

BILL ANALYSIS

Senate Research Center

C.S.H.B. 3588
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Infrastructure Development and Security
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Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.H.B. 3588 provides 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 (TxDOT).

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.

C.S.H.B. 3588 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. TxDOT 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

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1.01 (Section 227.002, Transportation Code), SECTION 2.01 (Sections 370.035, 370.037, 370.038, and 370.182, Transportation Code), SECTION 4.01 (Sections 91.003 and 91.033, Transportation Code), SECTION 5.01 (Section 222.003, Transportation Code), SECTION 6.01 (Section 222.104, Transportation Code), and SECTION 7.01 (Section 284.009, Transportation Code) of this bill.

Rulemaking authority is expressly granted to regional mobility authorities in SECTION 2.01 (Sections 370.033, 370.035, 370.037, 370.168, 370.180, and 370.183, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 11.03 (Section 152.0412, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TRANS-TEXAS CORRIDOR

SECTION 1.01. 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. DEFINITIONS. Defines: "bond," "construction," "credit agreement," "facility," "fee," "operation," "public utility facility," "Trans-Texas Corridor," and "turnpike."

Sec. 227.002. RULES. Authorizes the Texas Transportation Commission (TTC) to adopt rules and authorizes the Texas Department of Transportation (TxDOT) to implement procedures and forms as necessary or convenient to implement and administer this chapter.

Sec. 227.003. APPLICABILITY. (a) Provides that all laws governing the financing, design, construction, maintenance, or operation of a highway in the state highway system apply to the financing, design, construction, maintenance, or operation of a highway under this chapter unless in conflict with this chapter.

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

(c) Provides that this chapter does not apply to real or personal property, facilities, funding, projects, operations, construction, or a project plan of a transportation authority created under Chapter 451 or 452, unless TTC or its designee has signed a written agreement with the transportation authority specifying the terms and conditions under which the transportation authority may participate in the Trans-Texas Corridor.

[Reserves Sections 227.004-227.010 for expansion.]

SUBCHAPTER B. ESTABLISHMENT

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

Sec. 227.012. ROUTE SELECTION. Requires TTC to consider certain criteria when selecting a route for a segment of the Trans-Texas Corridor.

Sec. 227.013. PUBLIC PARTICIPATION. Requires TxDOT, before designating a route for a segment of the Trans-Texas Corridor, to hold at least one public hearing in each county through which the segment may pass.

Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) Authorizes TTC, if it determines that the mobility needs of this state would be most efficiently and economically met by jointly operating two or more facilities as one operational and financial enterprise, to create a system composed of those facilities. Authorizes TTC to create more than one system and to combine two or more systems into one system. Authorizes TTC to finance, construct, and operate an additional facility as an expansion of a system if TTC determines that the facility would most efficiently and economically be constructed and operated if it were a part of the system and that the addition will benefit the system. Provides that a system may only include facilities located wholly or partly within the territory of: a metropolitan planning organization; or

two adjacent TxDOT districts.

(b) Requires that the revenue of a system be accounted for separately and prohibits it from being commingled with the revenue of a facility that is not a part of the system.

Sec. 227.015. LOCATION OF FACILITIES. Authorizes TxDOT, notwithstanding any other law, including Chapter 181, Utilities Code, Chapter 402, Local Government Code, and Section 49.220, Water Code, to specify the location of any facility on the Trans-Texas Corridor, and direct the time and manner of construction or operation of any facility on the Trans-Texas Corridor.

[Reserves Sections 227.016-227.020 for expansion.]

SUBCHAPTER C. DEVELOPMENT AND OPERATION

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

(b) Provides that a governmental entity may only construct or operate a facility that is located in the geographic area within which that entity is authorized to operate.

(c) Authorizes TxDOT, subject to Section 227.029, to grant or deny access to the Trans-Texas Corridor. Prohibits TxDOT from discriminating unreasonably among users or potential users of a facility.

(d) Prohibits TxDOT from directly providing telecommunications services to the public.

Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) Provides that a toll or non-toll highway on the Trans-Texas Corridor that is constructed or operated by another entity shall be part of the state highway system. Provides that this subsection applies even if the entity constructing or operating the highway is not independently authorized to construct or operate a highway that is part of the state highway system.

(b) Provides that if TxDOT authorizes another governmental entity to construct or operate a facility on the Trans-Texas Corridor, that entity has each power of TxDOT under this chapter with respect to that facility, including the right to collect fees, except that any property acquired by the entity shall be held in the name of the state, and the entity may not file a declaration of taking and obtain early possession of real property.

(c) Provides that if TxDOT authorizes another governmental entity to construct or operate a facility on the Trans-Texas Corridor, that entity is liable for a claim relating to the Trans-Texas Corridor only to the extent that TxDOT would be liable if it were constructing or operating the facility.

Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) Requires TxDOT, to the maximum extent practical and economical, to encourage the participation of private entities in the planning, design, construction, and operation of facilities.

(b) Requires TxDOT to contract with a private entity to operate a railroad using rail facilities owned by TxDOT and prohibits TxDOT from using TxDOT employees to operate a railroad. Authorizes TxDOT to maintain a rail facility directly or through a private entity.

(c) Authorizes TxDOT, to the extent and in the manner that TxDOT may enter into comprehensive development agreements under Chapter 361 with regard to turnpikes, to enter into comprehensive development agreements under this chapter with regard to facilities on the Trans-Texas Corridor. Provides that all provisions of Chapter 361 relating to comprehensive development agreements for turnpikes apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Provides that claims arising under an comprehensive development agreement are subject to Section 201.112.

Sec. 227.024. HIGHWAYS. Provides that a highway, including a turnpike, on the Trans-Texas Corridor is a part of the state highway system.

Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) Authorizes TTC to authorize the operation of a vehicle that exceeds the height, length, or gross weight limitations of Subchapter C, Chapter 621, on a segment of a highway on the Trans-Texas Corridor if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety.

(b) Provides that this section does not authorize the operation of a vehicle that exceeds a maximum axle weight authorized by Chapter 621, 622, or 623.

Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) Authorizes TxDOT to acquire personal property, except rolling stock, under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement for use in connection with a facility.

(b) Authorizes TxDOT to enter into an agreement with a rail operator, transportation common carrier, transportation system, or any other entity for the common use of any facility.

(c) Authorizes TxDOT to enter into agreements with a public or private utility, the owner or operator of a communications system, utility common carrier, or transportation system, or another entity for the common use of a public utility facility.

Sec. 227.027. ENVIRONMENTAL REVIEW. (a) Requires TxDOT to conduct or approve each environmental evaluation or study required for an activity associated with the Trans-Texas Corridor.

(b) Authorizes TTC to allocate responsibilities for conducting environmental evaluations or studies or preparing environmental documentation among entities involved in the construction or operation of any facility of the Trans-Texas Corridor.

Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) Authorizes TxDOT to acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating a past, present, or future adverse environmental effect arising from the construction or operation of any part of the Trans-Texas Corridor without regard to whether the need for mitigation is established for a particular project.

(b) Authorizes TxDOT to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of a past, present, or future adverse environmental effect arising from the construction or operation of any part of the Trans-Texas Corridor without regard to whether the need for mitigation has already been established for a particular project.

(c) Authorizes TxDOT, if authorized by the applicable regulatory authority, to pay a sum of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction or operation of any part of the Trans-Texas Corridor without regard to whether the need for mitigation has already been established for a particular project.

Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) Authorizes TxDOT to construct a grade separation at an intersection of a Trans-Texas Corridor facility with another facility and to change the line or grade of a facility to accommodate the facility to the design of a grade separation. Requires TxDOT to pay the cost of a grade separation and any damage incurred in changing a line or grade of a facility.

(b) Requires TxDOT, if it finds it necessary to change the location of a portion of a facility, to reconstruct the facility at the location TxDOT determines to be most favorable. Requires the reconstructed facility to be of substantially the same type and in as good condition as the original facility. Requires TxDOT to determine and pay the cost of the reconstruction and any damage incurred in changing the location of a facility.

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

Sec. 227.030. UNAUTHORIZED USE. Authorizes TxDOT to remove unauthorized personal property, including a vehicle, from the Trans-Texas Corridor without notice and at the owner's expense. Provides that moved property may be stored until claimed by the owner. Provides that if a removed motor vehicle is not claimed by the owner within 72 hours after the date and time of removal, it shall be considered abandoned within the meaning of Chapter 683. Provides that TxDOT and its employees are not liable for damage to property that is removed from the Trans-Texas Corridor under this section.

Sec. 227.031. EXCLUSIVE LANES. Authorizes TxDOT to dedicate one or more lanes of a highway on the Trans-Texas Corridor to the exclusive use of designated classes of vehicles.

[Reserves Sections 227.032-227.040 for expansion.]

SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

Sec. 227.041. POWERS AND PROCEDURES. (a) Provides that, except as otherwise provided by this subchapter, TTC has the same powers and duties relating to the condemnation and acquisition of real property for a facility of the Trans-Texas Corridor that TTC and TxDOT have relating to the condemnation or purchase of real property under Subchapter D, Chapter 361, and Section 361.233 for a turnpike project. Authorizes TTC to purchase an option to purchase property that TTC is considering for possible use as part of the Trans-Texas Corridor even if it has not been finally decided that the Trans-Texas Corridor will be located on that property. Authorizes property to be purchased along alternative potential routes for the Trans-Texas Corridor even if only one of those potential routes will be selected as the final route.

(b) Provides that an interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Sets forth primary purposes.

(c) Provides that, unless in conflict with this chapter, all laws governing the acquisition of right-of-way for a state highway apply to the acquisition of right-of-way for the

Trans-Texas Corridor. Provides that Sections 203.056, 203.057, and 203.058 apply to an acquisition by TxDOT from a state agency. Requires compensation to a state agency under those sections to be reasonable and authorizes it to take the form of a single payment, a participation payment under Section 227.042, or both a single payment and a participation payment.

Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) Authorizes TxDOT, as an alternative to paying for an interest in real property or a real property right with a single fixed payment, with the owner's consent, to pay the owner by means of a corridor participation payment.

(b) Provides that a right to receive a corridor participation payment under this section is subordinate to any right to receive a fee as payment on the principal of or interest on a bond that is issued for the construction of the applicable segment of the Trans-Texas Corridor.

(c) Defines "corridor participation payment."

Sec. 227.043. PURCHASE AND LEASEBACK. Authorizes TxDOT to acquire real property for the Trans-Texas Corridor and immediately lease it back to the former owner for a fixed or indefinite term.

Sec. 227.044. RIGHT OF ENTRY TO PROPERTY WITH PUBLIC UTILITY FACILITY. Requires TxDOT, in order to ensure the safety and convenience of the public, when entering any real property, water, or premises on which is located a public utility facility, to comply with applicable industry standard safety codes and practices, and give the owner or operator of the facility not less than 10 days' notice before entering the real property, water, or premises.

Sec. 227.045. OTHER GOVERNMENTAL ENTITIES. Provides that if TxDOT authorizes another governmental entity to construct or operate a segment of or a facility on the Trans-Texas Corridor, that entity has all the powers and duties of TxDOT under this subchapter, except that the entity may only construct or operate a facility that is located in the geographic area within which that entity is authorized to operate, and may not file a declaration of taking and obtain early possession of real property.

Sec. 227.046. COST OF RELOCATING PUBLIC UTILITY FACILITY. (a) Requires that a telecommunications utility or a telecommunications utility holding a certificate of convenience and necessity, certificate of authority, or service provider certificate of authority recover from TxDOT its reasonable costs to relocate a public utility facility to accommodate the development or construction of the Trans-Texas Corridor.

(b) Provides that an owner of a public utility facility is not obligated to relocate the utility facility on the Trans-Texas Corridor if the owner determines that another location is feasible.

(c) Requires TxDOT, if a public utility facility is located on the Trans-Texas Corridor, to grant the owner reasonable access to operate and maintain the utility facility in accordance with industry standard safety codes and practices.

(d) Provides that relocation of facilities pursuant to this section is subject to TxDOT's reasonable regulations pertaining to public health, safety, and welfare.

[Reserves Sections 227.047-227.060 for expansion.]

SUBCHAPTER E. FINANCING

Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Authorizes TxDOT, subject to Section 227.062, to use any available source of funding in acquiring property for, constructing, and operating the Trans-Texas Corridor, including certain sources.

Sec. 227.062. LIMITATIONS ON DEPARTMENT FINANCIAL PARTICIPATION. (a) Provides that each fiscal year, the total amount disbursed by TxDOT out of the state highway fund for certain activities on the Trans-Texas Corridor may not exceed 20 percent of the obligation authority under the federal aid highway program that is distributed to this state in that year.

(b) Provides that the limitation under Subsection (a) does not apply to money spent for certain purposes, the proceeds of bonds or other public securities issued to pay the cost of a facility deposited to the credit of the state highway fund, revenue attributable to a facility deposited to the credit of the state highway fund, loans deposited to the credit of the state highway fund, or contributions from a public or private entity that are deposited to the credit of the state highway fund.

(c) Prohibits the total amount disbursed by TxDOT out of state and federal funds each fiscal year from exceeding \$25 million for the construction or purchase of non-highway facilities on the Trans-Texas Corridor. Provides that this subsection does not apply to funds derived from the issuance of bonds, private investment, donations, the Federal Transit Administration, or the Federal Railroad Administration. Provides that this subsection also does not apply to activities that are subject to the limitation in Subsection (a).

(d) Prohibits TTC from disbursing money out of the state highway fund for the initial construction of a facility of the Trans-Texas Corridor unless TTC finds that the disbursement will reduce traffic congestion to an extent that is comparable to the reduction in traffic congestion that would likely be achieved by spending the same amount of money on the project that is the most reasonable alternative. Provides that this subsection does not apply to the disbursement of money out of the state highway fund for environmental studies or for the acquisition of right-of-way.

(e) Prohibits TTC from disbursing money from the state highway fund or the Texas mobility fund to construct a portion of the Trans-Texas Corridor unless it would replace or supplement a project identified in TxDOT's unified transportation program or a transportation corridor identified in the statewide transportation plan.

(f) Prohibits TTC from authorizing the construction of rail facilities unless it finds that the construction will reduce congestion and improve mobility.

Sec. 227.063. FINANCING OF FACILITIES AND SYSTEMS. (a) Provides that TTC and TxDOT have the same powers and duties relating to the financing of a facility or a system established under Section 227.014 as TTC and TxDOT have under Subchapter E, Chapter 361, relating to the financing of a turnpike project.

(b) Provides that the powers held by TTC and TxDOT include the powers to:

(1) authorize the issuance of bonds to pay all or part of the cost of a facility or system or to pay for all or part of the cost of a facility or system that will become a part of another system;

(2) impose a toll or other fee for the use of a facility or system; and

(3) obtain from another source the fees and other revenue necessary to pay all or part of the principal and interest on bonds issued under this chapter.

(c) Provides that, for purposes of this section, a reference in Subchapter E, Chapter 361 to a turnpike project means a facility or system, and revenue includes a fee established under this chapter.

Sec. 227.064. LOANS AND OTHER FUNDING. Authorizes TxDOT to borrow money from the United States or use money in the state infrastructure bank created under Subchapter D, Chapter 222, to fund the construction or operation of a facility under this chapter. Provides that money borrowed under this section may be evidenced by the issuance of bonds.

[Reserves Sections 227.065-227.080 for expansion.]

SUBCHAPTER F. REVENUE

Sec. 227.081. FEES. (a) Authorizes TxDOT, notwithstanding any other law, including Chapters 161, 162, 163, and 181, Utilities Code, Chapter 402, Local Government Code, and Chapter 49, Water Code, and except as provided in Subsection (e), to require a person, including a governmental or private entity, to pay a fee as a condition of using any part of the Trans-Texas Corridor.

(b) Authorizes TTC to establish fees to be imposed by TxDOT under this chapter. Provides that fees may be set as absolute amounts, as a percentage of revenue, as a percentage of actual use or throughput, as a designated portion or percentage of initial facility funding, or on any other reasonable basis. Authorizes TTC, subject to approval by a body having jurisdiction and authority to establish a tariff, to establish joint fees and divisions of fees.

(c) Authorizes a fee to exceed TxDOT's costs, but prohibits TTC from establishing a fee that is prohibitive or that discriminates unreasonably among users or potential users of a facility.

(d) Requires TTC, in establishing a fee or the amount of a fee under this section, to consider certain information.

(e) Prohibits TxDOT, if a public road is replaced or eliminated by the Trans-Texas Corridor and a facility used the right-of-way of that road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter 402, Local Government Code, or Chapter 49, Water Code, from requiring the owner of that facility to pay a fee as a condition of using a segment of the Trans-Texas Corridor for the location of a replacement facility.

(f) Prohibits TxDOT from requiring the owner of a public utility facility to pay a fee as a condition of crossing the Trans-Texas Corridor.

Sec. 227.082. LEASE OF PROPERTY OR RIGHTS. (a) Authorizes TxDOT to lease property on the Trans-Texas Corridor to any public or private entity. Authorizes a lease to be for a term not longer than 50 years.

(b) Authorizes TxDOT to grant a franchise to use or operate a facility on the Trans-Texas Corridor. Authorizes a franchise under this section to be granted for a term not longer than 50 years.

(c) Authorizes TxDOT to grant an exclusive or nonexclusive license to access or use any portion of the Trans-Texas Corridor for any purpose. Authorizes a license granted

under this section to be for a definite or indefinite term. Prohibits TxDOT from granting an exclusive license to access or use a highway on the Trans-Texas Corridor.

(d) Authorizes property to be leased or a franchise or license to be granted for any purpose, including use as a facility and use for unrelated commercial, industrial, or agricultural purposes.

(e) Authorizes TxDOT, in return for a lease, franchise, or license, to accept anything of value as consideration, including certain payments.

Sec. 227.083. DISPOSITION OF FEES. Requires revenue received by TxDOT under this chapter, to the extent that it is not dedicated to another purpose by the constitution, by statute, or by contract, to be deposited to the credit of the state highway fund and authorizes its use for any purpose authorized by this chapter. Provides that Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to revenue received under this chapter.

SECTION 1.02. Amends Subchapter H, Chapter 545, 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 TTC, notwithstanding Section 545.352, by order recorded in its minutes and except as provided by Subsection (d), to determine and declare on a highway segment of the Trans-Texas Corridor designated under Chapter 227 a reasonable and safe prima facie speed limit in excess of a prima facie speed limit established by Section 545.352.

(b) Requires TTC, in determining whether a prima facie speed limit is reasonable and safe, to conduct an engineering and traffic investigation and to consider the width and condition of the pavement, the usual traffic on the highway segment, the suitability of existing safety features, and other circumstances.

(c) Provides that a prima facie speed limit that is declared by TTC under this section is effective when TxDOT erects signs giving notice of the new limit. Provides that a new limit that is enacted under this section is effective at all times or at other times as determined.

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

(e) Requires TTC, in conducting the engineering and traffic investigation specified by Subsection (b), to follow the "Procedures for Establishing Speed Zones" as adopted by TTC.

SECTION 1.03. Effective date of this article: upon passage or 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. Authorizes this chapter to be cited as the Regional Mobility Authority Act.

Sec. 370.002. DEFINITIONS. Defines: "authority," "board," "bond," "bond proceeding," "bond resolution," "bondholder," "governmental entity," "highway," "public utility facility," "revenue," "surplus revenue," "system," "transportation project," and "turnpike project."

Sec. 370.003. CONSTRUCTION COSTS DEFINED. (a) Sets forth costs included in the cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter.

(b) Authorizes costs attributable to a transportation project and incurred before the issuance of bonds to finance the transportation project to be reimbursed from the proceeds of sale of the bonds.

[Reserves Sections 370.005-370.030 for expansion.]

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY. (a) Authorizes TTC by order, at the request of one or more counties, to authorize the creation of a regional mobility authority (authority) for the purposes of constructing, maintaining, and operating transportation projects in a region of this state. Provides that an authority is governed in accordance with Subchapter F.

(b) Prohibits an authority from being created without the approval of TTC under Subsection (a).

Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a) Authorizes one or more counties to petition TTC for approval to become part of an existing authority. Authorizes TTC to approve the petition only if the board of directors of the authority (board) has agreed to the addition, and TTC finds that the affected political subdivisions in the county or counties will be adequately represented on the board.

(b) Authorizes one or more counties to petition TTC for approval to withdraw from an authority. Authorizes TTC to approve the petition only if the authority has no bonded indebtedness, or the authority has debt other than bonded indebtedness, but the board has agreed to the withdrawal.

(c) Prohibits a county from becoming part of an authority or withdrawing from an authority without the approval of TTC.

Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a) Provides that an authority is a body politic and corporate and a political subdivision of this state.

(b) Provides that an authority is a governmental unit as that term is defined in Section 101.001, Civil Practice and Remedies Code.

(c) Provides that the exercise by an authority of the powers conferred by this chapter in the acquisition, design, financing, construction, operation, and maintenance of a transportation project or system is in all respects for the benefit of the people of the counties in which an authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety; and an essential governmental function of the state.

(d) Provides that the operations of an authority are governmental, not proprietary, functions.

Sec. 370.033. GENERAL POWERS. (a) Sets forth the powers of an authority, including the power to make rules.

(b) Provides that, except as provided by this subsection, property that is a part of a transportation project of an authority is not subject to condemnation or the exercise of the power of eminent domain by any person, including a governmental entity. Authorizes TxDOT to condemn property that is a part of a transportation project of an authority if the property is needed for the construction, reconstruction, or expansion of a state highway or rail facility.

(c) Authorizes an authority to sue and be sued and plead and be impleaded in its own name.

(d) Requires an authority to adopt written procedures governing its procurement of goods and services that are consistent with general laws applicable to the authority.

(e) Prohibits an authority from applying for federal highway funds without the approval of TxDOT.

Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a) Authorizes an authority, if it determines that the traffic needs of the counties in which it operates and the traffic needs of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, to create a system made up of those transportation projects. Authorizes an authority to create more than one system and to combine two or more systems into one system. Authorizes an authority to finance, acquire, construct, and operate additional transportation projects as additions to or expansions of a system if the authority determines that the transportation project could most efficiently and economically be acquired or constructed if it were a part of the system and that the addition will benefit the system.

(b) Requires the revenue of a system to be accounted for separately and prohibits it from being commingled with the revenue of a transportation project that is not a part of the system or with the revenue of another system.

Sec. 370.035. TRANSFER OF A SEGMENT OF THE STATE HIGHWAY SYSTEM. (a) Authorizes TTC by order to transfer a segment of the state highway system, whether tolled or not, to an authority under certain circumstances.

(b) Provides that TTC may only make a transfer under this section if TTC determines that the transfer is the most feasible and economic means to accomplish necessary expansions, extensions, or improvements of the transferred segment of the highway. Prohibits tolls from being collected by an authority from a transferred segment of highway except to finance the expansion, extension, operation, and maintenance of that highway.

(c) Requires an authority to reimburse TTC for the cost of a transferred segment of highway unless TTC determines that the transfer will result in a substantial net benefit to the state, TxDOT, and the traveling public that equals or exceeds that cost.

(d) Requires TTC to consider certain factors in computing the cost of the segment of highway.

(e) Authorizes TTC, at the time a segment of highway is transferred, to remove the segment from the state highway system. Provides that after a transfer, TTC has no liability, responsibility, or duty for the maintenance or operation of the segment of highway.

(f) Requires TTC, before transferring a segment of highway that is part of the state highway system under this section, to conduct a public hearing at which interested persons shall be allowed to speak on the proposed transfer. Requires notice of the hearing to be published in the Texas Register, one or more newspapers of general circulation in the counties in which the turnpike project is located, and a newspaper, if any, published in the counties of the applicable authority.

(g) Requires TTC to adopt rules to implement this section. Requires the rules to include criteria and guidelines for the approval of a transfer.

(h) Requires an authority to adopt rules providing criteria and guidelines for approval of the transfer under this section.

(i) Prohibits TTC from transferring the Queen Isabella Causeway in Cameron County to an authority under this section.

Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO DEPARTMENT.

(a) Authorizes an authority to transfer to TxDOT a turnpike project of the authority that has outstanding bonded indebtedness if TTC agrees to the transfer and agrees to assume the outstanding bonded indebtedness.

(b) Authorizes TTC to assume the outstanding bonded indebtedness only under certain circumstances.

(c) Requires the authority, if TTC agrees to the transfer under Subsection (a), to convey the turnpike project and any real property acquired to construct or operate the turnpike project to TxDOT.

(d) Requires TTC, at the time of a conveyance under this section, to designate the turnpike project as part of the state highway system. Provides that after the designation, the authority has no liability, responsibility, or duty to maintain or operate the transferred turnpike project.

Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS. (a)

Authorizes TTC, by order, to transfer a ferry operated under Section 342.001 to an authority under certain circumstances.

(b) Requires an authority to reimburse TTC for the cost of a transferred ferry unless TTC determines that the transfer will result in a substantial net benefit to the state, TxDOT, and the traveling public that equals or exceeds that cost.

(c) Requires TTC, in computing the cost of the ferry, to include the total amount spent by TxDOT for the original construction of the ferry, including the costs associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights of way, and actual construction of the ferry and all necessary appurtenant facilities and consider the anticipated future costs of expanding, improving, maintaining, or operating the ferry to be incurred by the authority and not by TxDOT if the ferry is transferred.

(d) Requires TTC to, at the time the ferry is transferred, remove the ferry from the

state highway system. Provides that after a transfer, TTC has no liability, responsibility, or duty for the maintenance or operation of the ferry.

(e) Requires TTC, before transferring a ferry that is a part of the state highway system under this section, to conduct a public hearing at which interested persons are required to be allowed to speak on the proposed transfer. Requires notice of the hearing to be published in the Texas Register, one or more newspapers of general circulation in the counties in which the ferry is located, and a newspaper, if any, published in the counties of the applicable authority.

(f) Requires TTC to adopt rules to implement this section. Requires the rules to include criteria and guidelines for the approval of a transfer of a ferry.

(g) Requires an authority to adopt rules establishing criteria and guidelines for approval of the transfer of a ferry under this section.

(h) Authorizes an authority to temporarily charge a toll for use of a ferry transferred under this section to pay the costs necessary for an expansion of the ferry. Authorizes an authority to permanently charge a toll for use of ferry facilities that are an expansion of the ferry transferred under this section.

(i) Prohibits TTC from transferring a ferry under this section if the ferry is located in a municipality with a population of 5,000 or less, unless the city council of the municipality approves the transfer.

Sec. 370.038. COMMISSION RULES. (a) Requires TTC to adopt rules that govern the creation of an authority and TTC's approval of a project under Section 370.182 and other TTC approvals required by this chapter; establish design and construction standards for a transportation project that will connect with a highway in the state highway system or a department rail facility; establish minimum audit and reporting requirements and standards; and establish minimum ethical standards for authority directors and employees.

(b) Requires TTC to appoint a rules advisory committee to advise TxDOT and TTC on the development of the TTC's initial rules required by this section. Requires the committee to include one or more members representing an existing authority, if applicable. Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the committee. Provides that this subsection expires on the date TTC adopts initial rules under this section.

[Reserves Sections 370.039-370.070 for expansion.]

SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a) Authorizes an authority to pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by certain methods.

(b) Requires money spent under this section for a proposed transportation project to be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project.

(c) Provides that the use of any money of a transportation project to study the feasibility of another transportation project or used to repay any money used for that

purpose does not constitute an operating expense of the transportation project producing the revenue and is authorized to be paid only from the surplus money of the transportation project as determined by the authority.

Sec. 370.072. FEASIBILITY STUDY FUND. (a) Authorizes an authority to maintain a feasibility study fund. Provides that the fund is a revolving fund held in trust by a banking institution chosen by the authority and requires the fund to be kept separate from the money for a transportation project.

(b) Authorizes an authority to transfer an amount from a surplus fund established for a transportation project to the authority's feasibility study fund if the remainder of the surplus fund after the transfer is not less than any minimum amount required by the bond proceedings to be retained for that transportation project.

(c) Authorizes money in the feasibility study fund to be used only to pay the expenses of studying the cost and feasibility and any other expenses relating to certain activities.

(d) Requires money spent under Subsection (c) for a proposed transportation project to be reimbursed from the proceeds of revenue bonds issued for, or other proceeds authorized to be used for, the acquisition, construction, improvement, extension, expansion, or operation of the transportation project.

(e) Authorizes an authority, for a purpose described by Subsection (c), to borrow money and issue promissory notes or other interest bearing evidences of indebtedness payable out of its feasibility study fund, pledging money in the fund or to be placed in the fund.

Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) Authorizes one or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state to pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to certain activities.

(b) Provides that money spent under Subsection (a) for a proposed transportation project is reimbursable without interest and with the consent of the authority to the person paying the expenses described in Subsection (a) out of the proceeds from revenue bonds issued for or other proceeds authorized to be used for the acquisition, construction, improvement, extension, expansion, maintenance, repair, or operation of the transportation project.

[Reserves Sections 370.074-370.110 for expansion.]

SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

Sec. 370.111. FINANCING OF PROJECTS AND SYSTEMS. (a) Provides that an authority has the same powers and duties relating to the financing of a transportation project or a system established under Section 370.034 as a regional tollway authority has under Subchapter D, Chapter 366, relating to the financing of a turnpike project or system.

(b) Sets forth powers held by an authority.

(c) Provides that for purposes of this section, a reference in Subchapter D, Chapter 366, to a turnpike project means a transportation project, an authority or board means an authority and board described in this chapter, and revenue includes a fee, fare, or

other usage charge established under this chapter.

[Reserves Sections 370.112-370.160 for expansion.]

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

Sec. 370.161. JURISDICTION. Authorizes an authority to acquire, construct, operate, maintain, expand, or extend a transportation project only in a county that is a part of the authority.

Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. (a) Authorizes an authority to construct or improve a transportation project on real property, including a right of way acquired by the authority or provided to the authority for that purpose by TTC, a political subdivision of this state, or any other governmental entity.

(b) Provides that, except as provided by this chapter, an authority has the same powers and is authorized to use the same procedures as TTC in acquiring property.

Sec. 370.163. ACQUISITION OF PROPERTY. (a) Provides that except as otherwise provided by this subchapter, the governing body has the same powers and duties that TTC and TxDOT have under Subchapter D, Chapter 361, and Section 361.233, relating to the condemnation or purchase of real property, except that the governing body is authorized to acquire real property by the exercise of the power of condemnation only if the real property is located in a county that is part of the authority, or if the real property is not located within a county that is part of the authority, the governing body is authorized to acquire the real property by the exercise of the power of condemnation only with the approval of the county commissioners court of the county in which the real property is located. Provides that notwithstanding Section 361.135(a), the concurrence of TTC is not a prerequisite to the exercise of the power of condemnation by the governing body of the authority. Prohibits an authority, notwithstanding Section 361.132(d), from acquiring property to provide a location for an ancillary facility unless the authority determines that the ancillary facility will directly benefit users of the transportation project. Prohibits an authority from filing a declaration of taking and obtain early possession of real property.

(b) Provides that an authority's acquisition of any property of TTC under this or another section of this chapter or an authority's relocation, rerouting, disruption, or alteration of a facility of TTC is considered a conversion of a state highway system under Section 370.035 and is subject to each requirement, condition, or limitation provided by that section.

(c) Provides that the authority granted under this section does not include the authority to condemn a bridge connecting this state to the United Mexican States that is owned by a county or municipality.

Sec. 370.164. PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) Authorizes the authority, as an alternative to paying for an interest in real property or a real property right with a single fixed payment, with the owner's consent, to pay the owner by means of a participation payment.

(b) Provides that a right to receive a participation payment under this section is subordinate to any right to receive a fee as payment on the principal of or interest on a bond that is issued for the construction of the applicable segment.

(c) Defines "participation payment."

Sec. 370.165. SEVERANCE OF REAL PROPERTY. (a) Requires the authority, if a transportation project of an authority severs a property owner's real property, to pay the value of the property acquired and the damages, if any, to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b) Authorizes an authority, at its option, to negotiate for and purchase the severed real property or any part of the severed real property if the authority and the property owner agree on terms for the purchase. Authorizes an authority to sell and dispose of severed real property that it determines is not necessary or useful to the authority. Requires severed property to be appraised before being offered for sale by the authority.

Sec. 370.166. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. (a) Authorizes an authority to use real property, including submerged land, streets, alleys, and easements, owned by this state or a local government that the authority considers necessary for the construction or operation of a transportation project.

(b) Authorizes this state, or a local government having charge of public real property, to consent to the use of the property for a transportation project.

(c) Authorizes this state or a local government, except as provided by Section 370.035, to convey, grant, or lease to an authority real property, including highways and other real property devoted to public use and rights or easements in real property, that may be necessary or convenient to accomplish a purpose of the authority, including the construction or operation of a transportation project. Authorizes a conveyance, grant, or lease under this section to be made without advertising, court order, or other action other than the normal action of this state or local government necessary for a conveyance, grant, or lease.

(d) Provides that this section does not deprive the School Land Board of the power to execute a lease for the development of oil, gas, and other minerals on state owned real property adjoining a transportation project or in tidewater limits. Authorizes a lease to provide for directional drilling from the adjoining property or tidewater area.

(e) Provides that this section does not affect the obligation of the authority under another law to compensate this state for acquiring or using property owned by or on behalf of this state. Provides that an authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Sec. 370.167. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. (a) Prohibits an authority, except as provided by Section 370.035, from paying compensation for public real property, parkways, streets, highways, alleys, or reservations it takes, other than a park, playground, or designated environmental preserve; property owned by or on behalf of this state that under law requires compensation to this state for the use or acquisition of the property; or as provided by this chapter.

(b) Requires public property damaged in the exercise of a power granted by this chapter to be restored or repaired and placed in its original condition as nearly as practicable.

(c) Provides that an authority has full easements and rights of way through, across, under, and over any property owned by the state or any local government that are necessary or convenient to construct, acquire, or efficiently operate a transportation

project or system under this chapter. Provides that this subsection does not affect the obligation of the authority under other law to compensate this state for the use or acquisition of an easement or right of way on property owned by or on behalf of this state. Provides that an authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property. Provides that this subsection does not apply to property owned by a school district.

Sec. 370.168. PUBLIC UTILITY FACILITIES. (a) Authorizes an authority to adopt rules for the installation, construction, operation, maintenance, repair, renewal, relocation, or removal of a public utility facility in, on, along, over, or under a transportation project.

(b) Requires the owner or operator of the facility, if an authority determines it is necessary that a public utility facility located in, on, along, over, or under a transportation project be relocated in the transportation project, removed from the transportation project, or carried along or across the transportation project by grade separation, to relocate or remove the facility in accordance with the requirements of the authority and in a manner that does not impede the design, financing, construction, operation, or maintenance of the transportation project.

(c) Requires the authority, as a part of the cost of the transportation project or the cost of operating the transportation project, to pay the cost of the relocation, removal, or grade separation of a public utility facility under Subsection (a), including certain costs.

(d) Authorizes the authority to reduce the total costs to be paid by the authority under Subsection (c) by 10 percent for each 30-day period or portion of a 30-day period by which the relocation or removal exceeds the reasonable limit specified by the authority unless the failure of the owner or operator of the facility to timely relocate or remove the facility results directly from a material action or inaction of the authority or certain conditions beyond the reasonable control of the owner or operator of the facility.

(e) Authorizes the authority, if an owner or operator of a public utility facility does not timely relocate or remove the facility as required by Subsection (b), to do so at the expense of the owner or operator. Requires the authority, if the authority relocates or removes a facility under this subsection, to relocate or remove the facility in a safe manner that complies with applicable law and attempts to minimize the disruption of utility service.

(f) Requires the owner or operator of a public utility facility relocated or removed under Subsection (e) to reimburse the authority for the expenses incurred for the relocation or removal of the facility, except that the owner or operator is not required to reimburse the authority if the failure of the owner or operator to timely relocate or remove the facility was the direct result of circumstances beyond the control of the owner or operator.

(g) Requires an authority, not later than 60 days before relocating or removing a public utility facility under Subsection (e), to provide to the utility written notice of the department's determination that the facility must be removed, a final plan for relocation of the facility, and reasonable terms and conditions for the relocation or removal of the facility.

(h) Provides that Subchapter C (Provisions Applying to Electric Utilities), Chapter 181 (Miscellaneous Powers and Duties of Utilities), Utilities Code, applies to the erection, construction, maintenance, and operation of a line or pole owned by an electric utility, as that term is defined by Section 181.041 (Definitions), Utilities Code, over, under, across, on, and along a transportation project or system constructed by an authority.

Provides that an authority has the powers and duties delegated to the commissioners court by that subchapter.

(i) Provides that Subchapter B (Provisions Applying to Gas Utilities), Chapter 181 (Miscellaneous Powers and Duties of Utilities), Utilities Code, applies to the laying and maintenance of facilities used for conducting gas by a gas utility, as that term is defined by Section 181.021 (Definitions), Utilities Code, through, under, along, across, and over a transportation project or system constructed by an authority except as otherwise provided by this section. Provides that an authority has the power and duties delegated to the commissioners court by that subchapter.

Sec. 370.169. REVENUE. (a) Authorizes an authority to impose tolls, fees, fares, or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects.

(b) Requires tolls, fees, fares, or other charges to be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an authority's transportation project, together with other revenue of the transportation project provides revenue sufficient to pay certain costs and creates reserves for a purpose listed under Subdivision (1).

(c) Provides that tolls, fees, fares, or other usage charges are not subject to supervision or regulation by any agency of this state or another governmental entity.

(d) Requires revenue derived from tolls, fees, and fares, and other revenue derived from a transportation project for which bonds are issued, other than any part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as provided in the bond proceedings, to be set aside at regular intervals as provided in the bond resolution or trust agreement in a sinking fund that is pledged to and charged with the payment of certain costs.

(e) Provides that use and disposition of money deposited to the credit of the sinking fund is subject to the bond proceedings.

(f) Authorizes revenue from one transportation project of an authority, to the extent permitted under the applicable bond proceedings, to be used to pay the cost of another transportation project of the authority.

(g) Prohibits an authority from using revenue from a transportation project in a manner not authorized by this chapter. Prohibits revenue derived from a transportation project, except as provided by this chapter, from being applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated to be for the benefit of a transportation project.

(h) Prohibits an authority to require the owner of a public utility facility to pay a fee as a condition of placing a facility across the rights of way.

Sec. 370.171. USE OF SURPLUS REVENUE. (a) Requires an authority, each year, if it determines that it has surplus revenue from transportation projects, to reduce tolls, spend the surplus revenue on other transportation projects in the counties of the authority in accordance with Subsection (b), or deposit the surplus revenue to the credit of the Texas Mobility Fund.

(b) Authorizes an authority, consistent with other law and TTC rule, to spend surplus revenue on other transportation projects by constructing a transportation project located within the counties of the authority, assisting in the financing of a toll or toll free

transportation project of another governmental entity, or with the approval of TTC, constructing a toll or toll free transportation project and, on completion of the project, transferring the project to another governmental entity under certain circumstances.

Sec. 370.172. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) Provides that an authority is exempt from taxation of or assessments on a transportation project or system, property the authority acquires or uses under this chapter for a transportation project or system, or income from property described by Subdivision (1) or (2).

(b) Provides that an authority is exempt from payment of development fees, utility connection fees, assessments, and service fees imposed or assessed by any governmental entity or any property owners' or homeowners' association.

Sec. 370.173. ACTIONS AFFECTING EXISTING ROADS. (a) Authorizes an authority to construct a grade separation at an intersection of a transportation project with a railroad or highway and change the line or grade of a highway to accommodate the design of the grade separation. Prohibits the action from affecting a segment of the state highway system without TxDOT's consent. Requires the authority to pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the transportation project.

(b) Requires an authority, if feasible, to provide access to properties previously abutting a county road or other public road that is taken for a transportation project and to pay abutting property owners the expenses or any resulting damages for a denial of access to the road.

(c) Requires an authority, if an authority changes the location of a segment of a county road as part of its development of a transportation project, on the request of the county, to reconstruct that segment of the road at a location that the authority determines, in its discretion, restores the utility of the road. Provides that the reconstruction and its associated costs are in furtherance of a transportation project.

Sec. 370.174. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) Requires the operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project to pay the proper toll. Provides that the operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense. Provides that an offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250.

(b) Provides that the authority has the same powers and duties relating to collecting unpaid tolls and administrative fees as TTC and TxDOT have under Subchapter G, Chapter 361, including certain powers or duties.

(c) Provides that the registered owner, lessee, or transferee of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this section and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Provides that each failure to pay a toll or administrative fee under this section is a separate offense. Provides that an offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250.

(d) Authorizes proof of an offense to be established under the same conditions as under Subchapter G, Chapter 361. Provides that defenses and exceptions to liability available to a person under Subchapter G, Chapter 361, are available to person subject

to this section.

(e) Requires the court in which a person is convicted of an offense under this section to also collect the proper toll and administrative fee and forward the toll and fee to the authority.

Sec. 370.175. CONTROLLED ACCESS TO TURNPIKE PROJECTS. Authorizes an authority by order to designate the location of and establish, limit, and control the entrances and exits of each turnpike as the authority considers necessary or desirable to ensure the proper operation and maintenance of the project prohibit entrance to each project at any place not designated.

Sec. 370.176. PROMOTION OF TRANSPORTATION PROJECT. Authorizes an authority to promote the use of a transportation project, including a project that it operates on behalf of another entity, by appropriate means, including advertising or marketing as the authority determines appropriate.

Sec. 370.177. OPERATION OF TRANSPORTATION PROJECT. (a) Requires an authority to operate a transportation project with employees of the authority or by using services contracted under Subsection (b) or (c).

(b) Authorizes an authority to enter into an agreement with one or more persons to provide, on terms and conditions approved by the authority, personnel and services to design, construct, operate, maintain, expand, enlarge, or extend the transportation project of the authority.

(c) Authorizes an authority to contract with any state or local government for the services of peace officers of that agency.

Sec. 370.178. AUDIT. (a) Requires an authority to have a certified public accountant audit the authority's books and accounts at least annually. Authorizes the cost of the audit to be treated as part of the cost of construction or operation of a transportation project.

(b) Authorizes TTC to initiate an independent audit of the authority or any of its activities at any time TTC considers appropriate. Requires an audit under this subsection to be conducted at the expense of TxDOT.

Sec. 370.179. DISADVANTAGED BUSINESSES. (a) Requires an authority, consistent with general law, to set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals; attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the authority; and give disadvantaged businesses full access to the authority's contract bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify barriers to the businesses' participation in the process.

(b) Provides that this section does not exempt an authority from competitive bidding requirements provided by other law.

Sec. 370.180. PROCUREMENT. Requires an authority to adopt rules governing the award of contracts for goods and services. Authorizes an authority to procure goods and services, including materials, engineering, design, construction, operations, maintenance, and other goods and services, through any procedure authorized by law for special districts. Provides that procurement of professional services is governed by Chapter 2254, Government Code.

Sec. 370.181. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) Prohibits an

authority from constructing, maintaining, or operating a transportation project that another governmental entity has determined to be a project under Chapter 284, 366, or 452, unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project is required to be undertaken.

(b) Prohibits an authority from receiving or being paid revenue derived by another governmental entity operating under Chapter 284, 366, or 452, unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the revenue is required to be received by or paid to the authority.

Sec. 370.182. PROJECT APPROVAL. (a) Prohibits an authority from beginning construction of a transportation project without the approval of TTC.

(b) Requires TTC, by rule, to establish procedures and criteria for an approval under this section. Requires the rules to require TTC to consider a request for project approval not later than the 60th day after the date TxDOT receives all information reasonably necessary to review the request.

(c) Provides that this section expires September 1, 2011.

Sec. 370.183. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS. (a) Requires an authority to adopt rules for environmental review of a transportation project that is not subject to review under the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.), as amended. Requires the rules establish certain requirements, specifications, and procedures.

(b) Requires an environmental review of a project to be conducted before the authority is authorized to approve the location or alignment of the project.

(c) Requires the authority to consider the results of the environmental review in executing its duties.

(d) Requires the authority to coordinate with the Texas Commission on Environmental Quality and the Parks and Wildlife Department in the preparation of an environmental review.

Sec. 370.184. DEPARTMENT MAINTENANCE AND OPERATION. (a) Authorizes TxDOT, if requested by an authority, to agree to assume all or part of the duty to maintain or operate a turnpike project or ferry of the authority.

(b) Requires the authority to reimburse TxDOT for necessary costs of maintaining or operating the turnpike project or ferry as agreed by TxDOT and the authority.

(c) Requires money received by TxDOT under Subsection (b) to be deposited to the credit of the state highway fund and is exempt from the application of Sections 403.095, and 404.071, Government Code.

(d) Provides that if TxDOT assumes all of the duty to maintain or operate a turnpike project or ferry under Subsection (a), the authority is not liable for damages resulting from the maintenance or operation of the turnpike project or ferry.

(e) Provides that an agreement under this section is not a joint enterprise for purposes of liability.

Sec. 370.185. PROPERTY OF RAPID TRANSIT AUTHORITIES. Prohibits an authority from condemning or purchasing real property of a rapid transit authority operating pursuant to Chapter 451 that was confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000, unless the authority has entered into a written agreement with the rapid transit authority specifying the terms and conditions under which the condemnation or the purchase of the real property will take place.

[Reserves Sections 370.186-370.250 for expansion.]

SUBCHAPTER F. GOVERNANCE

Sec. 370.251. BOARD OF DIRECTORS. (a) Provides that the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. Requires the commissioners court of each county that initially forms the authority to appoint at least two directors to the board. Authorizes additional directors to be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. Requires the commissioners court of a county that is subsequently added to the authority to appoint at least one additional director to the board. Requires the governor to appoint one director to the board required to serve as the presiding officer of the board and to appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(b) Requires the commissioners court of each county of an authority that contains an operating transportation project of the authority, unless the commissioners courts of the counties of the authority unanimously agree otherwise, to appoint one additional director.

(c) Provides that directors serve staggered six year terms, with the terms of no more than one third of the directors expiring on February 1 of each odd-numbered year.

(d) Requires one director appointed to the initial board of an authority by the commissioners court of a county to be designated by the court to serve a term of two years and one director designated to serve a term of four years. Requires the directors other than the subsequent appointees, if one or more directors are subsequently appointed to the board, to determine the length of the appointees' terms, to comply with Subsection (c).

(e) Requires the appointing authority, if a vacancy occurs on the board, to promptly appoint a successor to serve for the unexpired portion of the term.

(f) Requires all appointments to the board to be made without regard to race, color, disability, sex, religion, age, or national origin.

(g) Sets forth the individuals ineligible to serve as a director.

(h) Provides that each director has equal status and is authorized to vote.

(i) Provides that the vote of a majority attending a board meeting is necessary for any action taken by the board. Provides that if a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(j) Authorizes TTC to refuse to authorize the creation of an authority if TTC

determines that the proposed board will not fairly represent political subdivisions in the counties of the authority that will be affected by the creation of the authority.

Sec. 370.252. BOARD COMPOSITION PROPOSAL BY TURNPIKE AUTHORITY.

Authorizes the turnpike authority or the county, if a county in which a turnpike authority under Chapter 366 operates or a county owning or operating a toll project under Chapter 284 is part of an authority, to submit to TTC a proposed structure for the board and a method of appointment to the board at certain times.

Sec. 370.253. PROHIBITED CONDUCT FOR DIRECTORS AND EMPLOYEES. (a) Prohibits a director or employee of an authority from certain actions.

(b) Provides that a person is not eligible to serve as a director or chief administrative officer of an authority if the person or the person's spouse has served in certain capacities.

(c) Provides that a person is not eligible to serve as a director or chief administrative officer of an authority if the person is an officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, public transportation, or aviation, or if the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, public transportation, or aviation.

(d) Defines "Texas trade association."

(e) Provides that a person is not ineligible to serve as a director or chief administrative officer of an authority if the person has received funds from TxDOT for acquisition of highway right of way unless the acquisition was for a project of the authority.

Sec. 370.254. REMOVAL OF DIRECTOR. (a) Provides the grounds for removal of a director from the board.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) Provides that if the chief administrative officer of the authority has knowledge that a potential ground for removal exists, that person is required to notify the presiding officer of the board of the ground. Requires the presiding officer to then notify the person that appointed the director that a potential ground for removal exists.

Sec. 370.255. COMPENSATION OF DIRECTOR. Provides that each director is entitled to reimbursement for the director's actual expenses necessarily incurred in the performance of the director's duties. Provides that a director is not entitled to any additional compensation for the director's services.

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

Sec. 370.257. PUBLIC ACCESS. Requires an authority to:

(1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the authority; and

(2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the authority's programs.

Sec. 370.258. INDEMNIFICATION. (a) Requires an authority to indemnify its directors or officers for necessary expenses and costs, including attorney's fees, incurred by the directors or officers in connection with any claim asserted against the directors or officers in their respective capacities as directors or officers.

(b) Provides that this section applies to a current or former director or officer of the authority.

Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) Requires an authority to insure its officers and employees from liability arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the authority's transportation projects.

(b) Requires insurance coverage under this section to be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. Requires the form of the policy to be approved by the commissioner of insurance (commissioner).

(c) Provides that this section is not a waiver of immunity of the authority or the counties in an authority from liability for the torts or negligence of an officer or employee of an authority.

(d) Provides that in this section, "equipment" includes an automobile, motor truck, trailer, motor grader, roller, tractor, tractor power mower, and other power equipment.

Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. Prohibits a director, agent, or employee of an authority to:

(1) contract with the authority; or

(2) be directly or indirectly interested in:

(A) a contract with the authority; or

(B) the sale of property to the authority.

Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) Requires an authority to make a strategic plan for its operations. Requires a majority of the commissioners courts of the counties of the authority by concurrent resolution to determine the types of information required to be included in the strategic plan. Requires an authority, each even numbered year, to issue a plan covering the succeeding five fiscal years, beginning with the next odd-numbered fiscal year.

(b) Requires an authority to file with the commissioners court of each county of the authority a written report on the authority's activities describing all transportation revenue bond issuances anticipated for the coming year, the financial condition of the authority, all project schedules, and the status of the authority's performance under the most recent strategic plan, not later than March 31 of each year. Requires representatives of the board and the administrative head of an authority to appear before the commissioners court to present the report and receive questions and comments, at the invitation of a commissioners court of a county of the authority.

(c) Requires the authority to give notice to the commissioners court of each county of the authority not later than the 90th day before the date of issuance of revenue bonds.

[Reserves Sections 370.262-370.300 for expansion.]

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

Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS. (a) Authorizes TxDOT to agree with an authority to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system on terms agreed on by TTC or TxDOT, as applicable, and the authority. Prohibits the agreement from being inconsistent with the rights of the bondholders or persons operating the turnpike project under a lease or other contract.

(b) Authorizes TxDOT to use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct feasibility studies under Subsection (a).

(c) Provides that an obligation or expense incurred by TTC or TxDOT under this section is a part of the cost of the turnpike project for which the obligation or expense was incurred. Authorizes TTC or TxDOT to require money contributed by TTC or TxDOT under this section to be repaid from tolls or other revenue of the turnpike project on which the money was spent. Requires money repaid as required by TTC or TxDOT to be deposited to the credit of the fund from which the contribution was made. Provides that money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(d) Authorizes TTC or TxDOT to use federal money for any purpose described by this chapter.

(e) Authorizes TTC to grant or loan TxDOT money to an authority for the acquisition of land for or the construction, maintenance, or operation of a turnpike project. Authorizes TTC to require the authority to repay money provided under this section from toll revenue or other sources on terms established by TTC.

(f) Requires money repaid as required by TTC to be deposited to the credit of the fund from which the money was provided. Provides that money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

Sec. 370.302. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) Authorizes a governmental entity, consistent with the Texas Constitution, to issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority to acquire, construct, maintain, or operate a transportation project, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. Authorizes the entity to impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) Authorizes a governmental entity, to the extent constitutionally permitted, to agree with an authority to issue bonds, notes, or other obligations, create a taxing district or an entity to promote economic development, fund public improvements to promote economic development, or enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority, in addition to the powers provided by Subsection (a). Authorizes an

agreement to include a means for a local governmental entity to provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(c) Authorizes a governmental entity to: (1) pledge revenue from any available source, including annual appropriations; (2) impose and collect taxes; or (3) pledge revenue and impose and collect taxes, to make payments under an agreement under Subsection (b), to pay the interest on bonds issued under Subsection (b), or to provide a sinking fund for the bonds or the agreement.

(d) Prohibits the term of an agreement under this section from exceeding 40 years.

(e) Requires an election required to authorize action under this subchapter to be held in conformity with Chapter 1251, Government Code, or other law applicable to the governmental entity. Provides that this subsection does not expand or contract a governmental entity's authority to guarantee debt without an election.

(f) Authorizes the governing body of any governmental entity issuing bonds, notes, or other obligations or entering into agreements under this section to exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, Government Code.

Sec. 370.303. **ADDITIONAL AGREEMENTS OF AUTHORITY.** Authorizes an authority to enter into any agreement necessary or convenient to achieve the purposes of this subchapter.

Sec. 370.304. **HIGHWAY IMPROVEMENT CONTRACTS.** Requires an authority to award all highway improvement contracts through a competitive bidding process to the low bidder.

Sec. 370.305. **OWNERSHIP OF TRANSPORTATION PROJECTS.** (a) Provides that a transportation project that is the subject of a development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to the authority that entered into the agreement.

(b) Authorizes an authority to enter into an agreement that provides for the lease of rights of way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a transportation project, including supplemental facilities. Requires, at the termination of the agreement, the transportation project, including the facilities, to be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost.

Sec. 370.306. **PERFORMANCE AND PAYMENT BONDS AND SECURITY.** Requires an authority, notwithstanding Chapter 2253, Government Code, to require any party to an agreement to operate or maintain a transportation project to provide performance and payment bonds or other forms of security in amounts considered by the authority to be adequate to protect the authority and to assure performance of all obligations to the authority and to subcontractors providing materials or labor for a transportation project.

[Reserves Sections 370.307-370.330 for expansion.]

SUBCHAPTER H. DISSOLUTION OF AUTHORITY

Sec. 370.331. **VOLUNTARY DISSOLUTION.** (a) Prohibits an authority from being dissolved unless the dissolution is approved by TTC.

- (b) Authorizes a board to submit a request to TTC for approval to dissolve.
- (c) Authorizes TTC to approve a request to dissolve only under certain circumstances.

Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) Authorizes TTC by order to require an authority to dissolve if TTC determines that the authority has not substantially complied with the requirements of TTC rule or an agreement between TxDOT and the authority.

- (b) Prohibits TTC to require dissolution unless:
 - (1) the conditions described in Sections 370.331(c)(1) and (2) have been met; and
 - (2) the holders of any indebtedness have evidenced their agreement to the dissolution.

SECTION 2.02. Repealer: Section 361.003 (Regional Mobility Authority), Transportation Code.

SECTION 2.03. (a) Effective date: upon passage or September 1, 2003.

- (b) Provides that this article does not affect the term of a member of the board of directors of a regional mobility authority serving on the effective date of this article.

ARTICLE 3. ADVANCE ACQUISITION OF PROPERTY

SECTION 3.01. Amends the heading to Chapter 202, Transportation Code, to read as follows:

CHAPTER 202. CONTROL OF TRANSPORTATION ASSETS

SECTION 3.02. 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 TTC to purchase an option to acquire property for possible use in or in connection with a transportation facility, including a facility as defined by Section 227.001, before a final decision has been made as to whether the transportation facility will be located on that property.

- (b) Requires an advance acquisition to be made by TTC using the procedures authorized under Subchapter D of Chapter 203 or other law authorizing TTC or TxDOT to acquire real property or an interest in real property for a transportation facility. Authorizes TTC to make an advance acquisition in the manner provided by this subchapter.

- (c) Prohibits TTC to make an advance acquisition by condemnation.

Sec. 202.113. DISPOSAL OF SURPLUS PROPERTY. Requires TTC to dispose of property acquired by advance acquisition that is not needed for a transportation facility in the manner provided by Subchapter B.

ARTICLE 4. RAIL FACILITIES

SECTION 4.01. Amends Title 5, Transportation Code, by adding Subtitle A, 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 following functions are public and governmental functions, exercised for a public purpose, and matters of public necessity:

- (1) the acquisition, financing, construction, operation, and maintenance of a rail facility under this chapter;
- (2) the sale, lease, or license of a rail facility to a rail operator and other public or private persons under this chapter; and
- (3) the exercise of any other power granted under this chapter to TTC and TxDOT.

Sec. 91.003. RULES. Authorizes TTC to adopt rules and TxDOT to adopt procedures and prescribe forms necessary to implement this chapter.

Sec. 91.004. GENERAL POWERS. Authorizes TxDOT to perform certain actions.

Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. Requires TxDOT to contract with a private entity to operate a railroad using facilities owned by TxDOT and prohibits using TxDOT employees to operate a railroad. Authorizes TxDOT to maintain a railroad facility directly or through a private entity. Prohibits TxDOT from owning rolling stock.

Sec. 91.006. COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. Requires an agency or political subdivision of this state to cooperate with and assist TxDOT in exercising its powers and duties under this chapter, within available resources.

Sec. 91.007. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires TxDOT, on receipt of notice of intent to abandon or discontinue rail service served under 49 C.F.R. Section 1152.20, as amended to coordinate with the governing body of a municipality, county, or rural rail transportation district in which all or a segment of the line is located to determine whether:

- (1) TxDOT should acquire the rail facility to which the notice relates; or
- (2) any other actions should be taken to provide for continued rail transportation service.

[Reserves Sections 91.008-91.030 for expansion.]

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) Authorizes TTC, if it determine that the provision of rail transportation services would be most efficiently and economically met by jointly operating two or more rail facilities as one operational and financial enterprise, to create a system composed of those facilities.

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

(c) Authorizes TxDOT to finance, acquire, construct, and operate additional rail facilities as additions to and expansions of the system if TTC determines that the facility would most efficiently and economically be acquired and constructed if it were a part of the system and that the addition will benefit the system.

(d) Requires the revenue of a system to be accounted for separately and prohibits it to 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 TTC to authorize TxDOT to acquire an existing rail facility at a location and on a route TTC determines to be feasible and viable for rail transportation service.

(b) Authorizes TxDOT to enter into an agreement with the owner of an operating railroad for the acquisition or use of a rail facility on terms TxDOT considers to be in the best interest of the state.

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

(b) Authorizes TTC to adopt rules to allocate responsibility for conducting an environmental evaluation or study or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility under this chapter.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) Authorizes TxDOT to acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(b) Authorizes TxDOT to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(c) Authorizes TxDOT, if authorized by the applicable regulatory authority, to pay an amount of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

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

(a) Authorizes TxDOT, for the purpose of acquiring, constructing, maintaining, and operating freight or passenger rail facilities and systems in this state, to:

(1) use a street, alley, road, highway, or other public way of a municipality, county, or other political subdivision with the consent of that political subdivision; and

(2) at the expense of TxDOT, relocate, raise, reroute, or change the grade of the construction of a street, alley, highway, road, railroad, electric line and facility, telegraph and telephone property and facility, pipeline and facility, conduit and facility, and other properties, whether publicly or privately owned,

as necessary or useful in the construction, maintenance, and operation of a rail facility or system.

(b) Requires TxDOT to provide reasonable notice to the owner of the applicable facility of the need for the alteration under Subsection (a)(2) and allow that owner the opportunity to complete the alteration.

Sec. 91.036. EXPENDITURE OF FUNDS. Authorizes TxDOT to receive, accept, and expend funds from this state, a federal agency, or other public or private source for:

- (1) rail planning;
- (2) studies to determine the viability of a rail facility for rail transportation service;
- (3) studies to determine the necessity for the department's acquisition or construction of a rail facility; and
- (4) the acquisition, construction, maintenance, or operation of a rail facility under this chapter, including the assessment and remediation of environmental contamination existing in or on a rail facility.

Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. Provides that this chapter does not apply to real or personal property, facilities, funding, projects, operations, construction, or a project plan of a transportation authority created under Chapter 451 or 452, unless TTC or its designee has signed a written agreement with the transportation authority specifying the terms and conditions under which the transportation authority may participate.

[Reserves Sections 91.038-91.050 for expansion.]

SUBCHAPTER C. CONTRACTS

Sec. 91.051. AWARDING OF CONTRACTS. Requires a contract made by TxDOT for the construction, maintenance, or operation of a rail facility to be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with TxDOT's criteria.

Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE RAIL FACILITIES. Authorizes TxDOT to enter into an agreement with a public entity, including a political subdivision of this state, to permit the entity, independently or jointly with TxDOT, to acquire, construct, maintain, or operate a rail facility or system.

Sec. 91.053. SMALL AND DISADVANTAGED BUSINESSES. (a) Requires TxDOT to:

- (1) set goals for the award of contracts to small and disadvantaged businesses and attempt to meet the goals;
- (2) attempt to identify small and disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to TxDOT; and
- (3) give small and disadvantaged businesses full access to TxDOT's contract bidding process and other contracting processes, inform the businesses about those processes, offer the businesses assistance concerning those processes, and identify barriers to the businesses' participation in those processes.

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

[Reserves Sections 91.054-91.070 for expansion.]

SUBCHAPTER D. FINANCING OF RAIL FACILITIES

Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. (a) Authorizes TxDOT to use any legally permissible source of funding in acquiring, constructing, maintaining, and operating a rail facility or system, including:

- (1) appropriations from the state highway fund that are not dedicated for another purpose by Section 7-a or 7-b, Article VIII, Texas Constitution;
- (2) proceeds from bonds secured by the Texas Mobility Fund;
- (3) donations, whether in kind or in cash; and
- (4) loans from the state infrastructure bank.

(b) Requires the total amount disbursed by TxDOT out of federal and state funds not to exceed \$12.5 million, each fiscal year. Provides that this subsection does not apply to:

- (1) disbursements for the acquisition or construction of rail lines on the Trans-Texas Corridor;
- (2) the acquisition of abandoned rail facilities described in Section 91.007;
- (3) funding derived from the issuance of bonds, private investment, donations, and grants or loans from the Federal Railroad Administration or Federal Transit Administration; and
- (4) grading and bed preparation.

Sec. 91.072. FINANCING OF RAIL FACILITIES AND SYSTEMS. (a) Provides that TTC and TxDOT have the same powers and duties relating to the financing of a rail facility or a system established under Section 91.031 as TTC and TxDOT have under Subchapter E, Chapter 361, relating to the financing of a turnpike project.

(b) Provides the powers held by TTC and TxDOT include the power to:

- (1) authorize the issuance of bonds to pay all or part of the cost of acquiring, constructing, maintaining, or operating a rail facility or system;
- (2) impose fees, rents, and other charges for the use of a rail facility or system; and
- (3) obtain from another source the fees and other revenue necessary to pay all or part of the principal and interest on bonds issued under this chapter.

(c) Provides that for purposes of this section, a reference in Subchapter E, Chapter 361 to:

- (1) a turnpike project means a rail facility or system; and
- (2) revenue includes a fee, rent, or other usage charge established under this chapter or other money received under Sections 91.073 and 91.074.

Sec. 91.073. GRANTS AND LOANS. Authorizes TxDOT to apply for, accept, and expend money from grants, loans, or reimbursements for any purpose of this chapter, including paying for the cost of the acquisition, construction, maintenance, and operation of a rail facility or system.

Sec. 91.074. REVENUE. (a) Authorizes TxDOT to require a 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 TxDOT to establish and maintain rents or other compensation for the use of rail facilities or systems in an amount that is, together with other revenue of TxDOT

received under this chapter, sufficient to enable TxDOT to comply with the requirements of Section 91.072.

(c) Authorizes TxDOT to 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 all or any part of the right of way adjoining trackwork, for any purpose, including placing on the adjoining right of way a storage or transfer facility, warehouse, garage, parking facility, telecommunication line or facility, restaurant, or gas station.

(d) Prohibits TxDOT from unreasonably discriminating in deciding who may use any part of a rail facility or system.

(e) Provides that all revenue received by TxDOT under this chapter:

- (1) shall be deposited to the credit of the state highway fund and may be used for any purpose authorized by this chapter; and
- (2) is exempt from the application of Section 403.095, Government Code.

[Reserves Sections 91.075-91.090 for expansion.]

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

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

(b) Authorizes TTC to authorize TxDOT to acquire property by any method, including purchase and condemnation. Authorizes property to be purchased under any terms determined by TxDOT to be in the best interest of the state.

(c) Authorizes property to be purchased along alternative potential routes for a rail facility even if only one of those potential routes will ultimately be chosen as the final route.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL FACILITIES. Provides that property necessary or convenient for TxDOT's acquisition, construction, maintenance, or operation of rail facilities includes an interest in real property or a property right the commission determines is necessary or convenient to provide:

- (1) right of way for a location for:
 - (A) a rail facility; or
 - (B) the future expansion of a rail facility;
- (2) land for mitigation of adverse environmental effects;
- (3) buffer zones for scenic or safety purposes; and
- (4) revenue for use in acquiring, constructing, maintaining, or operating a rail facility or system, including revenue received under a contract described by Section 91.074(c).

Sec. 91.093. RIGHT OF ENTRY. (a) Authorizes TxDOT to enter any premises or real property, including a body of water, to make a survey, geotechnical evaluation, sounding, or examination, to acquire property necessary or convenient for a rail facility.

(b) Provides that an entry under Subsection (a) is not:

- (1) a trespass; or
- (2) an entry under a pending condemnation procedure.

(c) Requires TxDOT to make reimbursements for actual damages that result from an entry under Subsection (a).

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY. Authorizes the governing body of a municipality, county, political subdivision, or public agency to, without advertisement, convey the title to or a right in property determined to be necessary or convenient by TxDOT under this subchapter.

Sec. 91.095. DISPOSAL OF PROPERTY. Authorizes TxDOT to sell, convey, or otherwise dispose of any rights or other interests in real property acquired under this subchapter that TTC determines are no longer needed for TxDOT purposes.

[Reserves Sections 91.096-91.100 for expansion.]

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES. Authorizes TxDOT to contract with a county or other political subdivision of the state for TxDOT to provide rail transportation services on terms agreed to by the parties.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) Authorizes TxDOT to lease all or part of a rail facility or system to a rail operator. Authorizes TxDOT to contract with a rail operator for the use or operation of all or part of a rail facility or system.

(b) Requires TxDOT 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 TxDOT's monitoring of a rail operator's service and performance.

(d) Authorizes TxDOT to enter into an agreement with a rail operator to sell all or any part of state owned rail facilities on terms TxDOT considers to be in the best interest of the state.

Sec. 91.103. JOINT USE OF RAIL FACILITIES. Authorizes TxDOT to:

- (1) enter into an agreement with a rail operator, public utility, private utility, communication system, common carrier, or transportation system for the common use of its facilities, installations, or properties; and
- (2) establish through routes, joint fares, and, subject to approval of a tariff regulating body having jurisdiction, divisions of tariffs.

Sec. 91.104. ROUTINGS. Authorizes TxDOT to determine routings for rail facilities acquired, constructed, or operated by TxDOT 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 TxDOT of the utility's intention to exercise authority over right of way that is part of state-owned rail facilities.

(b) Authorizes TxDOT to designate the location in the right of way where the utility may place its facilities, lines, or equipment.

(c) Authorizes TxDOT 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 rail facilities owned by the state. Requires TxDOT to pay for the cost of the relocation if the utility has a compensable property interest in the land occupied by the facility to be relocated. Provides that if a utility facility is replaced, the cost of replacement is limited to an amount equal to the cost of replacing the facility with a comparable facility, less the net salvage value of the replaced facility.

(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 had the right to do at the previous location of the facility.

SECTION 4.02. Repealer: Section 2, Chapter 1244, Acts of the 77th Legislature, Regular Session, 2001 (Article 6550c-2, V.T.C.S.).

SECTION 4.03. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 5. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

SECTION 5.01. 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 TTC 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 \$10 billion. Authorizes TTC to only issue bonds or other public securities in an aggregate principal amount of not 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 state highway improvement projects. Authorizes proceeds to be used only to provide certain funding or short-term financing of turnpike project costs that are incurred before the project is open to traffic and begins generating revenue, if TTC determines that issuing short-term bonds will reduce total project costs.

(d) Defines "Texas Highway Trunk System."

(e) Requires TTC, of the aggregate principal amount of bonds and other public securities that may be issued under this section, to issue bonds or other public securities in an aggregate principal amount of \$2 billion to fund projects eligible under Subsection (c)(4). Requires TTC, by rule, to prescribe criteria for selecting projects eligible for funding under this section. Requires TTC, in establishing criteria for projects eligible under Subsection (c)(4), to consider accident data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

(f) Prohibits the proceeds of bonds and other public securities issued under this section from being used for any purpose other than any 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. Authorizes the proceeds of bonds and other public securities issued under this section may not be used for the construction of a state

highway or other facility on the Trans-Texas Corridor. Defines "Trans-Texas Corridor."

(g) Authorizes TTC to enter into credit agreements, as defined by Chapter 1371, Government Code, 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.

(h) Provides that 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, apply to the issuing of bonds and other public securities and the entering into of credit agreements under this section.

(i) Authorizes the proceeds of bonds and other public securities issued under this section may 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.

(j) Prohibits bonds and other public securities and credit agreements authorized by this section from having a principal amount or terms that, at the time the bonds or other public securities are issued or the agreements entered into, are expected by TTC 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.

(k) Authorizes bonds and other public securities issued under this section to be sold in such manner and subject to such terms and provisions as set forth in the order authorizing their issuance, and requires such bonds and other public securities to mature not later than 20 years after their dates of issuance, subject to any refundings or renewals.

(l) Requires the comptroller to withdraw from the state highway fund and forward at the direction of TTC to another person the amounts as determined by TTC to permit timely payment of the principal of and interest on the bonds and other public securities that mature or become due and any cost related to the bonds and other public securities that become due, including payments under credit agreements.

(m) Prohibits TTC from funding a project unless TTC makes a formal finding by minute order that the funding of the project will satisfy the requirements of Subsection (c).

SECTION 5.02. Provides that this article takes effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, that authorizes the legislature to provide for the issuance of bonds and other public securities secured by the state highway fund for highway improvement projects takes effect. Provides that if that amendment is not approved by the voters, this article has no effect.

ARTICLE 6. PASS-THROUGH TOLLS

SECTION 6.01. Amends Subchapter E, Chapter 222, Transportation Code, by adding Section 222.104, as follows:

Sec. 222.104. PASS-THROUGH TOLLS. (a) Defines "pass-through toll."

(b) Authorizes TxDOT to enter into an agreement with a public or private entity that

provides for the payment of pass through 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 TxDOT to enter into an agreement with a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 that provides for the payment of pass through tolls to the 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 TxDOT estimates it would have incurred if the highway had not been converted.

(d) Authorizes TxDOT to use any available funds for the purpose of making a pass through toll payment under this section.

(e) Authorizes TTC to adopt rules necessary to implement this section. Authorizes rules adopted under this subsection to establish certain criteria.

SECTION 6.02. Effective date of this article: upon passage or September 1, 2003.

ARTICLE 7. CONVERSION OF NONTOLL STATE HIGHWAY

SECTION 7.01. Amends Subchapter A, Chapter 284, Transportation Code, by adding Section 284.009, as follows:

Sec. 284.009. CONVEYANCE OF STATE HIGHWAY TO COUNTY. (a) Authorizes TTC to convey a nontoll state highway or a segment of a nontoll state highway, including real property acquired to construct or operate the highway, to a county for operation and maintenance as a project under this chapter if certain conditions apply.

(b) Authorizes TTC to only make a conveyance under this section if TTC determines that the conveyance is the most feasible and economic means to accomplish necessary expansions, extensions, or improvements of the conveyed segment of the highway. Prohibits tolls from being collected by an authority from a conveyed segment of highway except to finance the expansion, extension, operation, and maintenance of that highway segment.

(c) Authorizes a county that receives a nontoll state highway or a segment of a nontoll state highway under Subsection (a) to own, operate, and maintain the highway as a pooled project under Section 284.065.

(d) Requires TTC, at the time of a conveyance, to remove the highway or segment of highway from the state highway system. Provides that after a conveyance, TxDOT has no liability, responsibility, or duty for the maintenance or operation of the highway or segment.

(e) Authorizes TTC to waive all or a portion of an amount due under Subsection (a)(2) if it finds that the conveyance will result in substantial net benefits to the state, TxDOT, and the traveling public that equal or to exceed the amount of payment waived.

(f) Requires TTC, before conveying a nontoll state highway or a segment of a nontoll state highway under this section, to conduct a public hearing to receive comments from interested persons concerning the proposed conveyance. Requires notice of the hearing to be published in the Texas Register and in one or more newspapers of general circulation in any county in which the highway or segment is located.

(g) Requires TTC to adopt rules implementing this section, including criteria and guidelines for approval of a conveyance of a highway or segment.

(h) Requires funds received by TxDOT under this section to be deposited to the credit of the state highway fund; and provides that those funds are exempt from the application of Section 403.095, Government Code.

SECTION 7.02. Amends Section 362.0041, Transportation Code, by amending Subsections (a), (c), and (d) and adding Subsections (e)-(g), as follows:

(a) Authorizes TTC, except as provided in Subsections, rather than Subsection, (d) and (g), to by order convert, rather than finds that the conversion of, a segment of the free state highway system to a toll facility if it determines that the conversion will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to that segment of the state highway system. Deletes text relating to authorizing a certain segment to be converted by order of TTC to a turnpike project under Chapter 361.

(c) Requires TTC to adopt rules implementing this section, including, rather than such rules to include, criteria and guidelines for the approval of a conversion of a highway.

(d) Prohibits TTC from converting the Queen Isabella Causeway in Cameron County to a toll facility, rather than turnpike project.

(e) Provides that Subchapter G, Chapter 361, applies to a highway converted to a toll facility under this section.

(f) Requires toll revenue collected under this section to be used in a certain manner.

(g) Provides that TTC may only convert a segment of the state highway system under this section if the conversion is approved by the commissioners court of each county within which the segment is located.

SECTION 7.03. Amends Section 366.035, Transportation Code, as follows:

Sec. 366.035. New heading: CONVEYANCE OF STATE HIGHWAY. (a) Authorizes TTC to convey a nontoll state highway or a segment of a nontoll state highway, including real property acquired to construct or operate the highway, to an authority for operation and maintenance as a turnpike project under this chapter under certain circumstances.

(b) Provides that TTC may only make a conveyance under this section if it determines that the conveyance is the most feasible and economic means to accomplish necessary expansions, extensions, or improvements of the conveyed segment of the highway. Prohibits tolls from being collected by an authority from a conveyed segment of highway except to finance the expansion, extension, operation, and maintenance of that highway segment. Deletes text regarding the conversion to a turnpike project of a segment of the free state highway system. Authorizes an authority that receives the segment or highway to own, operate, and maintain the segment or highway as a turnpike project or system or a part of a turnpike project or system under this chapter.

(c) Authorizes TTC to waive all or a portion of an amount due under Subsection (a)(2) if it finds that the conveyance will result in substantial net benefits to the state, TxDOT, and the traveling public that equal or exceed the amount of payment waived.

(d) Deletes text regarding an authority reimbursing TTC for the cost of a transferred

highway. Redesignates the existing text of Subsection (c) as (d) and changes references to a highway transfer to read “conveyance.”

(e) Redesignates the existing text of Subsection (d) as (e). Modifies references to a highway system to read “highway.” Makes conforming changes.

(f) Redesignated from Subsection (e). Makes a conforming change.

(g) Redesignated from Subsection (f). No changes made to this subsection.

(h) Redesignated from Subsection (g). No changes made to this subsection.

(i) Requires funds received by TxDOT under this section to be deposited to the credit of the state highway fund, and are exempt from the application of Section 403.095, Government Code.

ARTICLE 8. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION OF CERTAIN OFFENSES

SECTION 8.01. Amends Article 45.051, Code of Criminal Procedure, as follows:

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. (a) Authorizes a judge, rather than justice, on a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, at the judge's discretion, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days.

(b) Authorizes the judge, rather than justice, during the deferral period, at the judge's discretion, to require the defendant to take certain actions, including to complete a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), V.T.C.S.) or another course as directed by the judge, and to present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article.

(c) Deletes text regarding an adjudication of guilt and a reduction or imposition of a fine. Provides that, other than an offense under Section 545.413, Transportation Code, this subsection does not apply to an offense involving the operation of a motor vehicle. Makes conforming changes.

(c-1) Provides that this subsection applies only to an offense involving the operation of a motor vehicle, other than an offense under Section 545.413, Transportation Code. Requires the justice, at the conclusion of the deferral period, if the defendant presents satisfactory evidence that the defendant has complied with the requirements imposed, to proceed with an adjudication of guilt but prohibits the justice from imposing the fine assessed or a reduced fine.

(d) Makes conforming and nonsubstantive changes.

(e) Makes a nonsubstantive change.

(f) Provides that this article does not apply to an offense to which Section 542.404 or 729.004(b), Transportation Code, applies.

SECTION 8.02. Amends Article 45.0511, Code of Criminal Procedure, as follows:

Art. 45.0511. New heading: DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a) Provides that this article applies only to an alleged offense that:

- (1) is within the jurisdiction of a justice court or a municipal court;
- (2) involves the operation of a motor vehicle; and
- (3) is defined by Section 472.022, rather than 522.003, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code.

(b) Requires the judge to require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if:

- (1) the defendant elects to take a driving safety course or motorcycle operator training course under this article;
- (2) the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense;
- (3) the defendant enters a plea under Article 45.021 in person or in writing of no contest or guilty on or before the answer date on the notice to appear and other circumstances apply.
- (4) the defendant has a valid Texas driver's license or permit;
- (5) the defendant is charged with an offense to which this article applies, other than speeding 25 miles per hour or more over the posted speed limit; and
- (6) the defendant provides evidence of financial responsibility as required by Chapter 601, Transportation Code.

Makes conforming and nonsubstantive changes.

(c) Requires the court to enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court certain information.

(d) Amends statutory references to conform to changes in law made by this Act.

(e) Makes conforming changes.

(f) Authorizes the court, in addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, to:

- (1) require a defendant requesting a course under Subsection (b) to pay a fee set by the court at an amount of not more than \$10; or
- (2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the maximum amount of the fine for the offense committed by the defendant.

(g) Makes a conforming change.

(h) No changes made to this subsection.

(i) Requires the court, if a defendant requesting a course under this article fails to comply with Subsection (c), to:

- (1) notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and
- (2) require the defendant to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) Requires the court, if the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), to enter an adjudication of guilt and impose sentence. Deletes text regarding a misdemeanor punishable as provided by Section 543.009, Transportation Code.

(k) Authorizes the court, on a defendant's showing of good cause for failure to furnish evidence to the court, to allow an extension of time during which the defendant may present:

- (1) a uniform certificate of course completion as evidence that the defendant successfully completed the driving safety course; or
- (2) a verification of course completion as evidence that the defendant successfully completed the motorcycle operator training course.

(l) Requires the court, when a defendant complies with Subsection (c), to:

- (1) proceed with an adjudication of guilt, but may not impose the fine assessed or a reduced fine, rather than remove the judgment and dismiss the charge;
- (2) report the fact that the defendant successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and
- (3) state in that report whether the course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

(m) Authorizes a defendant charged with more than one offense to complete a driving safety course in connection with only one of the charges.

(n) Deletes the existing text of Subsection (n) and redesignates Subsection (o) as (n). Requires the court to advise a defendant charged with a misdemeanor under Section 472.022, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right under this article to successfully complete a driving safety course or, if the offense was committed while operating a motorcycle, a motorcycle operator training course. Provides that the right to complete a course does not apply to a defendant charged with:

- (1) a violation of Section 545.066, 550.022, or 550.023, Transportation Code (deletes Sections 545.401, 545.421); or
- (2) an offense to which Section 542.404 or 729.004(b) (deletes Section 522.003), Transportation Code, applies.

(p) Requires a notice to appear issued for an offense to which this article applies to inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a

motorcycle operator training course. Sets forth the substantial wording of the notice required by this subsection.

(q) Authorizes the defendant, if the notice required by Subsection (p) is not provided to the defendant charged with the offense, to continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (p) is provided to the defendant or there is a final disposition of the case. Deletes the existing text of Subsection (q) regarding deferred disposition.

SECTION 8.03. Amends Section 472.022(f), Transportation Code, to provide that Articles 45.051 and 45.0511, Code of Criminal Procedure, do not, rather than Article 45.54, Code of Criminal Procedure, does not, apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

SECTION 8.04. Repealers: Section 543.101 (Statement of Right Provided on Notice to Appear), Transportation Code; and Section 543.117 (Offense in Construction or Maintenance Work Zone), Transportation Code.

SECTION 8.05. (a) Effective date for this article: September 1, 2003.

(b) and (c) Make Articles 45.051 and 45.0511, Code of Criminal Procedure, as amended by this article, prospective to September 1, 2003.

ARTICLE 9. DRIVER'S LICENSES

SECTION 9.01. Amends Section 521.292, Transportation Code, by adding Subsection (c), to provide that for purposes of Subsection (a)(3), (7), or (9) and Subsection (b), an adjudication of guilt under Articles 45.051(c 1) and 45.0511(1)(1), Code of Criminal Procedure, is not a conviction.

ARTICLE 10. COMMERCIAL DRIVER'S LICENSES

SECTION 10.01. Amends Section 522.003(25), Transportation Code, to redefine "serious traffic violation."

SECTION 10.02. Amends Section 522.081, Transportation Code, as follows:

(a) Provides that this subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle. Provides that a person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for certain amounts of time if convicted of certain offenses. Deletes provisions regarding certain violations.

(b) Provides that this subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, except as provided by this subsection. Provides that a person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for one year if convicted of a certain offense. Deletes text regarding certain offenses.

(c) Provides that a person who holds a commercial driver's license is disqualified from operating a commercial motor vehicle for three years if the person is convicted of a certain offense. Deletes text regarding certain offenses.

(d) Provides that a person is disqualified from driving a commercial motor vehicle for life if the person is convicted of certain offenses.

(e) Prohibits a person from being issued a commercial driver's license and disqualifies the

person from operating a commercial motor vehicle if, in connection with the person's operation of a commercial motor vehicle, the person commits an offense or engages in conduct that would disqualify the holder of a commercial driver's license from operating a commercial motor vehicle, or is determined to have had an alcohol concentration of 0.04 or more or to have had a controlled substance or drug present in the person's body. Provides that the period of prohibition under this subsection is equal to the appropriate period of disqualification required by Subsections (a) (d).

(f) Created from existing text.

SECTION 10.03. Amends Section 522.087, Transportation Code, to conform statutory references to changes in law.

SECTION 10.04. Amends Section 543.202(b), Transportation Code, to require a record to be made on a form or by a data processing method acceptable to TxDOT and to include the plea, the judgment, whether the individual was adjudicated under Article 45.051(c-1) or 45.0511(l)(1), Code of Criminal Procedure, and whether bail was forfeited, among other information.

SECTION 10.05. Repealer: Section 543.101 (Statement of Right Provided on Notice to Appear), Transportation Code. [As drafted, this provision is also repealed in SECTION 8.04 of this Act.]

SECTION 10.06. (a) Effective date for this article: June 1, 2005.

(b) Makes application of Sections 522.081 and 522.087, Transportation Code, as amended by this article, prospective.

ARTICLE 11. MOTOR VEHICLE SALES TAX

SECTION 11.01. Amends Section 152.002, Tax Code, is amended by adding Subsection (f), to provide that, notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 11.02. Amends Section 152.041(a), Tax Code, to include a reference to Section 152.0412.

SECTION 11.03. Amends Subchapter C, Chapter 152, Tax Code, by adding Section 152.0412, as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) Defines "standard presumptive value."

(b) Provides that if the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than the standard presumptive value of the vehicle, a county tax assessor-collector is required to compute the tax on the amount paid.

(c) Provides that if the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than the standard presumptive value of the vehicle, a county tax assessor-collector is required to compute the tax on the standard presumptive value unless the purchaser establishes the retail value of the vehicle as provided by Subsection (d).

(d) Requires a county tax assessor-collector to compute the tax imposed by this chapter on the retail value of a motor vehicle if certain criteria are fulfilled.

(e) Requires a motor vehicle dealer operating under Subchapter B, Chapter 503,

Transportation Code, on request, to provide a certified appraisal of the retail value of a motor vehicle. Requires the comptroller by rule to establish a fee that a dealer may charge for providing the certified appraisal. Requires the county tax assessor-collector shall retain a copy of a certified appraisal received under this section.

(f) Requires TxDOT to maintain information on the standard presumptive values of motor vehicles as part of TxDOT's registration and title system. Requires TxDOT to update the information at least quarterly each calendar year.

SECTION 11.04. Amends Chapter 152, Tax Code, by amending Section 152.121 and adding Section 152.123, as follows:

Sec. 152.121. TAX SENT TO COMPTROLLER. (a) Requires a county tax assessor-collector, after crediting the amounts as provided by Section 152.123, to send money collected from taxes and penalties imposed by this chapter to the comptroller in a certain manner.

(b) No changes to this subsection. Deletes Subsection (c), regarding the amount of net collections under Chapter 502, Transportation Code, being insufficient to cover the amount of those net collections authorized to be retained by a county as a percentage of the tax and penalties collected under this chapter.

Sec. 152.123. TAX RETAINED BY COUNTY. (a) Requires the county tax assessor-collector to calculate five percent of the tax and penalties collected by the county tax assessor-collector under this chapter. Requires the county tax assessor-collector, in addition, to calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller collected under Section 152.047 in the preceding calendar year, and determines are attributable to sales in the county.

(b) Requires the county to retain a certain percentage of the amounts calculated under Subsection (a) during each of certain fiscal years.

(c) Requires the county to credit the amounts retained under Subsection (b) to the county's general fund.

SECTION 11.05. Amends Section 502.102(b), Transportation Code, to make conforming changes.

SECTION 11.06. Amends Chapter 502, Transportation Code, by adding Section 502.1025, as follows:

Sec. 502.1025. ADDITIONAL AMOUNTS RETAINED BY A COUNTY. (a) Requires the county tax assessor-collector to calculate five percent of the tax and penalties collected by the county tax assessor-collector under Chapter 152, Tax Code. Requires the county tax assessor-collector, in addition, to calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller collected under Section 152.047, Tax Code, in the preceding calendar year, and determines are attributable to sales in the county.

(b) Requires a county tax assessor-collector to retain a certain percentage of the amounts calculated under Subsection (a) during each of certain fiscal years.

(c) Requires the county to credit the amounts retained under Subsection (b) to the county road and bridge fund. Provides that money credited to the fund under this section may only be used for county road construction, maintenance, and repair, bridge construction, maintenance, and repair, the purchase of right-of-way for road or highway purposes, or the relocation of utilities for road or highway purposes.

SECTION 11.07. Repealer: Section 502.108(e) (regarding the use of registration fees for certain purposes), Transportation Code.

ARTICLE 12. MISCELLANEOUS PROVISIONS

SECTION 12.01. Amends Section 201.601, Transportation Code, by adding Subsection (c), to require the plan to include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. Requires TxDOT, in developing this component of the plan, to seek opinions and assistance from officials who have local responsibility for modes of transportation listed in Subsection (a).

[As drafted, C.S.H.B. 3588 also adds this Subsection (d).]

(d) Requires the plan to include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements. Requires TxDOT to consider the performance measures in selecting transportation improvements.

SECTION 12.02. (a) Authorizes TTC to sell the tract of land comprising TxDOT's Bull Creek campus at Bull Creek Road and 45th Street in Austin in accordance with the procedures for disposal of surplus land acquired for highway purposes under Subchapter B, Chapter 202, Transportation Code.

(b) Authorizes TTC to retain ownership and control of the portion of the Bull Creek campus used on the effective date of this Act for the operations of the department's motor carrier division, and the parking facilities on Bull Creek Road used to serve the Bull Creek campus and the department's Camp Hubbard campus.

(c) Requires revenue from the sale of this property to be deposited to the credit of the state highway fund.

(d) Authorizes TTC, before September 1, 2005, to purchase or acquire by exercise of the power of eminent domain any portion of the State Aircraft Pooling Board property located at the site of the former Robert Mueller Municipal Airport in Austin that TTC determines is needed:

- (1) as a replacement for property sold under Subsection (a) of this section;
- (2) for the operation of an intelligent transportation system; or
- (3) to locate other department facilities or offices.

(e) Authorizes TxDOT to relocate its displaced operations from the Bull Creek campus to the replacement property. Authorizes TTC, if the State Aircraft Pooling Board property is not sufficient for TxDOT's needs to relocate displaced operations and for other facilities or offices, to also purchase or acquire by exercise of the power of eminent domain any property adjacent to that property that TTC determines necessary.

(f) Provides that this section does not require TTC to relocate all or a portion of TxDOT's displaced operations from the Bull Creek campus to property acquired under this section.

(g) Provides that Section 31.158, Natural Resources Code, does not apply to a transaction authorized by this section.

SECTION 12.03. (a) Requires the Texas Building and Procurement Commission, on behalf of the state, to sell TxDOT the following state-owned land on the site of the former Robert Mueller Municipal Airport in Austin:

- (1) the 3.010-acre tract of land located at 4900 Old Manor Road; and
- (2) any other portion of state-owned land that the TxDOT needs to relocate the operations carried out at its Bull Creek Campus at Bull Creek Road and 45th Street in Austin.

(b) Requires TxDOT to purchase the land before September 1, 2005.

(c) Provides that Section 31.158, Natural Resources Code, does not apply to a real estate transaction authorized by this section.

SECTION 12.04. Amends Section 222.103(h), Transportation Code, to prohibit money granted by TxDOT each fiscal year under this section from exceeding \$800 million. Deletes text regarding the federal fiscal year and 30 percent of the obligation authority under the federal-aid highway program distributed to this state in a certain year. Provides that this limitation does not apply to money required to be repaid.

ARTICLE 13. GENERAL PROVISIONS; EFFECTIVE DATE

SECTION 13.01. Provides that money required to be deposited to a specific fund or account by a change in law made by this Act is exempt from Section 403.095, Government Code.

SECTION 13.02. Effective date: except as otherwise provided by this Act, September 1, 2003.