

By: Ogden

S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

1  
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 the state; making appropriations.

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

7 ARTICLE 1. TEXAS TURNPIKE AUTHORITY DIVISION OF  
8 TEXAS DEPARTMENT OF TRANSPORTATION

9 SECTION 1.01. Section 361.136, Transportation Code, as  
10 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
11 Legislature, Regular Session, 2003, is reenacted to read as  
12 follows:

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

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

17 (2) the damages to the remainder of the owner's  
18 property caused by the severance, including damages caused by the  
19 inaccessibility of one tract from the other.

20 (b) The department may negotiate for and purchase the  
21 severed real property or either part of the severed real property if  
22 the department and the owner agree on terms for the purchase.  
23 Instead of a single fixed payment for the real property, the  
24 department may agree to a payment to the owner in the form of:

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

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

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

9           SECTION 1.02. Section 361.137, Transportation Code, as  
10 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
11 Legislature, Regular Session, 2003, is reenacted to read as  
12 follows:

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

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

17           (2) to which the case is assigned.

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

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

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

27           (2) all public hearings and meetings, including those

1 held in connection with the environmental process and under  
2 Sections 201.604 and 203.021, that are required by federal or state  
3 law; and

4 (3) all notifications required by Section 203.022.

5 (d) The declaration of taking must include:

6 (1) a specific reference to the legislative authority  
7 for the condemnation;

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

10 (A) the municipality in which the property is  
11 located;

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

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

14 (3) a statement of the property interest to be  
15 condemned;

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

19 (5) a statement that immediate possession of all or  
20 part of the property to be condemned is necessary for the timely  
21 construction of a turnpike project.

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

26 (e) The date on which the declaration is filed is the date of  
27 taking for the purpose of assessing damages to which a property

1 owner is entitled.

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

5 SECTION 1.03. Section 361.138(b), Transportation Code, as  
6 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
7 Legislature, Regular Session, 2003, is reenacted to read as  
8 follows:

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

13 SECTION 1.04. Section 361.171, Transportation Code, as  
14 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 Sec. 361.171. TURNPIKE REVENUE BONDS. (a) The commission  
18 by order may authorize the issuance of turnpike revenue bonds to pay  
19 all or part of the cost of a turnpike project. Each project shall be  
20 financed and built by a separate bond issue. The proceeds of a bond  
21 issue may be used solely for the payment of the project for which  
22 the bonds were issued and may not be divided between or among two or  
23 more projects. Each project is a separate undertaking, the cost of  
24 which shall be determined separately.

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

27 (1) be dated;

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

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

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

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

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

15           (e) If the proceeds of a bond issue are less than the  
16 turnpike project cost, additional bonds may be issued in the same  
17 manner to pay the costs of a turnpike project. Unless otherwise  
18 provided in the order authorizing the issuance of the bonds or in  
19 the trust agreement securing the bonds, the additional bonds are on  
20 a parity with and are payable, without preference or [~~of~~] priority,  
21 from the same fund as the bonds first issued. In addition, the  
22 commission may issue bonds for a turnpike project secured by a lien  
23 on the revenue of the turnpike project subordinate to the lien on  
24 the revenue securing other bonds issued for the turnpike project.

25           (f) If the proceeds of a bond issue exceed the cost of the  
26 turnpike project for which the bonds were issued, the surplus shall  
27 be segregated from the other money of the commission and used only

1 for the purposes specified in the order authorizing the issuance.

2 (g) In addition to other permitted uses, the proceeds of a  
3 bond issue may be used to pay costs incurred before the issuance of  
4 the bonds, including costs of environmental review, design,  
5 planning, acquisition of property, relocation assistance,  
6 construction, and operation.

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

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

13 SECTION 1.05. Section 361.172, Transportation Code, as  
14 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
15 Legislature, Regular Session, 2003, is reenacted to read as  
16 follows:

17 Sec. 361.172. APPLICABILITY OF OTHER LAW; CONFLICTS. All  
18 laws affecting the issuance of bonds by governmental entities,  
19 including Chapters 1201, 1202, 1204, 1207, and 1371, Government  
20 Code, apply to bonds issued under this chapter. To the extent of a  
21 conflict between those laws and this chapter, the provisions of  
22 this chapter prevail.

23 SECTION 1.06. Section 361.173(a), Transportation Code, as  
24 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
25 Legislature, Regular Session, 2003, is reenacted and amended to  
26 read as follows:

27 (a) The principal of, interest on, and any redemption

1 premium on bonds issued by the commission under this chapter are  
2 payable solely from:

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

6 (2) the proceeds of bonds issued for the turnpike  
7 project;

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

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

13 SECTION 1.07. Section 361.174, Transportation Code, as  
14 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 Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR  
18 TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of  
19 this chapter, 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 Subchapter A, Chapter 362;

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

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

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

3           SECTION 1.08. Section 361.177, Transportation Code, as  
4 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
5 Legislature, Regular Session, 2003, is reenacted to read as  
6 follows:

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

11           (1) covenants establishing the commission's duties  
12 relating to:

13                   (A) the acquisition of property;

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

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

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

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

23           (4) covenants relating to the rights, powers,  
24 liabilities, or duties that arise on the breach of a duty of the  
25 commission; and

26           (5) provisions for the employment of consulting  
27 engineers in connection with the construction or operation of the



1 turnpike project.

2 SECTION 1.09. Section 361.178, 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. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF  
7 SECURITIES. A bank or trust company incorporated under the laws of  
8 this state that acts as depository of the proceeds of bonds or of  
9 revenue may furnish indemnifying bonds or pledge securities that  
10 the department requires.

11 SECTION 1.10. Section 361.179(a), Transportation Code, as  
12 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
13 Legislature, Regular Session, 2003, is reenacted and amended to  
14 read as follows:

15 (a) The department may:

16 (1) impose tolls for the use of each turnpike project  
17 and the different segments or parts [~~or sections~~] of each turnpike  
18 project; and

19 (2) notwithstanding anything in Chapter 202 to the  
20 contrary, contract with a person for the use of part of a turnpike  
21 project or lease part of a turnpike project for a gas station,  
22 garage, store, hotel, restaurant, railroad tracks, utilities, and  
23 telecommunications facilities and equipment and set the terms for  
24 the use or lease.

25 SECTION 1.11. Section 361.185(a), Transportation Code, as  
26 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
27 Legislature, Regular Session, 2003, is reenacted to read as

1 follows:

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

11 SECTION 1.12. Section 361.189, Transportation Code, as  
12 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
13 Legislature, Regular Session, 2003, is reenacted to read as  
14 follows:

15 Sec. 361.189. USE OF SURPLUS REVENUE. The commission by  
16 order may authorize the use of surplus revenue of a turnpike project  
17 to pay the costs of another turnpike project within the region. The  
18 commission may in the order prescribe terms for the use of the  
19 revenue, including the pledge of the revenue, but may not take an  
20 action under this section that violates, impairs, or is  
21 inconsistent with a bond order, trust agreement, or indenture  
22 governing the use of the surplus revenue.

23 SECTION 1.13. Section 361.302, Transportation Code, as  
24 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
25 Legislature, Regular Session, 2003, is reenacted and amended to  
26 read as follows:

27 Sec. 361.302. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

1 (a) Subject to Section 361.3021, the department may enter into a  
2 comprehensive development agreement with a private entity to  
3 construct, maintain, repair, operate, extend, or expand a turnpike  
4 project.

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

10 (c) The department may negotiate provisions relating to  
11 professional and consulting services provided in connection with a  
12 comprehensive development agreement.

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

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

17 (2) appropriated in Strategy A.1.1.  
18 Plan/Design/Manage of the General Appropriations Act for that  
19 biennium for the purpose of making the computation under Section  
20 223.041.

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

23 SECTION 1.14. Section 361.3021, Transportation Code, as  
24 added by House Bill Nos. 3184 and 3588, Acts of the 78th  
25 Legislature, Regular Session, 2003, is reenacted to read as  
26 follows:

27 Sec. 361.3021. LIMITATION ON DEPARTMENT FINANCIAL

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

7 SECTION 1.15. Section 361.303(a), Transportation Code, as  
8 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
9 Legislature, Regular Session, 2003, is reenacted to read as  
10 follows:

11 (a) A turnpike project that is the subject of a  
12 comprehensive development agreement with a private entity,  
13 including the facilities acquired or constructed on the project, is  
14 public property and belongs to the department.

15 SECTION 1.16. Section 361.305, Transportation Code, as  
16 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
17 Legislature, Regular Session, 2003, is reenacted and amended to  
18 read as follows:

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

22 (1) methods to determine the applicable cost, profit,  
23 and project distribution between the private equity investors and  
24 the department;

25 (2) reasonable methods to determine and classify toll  
26 rates;

27 (3) acceptable safety and policing standards; and

1 (4) other applicable professional, consulting,  
2 construction, operation, and maintenance standards, expenses, and  
3 costs.

4 (b) A comprehensive development agreement entered into  
5 under Section 361.302 must include a provision authorizing the  
6 department to purchase, under terms and conditions agreed to by the  
7 parties, the interest of a private equity investor in a turnpike  
8 agreement.

9 (c) The department may [~~only~~] enter into a comprehensive  
10 development agreement under Section 361.302 with a private equity  
11 investor only if the project is identified in the department's  
12 unified transportation program or is located on a transportation  
13 corridor identified in the statewide transportation plan.

14 SECTION 1.17. Section 361.306, Transportation Code, as  
15 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
16 Legislature, Regular Session, 2003, is reenacted to read as  
17 follows:

18 Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING  
19 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt  
20 rules, procedures, and guidelines governing selection and  
21 negotiations to promote fairness, obtain private participants in  
22 turnpike projects, and promote confidence among those  
23 participants. The rules must contain criteria relating to the  
24 qualifications of the participants and the award of the contracts.

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

27 (c) The department has exclusive judgment to determine the

1 terms of an agreement.

2 (d) The department shall include the attorney general or the  
3 attorney general's designated representative in a negotiation with  
4 a private participant.

5 SECTION 1.18. Section 361.307, Transportation Code, as  
6 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
7 Legislature, Regular Session, 2003, is reenacted to read as  
8 follows:

9 Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER  
10 GOVERNMENTAL AGENCIES. (a) The department and a private entity  
11 jointly may enter into an agreement with another governmental  
12 agency or entity, including a federal agency, an agency of this or  
13 another state, including the United Mexican States or a state of the  
14 United Mexican States, or a political subdivision, to independently  
15 or jointly provide services, to study the feasibility of a turnpike  
16 project, or to finance, construct, operate, and maintain a turnpike  
17 project.

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

21 SECTION 1.19. Section 361.281, Transportation Code, as  
22 amended by House Bill Nos. 3184 and 3588, Acts of the 78th  
23 Legislature, Regular Session, 2003, is amended to read as follows:

24 Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter  
25 applies only to:

26 (1) a county with a population of more than 1.5  
27 million;

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

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

5 (4) a municipality with a population of more than  
6 170,000 that is adjacent to the United Mexican States;

7 (5) a regional tollway authority created under Chapter  
8 366; or

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

12 ARTICLE 2. STATE TRAFFIC FINE AND DRIVER RESPONSIBILITY

13 PROGRAM SURCHARGES

14 SECTION 2.01. The heading to Section 542.4031,  
15 Transportation Code, as added by House Bill No. 3588, Acts of the  
16 78th Legislature, Regular Session, 2003, is amended to read as  
17 follows:

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

19 SECTION 2.02. Sections 542.4031(a)-(d) and (h),  
20 Transportation Code, as added by House Bill No. 3588, Acts of the  
21 78th Legislature, Regular Session, 2003, are amended to read as  
22 follows:

23 (a) In addition to the fine prescribed by Section 542.401 or  
24 another section of this subtitle, as applicable ~~[other costs,~~  
25 ~~including a cost under Section 542.403]~~, a person who enters a plea  
26 of guilty or nolo contendere to or is convicted of an offense under  
27 this subtitle shall pay \$30 as a state traffic fine ~~[court cost]~~.

1 The person shall pay the state traffic fine when the person enters  
2 the person's plea of guilty or nolo contendere, or on the date of  
3 conviction, whichever is earlier. The state traffic fine shall be  
4 paid regardless of whether:

5 (1) a sentence is imposed on the person;

6 (2) the court defers final disposition of the person's  
7 case; or

8 (3) the person is placed on community supervision,  
9 including deferred adjudication community supervision.

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

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

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

26 (h) Notwithstanding Subsection (g)(1), in any state fiscal  
27 year the comptroller shall deposit 67 percent of the money [~~court~~



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

12 SECTION 2.03. (a) Sections 708.051 and 708.101,  
13 Transportation Code, as added by House Bill No. 3588, Acts of the  
14 78th Legislature, Regular Session, 2003, are amended to read as  
15 follows:

16 Sec. 708.051. NONAPPLICABILITY. This subchapter does not  
17 apply to:

18 (1) an offense committed [~~a conviction that became~~  
19 ~~final~~] before September 1, 2003; or

20 (2) an offense covered by Subchapter C.

21 Sec. 708.101. NONAPPLICABILITY. This subchapter does not  
22 apply to an offense committed [~~a conviction that became final~~]  
23 before September 1, 2003.

24 (b) In connection with a conviction for an offense committed  
25 before September 1, 2003, that became final on or after that date,  
26 the Department of Public Safety:

27 (1) shall refund any surcharge collected under Chapter

1 708, Transportation Code, as added by H.B. No. 3588, Acts of the  
2 78th Legislature, Regular Session, 2003; and

3 (2) may not assign points to a person's driver's  
4 license under that chapter.

5 SECTION 2.04. Section 708.155, Transportation Code, as  
6 added by H.B. No. 3588, Acts of the 78th Legislature, Regular  
7 Session, 2003, is amended to read as follows:

8 Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. The  
9 department may enter into a contract with a private attorney or a  
10 public or private vendor for the provision of services for the  
11 collection of surcharges receivable and related costs under this  
12 chapter. The total amount of compensation may not exceed 30 percent  
13 of the amount of the surcharges and related costs collected [~~set in~~  
14 ~~Article 103.0031, Code of Criminal Procedure~~].

15 SECTION 2.05. Section 780.002(c), Health and Safety Code,  
16 as added by House Bill No. 3588, Acts of the 78th Legislature,  
17 Regular Session, 2003, is amended to read as follows:

18 (c) Notwithstanding Subsection (b), in any state fiscal  
19 year the comptroller shall deposit 49.5 percent of the surcharges  
20 collected under Chapter 708, Transportation Code, to the credit of  
21 the general revenue fund only until the total amount of the  
22 surcharges deposited to the credit of the general revenue fund  
23 under Subsection (b), and the state traffic fines [~~court costs~~]  
24 deposited to the credit of that fund under Section 542.4031(g)(1),  
25 Transportation Code, equals \$250 million for that year. If in any  
26 state fiscal year the amount received by the comptroller under  
27 those laws for deposit to the credit of the general revenue fund

1 exceeds \$250 million, the comptroller shall deposit [~~49.5 percent~~  
2 ~~of~~] the additional amount [~~received under Subsection (a) to the~~  
3 ~~account established under this chapter and 49.5 percent of the~~  
4 ~~additional amount~~] to the credit of the Texas mobility fund.

5 ARTICLE 3. FINANCIAL PROVISIONS

6 SECTION 3.01. Section 20.02, House Bill No. 3588, Acts of  
7 the 78th Legislature, Regular Session, 2003, is amended to read as  
8 follows:

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

12 [~~(b)~~] Notwithstanding Sections 780.002(b) and (c)  
13 [~~780.002(a) and (b)~~], Health and Safety Code, as added by this Act,  
14 of the money allocated to the undedicated portion of the general  
15 revenue fund by Section 780.002(b) [~~780.002(a)~~], Health and Safety  
16 Code, as added by this Act, other than money that may only be  
17 appropriated to the Department of Public Safety, in state fiscal  
18 years [~~year~~] 2004 and 2005 the comptroller shall deposit that money  
19 to the credit of the Texas mobility fund instead of to the credit of  
20 the general revenue fund [~~debt service account, which is subject to~~  
21 ~~the provisions of Subsection (d)~~].

22 (b) [~~(c)~~] Notwithstanding Section 542.4031(g)(1),  
23 Transportation Code, as added by this Act, of the money allocated to  
24 the undedicated portion of the general revenue fund in Section  
25 542.4031(g)(1), Transportation Code, in state fiscal years [~~year~~]  
26 2004 and 2005 the comptroller shall deposit that money to the credit  
27 of the Texas mobility fund instead of to the credit of the general

1 revenue fund [~~debt service account, which is subject to the~~  
2 ~~provisions of Subsection (d)] .~~

3 (c) [~~(d) Funds deposited to the Texas mobility fund debt~~  
4 ~~service account pursuant to Subsections (b) and (c) may be~~  
5 ~~transferred to the Texas mobility fund upon certification by the~~  
6 ~~Texas Transportation Commission to the comptroller that a payment~~  
7 ~~is due under an obligation pursuant to Section 49-k, Article 3,~~  
8 ~~Texas Constitution. Funds in the Texas mobility fund debt service~~  
9 ~~account are not appropriated in the state fiscal year ending August~~  
10 ~~31, 2004.~~

11 [~~(e)~~] Notwithstanding Sections 521.058, 521.313(c),  
12 521.3466(e), 521.427, 522.029(i), 524.051(c), 548.508, 644.153(i),  
13 and 724.046(c), Transportation Code, as added by this Act, to the  
14 extent that those sections allocate funds to the Texas mobility  
15 fund, in state fiscal years [~~year~~] 2004 and 2005 the comptroller  
16 shall deposit those funds to the credit of the general revenue fund  
17 instead of to the credit of the Texas mobility fund.

18 SECTION 3.02. An amount of funds estimated to be  
19 \$231,700,000 deposited to the credit of the general revenue fund in  
20 state fiscal year 2005 under Section 20.02(c), House Bill No. 3588,  
21 Acts of the 78th Legislature, Regular Session, 2003, as amended by  
22 this Act, is appropriated out of the general revenue fund for the  
23 state fiscal biennium beginning September 1, 2003, to replace an  
24 equal amount of federal fiscal relief funds utilized to certify  
25 general revenue appropriations made by House Bill No. 1, Acts of the  
26 78th Legislature, Regular Session, 2003 (the General  
27 Appropriations Act). The federal fiscal relief funds so replaced

1 are appropriated to the comptroller of public accounts for the  
2 state fiscal biennium beginning September 1, 2003, for the purposes  
3 described by Section 11.28, Article IX, House Bill No. 1, Acts of  
4 the 78th Legislature, Regular Session, 2003 (the General  
5 Appropriations Act).

6 SECTION 3.03. Section 11.28, Article IX, House Bill No. 1,  
7 Acts of the 78th Legislature, Regular Session, 2003 (the General  
8 Appropriations Act), is amended by amending Subsection (a) and  
9 adding Subsections (c) and (d) to read as follows:

10 (a) Notwithstanding other provisions of this Act, based  
11 upon the passage of federal legislation that provides federal funds  
12 for the purpose of state fiscal relief, such funds are  
13 appropriated[~~, after the implementation of Section 11.15,~~  
14 ~~Contingency Appropriation Reduction and Contingency~~  
15 ~~Appropriation,~~] to the Comptroller of Public Accounts in the fiscal  
16 year in which the funds are received for the purpose of transferring  
17 funds to state agencies for state fiscal relief, as directed by the  
18 Governor and Legislative Budget Board acting under Chapter 317,  
19 Government Code, and in accordance with [~~provided by subsection (b)~~  
20 ~~of~~] this section.

21 (c) In addition to the priorities established by Subsection  
22 (b) of this section, such funds shall also be used for the state  
23 child health plan, Goal C of the appropriations to the Health and  
24 Human Services Commission (insure children), to provide necessary  
25 and appropriate short-term evaluative or crisis intervention  
26 mental health services and services for the treatment of serious  
27 mental illness.

1        (d) In addition to the priorities otherwise established by  
2 this section, it is also a priority of the Legislature that the plan  
3 provide funding to permit a Medicaid recipient, including an adult  
4 recipient, to select a licensed psychologist, a licensed marriage  
5 and family therapist, as defined by Section 502.002, Occupations  
6 Code, a licensed professional counselor, as defined by Section  
7 503.002, Occupations Code, or a licensed master social worker, as  
8 defined by Section 505.002, Occupations Code, to perform  
9 professional counseling services or other health care services or  
10 procedures covered under the Medicaid program if the selected  
11 person is authorized by law to perform the counseling or other  
12 services or procedures.

13            ARTICLE 4. DEFERRED DISPOSITION OF TRAFFIC OFFENSES

14            SECTION 4.01. Article 45.051(c), Code of Criminal  
15 Procedure, as amended by Senate Bill Nos. 631 and 1904, Acts of the  
16 78th Legislature, Regular Session, 2003, is reenacted to read as  
17 follows:

18            (c) On determining that the defendant has complied with the  
19 requirements imposed by the judge under this article, the judge  
20 shall dismiss the complaint, and it shall be clearly noted in the  
21 docket that the complaint is dismissed and that there is not a final  
22 conviction. If the complaint is dismissed, a special expense not  
23 to exceed the amount of the fine assessed may be imposed.

24            SECTION 4.02. Articles 45.0511(e) and (l)-(t), Code of  
25 Criminal Procedure, as amended by Senate Bill Nos. 631 and 1904,  
26 Acts of the 78th Legislature, Regular Session, 2003, are reenacted  
27 to read as follows:

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

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           (m) The court may dismiss only one charge for each  
16 completion of a course.

17           (n) A charge that is dismissed under this article may not be  
18 part of a person's driving record or used for any purpose.

19           (o) An insurer delivering or issuing for delivery a motor  
20 vehicle insurance policy in this state may not cancel or increase  
21 the premium charged an insured under the policy because the insured  
22 completed a driving safety course or a motorcycle operator training  
23 course, or had a charge dismissed under this article.

24           (p) The court shall advise a defendant charged with a  
25 misdemeanor under Section 472.022, Transportation Code, Subtitle  
26 C, Title 7, Transportation Code, or Section 729.001(a)(3),  
27 Transportation Code, committed while operating a motor vehicle of

1 the defendant's right under this article to successfully complete a  
2 driving safety course or, if the offense was committed while  
3 operating a motorcycle, a motorcycle operator training course. The  
4 right to complete a course does not apply to a defendant charged  
5 with:

6 (1) a violation of Section 545.066, 550.022, or  
7 550.023, Transportation Code;

8 (2) a serious traffic violation; or

9 (3) an offense to which Section 542.404 or 729.004(b),  
10 Transportation Code, applies.

11 (q) A notice to appear issued for an offense to which this  
12 article applies must inform a defendant charged with an offense  
13 under Section 472.022, Transportation Code, an offense under  
14 Subtitle C, Title 7, Transportation Code, or an offense under  
15 Section 729.001(a)(3), Transportation Code, committed while  
16 operating a motor vehicle of the defendant's right to complete a  
17 driving safety course or, if the offense was committed while  
18 operating a motorcycle, of the defendant's right to complete a  
19 motorcycle operator training course. The notice required by this  
20 subsection must read substantially as follows:

21 "You may be able to require that this charge be dismissed by  
22 successfully completing a driving safety course or a motorcycle  
23 operator training course. You will lose that right if, on or before  
24 your appearance date, you do not provide the court with notice of  
25 your request to take the course."

26 (r) If the notice required by Subsection (q) is not provided  
27 to the defendant charged with the offense, the defendant may



1 continue to exercise the defendant's right to take a driving safety  
2 course or a motorcycle operator training course until the notice  
3 required by Subsection (q) is provided to the defendant or there is  
4 a final disposition of the case.

5 (s) This article does not apply to an offense committed by a  
6 person who holds a commercial driver's license.

7 (t) An order of deferral under Subsection (c) terminates any  
8 liability under a bail bond or appearance bond given for the charge.

9 SECTION 4.03. Article 45.051(c-1), Code of Criminal  
10 Procedure, as added by S.B. No. 1904, Acts of the 78th Legislature,  
11 Regular Session, 2003, is repealed.

12 ARTICLE 5. MISCELLANEOUS PROVISIONS

13 SECTION 5.01. (a) Section 91.071, Transportation Code, as  
14 added by House Bill No. 3588, Acts of the 78th Legislature, Regular  
15 Session, 2003, is amended to read as follows:

16 Sec. 91.071. [~~PERMISSIBLE SOURCES OF~~] FUNDING. (a) Except  
17 as provided in Subsection (b), the [~~The~~] department may use any  
18 available funds to implement this chapter [~~legally permissible~~  
19 ~~source of funding in acquiring, constructing, maintaining, and~~  
20 ~~operating a rail facility or system~~], including funds [+

21 [~~(1) appropriations from the state highway fund that~~  
22 ~~are not dedicated for another purpose by Section 7-a or 7-b, Article~~  
23 ~~VIII, Texas Constitution,~~

24 [~~(2) proceeds from bonds secured by the Texas Mobility~~  
25 ~~Fund,~~

26 [~~(3) donations, whether in kind or in cash, and~~

27 [~~(4) loans~~] from the state infrastructure bank.

1 (b) Each fiscal year, the total amount disbursed by the  
2 department from the state highway fund to implement this chapter  
3 may ~~[out of federal and state funds shall]~~ not exceed \$12.5 million.

4 This subsection does not apply to:

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

7 ~~[(2)]~~ the acquisition of abandoned rail facilities  
8 described in Section 91.007;

9 (2) ~~[(3)]~~ funding derived from the issuance of bonds,  
10 private investment, and donations;

11 (3) federal funds ~~[, and grants or loans]~~ from the  
12 Federal Railroad Administration, from the ~~[or]~~ Federal Transit  
13 Administration, or authorized and appropriated by the United States  
14 Congress for a specific project; ~~[and]~~

15 (4) grants awarded by the governor from the Texas  
16 Enterprise Fund; and

17 (5) grading and bed preparation.

18 (b) The Texas Transportation Commission shall propose rules  
19 governing the disbursement of funds for the acquisition of  
20 abandoned rail facilities described in Section 91.007,  
21 Transportation Code. The rules shall prescribe criteria for the  
22 Texas Department of Transportation's acquisition of abandoned rail  
23 facilities. In establishing criteria, the Texas Transportation  
24 Commission shall consider the local and regional economic benefit  
25 realized from the disbursement of funds in comparison to the amount  
26 of the disbursement.

27 (c) If this Act receives the vote necessary for immediate

1 effect, the Texas Transportation Commission shall propose the rules  
2 required by Subsection (b) of this section not later than November  
3 30, 2003. If this Act does not receive the vote necessary for  
4 immediate effect, the Texas Transportation Commission shall  
5 propose the rules required by Subsection (b) of this section not  
6 later than February 1, 2004.

7 SECTION 5.02. Subchapter H, Chapter 201, Transportation  
8 Code, is amended by adding Section 201.616 to read as follows:

9 Sec. 201.616. ANNUAL REPORT TO LEGISLATURE ON CERTAIN  
10 MATTERS. (a) Not later than December 1 of each year, the  
11 department shall submit a report to the legislature that details:

12 (1) the expenditures made by the department in the  
13 preceding state fiscal year in connection with:

14 (A) the unified transportation program of the  
15 department;

16 (B) turnpike projects and toll roads of the  
17 department;

18 (C) the Trans-Texas Corridor;

19 (D) rail facilities described in Chapter 91; and

20 (E) non-highway facilities on the Trans-Texas  
21 Corridor if those expenditures are subject to Section 227.062(c);

22 (2) the amount of bonds or other public securities  
23 issued for transportation projects; and

24 (3) the direction of money by the department to a  
25 regional mobility authority in this state.

26 (b) The report must break down information under Subsection  
27 (a)(1)(A) by program category and department district. The report

1 must break down information under Subsections (a)(1)(B), (C), (D),  
2 and (E) and Subsection (a)(3) by department district. The report  
3 must break down information under Subsection (a)(2) by department  
4 district and type of project.

5 (c) The report may be submitted in an electronic format.

6 SECTION 5.03. Section 227.014(a), Transportation Code, as  
7 added by House Bill No. 3588, Acts of the 78th Legislature, Regular  
8 Session, 2003, is amended 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 as one operational and  
12 financial enterprise, it may create a system composed of those  
13 facilities. The commission may create more than one system and may  
14 combine two or more systems into one system. The commission may  
15 finance, construct, and operate ~~[an]~~ additional facilities  
16 ~~[facility]~~ as an expansion of a system if the commission determines  
17 that the facilities ~~[facility]~~ would most efficiently and  
18 economically be constructed and operated if ~~[it were a]~~ part of the  
19 system and that the addition will benefit the system. A system may  
20 only include facilities included in a comprehensive transportation  
21 corridor developed under a comprehensive development agreement, or  
22 facilities located wholly or partly within the territory of ~~[+~~

23 ~~(1)]~~ a metropolitan planning organization ~~[+~~

24 ~~(2)]~~ two adjacent department districts. This section  
25 does not prohibit the department from creating a system that  
26 includes a facility that will extend continuously through the  
27 territory of two or more metropolitan planning organizations or

1 more than two adjacent department districts.

2 SECTION 5.04. Section 227.023(c), Transportation Code, as  
3 added by House Bill No. 3588, Acts of the 78th Legislature, Regular  
4 Session, 2003, is amended to read as follows:

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

18 SECTION 5.05. Section 284.061(c), Transportation Code, is  
19 amended to read as follows:

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

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

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

26 SECTION 5.06. Subchapter D, Chapter 361, Transportation  
27 Code, is amended by adding Section 361.1375 to read as follows:

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

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

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

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

10              (2) a reference to the department in Section 361.137  
11 means the county.

12       SECTION 5.07. Section 370.003(1), Transportation Code, as  
13 added by House Bill No. 3588, Acts of the 78th Legislature, Regular  
14 Session, 2003, is amended to read as follows:

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

18       SECTION 5.08. Sections 502.1715(a) and (b), Transportation  
19 Code, as added by House Bill No. 3588, Acts of the 78th Legislature,  
20 Regular Session, 2003, are amended to read as follows:

21              (a) In addition to other fees imposed for registration of a  
22 motor vehicle, at the time of application for registration or  
23 renewal of registration of a motor vehicle for which the owner is  
24 required to submit evidence of financial responsibility under  
25 Section 502.153, the applicant shall pay a fee of \$1. In addition  
26 to other fees imposed for registration of a motor vehicle, at the  
27 time of application for registration of a motor vehicle that is

1 subject to Section 501.0234, the applicant shall pay a fee of \$1.

2 (b) Before [~~Prior to~~] August 31, 2005, fees collected under  
3 this section [~~subchapter~~] shall be deposited to the credit of the  
4 state highway fund. The [~~Subject to appropriation, the~~] money  
5 shall be used by the Department of Public Safety to:

6 (1) support the Department of Public Safety's  
7 reengineering of the driver's license system to provide for the  
8 issuance by the Department of Public Safety of a driver's license or  
9 personal identification certificate, not to include use of  
10 biometric information; [~~and~~]

11 (2) establish and maintain a system to support the  
12 driver responsibility program under Chapter 708;

13 (3) conduct the feasibility study authorized by  
14 Section 601.450; and

15 (4) make lease payments to the master lease purchase  
16 program for the financing of:

17 (A) the driver's license reengineering project;  
18 and

19 (B) the liability insurance feasibility study.

20 SECTION 5.09. Section 504.202(f), Transportation Code, as  
21 added by House Bill No. 2971, Acts of the 78th Legislature, Regular  
22 Session, 2003, is amended to read as follows:

23 (f) The fee for the first set of license plates is \$3. There  
24 is no [~~The~~] fee for each additional set of license plates [~~is \$15~~].  
25 If a license plate is lost, stolen, or mutilated, on payment of a \$1  
26 fee the department shall issue a set of replacement plates.

27 SECTION 5.10. (a) The one percent of surcharges collected

1 during the state fiscal biennium beginning September 1, 2003, by  
2 the Department of Public Safety of the State of Texas under Chapter  
3 708, Transportation Code, as added by House Bill No. 3588, Acts of  
4 the 78th Legislature, Regular Session, 2003, that is deposited to  
5 the general revenue fund and dedicated to the administration of the  
6 driver responsibility program by Section 780.002(b), Health and  
7 Safety Code, as added by that bill, is appropriated to the  
8 Department of Public Safety for the state fiscal biennium beginning  
9 September 1, 2003, for the purposes of administering the driver  
10 responsibility program operated by the department under Chapter  
11 708, Transportation Code, as added by that bill. The number of  
12 full-time equivalent positions (FTE) indicated in the Department of  
13 Public Safety's bill pattern is increased by 11 during the  
14 biennium.

15 (b) All fees collected during the state fiscal biennium  
16 beginning September 1, 2003, by the Texas Department of  
17 Transportation under Section 502.1715, Transportation Code, as  
18 added by House Bill No. 3588, Acts of the 78th Legislature, Regular  
19 Session, 2003, are appropriated to the Department of Public Safety  
20 of the State of Texas for the state fiscal biennium beginning  
21 September 1, 2003, for the purposes described by that section. The  
22 number of full-time equivalent positions (FTE) indicated in the  
23 Department of Public Safety's bill pattern is increased by 28  
24 during the biennium.

25 ARTICLE 6. REPEALER; EFFECTIVE DATE; TRANSITION

26 SECTION 6.01. Sections 361.181, 361.182, and 361.184,  
27 Transportation Code, and Section 361.3025, Transportation Code, as



1 added by Section 61, House Bill No. 3184, Acts of the 78th  
2 Legislature, Regular Session, 2003, are repealed.

3 SECTION 6.02. The following laws are repealed:

4 (1) Section 521.427(c), Transportation Code, as added  
5 by Section 11.04, House Bill No. 3588, Acts of the 78th Legislature,  
6 Regular Session, 2003; and

7 (2) Section 542.4031(j), Transportation Code, as  
8 added by Section 12.01, House Bill No. 3588, Acts of the 78th  
9 Legislature, Regular Session, 2003.

10 SECTION 6.03. This Act takes effect immediately if it  
11 receives a vote of two-thirds of all the members elected to each  
12 house, as provided by Section 39, Article III, Texas Constitution.  
13 If this Act does not receive the vote necessary for immediate  
14 effect, this Act takes effect on the 91st day after the last day of  
15 the legislative session.