

By: Ogden

S.B. No. 21

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the financing, construction, improvement, maintenance,
3 and operation of toll facilities by the Texas Department of
4 Transportation and the disposition of money generated by the driver
5 responsibility program, fines imposed for certain traffic
6 offenses, and certain fees collected by the Department of Public
7 Safety of the State of Texas; making an appropriation.

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

9 SECTION 1. Subsection (c), Section 284.061, Transportation
10 Code, is amended to read as follows:

11 (c) Except as provided by Section 361.1375, if applicable,
12 the [The] county is entitled to immediate possession of property
13 subject to a condemnation proceeding brought by the county after:

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

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

17 SECTION 2. Section 361.136, Transportation Code, as amended
18 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
19 Regular Session, 2003, is reenacted to read as follows:

20 Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) If a
21 turnpike project severs an owner's real property, the department
22 shall pay:

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

24 (2) the damages to the remainder of the owner's

1 property caused by the severance, including damages caused by the
2 inaccessibility of one tract from the other.

3 (b) The department may negotiate for and purchase the
4 severed real property or either part of the severed real property if
5 the department and the owner agree on terms for the purchase.
6 Instead of a single fixed payment for the real property, the
7 department may agree to a payment to the owner in the form of:

8 (1) an intangible legal right to receive a percentage
9 of identified revenue attributable to the applicable segment of the
10 turnpike project; or

11 (2) an exclusive or nonexclusive right to use or
12 operate a segment or part of the turnpike project.

13 (c) A right to a payment under Subsection (b)(1) is subject
14 to any pledge of the revenue under the term of a trust agreement
15 securing bonds issued for the project.

16 SECTION 3. Section 361.137, Transportation Code, as amended
17 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
18 Regular Session, 2003, is reenacted to read as follows:

19 Sec. 361.137. DECLARATION OF TAKING. (a) The department
20 may file a declaration of taking with the clerk of the court:

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

23 (2) to which the case is assigned.

24 (b) The department may file the declaration of taking
25 concurrently with or subsequent to the petition but may not file the
26 declaration after the special commissioners have made an award in
27 the condemnation proceeding.

1 (c) The department may not file a declaration of taking
2 before the completion of:

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

6 (2) all public hearings and meetings, including those
7 held in connection with the environmental process and under
8 Sections 201.604 and 203.021, that are required by federal or state
9 law; and

10 (3) all notifications required by Section 203.022.

11 (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 turnpike project.

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

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

8 (f) After a declaration of taking is filed, the case shall
9 proceed as any other case in eminent domain under Chapter 21,
10 Property Code.

11 SECTION 4. Subchapter D, Chapter 361, Transportation Code,
12 is amended by adding Section 361.1375 to read as follows:

13 Sec. 361.1375. DECLARATION OF TAKING BY CERTAIN COUNTIES.

14 (a) This section applies only to a county with a population of 3.3
15 million or more that operates under Chapter 284.

16 (b) If, in connection with projects under Chapter 284, the
17 director authorizes the county to proceed in the manner provided by
18 Section 361.137:

19 (1) the county may file a declaration of taking and
20 proceed in the manner provided by Section 361.137 on any project of
21 the county under Chapter 284; and

22 (2) a reference to the department in Section 361.137
23 means the county.

24 SECTION 5. Subsection (b), Section 361.138, Transportation
25 Code, as amended by House Bill Nos. 3184 and 3588, Acts of the 78th
26 Legislature, Regular Session, 2003, is reenacted to read as
27 follows:

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

5 SECTION 6. Section 361.171, Transportation Code, as amended
6 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
7 Regular Session, 2003, is reenacted and amended to read as follows:

8 Sec. 361.171. TURNPIKE REVENUE BONDS. (a) The commission
9 by order may authorize the issuance of turnpike revenue bonds to pay
10 all or part of the cost of a turnpike project. Each project shall be
11 financed and built by a separate bond issue. The proceeds of a bond
12 issue may be used solely for the payment of the project for which
13 the bonds were issued and may not be divided between or among two or
14 more projects. Each project is a separate undertaking, the cost of
15 which shall be determined separately.

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

18 (1) be dated;

19 (2) bear interest at the rate or rates provided by the
20 order and beginning on the dates provided by the order and as
21 authorized by law, or bear no interest;

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

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

26 (c) The commission may sell the bonds at public or private
27 sale in the manner and for the price it determines to be in the best

1 interest of the department.

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

6 (e) If the proceeds of a bond issue are less than the
7 turnpike project cost, additional bonds may be issued in the same
8 manner to pay the costs of a turnpike project. Unless otherwise
9 provided in the order authorizing the issuance of the bonds or in
10 the trust agreement securing the bonds, the additional bonds are on
11 a parity with and are payable, without preference or [~~of~~] priority,
12 from the same fund as the bonds first issued. In addition, the
13 commission may issue bonds for a turnpike project secured by a lien
14 on the revenue of the turnpike project subordinate to the lien on
15 the revenue securing other bonds issued for the turnpike project.

16 (f) If the proceeds of a bond issue exceed the cost of the
17 turnpike project for which the bonds were issued, the surplus shall
18 be segregated from the other money of the commission and used only
19 for the purposes specified in the order authorizing the issuance.

20 (g) In addition to other permitted uses, the proceeds of a
21 bond issue may be used to pay costs incurred before the issuance of
22 the bonds, including costs of environmental review, design,
23 planning, acquisition of property, relocation assistance,
24 construction, and operation.

25 (h) Bonds issued and delivered under this chapter and
26 interest coupons on the bonds are a security under Chapter 8,
27 Business & Commerce Code.

1 (i) Bonds issued under this chapter and income from the
2 bonds, including any profit made on the sale or transfer of the
3 bonds, are exempt from taxation in this state.

4 SECTION 7. Section 361.172, Transportation Code, as amended
5 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
6 Regular Session, 2003, is reenacted to read as follows:

7 Sec. 361.172. APPLICABILITY OF OTHER LAW; CONFLICTS. All
8 laws affecting the issuance of bonds by governmental entities,
9 including Chapters 1201, 1202, 1204, 1207, and 1371, Government
10 Code, apply to bonds issued under this chapter. To the extent of a
11 conflict between those laws and this chapter, the provisions of
12 this chapter prevail.

13 SECTION 8. Subsection (a), Section 361.173, Transportation
14 Code, as amended by House Bill Nos. 3184 and 3588, Acts of the 78th
15 Legislature, Regular Session, 2003, is reenacted and amended to
16 read as follows:

17 (a) The principal of, interest on, and any redemption
18 premium on bonds issued by the commission under this chapter are
19 payable solely from:

20 (1) the revenue of the turnpike project for which the
21 bonds are ~~[were]~~ issued, including tolls pledged to pay the bonds;
22 ~~[and]~~

23 (2) the proceeds of bonds issued for the turnpike
24 project;

25 (3) the amounts deposited in a debt service reserve
26 fund as required by the trust agreement securing bonds issued for
27 the turnpike project; and

1 (4) amounts received under a credit agreement relating
2 to the turnpike project for which the bonds are issued.

3 SECTION 9. Section 361.174, Transportation Code, as amended
4 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
5 Regular Session, 2003, is reenacted and amended to read as follows:

6 Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR
7 TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of
8 this chapter, turnpike project bonds issued by the commission may:

9 (1) be payable from and secured by:

10 (A) payments made under an agreement with a local
11 governmental entity as provided by Subchapter A, Chapter 362;

12 (B) the proceeds of bonds issued for the turnpike
13 project; or

14 (C) amounts deposited in a debt service reserve
15 fund as required by the trust agreement securing bonds issued for
16 the turnpike project; [7] and

17 (2) [~~may~~] state on their faces any pledge of revenue or
18 taxes and any security for the bonds under the agreement.

19 SECTION 10. Section 361.177, Transportation Code, as
20 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
21 Legislature, Regular Session, 2003, is reenacted to read as
22 follows:

23 Sec. 361.177. PROVISIONS PROTECTING AND ENFORCING RIGHTS
24 AND REMEDIES OF BONDHOLDERS. A trust agreement or order providing
25 for the issuance of bonds may contain provisions to protect and
26 enforce the rights and remedies of the bondholders, including:

27 (1) covenants establishing the commission's duties

1 relating to:

2 (A) the acquisition of property;

3 (B) the construction, improvement, expansion,
4 maintenance, repair, operation, and insurance of the turnpike
5 project in connection with which the bonds were authorized; and

6 (C) the custody, safeguarding, and application
7 of money;

8 (2) covenants prescribing events that constitute
9 default;

10 (3) covenants prescribing terms on which any or all of
11 the bonds become or may be declared due before maturity;

12 (4) covenants relating to the rights, powers,
13 liabilities, or duties that arise on the breach of a duty of the
14 commission; and

15 (5) provisions for the employment of consulting
16 engineers in connection with the construction or operation of the
17 turnpike project.

18 SECTION 11. Section 361.178, Transportation Code, as
19 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
20 Legislature, Regular Session, 2003, is reenacted to read as
21 follows:

22 Sec. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF
23 SECURITIES. A bank or trust company incorporated under the laws of
24 this state and that acts as depository of the proceeds of bonds or
25 of revenue may furnish indemnifying bonds or pledge securities that
26 the department requires.

27 SECTION 12. Subsection (a), Section 361.179,

1 Transportation Code, as amended by House Bill Nos. 3184 and 3588,
2 Acts of the 78th Legislature, Regular Session, 2003, is reenacted
3 and amended to read as follows:

4 (a) The department may:

5 (1) impose tolls for the use of each turnpike project
6 and the different segments or parts [~~or sections~~] of each turnpike
7 project; and

8 (2) notwithstanding anything in Chapter 202 to the
9 contrary, contract with a person for the use of part of a turnpike
10 project or lease part of a turnpike project for a gas station,
11 garage, store, hotel, restaurant, railroad tracks, utilities, and
12 telecommunications facilities and equipment and set the terms for
13 the use or lease.

14 SECTION 13. Subsection (a), Section 361.185,
15 Transportation Code, as amended by House Bill Nos. 3184 and 3588,
16 Acts of the 78th Legislature, Regular Session, 2003, is reenacted
17 to read as follows:

18 (a) All money received under this chapter, whether as
19 proceeds from the sale of bonds or as revenue, is a trust fund to be
20 held and applied as provided by this chapter. Notwithstanding any
21 other law, including Section 9, Chapter 1123, Acts of the 75th
22 Legislature, Regular Session, 1997, and without the prior approval
23 of the comptroller, funds held under this chapter shall be held in
24 trust by a banking institution chosen by the department or, at the
25 discretion of the department, in trust in the state treasury
26 outside the general revenue fund.

27 SECTION 14. Section 361.189, Transportation Code, as

1 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
2 Legislature, Regular Session, 2003, is reenacted to read as
3 follows:

4 Sec. 361.189. USE OF SURPLUS REVENUE. The commission by
5 order may authorize the use of surplus revenue of a turnpike project
6 to pay the costs of another turnpike project within the region. The
7 commission may in the order prescribe terms for the use of the
8 revenue, including the pledge of the revenue, but may not take an
9 action under this section that violates, impairs, or is
10 inconsistent with a bond order, trust agreement, or indenture
11 governing the use of the surplus revenue.

12 SECTION 15. Section 361.302, Transportation Code, as
13 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
14 Legislature, Regular Session, 2003, is reenacted and amended to
15 read as follows:

16 Sec. 361.302. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

17 (a) Subject to Section 361.3021, the department may enter into a
18 comprehensive development agreement with a private entity to
19 construct, maintain, repair, operate, extend, or expand a turnpike
20 project.

21 (b) In this subchapter, "comprehensive development
22 agreement" means an agreement [~~with a private entity~~] that, at a
23 minimum, provides for the design and construction of a turnpike
24 project and may also provide for the financing, acquisition,
25 maintenance, or operation of a turnpike project.

26 (c) The department may negotiate provisions relating to
27 professional and consulting services provided in connection with a

1 comprehensive development agreement.

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

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

6 (2) appropriated in Strategy A.1.1.
7 Plan/Design/Manage of the General Appropriations Act for that
8 biennium for the purpose of making the computation under Section
9 223.041.

10 (e) The authority to enter into comprehensive development
11 agreements provided by this section expires on August 31, 2011.

12 SECTION 16. Section 361.3021, Transportation Code, as added
13 by House Bill Nos. 3184 and 3588, Acts of the 78th Legislature,
14 Regular Session, 2003, is reenacted to read as follows:

15 Sec. 361.3021. LIMITATION ON DEPARTMENT FINANCIAL
16 PARTICIPATION. The amount of money disbursed by the department
17 from the state highway fund and the Texas mobility fund during a
18 federal fiscal year to pay the costs under comprehensive
19 development agreements may not exceed 40 percent of the obligation
20 authority under the federal-aid highway program that is distributed
21 to this state for the fiscal year.

22 SECTION 17. Subsection (a), Section 361.303,
23 Transportation Code, as amended by House Bill Nos. 3184 and 3588,
24 Acts of the 78th Legislature, Regular Session, 2003, is reenacted
25 to read as follows:

26 (a) A turnpike project that is the subject of a
27 comprehensive development agreement with a private entity,

1 including the facilities acquired or constructed on the project, is
2 public property and belongs to the department.

3 SECTION 18. Section 361.305, Transportation Code, as
4 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
5 Legislature, Regular Session, 2003, is reenacted and amended to
6 read as follows:

7 Sec. 361.305. TERMS OF PRIVATE PARTICIPATION. (a) The
8 department shall negotiate the terms of private participation in a
9 turnpike project, including:

10 (1) methods to determine the applicable cost, profit,
11 and project distribution between the private equity investors and
12 the department;

13 (2) reasonable methods to determine and classify toll
14 rates;

15 (3) acceptable safety and policing standards; and

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

19 (b) A comprehensive development agreement entered into
20 under Section 361.302 must include a provision authorizing the
21 department to purchase, under terms and conditions agreed to by the
22 parties, the interest of a private equity investor in a turnpike
23 agreement.

24 (c) The department may [~~only~~] enter into a comprehensive
25 development agreement under Section 361.302 with a private equity
26 investor only if the project is identified in the department's
27 unified transportation program or is located on a transportation

1 corridor identified in the statewide transportation plan.

2 SECTION 19. Section 361.306, Transportation Code, as
3 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
4 Legislature, Regular Session, 2003, is reenacted to read as
5 follows:

6 Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING
7 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt
8 rules, procedures, and guidelines governing selection and
9 negotiations to promote fairness, obtain private participants in
10 turnpike projects, and promote confidence among those
11 participants. The rules must contain criteria relating to the
12 qualifications of the participants and the award of the contracts.

13 (b) The department shall have up-to-date procedures for
14 participation in negotiations on turnpike projects.

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

17 (d) The department shall include the attorney general or the
18 attorney general's designated representative in a negotiation with
19 a private participant.

20 SECTION 20. Section 361.307, Transportation Code, as
21 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
22 Legislature, Regular Session, 2003, is reenacted to read as
23 follows:

24 Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER
25 GOVERNMENTAL AGENCIES. (a) The department and a private entity
26 jointly may enter into an agreement with another governmental
27 agency or entity, including a federal agency, an agency of this or

1 another state, including the United Mexican States or a state of the
2 United Mexican States, or a political subdivision, to independently
3 or jointly provide services, to study the feasibility of a turnpike
4 project, or to finance, construct, operate, and maintain a turnpike
5 project.

6 (b) The department may not enter into an agreement with the
7 United Mexican States or a state of the United Mexican States
8 without the approval of the governor.

9 SECTION 21. Section 361.281, Transportation Code, as
10 amended by House Bill Nos. 3184 and 3588, Acts of the 78th
11 Legislature, Regular Session, 2003, is amended to read as follows:

12 Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter
13 applies only to:

14 (1) a county with a population of more than 1.5
15 million;

16 (2) a local government corporation serving a county
17 with a population of more than 1.5 million;

18 (3) an adjacent county in a joint turnpike authority
19 with a county with a population of more than 1.5 million;

20 (4) a municipality with a population of more than
21 170,000 that is adjacent to the United Mexican States;

22 (5) a regional tollway authority created under Chapter
23 366; or

24 (6) a regional mobility authority organized ~~created~~
25 under Chapter 370 or Section 361.003, as that section existed
26 before June 22, 2003.

27 SECTION 22. The heading to Section 542.4031, Transportation

1 Code, as added by House Bill No. 3588, Acts of the 78th Legislature,
2 Regular Session, 2003, is amended to read as follows:

3 Sec. 542.4031. STATE TRAFFIC FINE [~~ADDITIONAL COURT COST~~].

4 SECTION 23. Subsections (a) through (d) and (h), Section
5 542.4031, Transportation Code, as added by House Bill No. 3588,
6 Acts of the 78th Legislature, Regular Session, 2003, are amended to
7 read as follows:

8 (a) In addition to the fine prescribed by Section 542.401 or
9 other section of this subtitle, as applicable [~~other costs,~~
10 ~~including a cost under Section 542.403~~], a person convicted of an
11 offense under this subtitle shall pay \$30 as a state traffic fine
12 [~~court cost~~].

13 (b) An officer collecting a state traffic fine [~~cost due~~]
14 under this section in a case in municipal court shall keep separate
15 records of the money collected and shall deposit the money in the
16 municipal treasury.

17 (c) An officer collecting a state traffic fine [~~cost due~~]
18 under this section in a justice, county, or district court shall
19 keep separate records of the money collected and shall deposit the
20 money in the county treasury.

21 (d) Each calendar quarter, an officer collecting a state
22 traffic fine [~~cost due~~] under this section shall submit a report to
23 the comptroller. The report must comply with Articles 103.005(c)
24 and (d), Code of Criminal Procedure. [~~If no money due as a cost~~
25 ~~under this section is collected in any quarter, the report required~~
26 ~~for that quarter shall be filed in the regular manner, and the~~
27 ~~report shall state that no money due under this section was~~

1 ~~collected.]~~

2 (h) Notwithstanding Subsection (g)(1), in any state fiscal
3 year the comptroller shall deposit 67 percent of the money [~~court~~
4 ~~costs~~] received under Subsection (e)(2) [~~that subsection~~] to the
5 credit of the general revenue fund only until the total amount of
6 the money [~~court costs~~] deposited to the credit of the general
7 revenue fund under Subsection (g)(1) [~~that subsection~~] and [~~the~~
8 ~~surcharges deposited to the credit of that fund under~~] Section
9 780.002(b), Health and Safety Code, equals \$250 million for that
10 year. If in any state fiscal year the amount received by the
11 comptroller under those laws for deposit to the credit of the
12 general revenue fund exceeds \$250 million, the comptroller shall
13 deposit the additional amount [~~received under Subsection (g)~~] to
14 the credit of the Texas mobility fund.

15 SECTION 24. Subsection (a), Article 26.13, Code of Criminal
16 Procedure, is amended to read as follows:

17 (a) Before [~~Prior to~~] accepting a plea of guilty or a plea of
18 nolo contendere, the court shall admonish the defendant of:

19 (1) the range of the punishment attached to the
20 offense;

21 (2) the fact that the recommendation of the
22 prosecuting attorney as to punishment is not binding on the court.
23 Provided that the court shall inquire as to the existence of any
24 plea bargaining agreements between the state and the defendant and,
25 in the event that such an agreement exists, the court shall inform
26 the defendant whether it will follow or reject such agreement in
27 open court and before any finding on the plea. Should the court

1 reject any such agreement, the defendant shall be permitted to
2 withdraw the defendant's [~~his~~] plea of guilty or nolo contendere;

3 (3) the fact that if the punishment assessed does not
4 exceed the punishment recommended by the prosecutor and agreed to
5 by the defendant and the defendant's [~~his~~] attorney, the trial
6 court must give its permission to the defendant before the
7 defendant [~~he~~] may prosecute an appeal on any matter in the case
8 except for those matters raised by written motions filed before
9 [~~prior to~~] trial;

10 (4) the fact that if the defendant is not a citizen of
11 the United States of America, a plea of guilty or nolo contendere
12 for the offense charged may result in deportation, the exclusion
13 from admission to this country, or the denial of naturalization
14 under federal law; [~~and~~]

15 (5) the fact that the defendant will be required to
16 meet the registration requirements of Chapter 62, if the defendant
17 is convicted of or placed on deferred adjudication for an offense
18 for which a person is subject to registration under that chapter;
19 and

20 (6) the fact that the state imposes additional fees or
21 financial obligations on the defendant in connection with the plea
22 and the amounts of those fees and financial obligations.

23 SECTION 25. Subsections (c) and (d), Article 45.051, Code
24 of Criminal Procedure, as amended by Senate Bill Nos. 631 and 1904,
25 Acts of the 78th Legislature, Regular Session, 2003, are reenacted
26 and amended to read as follows:

27 (c) On determining that the defendant has complied with the

1 requirements imposed by the judge under this article, the judge
2 shall dismiss the complaint, and it shall be clearly noted in the
3 docket that the complaint is dismissed and that there is not a final
4 conviction. If the complaint is dismissed, a special expense not to
5 exceed the amount of the fine assessed may be imposed.

6 (d) If by the conclusion of the deferral period the
7 defendant does not present satisfactory evidence that the defendant
8 complied with the requirements imposed, the judge may impose the
9 fine assessed or impose a lesser fine. The imposition of the fine
10 or lesser fine constitutes a final conviction of the defendant.
11 Regardless of whether the judge imposes the fine assessed or a
12 lesser fine, the judge shall impose the state traffic fine
13 prescribed by Section 542.4031, Transportation Code, if the offense
14 is defined by Subtitle C, Title 7, of that code.

15 SECTION 26. Subsection (c-1), Article 45.051, Code of
16 Criminal Procedure, as added by Senate Bill No. 1904, Acts of the
17 78th Legislature, Regular Session, 2003, is amended to read as
18 follows:

19 (c-1) This subsection applies only to an offense defined by
20 Subtitle C, Title 7 [~~involving the operation of a motor vehicle,~~
21 ~~other than an offense under Section 545.413~~], Transportation Code.
22 At the conclusion of the deferral period, if the defendant presents
23 satisfactory evidence that the defendant has complied with the
24 requirements imposed, the justice shall impose the state traffic
25 fine prescribed by Section 542.4031, Transportation Code [~~proceed~~
26 ~~with an adjudication of guilt but may not impose the fine assessed~~
27 ~~or a reduced fine~~].

1 SECTION 27. Subsection (1), Article 45.0511, Code of
2 Criminal Procedure, as amended by Senate Bill Nos. 631 and 1904,
3 Acts of the 78th Legislature, Regular Session, 2003, is reenacted
4 to read as follows:

5 (1) When a defendant complies with Subsection (c), the court
6 shall:

7 (1) remove the judgment and dismiss the charge;

8 (2) report the fact that the defendant successfully
9 completed a driving safety course or a motorcycle operator training
10 course and the date of completion to the Texas Department of Public
11 Safety for inclusion in the person's driving record; and

12 (3) state in that report whether the course was taken
13 under this article to provide information necessary to determine
14 eligibility to take a subsequent course under Subsection (b).

15 SECTION 28. Article 45.0511, Code of Criminal Procedure, is
16 amended by adding Subsection (1-1) as follows:

17 (1-1) This subsection applies only to a defendant charged
18 with an offense defined by Subtitle C, Title 7, Transportation
19 Code. When the defendant complies with Subsection (c), the court
20 shall impose the state traffic fine prescribed by Section 542.4031,
21 Transportation Code.

22 SECTION 29. Subsection (c), Section 780.002, Health and
23 Safety Code, as added by House Bill No. 3588, Acts of the 78th
24 Legislature, Regular Session, 2003, is amended to read as follows:

25 (c) Notwithstanding Subsection (b), in any state fiscal
26 year the comptroller shall deposit 49.5 percent of the surcharges
27 collected under Chapter 708, Transportation Code, to the credit of

1 the general revenue fund only until the total amount of the
2 surcharges deposited to the credit of the general revenue fund
3 under Subsection (b), and the state traffic fines [~~court costs~~]
4 deposited to the credit of that fund under Section 542.4031(g)(1),
5 Transportation Code, equals \$250 million for that year. If in any
6 state fiscal year the amount received by the comptroller under
7 those laws for deposit to the credit of the general revenue fund
8 exceeds \$250 million, the comptroller shall deposit [~~49.5 percent~~
9 ~~of~~] the additional amount [~~received under Subsection (a) to the~~
10 ~~account established under this chapter and 49.5 percent of the~~
11 ~~additional amount~~] to the credit of the Texas mobility fund.

12 SECTION 30. Subdivision (1), Section 370.003,
13 Transportation Code, as added by House Bill No. 3588, Acts of the
14 78th Legislature, Regular Session, 2003, is amended to read as
15 follows:

16 (1) "Authority" means a regional mobility authority
17 organized under this chapter or under Section 361.003, as that
18 section existed before June 22 [~~September 1~~], 2003.

19 SECTION 31. Section 20.02, House Bill No. 3588, Acts of the
20 78th Legislature, Regular Session, 2003, is amended to read as
21 follows:

22 Sec. 20.02. (a) [~~The comptroller shall establish the Texas~~
23 ~~mobility fund debt service account as a dedicated account within~~
24 ~~the general revenue fund.~~

25 [~~(b)~~] Notwithstanding Sections 780.002(b) and (c)
26 [~~780.002(a) and (b)~~], Health and Safety Code, as added by this Act,
27 of the money allocated to the undedicated portion of the general

1 revenue fund by Section 780.002(b) [~~780.002(a)~~], Health and Safety
2 Code, as added by this Act, other than money that may only be
3 appropriated to the Department of Public Safety, in state fiscal
4 years [~~year~~] 2004 and 2005 the comptroller shall deposit that money
5 to the credit of the Texas mobility fund instead of to the credit of
6 the general revenue fund [~~debt service account, which is subject to~~
7 ~~the provisions of Subsection (d)~~].

8 (b) [~~(e)~~] Notwithstanding Section 542.4031(g)(1),
9 Transportation Code, as added by this Act, of the money allocated to
10 the undedicated portion of the general revenue fund in Section
11 542.4031(g)(1), Transportation Code, in state fiscal years [~~year~~]
12 2004 and 2005 the comptroller shall deposit that money to the credit
13 of the Texas mobility fund instead of to the credit of the general
14 revenue fund [~~debt service account, which is subject to the~~
15 ~~provisions of Subsection (d)~~].

16 (c) [~~(d)~~] ~~Funds deposited to the Texas mobility fund debt~~
17 ~~service account pursuant to Subsections (b) and (c) may be~~
18 ~~transferred to the Texas mobility fund upon certification by the~~
19 ~~Texas Transportation Commission to the comptroller that a payment~~
20 ~~is due under an obligation pursuant to Section 49-k, Article 3,~~
21 ~~Texas Constitution. Funds in the Texas mobility fund debt service~~
22 ~~account are not appropriated in the state fiscal year ending August~~
23 ~~31, 2004.~~

24 [~~(e)~~] Notwithstanding Sections 521.058, 521.313(c),
25 521.3466(e), 521.427, 522.029(i), 524.051(c), 548.508, 644.153(i),
26 and 724.046(c), Transportation Code, as added by this Act, to the
27 extent that those sections allocate funds to the Texas mobility

1 fund, in state fiscal years [~~year~~] 2004 and 2005 the comptroller
2 shall deposit those funds to the credit of the general revenue fund
3 instead of to the credit of the Texas mobility fund.

4 SECTION 32. An amount of funds estimated to be \$231,700,000
5 deposited to the credit of the general revenue fund in state fiscal
6 year 2005 under Subsection (c), Section 20.02, House Bill No. 3588,
7 Acts of the 78th Legislature, Regular Session, 2003, as amended by
8 this Act, is appropriated out of the general revenue fund for the
9 state fiscal biennium beginning September 1, 2003, to replace an
10 equal amount of federal fiscal relief funds utilized to certify
11 general revenue appropriations made by House Bill No. 1, Acts of the
12 78th Legislature, Regular Session, 2003 (the General
13 Appropriations Act). The federal fiscal relief funds so replaced
14 are appropriated to the comptroller of public accounts for the
15 state fiscal biennium beginning September 1, 2003, for the purposes
16 described by Section 11.28, Article IX, House Bill No. 1, Acts of
17 the 78th Legislature, Regular Session, 2003 (the General
18 Appropriations Act).

19 SECTION 33. Subsection (a), Section 11.28, Article IX,
20 House Bill No. 1, Acts of the 78th Legislature, Regular Session,
21 2003 (the General Appropriations Act), is amended to read as
22 follows:

23 (a) Notwithstanding other provisions of this Act, based
24 upon the passage of federal legislation that provides federal funds
25 for the purpose of state fiscal relief, such funds are
26 appropriated[~~, after the implementation of Section 11.15,~~
27 ~~Contingency Appropriation Reduction and Contingency~~

1 ~~Appropriation,~~] to the Comptroller of Public Accounts in the fiscal
2 year in which the funds are received for the purpose of transferring
3 funds to state agencies for state fiscal relief, as directed by the
4 Governor and Legislative Budget Board acting under Chapter 317,
5 Government Code, and in accordance with [~~provided by~~] subsection
6 (b) of this section.

7 SECTION 34. Sections 361.181, 361.182, and 361.184,
8 Transportation Code, and Section 361.3025, Transportation Code, as
9 added by Section 61, House Bill No. 3184, Acts of the 78th
10 Legislature, Regular Session, 2003, are repealed.

11 SECTION 35. Subsection (c), Section 521.427,
12 Transportation Code, as added by Section 11.04, House Bill No.
13 3588, Acts of the 78th Legislature, Regular Session, 2003, is
14 repealed.

15 SECTION 36. (a) Except as otherwise provided by Subsection
16 (b) of this section, this Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.

19 (b) Sections 22 through 29 and 35 of this Act take effect
20 September 1, 2003, if this Act receives a vote of two-thirds of all
21 the members elected to each house, as provided by Section 39,
22 Article III, Texas Constitution.

23 (c) If this Act does not receive the vote necessary for
24 effect as provided by Subsections (a) and (b) of this section, this
25 Act takes effect on the 91st day after the last day of the
26 legislative session.

1 COMMITTEE AMENDMENT NO. 1

2 Amend S.B. No. 21 by adding the following sections to the
3 bill, appropriately numbered, and renumbering existing sections
4 accordingly:

5 SECTION _____. Section 227.014, Transportation Code, as
6 added by H.B. No. 3588, Acts of the 78th Legislature, Regular
7 Session, 2003, is amended by amending Subsection (a) and adding
8 Subsection (a-1) to read as follows:

9 (a) If the commission determines that the mobility needs of
10 this state would be most efficiently and economically met by
11 jointly operating two or more facilities or combinations of
12 different types of facilities financed or constructed as part of
13 the same project as one operational and financial enterprise, it
14 may create a system composed of those facilities or combinations of
15 facilities. The commission may create more than one system and may
16 combine two or more systems into one system. The commission may
17 finance, construct, and operate an additional facility or
18 combination of facilities as an expansion of a system if the
19 commission determines that the facility or combination of
20 facilities would most efficiently and economically be constructed
21 and operated if the facility or combination of facilities [~~it~~] were
22 a part of the system and that the addition will benefit the system.
23 A system may only include facilities located wholly or partly
24 within the territory of:

- 25 (1) a metropolitan planning organization; or
26 (2) two adjacent department districts.

27 (a-1) Subsection (a) does not prohibit the department from

1 creating a system that includes a facility that extends
2 continuously through the territory of:

3 (1) two or more metropolitan planning organizations;

4 or

5 (2) more than two adjacent department districts.

6 SECTION _____. Section 227.023(c), Transportation Code, as
7 added by H.B. No. 3588, Acts of the 78th Legislature, Regular
8 Session, 2003, is amended to read as follows:

9 (c) To the extent and in the manner that the department may
10 enter into comprehensive development agreements under Chapter 361
11 with regard to turnpikes, the department may enter into a
12 comprehensive development agreement [~~agreements~~] under this
13 chapter that provides for the financing, development, design,
14 construction, or operation of a facility or a combination of [~~with~~
15 ~~regard to~~] facilities on the Trans-Texas Corridor. All provisions
16 of Chapter 361 relating to comprehensive development agreements for
17 turnpikes apply to comprehensive development agreements for
18 facilities under this chapter, including provisions relating to the
19 confidentiality of information. Claims arising under a
20 comprehensive development agreement are subject to Section
21 201.112.

22 78S10769 JTS-F

Phillips

23 COMMITTEE AMENDMENT NO. 2

24 Amend S.B. No. 21 by adding the following section to the bill,
25 appropriately numbered, and renumbering existing sections
26 accordingly:

27 SECTION _____. Section 91.071(b), Transportation Code, as

1 added by H.B. No. 3588, Acts of the 78th Legislature, Regular
2 Session, 2003, is amended to read as follows:

3 (b) Each fiscal year, the total amount disbursed by the
4 department out of federal and state funds shall not exceed \$12.5
5 million. This subsection does not apply to:

6 (1) disbursements for the acquisition or construction
7 of rail lines on the Trans-Texas Corridor;

8 (2) the acquisition of abandoned rail facilities
9 described in Section 91.007;

10 (3) funding derived from:

11 (A) the issuance of bonds;

12 (B) ~~[-]~~ private investment;

13 (C) ~~[-]~~ donations; or

14 (D) ~~[-and]~~ grants, ~~[or]~~ loans, or reimbursements
15 that are provided from the Federal Railroad Administration, the
16 ~~[or]~~ Federal Transit Administration, or any other federal agency
17 that may be spent for rail facilities;

18 (4) grant money awarded by the governor from the Texas
19 Enterprise Fund;

20 (5) federal funds authorized and appropriated for a
21 specific rail project in this state; and

22 (6) ~~[-(4)]~~ grading and bed preparation.