

BILL ANALYSIS

C.S.H.B. 3588
By: Krusee
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

To provide for a comprehensive restructuring of the methods of developing, financing, operating, and policing the state's transportation system to enhance safety, efficiency, and mobility.

During the 20th century Texas experienced tremendous population growth and great economic expansion. One reason for that growth was the development and operation of a world-class transportation system. That transportation system had as its primary component a statewide network of highways financed by motor fuels taxes and centrally directed by the Texas Highway Department, which later became the Texas Department of Transportation (department).

The 20th-century model for transportation growth will not suffice for the 21st century. Motor fuels taxes are declining per mile traveled on the state's highways, and as a result the construction of new highways cannot keep pace with demand. Nearly exclusive reliance on the automobile has produced unacceptable levels of urban congestion, pollution, and motor vehicle fatalities. At the same time, the state has not had the legal tools and financing methods to make full use of other transportation options, including rail, public transportation, and turnpikes.

This bill addresses the full scope of transportation issues facing the state. It creates new financing tools to generate the funding required to maintain a working transportation system. These include the use of bonds to generate immediate cash flow, mechanisms for funding the Texas mobility fund, and an increase in fines and fees levied for traffic violations. Additional cash flow will be generated by increased reliance on turnpikes, both those funded by tolls paid by motorists and those built by local authorities and funded over time by the state. The department is given the authority to encourage increased reliance on rail transportation. In addition, it will begin to plan and construct a new set of intermodal transportation facilities that will be known as the Trans Texas Corridor and that will integrate highway, rail, and utility components. Regional Mobility Authorities will give localities greater flexibility in addressing their local transportation needs

RULEMAKING AUTHORITY

Additional rulemaking authority is delegated to the Texas Transportation Commission in SECTION 1.03 of the bill (Sections 227.004 and 227.049, Transportation Code); SECTION 2.01 of the bill (Sections 370.035, 370.037, 370.038, and 370.188, Transportation Code); SECTION 3.01 of the bill (Sections 201.954 and 201.956, Transportation Code); SECTION 6.02 of the bill (Sections 91.004, 91.033, and 91.057, Transportation Code); SECTION 8.01 of the bill (Section 222.003, Transportation Code); SECTION 9.01 of the bill (Section 222.104, Transportation Code); and SECTION 10.01 of the bill (Section 201.112(a), Transportation Code).

Additional rulemaking authority is delegated to Regional Mobility Authorities in SECTION 2.01 of the bill (Sections 370.033, 370.035, 370.037, 370.171, 370.185, 370.189, 370.306, 370.308, and 370.311, Transportation Code).

Additional rulemaking authority is delegated to the Department of Public Safety in SECTION 5.01 of the bill (Sections 708.002, 708.052, 708.153, and 708.154, Transportation Code).

ANALYSIS

ARTICLE 1 - TRANS-TEXAS CORRIDOR

SECTION 1.01. Amends the heading to Title 6, Transportation Code, to reference the Trans-Texas Corridor.

SECTION 1.02. Amends the heading to Subtitle B, Title 6, Transportation Code, to reference the Trans-Texas Corridor.

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

CHAPTER 227. TRANS-TEXAS CORRIDOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 227.001. SHORT TITLE. Provides that Chapter 227 may be cited as the Trans-Texas Corridor Act.

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. Sets forth legislative intent and directs that Chapter 227 shall be construed liberally to achieve its purpose.

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

Sec. 227.004. RULES. Authorizes the commission to adopt rules as necessary and convenient to implement this chapter.

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

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

SUBCHAPTER B. ESTABLISHMENT

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

Sec. 227.012. ROUTE SELECTION. Requires the commission to consider specified criteria before selecting a route for the Trans-Texas Corridor.

Sec. 227.013. PUBLIC PARTICIPATION. Requires the commission to hold one or more hearings before designating a route for a segment of the Trans-Texas Corridor.

Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) Permits two or more facilities on the Trans-Texas Corridor to be operated as a single system.

(b) Provides for separate accounting of revenues for each system.

Sec. 227.015. LOCATION OF FACILITIES. Permits the commission to specify the location of each facility within the Trans-Texas Corridor and to control the time and manner of work on a facility within

the Trans-Texas Corridor.

SUBCHAPTER C. DEVELOPMENT AND OPERATION

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

(b) Authorizes the department to grant or deny access to the Trans-Texas Corridor by any facility or driveway, subject to the provisions of Section 227.029.

Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) Provides that any highway on the Trans-Texas Corridor will be part of the state highway system, without regard to the builder or operator.

(b) Grants a governmental entity the same powers as the department if the governmental entity is authorized to construct or operate a facility on the Trans-Texas Corridor, except that property must be acquired in the name of the state.

(c) Grants a governmental entity the power to operate outside its ordinary geographic limits in connection with authorized work on the Trans-Texas Corridor.

(d) Provides that a governmental entity operating a facility on the Trans-Texas Corridor will only be liable for claims to the extent that the department would be liable.

Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) Requires the department to encourage private participation in facilities on the Trans-Texas Corridor.

(b) Provides that the department shall contract with a private entity to operate a railroad, may not use department employees to operate a railroad, and may maintain a railroad directly or through a private entity.

(c) Provides that the department shall apply its usual procedures to remove barriers to participation by small and disadvantaged businesses and that the department shall encourage participation by small and disadvantaged businesses.

Sec. 227.024. HIGHWAYS. (a) Provides that all highways on the Trans-Texas Corridor are state highways.

Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) Allows the commission to authorize higher height, length, and gross weight limits on vehicles on the Trans-Texas Corridor if supported by an engineering and traffic study.

(b) Provides that this section does not authorize higher axle weight limits on vehicles.

Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) Authorizes the department to acquire rolling stock and other personal property in connection with operation of a facility on the Trans-Texas Corridor.

(b) Authorizes the department to enter into agreements providing for common use of a facility.

(c) Authorizes the department to enter into agreements providing for common use of a public utility facility.

Sec. 227.027. ENVIRONMENTAL REVIEW. (a) Requires the department to conduct or approve all

environmental studies required for the Trans-Texas Corridor.

(b) Authorizes the commission to allocate responsibilities for environmental work among entities involved with the Trans-Texas Corridor.

Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) Authorizes the department to acquire and manage property to be used in mitigating adverse environmental effects resulting from Trans-Texas Corridor projects.

(b) Authorizes the department to contract with a governmental or private entity to manage property to be used in mitigating adverse environmental effects resulting from Trans-Texas Corridor projects.

(c) Authorizes the department to pay a sum of money to mitigate adverse environmental effects resulting from Trans-Texas Corridor projects if authorized by the applicable regulatory authority.

Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) Authorizes the department to implement a grade separation for another facility and requires the department to pay the cost.

(b) Authorizes the department to reconstruct a facility at another location if necessary for the Trans-Texas Corridor so local travel and existing facilities will not be disrupted unnecessarily by the existence of the Trans-Texas Corridor.

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

Sec. 227.030. UNAUTHORIZED USE. Permits the department to remove unauthorized personal property from the Trans-Texas Corridor. Provides for disposal of unclaimed property and specifies that the department is not liable for damage to property removed under this section.

Sec. 227.031. EXCLUSIVE LANES. Authorizes the department to implement exclusive lanes on the Trans-Texas Corridor.

SUBCHAPTER D. RIGHT OF WAY ACQUISITION

Sec. 227.041. POWERS AND PROCEDURES. (a) Authorizes the commission to acquire real property or any interest in real property for the Trans-Texas Corridor. Authorizes the commission to use right of way banking by purchasing property from willing sellers in advance of actual need to lock in prices and reduce overall costs.

(b) Identifies appropriate uses of land acquired for the primary purposes of the Trans-Texas Corridor.

(c) Provides that the acquisition of property for the Trans-Texas Corridor is governed by the same laws that apply to the acquisition of right of way for state highways unless in conflict with this chapter, that Sections 203.056, 203.057, and 203.058 apply to acquisitions of right of way from a state agency, and that compensation to a state agency must be reasonable and may take the form of a single payment or of a participation payment under Section 227.042.

Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) Authorizes the department, with a landowner's consent, to pay for real property with a corridor participation payment.

(b) Provides that a corridor participation payment is subordinate to any bonds that are secured by the same fees.

(c) Defines "corridor participation payment."

Sec. 227.043. LEGAL RIGHTS AS PAYMENT FOR REAL PROPERTY. Authorizes the department, with a landowner's consent, to pay for real property with a right to use or operate a facility on the Trans-Texas Corridor.

Sec. 227.044. PURCHASE AND LEASEBACK. Allows the department to buy land and lease it back to the seller.

Sec. 227.045. DECLARATION OF TAKING. (a) Authorizes the department to file a declaration of taking.

(b) Allows the declaration of taking to be filed concurrently with or subsequent to the petition in an eminent domain case, but not until after the special commissioners have made an award.

(c) Requires the declaration of taking to contain a description of the property, a reference to legislative authority, a statement of the property interest to be condemned, the name and address of each property owner, and a statement that immediate possession is necessary.

(d) Requires the department to deposit an amount equal to the appraised value of the property in the registry of the court.

(e) Specifies that the date on which the declaration of taking is filed is the date of taking for the purpose of assessing damages.

(f) Provides that after a declaration of taking is filed, the case shall proceed as other cases.

Sec. 227.046. POSSESSION OF PROPERTY. (a) Provides that the department may take possession of property after serving the declaration of taking on each person possessing an interest in the property.

(b) Prohibits the department from taking possession of a homestead before the 91st day after service of the declaration of taking.

(c) Provides that an owner or tenant who refuses to yield possession is subject to forcible entry and detainer.

Sec. 227.047. RIGHT OF ENTRY. (a) Authorizes the department to enter real property to make examinations and studies.

(b) Requires the department to give notice and to comply with safety practices when entering real property.

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

(d) Requires the department to reimburse an owner for any damages.

Sec. 227.048. SEVERANCE OF REAL PROPERTY. (a) Specifies damages when property is divided into two or more noncontiguous parcels by a taking.

(b) Permits the department to purchase the severed real property if the department and the owner agree on terms.

Sec. 227.049. DONATIONS. Authorizes the department to accept donations of interests in real property in connection with the Trans-Texas Corridor. Allows the commission to adopt rules governing situations in which the department may acknowledge donations instead of the commission.

Sec. 227.050. OTHER GOVERNMENTAL ENTITIES. Grants other governmental entities the same powers as the department if the department authorizes that governmental entity to construct or operate any part of the Trans-Texas Corridor.

Sec. 227.051. COST OF RELOCATING PUBLIC UTILITY FACILITY. (a) Provides that the department shall pay the cost of relocating a utility if necessary for the Trans-Texas Corridor.

(b) Provides that a utility is not required to relocate onto the Trans-Texas Corridor if another location is feasible.

(c) Provides that the department shall grant a utility owner reasonable access to the Trans-Texas Corridor if necessary to maintain a utility facility.

SUBCHAPTER E. FINANCING

Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Authorizes the department to use any constitutional source of funding to acquire property for, construct, and operate the Trans-Texas Corridor, subject to Section 227.0615.

Sec. 227.0615. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. (a) Limits disbursements from the state highway fund for property acquisition and initial construction on the Trans-Texas Corridor to no more than 20% of federal-aid obligation authority.

(b) Provides that this limitation does not apply to bonds, revenue, loans, or contributions or to money spent on maintenance or reconstruction.

Sec. 227.062. REVENUE BONDS. (a) Authorizes the commission to issue bonds to finance the Trans-Texas Corridor.

(b) Specifies that each bond issuance shall meet designated specifications.

(c) Authorizes the commission to sell the bonds at public or private sale and at the price that is in the best interest of the department.

(d) Provides that proceeds of bonds shall be disbursed in the manner specified by the commission.

(e) Authorizes issuance of additional bonds on the same terms unless different terms are specified by the commission and authorizes bonds secured by a lien on system or facility revenue.

(f) Provides that bond proceeds in excess of facility or system costs shall be segregated.

(g) Provides that bonds are a security under Chapter 8, Business and Commerce Code.

(h) Provides that bonds and bond income are exempt from taxation.

(i) Authorizes the commission to exercise any additional power under Subchapter E, Chapter 361.

Sec. 227.063. INTERIM BONDS. (a) Authorizes the commission to issue interim bonds.

(b) Requires interim bonds to be issued in accordance with this chapter.

(c) Allows a recital that bonds are issued under this chapter is conclusive evidence of validity and regularity.

Sec. 227.064. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED. (a) Provides that

bonds may be repaid only from facility or system revenue, other available funds not including funds derived from a facility that is not part of the same system, and amounts received under a credit agreement relating to the facility or system for which the bonds were issued.

(b) Provides that the bonds are not a pledge of the faith and credit of the state and requires a statement to that effect on the face of the bonds.

(c) Prohibits the commission from incurring financial obligations that cannot be repaid from facility or system revenue or other revenue provided by law.

Sec. 227.065. EFFECT OF LIEN. (a) Provides for enforceability of a lien or pledge of revenue from a facility or system.

(b) Provides that an order authorizing issuance of bonds need not be recorded.

Sec. 227.066. BOND INDENTURE. (a) Provides that bonds may be secured by an indenture.

(b) Authorizes the pledge or assignment of facility or system revenue, but not a mortgage.

(c) Specifies permitted contents of a bond indenture.

(d) Provides that expenses of a trust agreement or indenture may be treated as part of the cost of a facility or system.

(e) Authorizes an owner or trustee of a bond to require the commission and department to collect revenue and to apply for a receiver.

Sec. 227.067. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) Requires the commission to apply to the attorney general for approval of bonds.

(b) Specifies that the attorney general shall approve the bonds if they are authorized by law and provide a record to the comptroller.

(c) Requires the comptroller to register the record.

(d) Provides that the bonds and supporting materials are enforceable and incontestable after approval by the attorney general.

Sec. 227.068. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES.

(a) Authorizes a bank or trust company to act as depository.

(b) Provides that bonds may secure the deposit of public money to the extent of face value or market value, whichever is less.

Sec. 227.069. APPLICABILITY OF OTHER LAW; CONFLICTS. Applies Chapters 1201, 1202, 1204, 1207, and 1371, Government Code to bonds issued by the commission, except to the extent of a conflict with this chapter.

Sec. 227.070. LOANS AND OTHER FUNDING. Authorizes the department to borrow money from the federal government or the state infrastructure bank to fund a facility on the Trans-Texas Corridor.

SUBCHAPTER F. REVENUE

Sec. 227.071. FEES. (a) Permits the department to require any person to pay a fee to use the Trans-Texas Corridor.

(b) Permits the commission to establish fees on any reasonable basis, including joint fees and divisions of fees.

(c) Provides that a fee may exceed the department's costs, but may not be prohibitive or unreasonably discriminatory.

(d) Establishes factors that must be considered by the commission in setting fees.

(e) Provides that if a road is replaced by the Trans-Texas Corridor, and if a utility was using that road's right of way, the fee charged the utility may not exceed the amount that the utility was already paying.

Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) Authorizes the department to lease property on the Trans-Texas Corridor for up to 50 years.

(b) Authorizes the department to grant franchise rights to operate a facility on the Trans-Texas Corridor for up to 50 years.

(c) Authorizes the department to grant access to and use of the Trans-Texas Corridor for any purpose to permit flexibility in maximizing revenue and efficient use of land purchased for the Trans-Texas Corridor.

(d) Allows property to be leased and franchise rights and licenses to be granted for any purpose to permit flexibility in maximizing revenue and efficient use of land purchased for the Trans-Texas Corridor.

(e) Allows the department to accept anything of value in return for a lease, a franchise right, or a license.

Sec. 227.073. DISPOSITION OF FEES. Provides that fees collected under this chapter shall be deposited to the credit of the state highway fund and may be used for any purpose authorized by this chapter. Exempts revenue under this chapter from Subchapter D, Chapter 316, Government Code, and from Section 403.095, Government Code.

SECTION 1.04. Amends Subtitle C, Title 7, Transportation Code, by adding Section 545.3531 as follows:

Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a) Authorizes the commission to set prima facie speed limits on the Trans-Texas Corridor.

(b) Requires the commission to conduct an engineering and traffic investigation and consider the width and condition of the pavement, the usual traffic at the affected area, the suitability of existing safety features, and other circumstances in setting speed limits on the Trans-Texas Corridor.

(c) Provides for the effective date of speed limits established under this section.

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

(e) Requires the commission to follow its "Procedure for Establishing Speed Zones" in conducting the engineering and traffic investigation.

SECTION 1.05. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 2 - REGIONAL MOBILITY AUTHORITIES

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

CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 370.001. SHORT TITLE. Provides that Chapter 370 may be cited as the Regional Mobility Authority Act.

Sec. 370.002. PURPOSES; LIBERAL CONSTRUCTION. Sets forth legislative intent and directs that Chapter 370 shall be construed liberally to achieve its purpose.

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

Sec. 370.004. CONSTRUCTION COSTS DEFINED. Defines costs included in the costs of acquisition, construction, improvement, extension, or expansion of a transportation project.

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY. Provides that the commission may authorize the creation of a regional mobility authority at the request of one or more counties.

Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. Provides for the addition of a county to an existing authority or for the withdrawal of a county from an existing authority.

Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. Provides that an authority is a governmental unit, a body politic, corporate, and a political subdivision and that its operations are governmental and for the benefit of the people of the counties in which it operates and of the state.

Sec. 370.033. GENERAL POWERS. Provides that an authority may exercise general powers appropriate to its function, including adopting rules, engaging in transportation projects, acquiring and disposing of property, entering contracts, and employing personnel.

Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. Authorizes an authority to combine transportation projects into systems.

Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY SYSTEM PROJECTS. Authorizes the conversion of toll or nontoll state highways to an authority and their removal from the state highway system, with provisions for reimbursement to the state.

Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO DEPARTMENT. Authorizes the transfer of a turnpike project to the department if the commission consents and provides other standards.

Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS. Authorizes the transfer of a ferry by the commission to an authority.

Sec. 370.038. COMMISSION RULES. Requires the commission to adopt rules relating to various aspects of authorities.

SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. Authorizes an authority to conduct feasibility studies relating to proposed transportation projects.

Sec. 370.072. FEASIBILITY STUDY FUND. Authorizes an authority to maintain a fund to finance feasibility studies.

Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. Authorizes other governmental entities to pay all or part of the cost of feasibility studies and establishes conditions for reimbursement.

SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING.

Sec. 370.111. TRANSPORTATION REVENUE BONDS. Authorizes the issuance of bonds by an authority and establishes specifications for bond issuance.

Sec. 370.112. INTERIM BONDS. Authorizes issuance of interim bonds before issuing definitive bonds.

Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT. Provides for sources of revenue to repay bonds and establishes that bonds are not a debt of the state or of a governmental entity or a pledge of the faith and credit of the state or a governmental entity.

Sec. 370.114. EFFECT OF LIEN. Provides for enforceability of liens from a transportation project under this chapter.

Sec. 370.115. BOND INDENTURE. Authorizes the securing of bonds by a bond indenture, establishes provisions of a bond indenture, and provides for enforceability.

Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. Requires approval of bonds by the attorney general before issuance.

Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. Authorizes a bank or trust company to furnish indemnifying bonds or to pledge securities required by an authority.

Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. Applies Chapters 1201, 1202, 1204, and 1371, Government Code, to bonds under this chapter except where in conflict with this chapter.

SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF TRANSPORTATION PROJECTS

Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER COUNTIES. Authorizes an authority to engage in a transportation project in an adjacent county with that county's agreement under specified circumstances.

Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. Authorizes an authority to construct or improve a transportation project on acquired property and to exercise the same powers as the commission in acquiring property.

Sec. 370.063. ACQUISITION OF PROPERTY. Authorizes an authority, in furtherance of a transportation project, to acquire property for a transportation project, including acquisition by eminent domain.

Sec. 370.164. RIGHT OF ENTRY. Authorizes an authority to enter property for examination or study and requires reimbursements for any damage.

Sec. 370.165. CONDEMNATION OF REAL PROPERTY. Authorizes an authority to acquire real property by condemnation under specified conditions.

Sec. 370.166. DECLARATION OF TAKING. Provides for the filing of a declaration of taking after special commissioners have made an award in a condemnation proceeding, specifies the contents, and requires a deposit to the registry of the court or the offer of a bond or other security.

Sec. 370.167. POSSESSION OF PROPERTY. Authorizes early possession of property after the filing and service of a declaration of taking.

Sec. 370.168. SEVERANCE OF REAL PROPERTY. Requires an authority to make payments if a transportation project severs an owner's property and authorizes an authority to negotiate for the purchase of a severed remainder.

Sec. 370.169. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. Authorizes an authority to use public property under specified conditions.

Sec. 370.170. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. Limits an authority's right to pay for public real property, with exceptions, and grants an authority easements with regard to publicly owned property.

Sec. 370.171. PUBLIC UTILITY FACILITIES. Authorizes an authority to adopt rules for utilities on transportation projects and provides for relocation of utilities when necessary for a transportation project.

Sec. 370.172. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION PROJECT. Authorizes an authority to transfer a transportation project to another governmental entity with that entity's consent.

Sec. 370.173. REVENUE. Authorizes an authority to charge tolls and fees and to contract with a person for use of a transportation project, establishes parameters for charges, requires a sinking fund for bonds, and limits the use of revenue from transportation projects.

Sec. 370.174. AUTHORITY REVOLVING FUND. Authorizes a revolving fund held in trust by a banking institution and establishes permissible uses.

Sec. 370.175. USE OF SURPLUS REVENUE. Requires an authority to use surplus revenue on transportation projects as specified.

Sec. 370.176. EXEMPTION FROM TAXATION OR ASSESSMENT. Exempts an authority from taxation and certain other fees.

Sec. 370.177. ACTIONS AFFECTING EXISTING ROADS. Authorizes an authority to impose a toll for existing roads transferred to the authority, to construct grade separations, and to reconstruct altered county roads, and requires an authority to provide access or reimburse abutting landowners.

Sec. 370.178. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT TOLL; OFFENSE; ADMINISTRATIVE PENALTY. Establishes an offense and an administrative penalty for failing to pay a lawful toll imposed by an authority.

Sec. 370.179. USE AND RETURN OF TRANSPONDERS. Authorizes seizure of a transponder used to assess tolls if it is insufficiently funded and requires designated entities to consider offering

motorists the option of using transponders.

Sec. 370.180. CONTROLLED ACCESS TO TURNPIKE PROJECTS. Authorizes an authority to control access to designated turnpike projects.

Sec. 370.181. PROMOTION OF TRANSPORTATION PROJECT. Authorizes an authority to promote the use of a transportation project.

Sec. 370.182. OPERATION OF TRANSPORTATION PROJECT. Requires an authority to operate a transportation project with employees or contractors.

Sec. 370.183. AUDIT. Requires use of a certified public accountant to audit an authority's books.

Sec. 370.184. DISADVANTAGED BUSINESSES. Provides that an authority shall set goals for awarding contracts to disadvantaged businesses, attempt to identify disadvantaged businesses, and ensure that disadvantaged businesses have full access to the bidding process.

Sec. 370.185. PROCUREMENT. Requires an authority to adopt rules governing contracts for goods and services.

Sec. 370.186. COMPETITIVE BIDDING. Authorizes the letting of a contract by competitive bidding.

Sec. 370.187. RESTRICTION ON LOCATION OF TURNPIKE PROJECTS. Prohibits location of turnpike projects in certain counties.

Sec. 370.188. PROJECT APPROVAL. Requires commission approval for connections to the state highway system or a department rail facility and requires the commission to adopt rules governing the approval process.

Sec. 370.189. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS. Requires an authority to adopt rules for environmental review of transportation projects.

SUBCHAPTER F. GOVERNANCE

Sec. 370.251. BOARD OF DIRECTORS. Provides for a board of directors to govern an authority.

Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE AUTHORITY. Provides for the submission to the commission of a proposed structure for the board and a method of appointment to the board.

Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND EMPLOYEES. Prohibits directors and employees from certain conduct involving potential conflicts of interest or the appearance of impropriety.

Sec. 370.253. SURETY BONDS. Requires a surety bond from each director and establishes contents.

Sec. 370.254. REMOVAL OF DIRECTOR. Establishes grounds and procedures for the removal of directors.

Sec. 370.255. COMPENSATION OF DIRECTOR. Authorizes reimbursement of directors for expenses, but prohibits additional compensation.

Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Provides that actions of an authority are actions of its board and may be evidenced in any legal manner.

Sec. 370.257. PUBLIC ACCESS. Requires an authority to provide the public with opportunities to appear before the board.

Sec. 370.258. INDEMNIFICATION. Authorizes an authority to indemnify directors or officers in connection with certain claims.

Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. Authorizes an authority to insure officers and employees from liability for relating to equipment used in connection with transportation projects.

Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. Creates an offense if an director, agent, or employee of an authority contracts with the authority or is interested in a contract with the authority.

Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. Requires an authority to adopt a strategic plan containing information specified by counties that are part of the authority and to file written reports on its activities.

Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. Authorizes meetings by telephone conference call.

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

Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS. Authorizes the department to contribute to an authority financially or with personnel services and to require repayment from tolls.

Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TRANSPORTATION PROJECTS. Authorizes an authority to agree with a public or private entity with regard to a transportation project.

Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. Authorizes governmental entities to issue bonds in connection with agreements with an authority regarding a transportation project.

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. Authorizes an authority to enter agreements convenient to the purposes of this subchapter.

Sec. 370.305. EXCLUSIVE DEVELOPMENT AGREEMENTS. Authorizes an authority to enter into exclusive development agreements regarding a transportation project.

Sec. 370.306. PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS. Establishes procedures for a competitive process for entering exclusive development agreements, including the handling of unsolicited proposals, the publishing of requests for competing proposals, the solicitation of detailed proposals, the ranking of proposals, payments to unsuccessful entities that submitted detailed proposals, and selection of a contractor.

Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS. Provides for confidentiality of information relating to exclusive development agreement proposals until the entering into of a final contract.

Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. Provides that an authority must require performance and payment bonds or alternate security from a contractor under an exclusive development agreement and specifies the alternative forms of security.

Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. Provides that an authority owns a transportation project that is the subject of an exclusive development agreement and may lease that property, grant easements, or issue other rights to the property provided that it is returned to the authority in a satisfactory condition.

Sec. 370.310. TERMS OF PRIVATE PARTICIPATION. Provides that an authority shall negotiate the terms of any private participation in a transportation project.

Sec. 370.311. RULES, PROCEDURES AND GUIDELINES GOVERNING NEGOTIATING PROCESS. Authorizes an authority to adopt rules and procedures governing private participation in a transportation project and providing that a proposal or other information submitted for private involvement is confidential.

Sec. 370.312. PARTICIPATION ON CERTAIN OTHER BOARDS, COMMISSION, OR PUBLIC BODIES. Authorizes an authority to permit board members to sit on other boards.

Sec. 370.313. COMBINATION OF ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES. Authorizes an authority to procure engineering, design, and construction services in a single procurement.

Sec. 370.314. PERFORMANCE AND PAYMENT BONDS AND SECURITY. Requires an authority to obtain performance and payment bonds from a contractor.

Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. Grants an authority the same powers as the department with regard to participation in a Trans-Texas Corridor project.

SUBCHAPTER H. DISSOLUTION OF AUTHORITY.

Sec. 370.331. VOLUNTARY DISSOLUTION. Provides for voluntary dissolution of an authority and establishes conditions under which voluntary dissolution is permitted.

Sec. 370.332. INVOLUNTARY DISSOLUTION. Authorizes the commission to dissolve an authority if the authority has not substantially complied with a commission rule or with an agreement between the department and an authority.

SECTION 2.02. Repeals Section 361.003, Transportation Code.

SECTION 2.03. Provides for an effective date of September 1, 2003, and that the term of a currently serving member of the board of directors of a regional mobility authority is not affected.

ARTICLE 3 - EXCLUSIVE DEVELOPMENT AGREEMENTS

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

SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

Sec. 201.951. DEFINITIONS. Defines "exclusive development agreement" to mean an agreement with a private entity that, at a minimum, provides for the design and construction of a department transportation project and may also provide for the financing, acquisition, maintenance, or operation of a project. Provides that a transportation project includes a facility as defined in Section 227.003, Transportation Code.

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

Sec. 201.952. **AUTHORITY TO ENTER INTO EXCLUSIVE DEVELOPMENT AGREEMENTS.** Authorizes the department, subject to Section 201.953, to enter into exclusive development agreements. Provides that the department may negotiate provisions relating to professional and consulting services in connection with an exclusive development agreement. Provides that, subject to Section 201.953, the department may use any constitutionally permissible source of funds without restrictions on the number of exclusive development agreements that may be entered into.

Sec. 201.953. **LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION.** Provides that the amount of money that may be disbursed by the department from the state highway fund during a federal fiscal year to pay the costs under exclusive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Sec. 201.954. **PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS.** Provides that if the department enters into an exclusive development agreement, it must use a competitive procurement process that provides the best value for the state. Authorizes the department to solicit proposals or accept unsolicited proposals in accordance with this section. Requires the department to establish rules and procedures for accepting unsolicited proposals that include specified items a private entity must include in a proposal. Requires the department, under certain circumstances, to publish a request for competing proposals and qualifications in the Texas Register that includes specified provisions, and requires a proposal submitted in response to contain identified information. Authorizes the department to interview a private entity submitting a proposal and to qualify at least two private entities to submit detailed proposals unless certain circumstances exist. Requires the department to issue a request for detailed proposals that may require a private entity to submit additional specified information. Authorizes the department to solicit input from other persons and entities in issuing a request for proposals and regarding alternative technical concepts. Requires the department to rank each proposal based on the criteria in the request for proposals and select the private entity offering the best value to the department. Authorizes the department to require an unsolicited proposal to be accompanied by a nonrefundable proposal review fee. Authorizes the department to pay an unsuccessful private entity that submits a response to a request for proposals a stipulated amount of the final contract price for costs incurred in preparing that proposal, and specifies conditions affecting the amount of the payment and the use of work product contained in the proposal. Authorizes the department to prescribe the general form of an exclusive development agreement and to negotiate the specific terms of an agreement. Provides that certain laws do not apply to an exclusive development agreement.

Sec. 201.955. **CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS.** Provides that, in order to encourage private entities to submit proposals, certain specified information relating to a proposal or the consideration of a proposal is confidential and not subject to disclosure or legal compulsion.

Sec. 201.956. **PERFORMANCE AND PAYMENT SECURITY.** Authorizes the department to require a private entity entering into an exclusive development agreement to provide a performance and payment bond or alternative form of security in specified circumstances and in an amount sufficient to comply with the requirements of this section. Prescribes authorized alternative forms of security. Requires the department to adopt rules prescribing requirements for alternative forms of security.

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

SECTION 3.02. Repeals Section 222.103(j), Transportation Code.

SECTION 3.03. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 4 – ADVANCE ACQUISITION OF PROPERTY

SECTION 4.01. Amends the heading to Chapter 202, Transportation Code, by deleting a reference to highways.

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

SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

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

Sec. 202.112. ADVANCE ACQUISITIONS. (a) Authorizes the commission to acquire property in advance of a final decision to locate a transportation facility on that property.

(b) Provides that advance acquisitions will be governed by procedures established in Subchapter D, Chapter 203 or other applicable law.

(c) Prohibits the use of eminent domain in an advance acquisition.

Sec. 202.113. MANAGEMENT. Provides that the General Land Office shall manage property acquired by advance acquisition if requested by the department and prohibits sale or encumbrance of the property.

Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. Provides that the commission shall use the procedures established in Subchapter B in disposing of property acquired by advance acquisition and not needed for a transportation facility.

ARTICLE 5 – DRIVER RESPONSIBILITY

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

CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM.

SUBCHAPTER A. GENERAL PROVISIONS.

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

Sec. 708.002. RULES. Requires the Department of Public Safety (DPS) to adopt rules to implement and enforce the chapter.

Sec. 708.003. FINAL CONVICTIONS. Provides that a conviction is considered a final conviction, whether or not a sentence is probated.

SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE.

Sec. 708.051. NONAPPLICABILITY. Provides that the subchapter does not apply to convictions that became final before September 1, 2003, or to offenses covered by Subchapter C.

Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS. Assigns motor vehicle points for different kinds of traffic violations.

Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Provides for an annual surcharge on drivers who accumulate 6 motor vehicle points or more over a 36 month period.

Sec. 708.054. AMOUNT OF POINTS SURCHARGE. Identifies the amount of the surcharge as

\$100 for six points and \$25 for each additional point.

Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. Provides that the DPS shall notify a driver when the driver receives a fifth point.

SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND LICENSE SUSPENSIONS.

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

Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. Establishes a surcharge of \$1,000 per year for three years for offenses relating to driving while intoxicated and of \$1,500 per year for three years for a third or subsequent violation.

Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. Establishes a surcharge of \$250 per year for three years for convictions under Section 521.457, 601.191, or 601.371 during the preceding 36 months.

Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT VALID LICENESE. Establishes a surcharge of \$100 per year for three years for a conviction under Section 521.021 during the preceding 36 months.

SUBCHAPTER D. COLLECTION OF SURCHARGES.

Sec. 708.151. NOTICE OF SURCHARGE. Requires DPS to notify a driver of the assessment of a surcharge, the date for payment, and the consequences of not paying.

Sec. 708.152. FAILURE TO PAY SURCHARGE. Provides that a driver's license is suspended automatically if the driver fails to pay an assessed surcharge.

Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. Provides that DPS shall provide by rule for installment payments of surcharges and establishes maximum durations.

Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. Authorizes DPS to accept credit card payments of surcharges, allows suspension of a driver's license if a payment is later reversed by a credit card company, and provides for assessment of a fee.

Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. Authorizes DPS to contract with a third party to collect surcharges.

Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO COMPTROLLER. Provides that surcharges shall be remitted to the comptroller under Section 780.002, Health and Safety Code.

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

CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

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

Sec. 780.002. DEPOSITS TO ACCOUNT. Provides that DPS shall remit surcharges collected under the driver responsibility program to the comptroller, that one percent of the collected surcharges will be appropriated to DPS for administration of the driver responsibility program, that 49.5 percent will be

deposited to the credit of the account, and that 49.5 percent will be deposited to the credit of general revenue.

Sec. 780.003. ACCOUNT. Creates the trauma facility and emergency medical services account. Money in this account may be appropriated only to the Texas Department of Health (TDH) for the purposes described in this chapter. Exempts this account from Sections 403.095 and 404.071, Government Code.

Sec. 780.004. PAYMENTS FROM THE ACCOUNT. Provides that the commissioner is required to use money appropriated from the account to fund designated trauma facilities, county and regional emergency medical services (EMS), and trauma care systems. Requires the commissioner to maintain a reserve of \$500,000 for extraordinary emergencies. Requires the commissioner to use at least 96% of the money in the account, calculated after deducting the \$500,000 reserve, to fund a portion of the uncompensated trauma care provided at facilities designated by TDH. Provides that the administrator of a designated facility is authorized to request a regional advisory council chairperson to petition TDH for disbursement of funds to a designated trauma facility in the chairperson's service area that has provided uncompensated care. Allows funds to be disbursed based on a proportionate share of uncompensated trauma care provided in the state and may be used to fund innovative projects to enhance the delivery of patient care in the overall EMS and trauma care system. Prohibits the commissioner from using more than 2% of the money in the account, calculated after deducting the \$500,000 reserve, to fund the cost of supplies, operational expenses, education and training, equipment, vehicles, and communication systems for local EMS services. Provides detailed limitations and procedures regarding such disbursements. Prohibits the commissioner from using more than 1% of the money in the account, calculated after deducting the \$500,000 reserve, for operation of the 22 trauma service areas and for equipment, communications, and education and training for the areas. Provides detailed limitations and procedures regarding the disbursements. Prohibits the commissioner from using more than 1% of the money in the account, calculated after deducting the \$500,000 reserve, to fund the administrative costs of the bureau of emergency management of the department associated with administering the trauma program, the state EMS program, and the account.

Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT. Provides the executive committee of the trauma service area regional advisory council control of distributions of the account created by this Act.

Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. Prohibits TDH from disbursing money from the account for one to three years, at the discretion of the commissioner, to any county, municipality, or local recipient that the commissioner finds used money in violation of Section 780.004 created by this Act.

SECTION 5.03. Requires TDH to submit a report to the lieutenant governor and the speaker of the house, no later than December 1, 2004, concerning the use of money under this chapter and recommending any changes to the law to ensure appropriate funding and coordination of services.

ARTICLE 6 - RAIL FACILITIES

SECTION 6.01. Presents legislative findings.

SECTION 6.02. Amends Title 5, Transportation Code by adding Subtitle A, Chapter 91 as follows:

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 91. RAIL FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 91.002. PUBLIC PURPOSE. Provides that the specified functions granted to the commission and the department under this chapter are public and governmental functions, exercised for a public purpose, and matters of public necessity.

Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. Provides that this chapter shall be liberally construed to effect its purposes.

Sec. 91.004. RULES. Authorizes the commission to adopt rules and the department to implement procedures and prescribe forms necessary to implement this chapter.

Sec. 91.005. GENERAL POWERS. Authorizes the department to plan and make policies for rail facilities and systems in this state, to acquire, finance, construct, maintain, and operate passenger or freight rail facilities and systems, to accept grants or loans for the purpose of acquiring or financing rail facilities and systems, to contract with public or private persons to finance, construct, maintain, or operate rail facilities, and to perform any other act necessary to the full exercise of the department’s powers under this chapter.

Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. Provides that the department shall contract with a private entity to operate a railroad, may not use department employees to operate a railroad, and may maintain a railroad directly or through private entities.

Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. Provides that a state agency or political subdivision is required to cooperate with and assist the department in exercising its powers and duties under this chapter.

Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires the department, on receipt of the notice of intent to abandon or discontinue rail service described by 49 C.F.R. Section 1152.20, as amended, to coordinate with the governing body of any municipality, county, or rural rail transportation district in which all or a segment of the line is located as to whether the department should acquire the rail facilities to which the notice relates, or any other actions should be taken to provide for continued rail transportation service.

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) Authorizes the commission to create rail systems for the purpose of jointly operating two or more rail facilities as one operational and financial enterprise.

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

(c) Authorizes the department to finance, acquire, construct, and operate additional rail facilities as additions to and expansion of a system.

(d) Provides that the revenue of a system shall be accounted for separately and may not be commingled with the revenue of a rail facility that is not part of the system.

Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) Authorizes the commission to authorize the department to acquire existing rail facilities at locations and on routes the commission determines to be feasible and viable for rail transportation service.

(b) Authorizes the department to enter into an agreement with an owner of an operating railroad for the acquisition or use of rail facilities on terms and conditions the department finds to be in the best interests of the state.

(c) Authorizes the department to acquire rolling stock or other personal property.

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

(b) Authorizes the commission to adopt rules allocating responsibilities for conducting environmental evaluations or studies or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) Provides that the department may acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating adverse environmental effects arising from the construction, maintenance, or operation of a rail facility, whether or not the need for mitigation has already been established.

(b) Authorizes the department to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating adverse environmental effects.

(c) Authorizes the department to pay a sum of money to a governmental or private entity instead of acquiring or managing property for the purpose of mitigating adverse environmental effects.

Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR PRIVATE ENTITY.

Authorizes the department, with the consent of the applicable political subdivision, to use streets, alleys, roads, highways, and other public ways of the political subdivision for the purpose of acquiring, constructing, maintaining, and operating rail facilities and systems. Authorizes the department, at its expense, to relocate, raise, reroute, or change the grade of the construction of a street, road, highway, and railroad, electric, telephone, or pipeline facility, and other properties necessary in the construction, maintenance, and operation of rail facilities or systems.

Sec. 91.036. EXPENDITURE OF FUNDS. Authorizes the department to receive, accept, and expend funds received from the state, any federal agency, or other public or private sources for certain stated purposes, including the acquisition, construction, maintenance, or operation of rail facilities under this chapter.

SUBCHAPTER C. CONTRACTS

Sec. 91.051. AWARDING OF CONTRACTS. Provides that, unless otherwise provided by this subchapter, a contract for the construction, maintenance, or operation of a rail facility must be let by a competitive bidding procedure in which the contract is awarded to lowest responsible bidder.

Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE RAIL FACILITIES. Authorizes the department to enter into an agreement with a public entity to permit that entity, independently or jointly with the department, to acquire, construct, maintain, or operate a rail facility or system.

Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) Authorizes the department to enter into an exclusive development agreement with a private entity to construct, maintain, or operate, in any combination, a rail facility or system. Provides that an exclusive development agreement may provide for the issuance of franchises, concessions, licenses, or permits to the private entity.

(b) Requires the department, when contracting with a private entity under this section, to use a competitive procurement process that provides the best value for the department, including through the issuance of requests for proposals. Requires a request for bids, proposals, or qualifications to include the criteria used to evaluate offerors and the relative weight given to each criterion. Authorizes the department to accept unsolicited proposals for projects under specified conditions. Authorizes the department to require a nonreimbursable proposal review fee.

(c) Provides the department with broad discretion to negotiate provisions in an exclusive development agreement, including provisions for combining professional services and construction services.

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

(e) Requires the department to prescribe the form of an exclusive development agreement, and authorizes the inclusion of any matter advantageous to the state.

(f) Provides that an exclusive develop agreement is not subject to the requirements of Section 91.051.

Sec. 91.054. PAYMENT FOR WORK PRODUCT. Authorizes the department to pay an unsuccessful private entity that submits a proposal a stipulated amount of the final contract price for any costs incurred in preparing the proposal, provided the amount paid does not exceed the value of work product contained in the proposal that can be used by the department.

Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. Provides that the department may not incur a financial obligation on behalf of a private entity that constructs, maintains, or operates a rail facility or system.

Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Provides that proposals for projects developed under an exclusive development agreement and related information are confidential.

Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. Requires a private entity entering into an exclusive development agreement to provide performance and payment bonds or alternative forms of security authorized under this section, and prescribes the amount of security. Requires the commission to prescribe by rule requirements for alternate forms of security.

Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) Requires the department to set goals for the award of contracts to small and disadvantaged businesses, to identify small and disadvantaged businesses that can provide supplies, materials, equipment, and services to the department, and to give small and disadvantaged businesses full access to the department's contract bidding process.

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

SUBCHAPTER D. FINANCING OF RAIL FACILITIES

Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. Authorizes the department to use any legally permissible source of funding in acquiring, constructing, maintaining, and operating a rail facility or system, including appropriations from the state highway fund, bond proceeds, loans, and donations.

Sec. 91.072. REVENUE BONDS. (a) Authorizes the commission to issue revenue bonds to pay all or part of the cost of acquiring, constructing, maintaining, or operating a rail facility or system, or to refund previously issued bonds.

(b) Provides that Chapters 1201, 1202, 1204, 1207, and 1371, Government Code apply to bonds

issued by the commission, and that the provisions of this chapter prevail to the extent of any conflict between those laws and this chapter.

Sec. 91.073. PAYMENT OF BONDS. Provides that bonds issued by the commission are payable solely from the revenue of the rail facility or system for which the bonds are issued, grants and loans, amounts received under certain credit agreements, and other money available to the department, other than money derived from a rail facility that is not part of the same system, except that surplus revenue may be used.

Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Provides that bonds issued under this chapter do not constitute a debt of the state or a pledge of the faith and credit of the state.

(b) Provides that the commission and the department may not incur financial obligations under this chapter that cannot be paid from revenue derived from the department's rail facilities and systems and from other revenue provided by law.

Sec. 91.075. GRANTS AND LOANS. Authorizes the department to apply for, accept, and expend money from grants, loans, or reimbursements for any purpose of this chapter.

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

(b) Requires the department to establish and maintain rents or other compensation for the use of rail facilities or systems that is, together with other revenue received under this chapter, sufficient to satisfy payment obligations for bonds issued under this chapter.

(c) Provides that the department may contract with a person for the use of all or part of a rail facility or system or lease or sell all or part of a rail facility or system, including for the purpose of placing on the adjoining right of way certain appurtenant facilities.

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

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

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

(b) Provides that the commission may authorize the department to acquire property by any method, including purchase and condemnation.

(c) Provides that property may be purchased along alternative potential routes for a rail facility even if only one of these routes will ultimately be chosen as the final route.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL FACILITIES. Defines property that is necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities, including right of way for a rail facility or the future location of a rail facility, land for environmental mitigation and buffer zones, and property that is used to provide revenue for use in acquiring, constructing, maintaining, or operating a rail facility or system.

Sec. 91.093. RIGHT OF ENTRY. (a) Authorizes the department to enter any real property, water, or premises to make a survey, geotechnical evaluation, sounding, or examination needed in order to

acquire property for a rail facility.

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

(c) Requires the department to reimburse any actual damages that result from an activity described in Subsection (a).

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY. Authorizes the governing body of a political subdivision or public agency to, without advertisement, convey property to the department that is determined to be necessary or convenient for a rail facility.

Sec. 91.095. DISPOSAL OF PROPERTY. Authorizes the department to dispose of any rights or interests in real property acquired under this subchapter that the commission determines are no longer needed for department purposes.

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES. Authorizes the department to contract with a political subdivision of this state to provide rail transportation services in the political subdivision.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) Provides that the department may lease rail facilities or systems or any part to, or contract for the use of rail facilities or systems or any part by, any rail operator.

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

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

(d) Authorizes the department to enter into agreements with any rail operator to sell all or part of any state-owned rail facility.

Sec. 91.103. JOINT USE OF RAIL FACILITIES. Authorizes the department to enter into agreements with a rail operator, public or private utility, communication system, common carrier, or transportation system for the common use of its facilities or properties, and to establish through routes, joint fares, and divisions of tariffs.

Sec. 91.104. ROUTINGS. Provides that the department may determine routings for rail facilities acquired, constructed, or operated by the department under this chapter.

Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT. (a) Provides that a utility has the same right to place its facilities, lines, or equipment in, over, or across right of way that is part of a state-owned rail facility as the utility has with respect to the right of way of a state highway under Chapter 181, Utilities Code. Requires a utility to notify the department of the utility's intention to exercise that authority over right of way that is part of state-owned rail facilities.

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

(c) Authorizes the department to require a utility to relocate the utility's facilities, lines, or equipment, at the utility's expense, to allow for the expansion or relocation of state owned rail facilities. Requires the department to pay for the cost of the relocation under certain conditions.

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

SECTION 6.03. Repeals Section 2, Chapter 1244, Acts of the 77th Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's Texas Civil Statutes).

SECTION 6.04. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 7 - DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

SECTION 7.01. Adds Section 521.058, Transportation Code, to require fees collected under Subchapter D, including those associated with the collection or disclosure of department driver's license records, be deposited to the credit of the mobility fund.

SECTION 7.02. Amends Section 521.313, Transportation Code, by adding Subsection (c) to require that fees collected for the reinstatement or re-issuance of a driver's license suspended or revoked under that subchapter be deposited to the credit of the mobility fund.

SECTION 7.03. Amends Section 521.3466, Transportation Code, by adding Subsection (e) to require that fees collected for re-issuing a driver's license following an automatic revocation under that section be deposited to the credit of the mobility fund.

SECTION 7.04. Adds Section 521.427, Transportation Code, to require that fees collected under Subchapter R, including fees for driver's license examinations, Personal Identification Certificates, and Disability Certificates, be deposited to the credit of the mobility fund. Excepted from this section are certain fees allocated to the Blindness Education, Screening, and Treatment Program, the Anatomical Gift Educational Program, and the motorcycle education fund account.

SECTION 7.05. Amends Section 522.029, Transportation Code, to require that fees collected under Section 522.029 for commercial driver licenses and commercial driver license learner permits be deposited to the credit of the mobility fund. Excepted from this requirement are fees deposited in the motorcycle education fund account.

SECTION 7.06. Amends Section 524.051, Transportation Code, by adding Subsection (c) to require that fees collected for reinstating a driver's license suspended due to an administrative license revocation be deposited in the mobility fund.

SECTION 7.07. Adds Section 548.508, Transportation Code, to require that fees collected under Subchapter H for motor vehicle safety and emissions inspections and inspector certifications be deposited to the credit of the mobility fund. The section excepts from this allocation certain funds allocated by the Health and Safety Code to the clean air account, and certain funds allocated to the motorcycle education fund account.

SECTION 7.08. Amends Section 644.153, Transportation Code, by adding Subsection (i) to require that commercial motor vehicle administrative penalties collected under that section be deposited to the credit of the mobility fund.

SECTION 7.09. Amends Section 724.046, Transportation Code, by adding Subsection (c) to require fees collected under that section for reinstating a suspended driver's license be deposited to the credit of the mobility fund.

SECTION 7.10. Deletes Section 521.055(d), Transportation Code. Section 521.055 provides for an

interactive computer system that allows access to certain driver's license records, and establishes fees for use of the system. Subsection (d) provides that fifty cents of each fee shall be appropriated to DPS for the administration of Chapter 521.

SECTION 7.11. Applies this article only to a fee or penalty collected on or after the effective date of this Act.

ARTICLE 8 - ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

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

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND. (a)

Authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) Prohibits the aggregate principal amount of the bonds and other public securities that are issued from exceeding \$5 billion. Authorizes the commission to issue bonds or other public securities only in an aggregate principal amount of no more than \$1 billion each year.

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

(d) Requires the commission to prescribe, by rule, criteria for selecting highway safety improvement projects eligible for funding under this section. Requires the commission to consider certain factors in establishing these criteria.

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

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

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

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

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

(j) Authorizes bonds and other public securities issued under this section to be sold in such a manner and subject to such terms and provisions as set forth in the order authorizing their issuance; and requires that such bonds and securities mature no later than 20 years after their dates of issuance, subject to any refundings or renewals.

(k) Requires the comptroller to withdraw from the state highway fund and forward at the direction of the commission to another person the amounts as determined by the commission to permit timely payment of certain bond-related expenses and obligations.

SECTION 8.02. Provides that this article takes effect on the effective date of the constitutional amendment proposed by the 78th Legislature that authorizes the legislature to provide for the issuance of bonds and other public securities for improvements to the state highway system. Provides that this article has no effect if that amendment is not approved by the voters.

ARTICLE 9 - SHADOW TOLLS

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

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

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

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

(d) Authorizes the department to enter into an agreement with a regional tollway authority, regional mobility authority, or a county acting under Chapter 284, Transportation Code, that provides for: (1) the payment of shadow tolls to an authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway converted to a toll facility of the authority or county that the department estimates it would have incurred had the highway not been converted; or (2) the payment by an authority or county of shadow tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, construct, and maintain a state highway or a portion of a state highway converted to a toll facility of the authority or county.

(e) Authorizes the department or another public entity to use any available funds for the purpose of making a shadow toll payment.

(f) Authorizes the commission to adopt rules necessary to implement Section 222.104, including establishing criteria for determining the amount of shadow tolls paid under that section, and allocating traffic risk.

SECTION 9.02. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 10 - TEXAS TURNPIKE AUTHORITY

SECTION 10.01. Amends Section 201.112(a), Transportation Code, to include turnpike improvement contracts and other contracts entered into under Chapter 361, Transportation Code among the contracts for which the commission may adopt rules establishing procedures for the informal resolution of contract claims.

SECTION 10.02. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and

that otherwise it takes effect September 1, 2003.

ARTICLE 11 - PROPERTY TRANSFER

SECTION 11.01. Amends Section 201.103, Transportation Code, to authorize the commission to designate highways as part of the state highway system and to remove segments from the system when they are no longer needed.

SECTION 11.02. Amends Section 202.021, Transportation Code, to clarify that the department must sell surplus real property other than right of way to the general public, and to codify the common law rule that when selling surplus right of way, the department must give first priority to a governmental entity with the authority to condemn the property. Authorizes the department to waive payment from a governmental entity if the cost of future maintenance would equal or exceed the fair value of the property, and authorizes the executive director to execute the deed when the department disposes of property worth less than \$10,000.

SECTION 11.03. Amends Section 202.030, Transportation Code, to require attorney general approval of the transfer or conveyance of property only when the value of the property transferred or conveyed is \$10,000 or more.

SECTION 11.04. Adds Section 202.033, Transportation Code, to authorize the department to transfer ownership of a historic bridge scheduled for replacement to a public or private entity that assumes full responsibility for the preservation and maintenance of the bridge.

SECTION 11.05. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 12 - MISCELLANEOUS PROVISIONS

SECTION 12.01. (a) Recreates the tertiary care account under Section 46.003, Health and Safety Code.

(b) Amends Chapter 542, Transportation Code, by addition section 542.4031 as follows:

Sec. 542.4031. **ADDITIONAL COURT COST.** Imposes an additional court cost of \$30 for traffic violations and allocates \$10 of this court cost to the tertiary care account under Section 46.003, Health and Safety Code.

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

Sec. 45.0511(r). Imposes an administrative fee on the deferred adjudication of certain traffic violations and allocates \$10 of this court cost to the tertiary care account under Section 46.003, Health and Safety Code.

(d) Provides that a change in law made by this section applies only to an offense committed after the effective date of this section.

ARTICLE 11 – GENERAL PROVISIONS; EFFECTIVE DATE

SECTION 13.01. Exempts money deposited in a specific account or fund pursuant to this Act from Section 403.095, Government Code.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3588 differs from the original bill by detailing mechanisms by which intermodal transportation systems may be implemented. The substitute specifies the manner in which highways, turnpikes, railroads, and other transportation modes are to be integrated into a new transportation system known as the Trans Texas Corridor. The substitute also provides for the integration of rail into the overall system by authorizing the department to take a more active role in planning, designing, and constructing rail facilities. The substitute adds detailed provisions governing the creation and operation of Regional Mobility Authorities. The substitute provides for a new kind of turnpike constructed locally and financed over time by the state through shadow tolls. The substitute allows the department to use exclusive development agreements as a means of accelerating construction and provides that contract claims arising from the construction of toll highways will be treated the same as contract claims arising from other highway construction projects. The substitute provides for improved management of transportation-related property by allowing the commission to take roads off the state highway system, convey excess property to other government entities, and transfer to other government entities historic bridges that will be replaced.

The substitute also differs from the original by addressing in more detail the financing of transportation projects. The substitute enhances the financing of transportation projects by authorizing the commission to issue bonds secured by revenues of the state highway fund. The substitute redirects certain fees collected by the Department of Public Safety to the Texas Mobility Fund. The substitute differs from the original by adding additional revenue and safety provisions, including added fines for certain traffic violations.

The substitute also includes various other substantive, procedural, and technical changes.