding Subsection (c) to read as follows:

16 (c) A legislative member of a policy board may not be
17 counted as absent at a meeting of the policy board during a
18 legislative session.

19 [SECTION 2.83 reserved]

20 SECTION 2.84. Section 451.071, Transportation Code, is
21 amended by adding Subsection (f) to read as follows:

22 (f) A referendum on a proposal to expand a system approved
23 under this section may be held on any date specified in Section
24 41.001, Election Code, or a date chosen by order of the board of the
25 authority, provided that:

26 (1) the referendum is held no earlier than the 62nd day
27 after the date of the order; and

1 (2) the proposed expansion involves the addition of
2 not more than 12 miles of track to the system.

3 SECTION 2.85. Subchapter D, Chapter 502, Transportation
4 Code, is amended by adding Section 502.1515 to read as follows:

5 Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES;
6 PAID ADVERTISING. The commission may authorize the department to
7 enter into a contract with a private vendor to produce and
8 distribute motor vehicle registration renewal notices. The
9 contract may provide for the inclusion of paid advertising in the
10 registration renewal notice packet.

11 SECTION 2.86. Section 551.301, Transportation Code, is
12 amended by amending Subdivision (2) and adding Subdivision (3) to
13 read as follows:

14 (2) "Motor assisted scooter":

15 (A) means a self-propelled device with:

16 (i) [~~(A)~~] at least two wheels in contact
17 with the ground during operation;

18 (ii) [~~(B)~~] a braking system capable of
19 stopping the device under typical operating conditions;

20 (iii) [~~(C)~~] a gas or electric motor not
21 exceeding 40 cubic centimeters;

22 (iv) [~~(D)~~] a deck designed to allow a
23 person to stand or sit while operating the device; and

24 (v) [~~(E)~~] the ability to be propelled by
25 human power alone; and

26 (B) does not include a pocket bike or
27 minimotorbike.

1 (3) "Pocket bike or minimotorbike" means a
2 self-propelled vehicle that is equipped with an electric motor or
3 internal combustion engine having a piston displacement of less
4 than 50 cubic centimeters, is designed to propel itself with not
5 more than two wheels in contact with the ground, has a seat or
6 saddle for the use of the operator, is not designed for use on a
7 highway, and is ineligible for a certificate of title under Chapter
8 501. The term does not include:

9 (A) a moped or motorcycle;

10 (B) an electric bicycle or motor-driven cycle, as
11 defined by Section 541.201;

12 (C) a motorized mobility device, as defined by
13 Section 542.009;

14 (D) an electric personal assistive mobility
15 device, as defined by Section 551.201; or

16 (E) a neighborhood electric vehicle.

17 SECTION 2.87. Subchapter D, Chapter 551, Transportation
18 Code, is amended by adding Section 551.304 to read as follows:

19 Sec. 551.304. APPLICATION OF SUBCHAPTER TO POCKET BIKE OR
20 MINIMOTORBIKE. This subchapter may not be construed to authorize
21 the operation of a pocket bike or minimotorbike on any:

22 (1) highway, road, or street;

23 (2) path set aside for the exclusive operation of
24 bicycles; or

25 (3) sidewalk.

26 SECTION 2.88. Section 101.022, Civil Practice and Remedies
27 Code, is amended to read as follows:

1 Sec. 101.022. DUTY OWED: PREMISE AND SPECIAL DEFECTS.

2 (a) Except as provided in Subsection (c), if [~~If~~] a claim arises
3 from a premise defect, the governmental unit owes to the claimant
4 only the duty that a private person owes to a licensee on private
5 property, unless the claimant pays for the use of the premises.

6 (b) The limitation of duty in this section does not apply to
7 the duty to warn of special defects such as excavations or
8 obstructions on highways, roads, or streets or to the duty to warn
9 of the absence, condition, or malfunction of traffic signs,
10 signals, or warning devices as is required by Section 101.060.

11 (c) If a claim arises from a premise defect on a toll
12 highway, road, or street, the governmental unit owes to the
13 claimant only the duty that a private person owes to a licensee on
14 private property.

15 SECTION 2.89. Subchapter C, Chapter 791, Government Code,
16 is amended by adding Section 791.033 to read as follows:

17 Sec. 791.033. CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE
18 FACILITIES ON STATE HIGHWAY SYSTEM. (a) In this section, "state
19 highway system" means the highways in this state included in the
20 plan providing for a system of state highways prepared under
21 Section 201.103, Transportation Code.

22 (b) A local government may enter into and make payments
23 under an agreement with another local government for the design,
24 development, financing, construction, maintenance, operation,
25 extension, expansion, or improvement of a toll or nontoll project
26 or facility on the state highway system located within the
27 boundaries of the local government or, as a continuation of the

1 project or facility, within the boundaries of an adjacent local
2 government.

3 (c) An agreement under this section must be approved by the
4 Texas Department of Transportation.

5 (d) Notwithstanding Section 791.011(d), to make payments
6 under an agreement under this section, a local government may:

7 (1) pledge revenue from any available source,
8 including payments received under an agreement with the Texas
9 Department of Transportation under Section 222.104, Transportation
10 Code;

11 (2) pledge, levy, and collect taxes to the extent
12 permitted by law; or

13 (3) provide for a combination of Subdivisions (1) and
14 (2).

15 (e) The term of an agreement under this section may not
16 exceed 40 years.

17 (f) Any election required to permit action under this
18 section must be held in conformance with the Election Code or other
19 law applicable to the local government.

20 (g) In connection with an agreement under this section, a
21 county or municipality may exercise any of the rights and powers
22 granted to the governing body of an issuer under Chapter 1371.

23 (h) This section is wholly sufficient authority for the
24 execution of agreements, the pledge of revenues, taxes, or any
25 combination of revenues and taxes, and the performance of other
26 acts and procedures authorized by this section by a local
27 government without reference to any other provision of law or any

1 restriction or limitation contained in those provisions, except as
2 specifically provided by this section. To the extent of any
3 conflict or inconsistency between this section and any other law,
4 this section shall prevail and control. A local government may use
5 any law not in conflict with this section to the extent convenient
6 or necessary to carry out any power or authority, expressed or
7 implied, granted by this section.

8 SECTION 2.90. Subchapter C, Chapter 1232, Government Code,
9 is amended by adding Section 1232.111 to read as follows:

10 Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF
11 TRANSPORTATION. (a) The authority may issue and sell obligations
12 to finance one or more projects described by Section 201.1055(a),
13 Transportation Code. Notwithstanding Section 1232.108(2), the
14 estimated cost of the project must be specified in the General
15 Appropriations Act or other law.

16 (b) Any provision of this chapter that relates to the
17 issuance or sale of obligations to finance the acquisition or
18 construction of a building, including provisions relating to form,
19 procedure, repayment, actions that may be taken to ensure that the
20 payment of the principal of and interest on the obligations is
21 continued without interruption, and other relevant matters,
22 applies to the issuance or sale of obligations under this section to
23 the extent that the provision may be appropriately made applicable.

24 (c) The legislature may appropriate money from any
25 available source, including the state highway fund, to the Texas
26 Department of Transportation to make lease payments to the
27 authority for space occupied by the department in a building

1 acquired or constructed under Section 201.1055(a), Transportation
2 Code.

3 SECTION 2.91. Subtitle I, Title 9, Government Code, is
4 amended by adding Chapter 1479 to read as follows:

5 CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON
6 STATE HIGHWAY SYSTEM

7 Sec. 1479.001. DEFINITION. In this chapter, "state highway
8 system" means the highways in this state included in the plan
9 providing for a system of state highways prepared under Section
10 201.103, Transportation Code.

11 Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) A county may
12 issue bonds to provide funds for the design, development,
13 financing, construction, maintenance, operation, extension,
14 expansion, or improvement of a toll or nontoll project or facility
15 on the state highway system located in the county or, as a
16 continuation of the project or facility, in an adjacent county.

17 (b) To provide for the payment of bonds issued under this
18 section, a county may:

19 (1) pledge revenue from any available source,
20 including payments received under an agreement with the Texas
21 Department of Transportation under Section 222.104, Transportation
22 Code;

23 (2) pledge, levy, and collect taxes subject to any
24 constitutional limitation; or

25 (3) provide for a combination of Subdivisions (1) and
26 (2).

27 (c) Any election required to permit action under Subsection

1 (b) must be held in conformance with the Election Code or other law
2 applicable to the county.

3 (d) A county that issues bonds under this section may
4 exercise any of the rights and powers granted to the governing body
5 of an issuer under Chapter 1371.

6 (e) A bond issued under this section must mature not later
7 than 40 years after its date of issuance.

8 (f) This section is wholly sufficient authority for the
9 issuance of bonds, the pledge of revenues, taxes, or any
10 combination of revenues and taxes, and the performance of other
11 acts and procedures authorized by this section by a county without
12 reference to any other provision of law or any restriction or
13 limitation contained in those provisions, except as specifically
14 provided by this section. To the extent of any conflict or
15 inconsistency between this section and any other law, this section
16 shall prevail and control. A county may use any law not in conflict
17 with this section to the extent convenient or necessary to carry out
18 any power or authority, expressed or implied, granted by this
19 section.

20 SECTION 2.92. Section 2166.302, Government Code, is amended
21 by amending Subsection (a) and adding Subsection (c) to read as
22 follows:

23 (a) Except as provided by Subsections [~~Subsection~~] (b) and
24 (c), the commission shall adopt uniform general conditions to be
25 incorporated into all building construction contracts made by the
26 state, including a contract for a project excluded from this
27 chapter by Section 2166.003, but not including a contract for a

1 project excluded from this chapter by Section 2166.004.

2 (c) Subsection (a) does not apply to a project constructed
3 by and for the Texas Department of Transportation.

4 SECTION 2.93. Section 2262.002(b), Government Code, is
5 amended to read as follows:

6 (b) This chapter does not apply to contracts of the Texas
7 Department of Transportation that:

8 (1) relate to highway construction or highway
9 engineering; or

10 (2) are subject to Section 201.112, Transportation
11 Code.

12 SECTION 2.94. Section 21.042, Property Code, is amended by
13 adding Subsection (g) to read as follows:

14 (g) Notwithstanding Subsection (d), if a portion of a tract
15 or parcel of real property that, for the then current tax year was
16 appraised for ad valorem tax purposes under a law enacted under
17 Section 1-d or 1-d-1, Article VIII, Texas Constitution, and is
18 outside the municipal limits or the extraterritorial jurisdiction
19 of a municipality with a population of 5,000 or more is condemned
20 for state highway purposes, the special commissioners shall
21 consider the loss of reasonable access to or from the remaining
22 property in determining the damage to the property owner.

23 SECTION 2.95. Section 11.11, Tax Code, is amended by adding
24 Subsection (j) to read as follows:

25 (j) For purposes of this section, any portion of a facility
26 owned by the Texas Department of Transportation that is part of the
27 Trans-Texas Corridor, is a rail facility or system, or is a highway

1 in the state highway system, and that is licensed or leased to a
2 private entity by that department under Chapter 91, 223, or 227,
3 Transportation Code, is public property used for a public purpose
4 if the rail facility or system, highway, or facility is operated by
5 the private entity to provide transportation or utility services.
6 Any part of a facility, rail facility or system, or state highway
7 that is licensed or leased to a private entity for a commercial
8 purpose is not exempt from taxation.

9 SECTION 2.96. Section 25.06, Tax Code, is amended by adding
10 Subsection (c) to read as follows:

11 (c) This section does not apply to:

12 (1) any portion of a facility owned by the Texas
13 Department of Transportation that is part of the Trans-Texas
14 Corridor, is a rail facility or system, or is a highway in the state
15 highway system and that is licensed or leased to a private entity by
16 that department under Chapter 91, 227, or 361, Transportation Code;
17 or

18 (2) a leasehold or other possessory interest granted
19 by the Texas Department of Transportation in a facility owned by
20 that department that is part of the Trans-Texas Corridor, is a rail
21 facility or system, or is a highway in the state highway system.

22 SECTION 2.97. Section 25.07, Tax Code, is amended by adding
23 Subsection (c) to read as follows:

24 (c) Subsection (a) does not apply to:

25 (1) any portion of a facility owned by the Texas
26 Department of Transportation that is part of the Trans-Texas
27 Corridor, is a rail facility or system, or is a highway in the state

1 highway system and that is licensed or leased to a private entity by
2 that department under Chapter 91, 227, or 361, Transportation Code;
3 or

4 (2) a leasehold or other possessory interest granted
5 by the Texas Department of Transportation in a facility owned by
6 that department that is part of the Trans-Texas Corridor, is a rail
7 facility or system, or is a highway in the state highway system.

8 SECTION 2.98. (a) The Texas Department of Transportation
9 shall conduct a study to determine how to maximize the use of
10 highway rights-of-way by public utilities. The department shall
11 submit a written report of its findings to the appropriate
12 legislative committees not later than December 31, 2006.

13 (b) This section expires January 1, 2007.

14 [SECTION 2.99 reserved]

15 SECTION 2.100. Notwithstanding any law to the contrary,
16 neither the Texas Department of Transportation nor a regional
17 mobility authority may acquire property, enter into a contract,
18 grant a franchise, or lease or license property for the purpose of
19 constructing or operating an ancillary facility to be used for a
20 commercial purpose under Chapter 228 or 370, Transportation Code.
21 This section does not apply to a segment of highway under the
22 jurisdiction of a regional mobility authority if the regional
23 mobility authority awarded a comprehensive development agreement
24 for the improvement of that segment before September 1, 2005. This
25 section does not apply to a segment of the state highway system in
26 Travis or Williamson County if the Texas Department of
27 Transportation awarded an exclusive development agreement for the

1 improvement of that segment before September 1, 2005. This section
2 expires September 1, 2007.

3 SECTION 2.101. The following provisions of the
4 Transportation Code are repealed:

5 (1) Section 201.6061;

6 (2) Section 222.102;

7 (3) Sections 224.155-224.158 and 224.160;

8 (4) Section 284.009, as added by Chapter 953, Acts of
9 the 78th Legislature, Regular Session, 2003;

10 (5) Section 284.009, as added by Chapter 1325, Acts of
11 the 78th Legislature, Regular Session, 2003;

12 (6) Section 361.002;

13 (7) Sections 361.031 and 361.050;

14 (8) Subchapter C, Chapter 361;

15 (9) Sections 361.131-361.136, 361.1375, 361.140, and
16 361.141;

17 (10) Sections 361.175, 361.180, and 361.191;

18 (11) Sections 361.231, 361.232, and 361.234-361.238;

19 (12) Section 361.251;

20 (13) Sections 361.302-361.306;

21 (14) Subchapter J, Chapter 361;

22 (15) Sections 362.002 and 362.008;

23 (16) Sections 366.035 and 366.165(d); and

24 (17) Sections 370.035 and 370.163(b).

25 SECTION 2.102. Section 370.161(b), Transportation Code, is
26 repealed.

27 SECTION 2.103. The changes in law made by this Act to

1 Chapter 370, Transportation Code, apply to a regional mobility
2 authority created or participated in by a municipality described by
3 Section 370.031(c), Transportation Code, as added by this Act, or
4 Section 370.161(b), Transportation Code, as it existed before the
5 effective date of this Act, in the same manner as they apply to any
6 other entity that creates or participates in a regional mobility
7 authority.

8 ARTICLE 3. VEHICLES

9 SECTION 3.01. (a) Article 45.051(f), Code of Criminal
10 Procedure, is amended to read as follows:

11 (f) This article does not apply to:

12 (1) an offense to which Section 542.404 or 729.004(b),
13 Transportation Code, applies; or

14 (2) a violation of a state law or local ordinance
15 relating to motor vehicle control, other than a parking violation,
16 [~~traffic offense~~] committed by a person who holds a commercial
17 driver's license.

18 (b) The change in law made by this section applies only to an
19 offense committed on or after September 1, 2005.

20 (c) An offense committed before September 1, 2005, is
21 covered by the law in effect when the offense was committed, and the
22 former law is continued in effect for that purpose. For purposes of
23 this section, an offense was committed before September 1, 2005, if
24 any element of the offense was committed before that date.

25 SECTION 3.02. Section 382.133, Health and Safety Code, is
26 amended by adding Subsection (d) to read as follows:

27 (d) A mass transit hydrogen-fueled fleet vehicle may be used

1 to satisfy the percentage requirement under this section.

2 SECTION 3.03. Subchapter H, Chapter 201, Transportation
3 Code, is amended by adding Section 201.618 to read as follows:

4 Sec. 201.618. HYDROGEN-FUELED VEHICLES AND REFUELING
5 STATIONS. (a) The department may seek funding from public and
6 private sources to acquire and operate hydrogen-fueled vehicles and
7 to establish and operate hydrogen refueling stations as provided by
8 this section.

9 (b) If the department secures funding under Subsection (a),
10 the department may establish and operate at least five hydrogen
11 refueling stations. A refueling station established under this
12 subsection must be located in an urbanized area along a major state
13 highway and be accessible to the public.

14 (c) If the department secures funding under Subsection (a),
15 the department may purchase to operate in an area in which a
16 refueling station is established under Subsection (b) vehicles
17 capable of operating using hydrogen, including, at a minimum:

18 (1) four vehicles with internal combustion engines
19 that run on hydrogen; and

20 (2) three fuel-cell vehicles, one internal combustion
21 engine bus that runs on hydrogen, or one fuel-cell bus.

22 (d) A vehicle purchased to meet the requirements of
23 Subsection (c) may be used to satisfy the alternative fuels
24 percentage requirement under Subchapter A, Chapter 2158,
25 Government Code.

26 (e) The department may establish hydrogen refueling
27 stations on the Trans-Texas Corridor under Chapter 227.

1 (f) The department shall:

2 (1) ensure that data on emissions from the vehicles
3 and refueling stations purchased under this section and from the
4 production of hydrogen for the vehicles and refueling stations are
5 monitored and analyzed and compared with data on emissions from
6 control vehicles with internal combustion engines that operate on
7 fuels other than hydrogen; and

8 (2) report the results of the monitoring, analysis,
9 and comparison to the Texas Commission on Environmental Quality.

10 (g) The department may charge the public a reasonable fee to
11 use a hydrogen refueling station operated under Subsection (b).
12 The amount of the fee shall be based on the department's estimate of
13 the number of customers that will use the refueling stations and the
14 direct and indirect costs that will be incurred by the department to
15 operate the refueling stations. Fees collected by the department
16 under this section shall be deposited in the state highway fund, may
17 be appropriated only to the department to implement this section,
18 and are exempt from the application of Section 403.095, Government
19 Code.

20 SECTION 3.04. (a) The Study Commission on Availability of
21 Pre-Owned Heavy Duty Commercial Motor Vehicles is created as
22 provided by this section.

23 (b) The commission is composed of three members as follows:

24 (1) one member appointed by the governor;

25 (2) one member appointed by the lieutenant governor;

26 and

27 (3) one member appointed by the speaker of the house of

1 representatives.

2 (c) Each member of the commission serves at the will of the
3 person who appointed the member.

4 (d) The members of the commission shall select the presiding
5 officer.

6 (e) A member of the commission is not entitled to receive
7 compensation for service on the commission but is entitled to
8 reimbursement of the travel expenses incurred by the member while
9 conducting the business of the commission, as provided by the
10 General Appropriations Act.

11 (f) The commission may accept gifts and grants from any
12 source to be used to carry out a function of the commission.

13 (g) The commission shall conduct public hearings and study
14 public policy implications relating to any act by the Texas
15 Department of Transportation that would close existing businesses
16 in this state because of the ownership structure of businesses that
17 sell pre-owned heavy duty trucks that weigh in excess of 11,000
18 pounds. The commission shall determine whether such actions by the
19 department could impact the use and operation of rail and highway
20 transportation facilities in this state by heavy duty trucks.

21 (h) The study shall include:

22 (1) a review of the laws of other states regarding
23 whether there are restrictions on ownership structure of businesses
24 that sell heavy duty commercial trucks;

25 (2) a review of whether safety of pre-owned heavy duty
26 trucks on highways in this state could be compromised if the Texas
27 Department of Transportation closes businesses that currently sell

1 such trucks;

2 (3) a review of whether the Texas Department of
3 Transportation's application of Section 2301.476, Occupations
4 Code, could negatively impact competition in the pre-owned heavy
5 duty truck market as well as the impact that such a decision could
6 have on small, independent pre-owned truck dealerships and
7 independent owner/operators of trucking businesses in this state;
8 and

9 (4) other issues that the commission considers
10 relevant to protecting the public interest regarding safety and
11 availability of pre-owned heavy duty trucks that operate on the
12 highways of this state.

13 (i) Not later than December 1, 2006, the commission shall
14 issue a report to the governor, lieutenant governor, speaker of the
15 house of representatives, and chair of the committee in the house
16 and senate with jurisdiction of transportation issues. The report
17 shall summarize the following:

- 18 (1) any hearings conducted by the commission;
19 (2) any studies conducted by the commission;
20 (3) any legislation proposed by the commission; and
21 (4) any other findings and recommendations of the
22 commission.

23 SECTION 3.05. (a) In order to ensure the safety of persons
24 and transportation in this state, the Texas Department of
25 Transportation shall conduct a study of systems for issuing
26 temporary tags for use on unregistered motor vehicles. In studying
27 the systems, the department shall:

1 (b) The commission shall appoint members of the advisory
2 committee. The membership of the committee shall include:

3 (1) four members who represent a diverse cross-section
4 of public transportation providers;

5 (2) three members who represent a diverse
6 cross-section of transportation users; ~~and~~

7 (3) three ~~two~~ members who represent the general
8 public; and

9 (4) one member with experience in the administration
10 of health and human services programs.

11 SECTION 4.02. Section 461.012(g), Health and Safety Code,
12 is amended to read as follows:

13 (g) The commission shall contract with the Texas Department
14 of Transportation for the Texas Department of Transportation to
15 deliver public transportation services to ~~[assume all~~
16 ~~responsibilities of the commission relating to the provision of~~
17 ~~transportation services for]~~ clients of eligible programs, except
18 that the Texas Department of Transportation may not assume
19 responsibility for client case review, case management, or
20 coordination or authorization of benefits.

21 SECTION 4.03. Section 533.012(b), Health and Safety Code,
22 is amended to read as follows:

23 (b) The department shall contract with the Texas Department
24 of Transportation for the Texas Department of Transportation to
25 deliver public transportation services to ~~[assume all~~
26 ~~responsibilities of the department relating to the provision of~~
27 ~~transportation services for]~~ clients of eligible programs, except

1 that the Texas Department of Transportation may not assume
2 responsibility for client case review, case management, or
3 coordination or authorization of benefits.

4 SECTION 4.04. Section 22.001(e), Human Resources Code, as
5 added by Section 2.129, Chapter 198, and Section 13.06, Chapter
6 1325, Acts of the 78th Legislature, Regular Session, 2003, is
7 amended to read as follows:

8 (e) The department shall contract with the Texas Department
9 of Transportation for the Texas Department of Transportation to
10 deliver public transportation services to ~~[assume all~~
11 ~~responsibilities of the department relating to the provision of~~
12 ~~transportation services for]~~ clients of eligible programs, except
13 that the Texas Department of Transportation may not assume
14 responsibility for client case review, case management, or
15 coordination or authorization of benefits.

16 SECTION 4.05. Section 40.002(f), Human Resources Code, is
17 amended to read as follows:

18 (f) The department may contract with the Texas Department of
19 Transportation for the Texas Department of Transportation to
20 deliver public transportation services to ~~[assume all~~
21 ~~responsibilities of the department relating to the provision of~~
22 ~~transportation services for]~~ clients of eligible programs, except
23 that the Texas Department of Transportation may not assume
24 responsibility for client case review, case management, or
25 coordination or authorization of benefits.

26 SECTION 4.06. Section 91.021(g), Human Resources Code, is
27 amended to read as follows:

1 (g) The commission shall contract with the Texas Department
2 of Transportation for the Texas Department of Transportation to
3 deliver public transportation services to ~~[assume all~~
4 ~~responsibilities of the commission relating to the provision of~~
5 ~~transportation services for]~~ clients of eligible programs, except
6 that the Texas Department of Transportation may not assume
7 responsibility for client case review, case management, or
8 coordination or authorization of benefits.

9 SECTION 4.07. Section 101.0256(b), Human Resources Code, is
10 amended to read as follows:

11 (b) The department shall contract with the Texas Department
12 of Transportation for the Texas Department of Transportation to
13 deliver public transportation services to ~~[assume all~~
14 ~~responsibilities of the department relating to the provision of~~
15 ~~transportation services for]~~ clients of eligible programs, except
16 that the Texas Department of Transportation may not assume
17 responsibility for client case review, case management, or
18 coordination or authorization of benefits.

19 SECTION 4.08. Section 111.0525(d), Human Resources Code, is
20 amended to read as follows:

21 (d) The commission shall contract with the Texas Department
22 of Transportation for the Texas Department of Transportation to
23 deliver public transportation services to ~~[assume all~~
24 ~~responsibilities of the commission relating to the provision of~~
25 ~~transportation services for]~~ clients of eligible programs, except
26 that the Texas Department of Transportation may not assume
27 responsibility for client case review, case management, or

1 coordination or authorization of benefits.

2 SECTION 4.09. Section 301.063(f), Labor Code, is amended to
3 read as follows:

4 (f) The commission shall contract with the Texas Department
5 of Transportation for the Texas Department of Transportation to
6 deliver public transportation services to ~~[assume all~~
7 ~~responsibilities of the commission relating to the provision of~~
8 ~~transportation services for]~~ clients of eligible programs, except
9 that the Texas Department of Transportation may not assume
10 responsibility for client case review, case management, or
11 coordination or authorization of benefits.

12 SECTION 4.10. Chapter 459, Transportation Code, is
13 repealed.

14 ARTICLE 5. REGIONAL TRANSIT SYSTEM REVIEW COMMITTEE

15 SECTION 5.01. (a) In this section, "region" means the
16 region formed by two contiguous counties each containing a
17 municipality having a population of at least 530,000 and the
18 counties adjacent to one or both of those counties.

19 (b) The Regional Transit System Review Committee is created
20 to conduct public hearings regarding, and study the implications
21 of, implementing regional transit service in the region.

22 (c) The committee consists of:

23 (1) each member of the legislature who represents a
24 district that contains territory in the region;

25 (2) each mayor of a municipality in the region;

26 (3) each county judge and commissioner in the region;

27 and

1 (4) the executive director of each transportation
2 authority in the region.

3 (d) In conducting hearings and studies the committee shall:

4 (1) examine whether a seamless system of transit
5 systems should be offered throughout the region;

6 (2) examine whether there should be a mechanism for
7 additional counties to participate in the regional transit system;
8 and

9 (3) perform a review of funding and financing options.

10 (e) The initial meeting of the committee shall take place
11 before September 30, 2005. At the initial meeting the committee
12 shall adopt rules governing the committee and establish a work plan
13 and schedule for future meetings.

14 (f) The committee may accept gifts, grants, technical
15 support, or any other resources from any source to carry out the
16 functions of the committee.

17 (g) Not later than September 1, 2006, the committee shall
18 issue a report summarizing:

19 (1) hearings conducted by the committee;

20 (2) studies conducted by the committee;

21 (3) any legislation proposed by the committee; and

22 (4) any other findings or recommendations of the
23 committee.

24 (h) This section expires September 1, 2007.

25 ARTICLE 6. CARRIERS TRANSPORTING HOUSEHOLD GOODS

26 SECTION 6.01. Section 643.051, Transportation Code, is
27 amended to read as follows:

1 Sec. 643.051. REGISTRATION REQUIRED. (a) A motor carrier
2 may not operate a commercial motor vehicle, as defined by Section
3 548.001, or a tow truck on a road or highway of this state unless the
4 carrier registers with the department under this subchapter.

5 (b) A motor carrier may not operate a vehicle, regardless of
6 size of the vehicle, to transport household goods for compensation
7 unless the carrier registers with the department under this
8 subchapter.

9 SECTION 6.02. Section 643.153(b), Transportation Code, is
10 amended to read as follows:

11 (b) The department may adopt rules necessary to ensure that
12 a customer of a motor carrier transporting household goods is
13 protected from deceptive or unfair practices and unreasonably
14 hazardous activities. The rules must:

15 (1) establish a formal process for resolving a dispute
16 over a fee or damage;

17 (2) require a motor carrier to indicate clearly to a
18 customer whether an estimate is binding or nonbinding and disclose
19 the maximum price a customer could be required to pay;

20 (3) create a centralized process for making complaints
21 about a motor carrier that also allows a customer to inquire about a
22 carrier's complaint record; and

23 (4) require a motor carrier transporting household
24 goods to list a place of business with a street address in this
25 state and the carrier's registration number issued under this
26 article in any print advertising published in this state[+]

27 ~~[(5) require motor carriers that are required to~~

1 ~~register under Subsection (c) to file proof of cargo insurance in~~
2 ~~amounts to be determined by the department that do not exceed the~~
3 ~~amount required for a motor carrier transporting household goods~~
4 ~~under federal law and allow alternative evidence of financial~~
5 ~~responsibility, through surety bonds, letters of credit, or other~~
6 ~~means satisfactory to the department, for contractual obligations~~
7 ~~to customers that do not exceed \$5,000 aggregate loss or damage to~~
8 ~~total cargo shipped at any one time;~~

9 ~~[(6) require motor carriers that are required to~~
10 ~~register under Subsection (c) to conspicuously advise consumers~~
11 ~~concerning limitation of any carrier liability for loss or damage~~
12 ~~as determined under Subdivision (7); and~~

13 ~~[(7) determine reasonable provisions governing~~
14 ~~limitation of liability for loss or damage of motor carriers~~
15 ~~required to register under Subsection (c), not to exceed 60 cents~~
16 ~~per pound per article].~~

17 SECTION 6.03. Section 643.155(c), Transportation Code, is
18 amended to read as follows:

19 (c) The committee shall[+]

20 ~~[(1)]~~ examine the rules adopted by the department
21 under Sections 643.153(a) and (b) and make recommendations to the
22 department on modernizing and streamlining the rules[+]

23 ~~[(2) conduct a study of the feasibility and necessity~~
24 ~~of requiring any vehicle liability insurance for household goods~~
25 ~~carriers required to register under Section 643.153(c); and~~

26 ~~[(3) recommend a maximum level of liability limitation~~
27 ~~under Section 643.153(b)(7) that does not exceed 60 cents per~~

1 pound].

2 SECTION 6.04. Section 643.252(a), Transportation Code, is
3 amended to read as follows:

4 (a) The department may suspend or revoke a registration
5 issued under this chapter or place on probation a motor carrier
6 whose registration is suspended if a motor carrier:

7 (1) fails to maintain insurance or evidence of
8 financial responsibility as required by Section 643.101(a), (b),
9 (c), or (d) [~~or 643.153(b)~~];

10 (2) fails to keep evidence of insurance in the cab of
11 each vehicle as required by Section 643.103(b);

12 (3) fails to register a vehicle requiring
13 registration;

14 (4) knowingly provides false information on any form
15 filed with the department under this chapter; or

16 (5) violates a rule adopted under Section 643.063.

17 SECTION 6.05. Sections 643.253(a), (b), and (e),
18 Transportation Code, are amended to read as follows:

19 (a) A person commits an offense if the person fails to:

20 (1) register as required by Subchapter B [~~or Section~~
21 ~~643.153(c)~~];

22 (2) maintain insurance or evidence of financial
23 responsibility as required by Subchapter C [~~or Section 643.153~~]; or

24 (3) keep a cab card in the cab of a vehicle as required
25 by Section 643.059.

26 (b) A person commits an offense if the person solicits the
27 transportation of household goods for compensation and is not

1 registered as required by Subchapter B [~~or Section 643.153~~].

2 (e) An offense under Subsection (b) or (d) is a misdemeanor
3 punishable by a fine of not less than \$200 or more than \$1,000 per
4 violation.

5 SECTION 6.06. Section 643.153(c), Transportation Code, is
6 repealed.

7 ARTICLE 7. TEXAS DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE
8 DIVISION

9 SECTION 7.01. Sections 2301.002(2) and (10), Occupations
10 Code, are amended to read as follows:

11 (2) "Board" has the meaning assigned by Section
12 2301.005 [~~means the Motor Vehicle Board of the Texas Department of~~
13 ~~Transportation~~].

14 (10) "Director" means the director [~~of the board and~~]
15 of the division.

16 SECTION 7.02. Section 2301.005, Occupations Code, is
17 amended by amending Subsection (a) and adding Subsection (e) to
18 read as follows:

19 (a) A reference in law, including a rule, to the Texas Motor
20 Vehicle Commission or to the board means the director, except that a
21 reference to the board means the commission if it is related to the
22 adoption of rules [~~board~~].

23 (e) A reference in this chapter to a rule or to a board rule
24 means a rule adopted by the commission, except that all board rules
25 that were in effect on June 1, 2005, remain in effect until amended
26 or repealed by the commission.

27 SECTION 7.03. Section 2301.101(c), Occupations Code, is

1 amended to read as follows:

2 (c) The director serves at the will of the executive
3 director [~~board~~].

4 SECTION 7.04. Section 2301.103, Occupations Code, is
5 amended to read as follows:

6 Sec. 2301.103. PERSONNEL. [~~(a) The director shall appoint~~
7 ~~and employ personnel necessary to carry out the duties and~~
8 ~~functions of the director and the board under this chapter.~~

9 [~~(b) A division employee is an employee of the department~~
10 ~~and is subject to the human resource rules and policies of the~~
11 ~~department and the transportation commission, except that, as~~
12 ~~applied to a division employee, any powers granted to the executive~~
13 ~~director by those rules and policies shall be exercised by the~~
14 ~~director.~~

15 [~~(c)~~] A division employee is subject to dismissal if the
16 employee has an interest in or is related within the first degree by
17 consanguinity or affinity, as determined under Chapter 573,
18 Government Code, to a person who has an interest in a business that
19 manufactures, distributes, converts, sells, or leases motor
20 vehicles.

21 SECTION 7.05. Section 2301.154, Occupations Code, is
22 amended to read as follows:

23 Sec. 2301.154. DELEGATION OF POWERS. The director [~~board~~]
24 may delegate any of the director's [~~its~~] powers to[~~+~~

25 [~~(1) one or more of its members,~~

26 [~~(2) the director, or~~

27 [~~(3)~~] one or more of the division's [~~its~~] employees.

1 SECTION 7.06. The following provisions of the Occupations
2 Code are repealed:

3 (1) Subchapter B, Chapter 2301; and

4 (2) Sections 2301.102, 2301.104, 2301.158, and
5 2301.159.

6 ARTICLE 8. TRANSITION PROVISIONS; EFFECTIVE DATE

7 SECTION 8.01. Section 101.022, Civil Practice and Remedies
8 Code, as amended by this Act, applies only to a cause of action that
9 accrues on or after the effective date of this Act. A cause of
10 action that accrued before the effective date of this Act is
11 governed by the law in effect at the time the cause of action
12 accrued, and that law is continued in effect for that purpose.

13 SECTION 8.02. (a) On the effective date of this Act:

14 (1) the State Aircraft Pooling Board is abolished, and
15 all powers, duties, obligations, rights, contracts, bonds,
16 appropriations, records, and real or personal property of the State
17 Aircraft Pooling Board are transferred to the Texas Department of
18 Transportation;

19 (2) a rule, policy, procedure, or decision of the
20 State Aircraft Pooling Board continues in effect as a rule, policy,
21 procedure, or decision of the Texas Department of Transportation
22 until superseded by an act of the Texas Department of
23 Transportation;

24 (3) a reference in law to the State Aircraft Pooling
25 Board means the Texas Department of Transportation;

26 (4) all temporary employees of the Texas Department of
27 Transportation who were previously employed by the State Aircraft

1 Pooling Board on August 31, 2003, become regular full-time
2 employees of the Texas Department of Transportation; and

3 (5) notwithstanding Section 31.01, Chapter 3, Acts of
4 the 78th Legislature, 3rd Called Session, 2003, any memorandum of
5 understanding or interagency contract entered into between the
6 Texas Department of Transportation and the State Aircraft Pooling
7 Board for the operation of state aircraft expires.

8 (b) Before the executive director of the Texas Department of
9 Transportation or the director's designee may authorize a person to
10 use a state-operated aircraft, the person must sign an affidavit
11 stating that the person is traveling on official state business. On
12 filing of the affidavit, the person may be authorized to use
13 state-operated aircraft for official state business for a period of
14 one year. A member of the legislature is not required to receive
15 any other additional authorization to use a state-operated
16 aircraft.

17 SECTION 8.03. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 2702 was passed by the House on May 12, 2005, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2702 on May 23, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2702 on May 29, 2005, by the following vote: Yeas 120, Nays 9, 2 present, not voting; and that the House adopted H.C.R. No. 245 authorizing certain corrections in H.B. No. 2702 on May 30, 2005, by a non-record vote.

Chief Clerk of the House

H.B. No. 2702

I certify that H.B. No. 2702 was passed by the Senate, with amendments, on May 21, 2005, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2702 on May 29, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 245 authorizing certain corrections in H.B. No. 2702 on May 30, 2005, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor