

BILL ANALYSIS

H.B. 2
By: Krusee
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 2 clarifies legislation contained in HB 3184 and HB 3588, 78th Regular Session, in the following areas:

HB 2 amends the funding provisions contained in HB 3588 to reflect legislative intent that certain Department of Public Safety fees go to general revenue (GR) for the 2004-2005 biennium to stabilize the budget and go to the Texas Mobility Fund thereafter.

HB 2 re-characterizes the \$30 “Additional Court Cost” created by House Bill 3588 as a “State Traffic Fine.” A person convicted of an offense under Subtitle C, Title 7 of the Transportation Code shall pay this \$30 traffic fine and the fine shall not be waived by the judge. A county or municipality will retain 5% of all fines collected and sent to the comptroller, the same percentage that they received for collecting the additional court cost implemented by HB 3588. The comptroller shall direct the fines to a dedicated trauma care account and the Texas Mobility Fund.

HB 2 clarifies that the Driver Responsibility Act does not apply to an offense committed before September 1, 2003.

HB 2 also clarifies that specified portions of Driver Responsibility surcharges and the State Traffic Fine go to the Texas Mobility Fund for the 2004-2005 biennium and then are directed to general revenue thereafter.

HB 2 gives TxDOT the ability to utilize bond proceeds or any amounts deposited in a corresponding debt service reserve fund to pay the principal of, interest on, or redemption premium on the bonds for the particular project.

HB 2 appropriates \$231,700,000 to be deposited to the credit of the general revenue fund in state fiscal year 2005 under Section 20.02(c) of HB 3588, 78th Regular Session, 2003 out of the general revenue fund for the state fiscal biennium beginning September 1, 2003, to replace an equal amount of federal fiscal relief funds utilized to certify general revenue appropriations made by House Bill 1, 78th Regular Session. (These funds were not utilized for certification.)

HB 2 gives the Harris County Toll Road Authority the same powers regarding “declarations of taking” (i.e. quick take) as the Texas Turnpike Authority.

HB 2 makes technical corrections to Chapter 361 of the Transportation Code referencing the Texas Turnpike Authority. Both House Bill 3588 and House Bill 3184, 78th Regular Session, 2003, amended this law governing TxDOT turnpike projects. The conference committee report for House Bill 3184 inadvertently used the wrong version of the bill, resulting in two different versions of the bill being passed into law. House Bill 2 repeals the portions of House Bill 3184 that conflict with House Bill 3588.

Finally, HB 2 clarifies additional technical provisions of HB 3184, HB 3588, SB 631, and SB 1904.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Transportation Commission in ARTICLE 1 (Section 361.306, Transportation Code) and in ARTICLE 5 (Section 91.071, Transportation Code) of this bill.

ANALYSIS

ARTICLE 1. Reenacts Section 361.136, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) Requires the Texas Department of Transportation (TxDOT), if a turnpike project severs an owner's real property, to make certain payments.

(b) Authorizes TxDOT to negotiate for and purchase the severed real property or either part of the severed real property if TxDOT and the owner agree on terms for the purchase. Authorizes TxDOT, instead of a single fixed payment for the real property, to agree to a payment to the owner in the form of an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the turnpike project or an exclusive or nonexclusive right to use or operate a segment or part of the turnpike project.

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

Reenacts Section 361.137, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.137. DECLARATION OF TAKING. (a) Authorizes TxDOT to file a declaration of taking with the clerk of the court in which TxDOT files a condemnation petition under Chapter 21 (Eminent Domain), Property Code, or the clerk of the court to which the case is assigned.

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

(c) Prohibits TxDOT from filing a declaration of taking before the completion of: all environmental documentation, including a final environmental impact statement or a record of decision, that is required by federal or state law; all public hearings and meetings, including those held in connection with the environmental process and under Sections 201.604 and 203.021, that are required by federal or state law; and all notifications required by Section 203.022.

(d) Requires the declaration to include certain information.

(d-1) Provides that deposit to the registry of the court of an amount equal to the appraised value, as determined by TxDOT, of the property to be condemned must accompany the declaration of taking.

(e) Establishes that the date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled.

(f) Requires the case, after a declaration of taking is filed, to proceed as any other

cases in eminent domain under Chapter 21, Property Code.

Reenacts Section 361.138(b), Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

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

Reenacts Section 361.171, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.171. TURNPIKE REVENUE BONDS. (a) Authorizes the Texas Transportation Commission (TTC) by order to authorize the issuance of turnpike revenue bonds to pay all or part of the cost of a turnpike project. Requires each project to be financed and built by a separate bond issue. Authorizes the proceeds of a bond issue may to used solely for the payment of the project for which the bonds were issued and prohibits it from being divided between or among two or more projects. Provides that each project is a separate undertaking, the cost of which is to be determined separately.

(b) Requires the bonds of each issue, as determined in the order authorizing the issuance, to be dated; bear interest at the rate or rates provided by the order and beginning on the dates provided by the order and as authorized by the law, or bear no interest; mature at the time or times provided by the order, not exceeding 40 years from their date or dates; and be made redeemable before maturity, at the price or prices and under the terms provided by the order.

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

(d) Requires the proceeds of each bond issue to disbursed in the manner and under the restrictions, if any, TTC provides in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds.

(e) Authorizes additional bonds to be issued in the same manner to pay the costs of a turnpike project, if the proceeds of a bond issue are less than the turnpike project cost. Establishes that unless otherwise provided in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds are on a parity with and are payable, without preference or priority, from the same fund as the bonds first issued. Authorizes TTC, in addition, to issue bonds for a turnpike project secured by a lien on the revenue of the turnpike project subordinate to the lien on the revenue securing other bonds issued for the turnpike project. Makes a nonsubstantive change.

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

(g) Authorizes the proceeds of a bond issue, in addition to other permitted uses, to be used to pay cost incurred before the issuance of the bonds, including costs of environmental review, design, planning, acquisition of property, relocation assistance, construction, and operation.

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

- (i) Provides that the bond issued under this chapter and income from the bonds, including any profits made on the sale or transfer of the bonds, are exempt from taxation in this state.

Reenacts Section 361.172, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, as follows:

Sec. 361.172. **APPLICABILITY OF OTHER LAW; CONFLICTS.** Establishes that all laws affecting the issuance of bonds by governmental entities, including Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued under this chapter. Provides that to the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail.

Reenacts Section 361.173(a), Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, to provide that the principal of, interest on, and any redemption premium on bonds issued by TTC under this chapter are payable solely from the revenue of the turnpike project for which the bonds are issued, including tolls pledged to pay the bonds; the proceeds of bonds issued for the turnpike project; the amounts deposited in a debt service reserve as required by the trust agreement securing bonds issued for the turnpike project; and amounts received under a credit agreement relating to the turnpike project for which the bonds are issued.

Reenacts Section 361.174, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.174. **SOURCES OF PAYMENT OF AND SECURITY FOR TURNPIKE PROJECT BONDS.** Establishes that notwithstanding any other provisions of this chapter, turnpike project bonds may be payable from and secured by payments made under an agreement with a local governmental entity as provided by Subchapter A, Chapter 362; the proceeds of bonds issued for the turnpike project; or the amounts deposited in a debt service reserve fund as required by the trust agreement securing bonds issued for the turnpike project; and may state on their faces any pledge of revenue or taxes and any security for the bonds under the agreement.

Reenacts Section 361.177, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.177. **PROVISIONS PROTECTING AND ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS.** Authorizes a trust agreement or order providing for the issuance of bonds to contain certain provisions to protect and enforce the rights and remedies of the bondholders.

Reenacts Section 361.178, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.178. **FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF SECURITIES.** Provides that a bank or trust company incorporated under the laws of this state and that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that TxDOT requires.

Reenacts Section 361.179(a), Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, to authorize TxDOT to take certain actions, including imposing tolls for the use of each turnpike project and the different segments or parts of each project. Notwithstanding Chapter 202, the department may contract with a person for the use or lease of part of a turnpike project for various facilities, and set the terms for the use or lease.

Reenacts Section 361.185(a), Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, to provide that all money received under this chapter, whether as proceeds from the sale of bonds or as revenue, is a trust fund to be held and applied as provided by this chapter. Establishes that, notwithstanding any other law, including Section 9, Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997, and without the prior approval of the comptroller, funds held under this chapter shall be held in trust by a banking institution chosen by TxDOT or, at the discretion of TxDOT, in trust in the state treasury outside the general revenue fund.

Reenacts Section 361.189, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.189. **USE OF SURPLUS REVENUE.** Authorizes TTC by order to authorize the use of surplus revenue of a turnpike project to pay the costs of another turnpike project within the region. Provides that TTC may in the order prescribe terms for the use of the revenue, including the pledge of the revenue, but prohibits it from taking an action under this section that violates, impairs, or is inconsistent with a bond order, trust agreement, or indenture governing the use of the surplus revenue.

Reenacts Section 361.302, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.302. **COMPREHENSIVE DEVELOPMENT AGREEMENTS.** (a) Authorizes TxDOT, subject to Section 361.3021, to enter into a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a turnpike project.

(b) Redefines “comprehensive development agreement.”

(c) Authorizes TxDOT to negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) Provides that the money distributed by TxDOT under comprehensive development agreement is not included in the amount required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or appropriated in Strategy A.1.1. Plan/Design/ Manage of the General Appropriations Act for that biennium for purpose of making computation under Section 223.041.

(e) Provides that the Texas Turnpike Authority (authority) to enter into comprehensive development agreements provided by section expires on August 31, 2011.

Reenacts Section 361.3021, Transportation Code, as added by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.3021. **LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION.** Prohibits the amount of money disbursed by TxDOT from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements from exceeding 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Reenacts Section 361.303(a), Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, to provide that a turnpike project that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to TxDOT.

Reenacts Section 361.305, Transportation Code, as amended by House Bills 3184 and 3588, Acts of

the 78th Legislature, Regular Session, 2003, and amends it, as follows:

Sec. 361.305. **TERMS OF PRIVATE PARTICIPATION.** (a) Requires TxDOT to negotiate the terms of private participation in a turnpike project, including methods to determine the applicable cost, profit, and project distribution between the private equity investors and TxDOT; reasonable methods to determine and classify toll rates; acceptable safety and policing standards; and other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) Requires a comprehensive development agreement entered into under Section 361.302 to include a provision authorizing TxDOT to purchase, under terms and conditions agreed to by the parties, the interest of a private equity investor in a turnpike agreement.

(c) Authorizes TxDOT to enter into a comprehensive development agreement under Section 361.302 with a private equity investor only if the project is identified in TxDOT's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

Reenacts Section 361.306, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.306. **RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS.** (a) Requires TTC to adopt rules, procedures, and guidelines governing selection and negotiations to promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants. Requires the rules to contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) Requires TxDOT to have up-to-date procedures for participation in negotiations on turnpike projects.

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

(d) Requires TxDOT to include the attorney general or the attorney general's designated representative in a negotiation with a private participant.

Reenacts Section 361.307, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.307. **AGREEMENTS WITH PRIVATE ENTITIES AND OTHER GOVERNMENTAL AGENCIES.** (a) Authorizes TxDOT and a private entity jointly to enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a turnpike project, or to finance, construct, operate, and maintain a turnpike project.

(b) Prohibits TxDOT from entering into an agreement with the United Mexican States or a state of the United Mexican States without the approval of the governor.

Amends Section 361.281, Transportation Code, as amended by House Bills 3184 and 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 361.281. APPLICABILITY OF SUBCHAPTER. (a) provides that this subchapter applies only to a county with a population of more than 1.5 million; a local government corporation serving a county with a population of more than 1.5 million; an adjacent county in a joint turnpike authority with a population of more than 1.5 million; a municipality with a population of more than 170,000 that is adjacent to the United Mexican States; a regional tollway authority created under Chapter 366; or a regional mobility authority organized, rather than created, under Chapter 370 or Section 361.003, as that section existed before June 22, 2003.

ARTICLE 2. Amends the heading of Section 542.4031, Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, to STATE TRAFFIC FINE

Amends Section 542.4031, Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

In subsections (a) - (d), all references to court costs are changed to “state traffic fines”.

(a) In addition to the fine prescribed by Section 542.401 or another applicable section of this subtitle, a person who enters a plea of guilty or nolo contendere or is convicted under this subtitle shall pay \$30 as a state traffic fine. The fine is to be paid when the person enters the plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The fine is to be paid regardless of whether the sentence is imposed on the person; the court defers final disposition of the person’s case; or the person is placed on community supervision, including deferred adjudication community supervision.

(d) Removes language requiring a report to be filed when money has not been collected for the quarter.

(h) Provides that the comptroller shall deposit 67 percent of the state traffic fines and Driver Responsibility surcharges to the credit of the general revenue fund only until the total amount of those fines and surcharges equals \$250 million for that year. To the extent those fines and surcharges exceed \$250 million, the excess shall be deposited to the credit of the Texas mobility fund.

Amends Sections 708.051 and 708.101, Transportation Code, as added by HB 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 708.051 and 708.101. NONAPPLICABILITY. Amends Articles 708.051 and 708.101 of the Transportation Code to state that Subchapter does not apply to offenses committed before September 1, 2003, instead of a conviction that became final after September 1, 2003.

(b) The Department of Public Safety shall refund surcharges for conviction of offenses committed before September 1, 2003, and may not assign drivers’ license points under that chapter.

Amends Section 708.155, Transportation Code, as added by H.B. No. 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

CONTRACTS FOR COLLECTION OF SURCHARGES. Allows the department to enter into a contract with a private attorney or a public or private vendor to provide services for the collection of surcharges receivable and related costs. Total amount may not exceed 30 percent of the amount of surcharges and related costs collected.

Amends Section 780.002(c), Health and Safety Code, as added by HB 3588, Acts of the 78th

Legislature, Regular Session, 2003, to clarify that in any state fiscal year the comptroller shall deposit 49.5 percent of the surcharges collected under Chapter 708, Transportation Code, to the general revenue fund only until the total amount of the surcharges and the state traffic fines equals \$250 million per year. To the extent those fines and surcharges exceed \$250 million, the excess shall be deposited to the credit of the Texas mobility fund, rather than to the credit of the general revenue fund.

ARTICLE 3. Amends Section 20.02, House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) Deletes existing Subsection (a) and redesignates (b) as (a). Establishes that, notwithstanding Sections 780.002(b) and (c), rather than 780.002(a) and (b), Health and Safety Code, as added by this Act, of the money allocated to the undedicated portion of the general revenue fund by Section 780.002(b), Health and Safety Code, rather than 780.002(a), Health and Safety Code, as added by this Act, other than money that may only be appropriated to the Department of Public Safety, in state fiscal years 2004 and 2005 the comptroller shall deposit that money to the credit of the Texas mobility fund instead of to the credit of the general revenue fund, rather than to the debt service account which is subject to the provisions of Subsection (d).

(b) Redesignated from Subsection (c). Provides that notwithstanding Section 542.4031(g)(1), Transportation Code, as added by this Act, of the money allocated to the undedicated portion of the general revenue fund in Section 542.4031(g)(1), Transportation Code, in state fiscal years 2004 and 2005 the comptroller shall deposit that money to the credit of the Texas mobility fund instead of to the credit of the general revenue fund. Deletes text requiring the deposit to be made to the Texas mobility fund debt service account, which is subject to the provisions of Subsection (d).

(c) Deletes Subsection (d). Redesignates Subsection (e) as (c). Makes conforming changes.

Provides that an amount of funds estimated to be \$231,700,000 deposited to the credit of the general revenue fund in state fiscal year 2005, is appropriated out of general revenue for the state fiscal biennium beginning September 1, 2003, to replace an equal amount of federal fiscal relief funds utilized to certify general revenue appropriations made by House Bill 1, Acts of the 78th Legislature, Regular Session, 2003. The federal fiscal relief funds so replaced are appropriated to the comptroller for fiscal biennium beginning September 1, 2003, for the purposes described in Section 11.28(a), Article IX, House Bill 1, Acts of the 78th Legislature, Regular Session, 2003.

Amends Section 11.28(a), Article IX, House Bill 1, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriation Act), to provide that, notwithstanding other provisions of this Act, based upon passage of federal legislation that provides federal funds for the purpose of state fiscal relief, such funds are appropriated to the comptroller of public accounts in the fiscal year in which the funds are received for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the governor and Legislative Budget Board under Chapter 317, Government Code, and in accordance with Subsection (b) of this section. Deletes text referencing Section 11.15, Contingency Appropriation Reduction and Contingency Appropriation. States that in addition to the priorities established in Subsection (b) of this section, such funds shall also be used for the state child health plan, Goal C of the appropriations to the Health and Human Services Commission (insure children), to provide necessary and appropriate short-term evaluative or crisis intervention mental health services and services for the treatment of serious mental illness; and states that it is also a priority of the legislature that the plan provide funding to permit a Medicaid recipient, including an adult recipient, to select a licensed psychologist, a licensed marriage and family therapist, a licensed professional counselor, or a licensed master social worker (as defined by the appropriate codes) to perform professional counseling services or other health care services or procedures covered under the Medicaid program if the selected person is authorized by law to perform the counseling or other services or procedures.

ARTICLE 4. DEFERRED DISPOSITION OF TRAFFIC OFFENSES. Amends Article 45.051(c), Code of Criminal Procedure, as amended by Senate Bill Nos. 631 and 1904, Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

(c) The judge may determine that the defendant has complied with the requirements imposed under this article, and dismiss the complaint. It shall be clearly noted that the complaint is dismissed, and there is no final conviction. If complaint is dismissed, a special expense not to exceed amount of the fine may be imposed.

Reenacts Articles 45.0511(e) and (l) - (t), Code of Criminal Procedure, as amended by Senate Bill Nos. 631 and 1904, Acts of the 78th Legislature, Regular Session, 2003, as follows:

A request to take a driving safety course or motorcycle operator training course made at or before the time and at the place at which a defendant is required to appear in court is an appearance in compliance with the defendant's promise to appear.

Requires the court, when a defendant complies with Subsection (c), to take certain actions, including removing the judgment and dismissing the charge and reporting to DPS that the driver has taken the appropriate safety course, and state in that report whether this course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

The court may dismiss only one charge for each completion of a course; a charge that is dismissed under this article may not be part of a person's driving record or used for any purpose; an insurer may not cancel or increase the premium charged an insured under the policy because the insured completed the appropriate course or had a charge dismissed under this article.

The court shall advise a defendant charged with a misdemeanor committed while operating a motor vehicle or motorcycle the defendant's right to successfully complete the appropriate course. The right to complete a course does not apply to a defendant charged with: a violation of Section 545.066, 550.022, or 550.023, Transportation Code; a serious traffic violation; or an offense to which Section 542.404 or 729.004(b), Transportation Code, applies.

A notice to appear issued for an offense to which this article applies must inform a defendant charged with the eligible offenses of the defendant's right to complete the appropriate course. Notice must state that the defendant will lose that right, if, on or before the defendant's your appearance date, the defendant does not provide the court with notice of the defendant's request to take the course. If the notice is not provided to the defendant, the defendant may continue to exercise the defendant's right to take the appropriate course until the notice is provided or there is a final disposition of the case.

This section does not apply to an offense committed by a person who holds a commercial driver's license. An order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge.

ARTICLE 5. MISCELLANEOUS PROVISIONS. Amends Section 91.071, Transportation Code, as added by House Bill No. 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) Except as provided in Subsection (b), TxDOT may use any available funds to implement this chapter, including funds from the state infrastructure bank.

(b) The total amount disbursed by the department from the state highway fund to
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The Transportation Commission shall propose rules and criteria governing the disbursement of funds for the acquisition of abandoned rail facilities. Rules shall be proposed no later than November 30, 2003, if this Act receives the necessary vote. If the necessary vote is not achieved for immediate effect, the Commission shall proposed the rules no later than February 1, 2004.

ANNUAL REPORT TO LEGISLATURE ON CERTAIN MATTERS. No later than December 1 of each year, TxDOT shall submit a report to the legislature that details the expenditures made by the department in the preceding state fiscal year in connection with the unified transportation program; turnpike projects and toll roads; the Trans-Texas Corridor; rail facilities described in Chapter 91; certain non-highway facilities on the Trans-Texas Corridor; amount of bonds or other public securities issued for transportation projects; and the direction of money by the department to a regional mobility authority in this state. The report must break down information in certain ways and may be submitted in an electronic format.

Amends Section 227.014(a), Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) allows the commission to create a system composed of jointly operating two or more facilities as one operational and financial enterprise. A system may only include facilities included in a comprehensive transportation corridor developed under a comprehensive development agreement, or facilities located wholly or partly within the territory of a metropolitan planning organization or two adjacent department districts. This section does not prohibit the department from creating a system that includes a facility that will extend continuously through the territory of two or more metropolitan planning organizations or more than two adjacent department districts.

Amends Section 227.023(c) of the Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(c) to allow the department to enter into a comprehensive development agreement that provides for the financing, development, design, construction, or operation of a facility or a combination of facilities on the Trans-Texas Corridor. All provisions of Chapter 361 relating to comprehensive development agreements for turnpikes, including provisions relating to the confidentiality of information, apply. Claims arising under a comprehensive development agreement are subject to Section 201.112.

Amends Section 284.061(c), Transportation Code as follows:

(c) Except as provided by Section 361.1375, if applicable, the county is entitled to immediate possession of property subject to a condemnation proceeding brought by the county after a tender of a bond or other security in an amount sufficient to secure the owner for damages; and the approval of the bond or security by the court.

Amends Subchapter D, Chapter 361, Transportation Code by adding Section 361.1375, as follows:

Sec. 361.1375. DECLARATION OF TAKING BY CERTAIN COUNTIES. Provides that this section applies only to counties with a population of 3.3 million or more that operates under Chapter 284.

(b) Provides that if, in connection with projects under Chapter 284, the director authorizes the county to proceed in the manner provided by Section 361.137, the county may file a declaration of taking proceed in the manner provided by Section 361.137 on any project of the county under Chapter 284 and a reference to the department in Section 361.137 means the county.

Amends Section 370.003(1), Transportation Code, as added by HB 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows: to define an “authority” to mean a regional mobility authority organized under Section 361.003 as that section existed before June 22, 2003.

Amends 502.1715(a) and (b) of the Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration of a motor vehicle that is subject to Section 501.0234, the applicant shall pay a fee of \$1. This section eliminates the exemption for dealer transactions.

(b) Before August 31, 2005, fees collected under this section shall be deposited to the credit of the state highway fund. The money shall be used by the Department of Public Safety to support the DPS re-engineering of the driver’s license system to provide for the issuance by the DPA of a driver’s license or personal identification certificate, which is not to include the use of biometric information. The DPS shall use the money to establish and maintain a system to support the driver responsibility program under Chapter 708; conduct the feasibility study authorized by Section 601.450; and make lease payments to the master lease purchase program for the financing of the driver’s license reengineering project and the liability insurance feasibility study.

Amends Section 504.202(f), Transportation Code, as added by House Bill 2971, Acts of the 78th Legislature, Regular Session, 2003, to eliminate the fee for each additional set of disabled veterans’ license plates.

One percent of the surcharges from the Driver Responsibility Program are appropriated to DPS to administer the program, and the \$1 fee collected under the Motor Vehicle Financial Responsibility are appropriated to the DPS. FTE’s are increased to 11 during the biennium.

ARTICLE 6. Repeals obsolete sections of the turnpike legislation that were inadvertently left in during drafting, and repeals a general revenue provision that is no longer necessary for FY 2004 as the DPS license and inspection fees are kept in general revenue for FY 2004. Also repeals a definition of conviction that is no longer necessary to collect the new state traffic fine. Effective date provisions.

Repealer: Section 361.181, Transportation Code (expenditures for feasibility studies).

Repealer: Section 361.182, Transportation Code (Texas turnpike authority feasibility study fund).

Repealer: Section 361.184, Transportation Code (Texas turnpike authority project revolving fund).

Repealer: Section 361.3025, Transportation Code .

Repealer: Section 521.427(c), Transportation Code, as added by Section 11.04, House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003.

Repealer: Section 542.4031(j), Transportation Code, as added by Section 12.01, House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003.

Effective date: immediately if two-thirds vote of all members elected to each house. Provides that if this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect on the 91st day after the last day of the legislative session.