

By: Krusee

H.B. No. 1198

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, designation, construction, and operation of a system of multimodal facilities to be designated as the Trans Texas Corridor.

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

SECTION 1. Subtitle B, Title 6, Transportation Code, is amended by adding Chapter 227 to read as follows:

CHAPTER 227. TRANS TEXAS CORRIDOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 227.001. SHORT TITLE. This chapter may be cited as the Trans Texas Corridor Act.

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Transportation vitally affects the economy of this state and the public interest and welfare of its citizens. It is the policy of this state to exercise the full extent of its constitutional power to ensure the development of a new generation of facilities known as the Trans Texas Corridor. The Trans Texas Corridor will combine various facilities, including free highways, turnpikes, freight rail, passenger and commuter rail, pipelines, communications lines, and other utilities. These integrated corridors will enhance the safety of travelers, relieve congestion, and protect the human and natural environment by serving population centers without directing traffic into heavily populated areas. The Trans Texas Corridor will thus provide for the secure and reliable

1 transportation of people, property, power, and information in ways
2 that will benefit all citizens of this state.

3 (b) The purpose of this chapter is to provide the commission
4 and the department with all powers necessary or convenient to the
5 construction and operation of the Trans Texas Corridor. These
6 powers include the ability to use innovative financing and
7 contracting tools to permit the expeditious construction of the
8 Trans Texas Corridor with a high degree of flexibility and
9 efficiency.

10 (c) It is the intent of the legislature that in exercising
11 these powers, the commission and the department will solicit and
12 consider the views of all persons through an active program of
13 public hearings, meetings, and opportunities for written comment
14 on proposed courses of action. It is also the intent of the
15 legislature that the commission and the department will encourage
16 efficiency at all levels of private involvement by fostering a
17 competitive environment that will challenge private enterprise,
18 reward innovation, and achieve the best value for the state.

19 (d) This chapter shall be liberally construed to achieve its
20 purposes.

21 Sec. 227.003. DEFINITIONS. In this chapter:

22 (1) "Construction" includes extension, expansion, and
23 improvement.

24 (2) "Facility" means:

25 (A) a state highway;

26 (B) a turnpike;

27 (C) freight or passenger rail, including

1 commuter rail, intercity rail, and high-speed rail;

2 (D) a pipeline, including a pipeline carrying
3 crude oil, petroleum products, natural gas, water, sewage,
4 chemicals, or other goods;

5 (E) a utility transmission line, including power
6 lines;

7 (F) a communications line, including data
8 transmission lines, telephone lines, telegraph lines, and
9 television cables;

10 (G) any other method of transporting people,
11 property, power, or information that relies on or benefits from
12 continuous fixed structures; or

13 (H) any structure that is reasonably necessary
14 for the effective operation of a method of transportation, such as
15 an intermodal transfer or staging area, a weigh station, an
16 inspection station, a rest area, a service station, a restaurant, a
17 train or bus station, a warehouse, a freight interchange, a
18 switching yard, a maintenance yard, and a pipeline pumping station.

19 (3) "Fee" includes any charge, toll, rent, lease
20 payment, user fee, franchise fee, percentage fee, license fee,
21 fare, tariff, or other consideration received in return for the use
22 of:

23 (A) property that is part of the Trans Texas
24 Corridor,

25 (B) a facility on the Trans Texas Corridor, or

26 (C) any service that is offered in connection
27 with the Trans Texas Corridor.

1 (4) "Operation" includes maintenance and repair.

2 (5) "Trans Texas Corridor" means the statewide system
3 of facilities designated by the commission under this chapter.

4 (6) "Turnpike" has the meaning assigned to turnpike
5 project in Section 361.001.

6 Sec. 227.004. RULES. The commission may promulgate rules
7 and the department may implement procedures and forms as necessary
8 or convenient to implement this chapter.

9 Sec. 227.005. APPLICABILITY OF OTHER LAW. (a) All laws
10 governing the financing, design, construction, or operation of a
11 state highway apply to the financing, construction, or operation of
12 a highway under this chapter unless in conflict with this chapter.

13 (b) All laws governing the financing, construction, or
14 operation of a turnpike by the department apply to the financing,
15 construction, or operation of a turnpike as part of the Trans Texas
16 Corridor unless in conflict with this chapter.

17 SUBCHAPTER B. ESTABLISHMENT

18 Sec. 227.011. DESIGNATION. The commission shall designate
19 the Trans Texas Corridor.

20 Sec. 227.012. ROUTE SELECTION. The commission shall
21 consider the following criteria when selecting a route for a
22 segment of the Trans Texas Corridor:

23 (1) current and projected traffic patterns;
24 (2) the safety of motorists;
25 (3) potential risks to non-motorists from spills or
26 accidents of any kind;

27 (4) environmental effects, including the effect on air

1 quality;

2 (5) current and projected economic development;

3 (6) the current and projected need for additional
4 transportation options; and

5 (7) system connectivity.

6 Sec. 227.013. PUBLIC PARTICIPATION. Before designating a
7 route for a segment of the Trans Texas Corridor, the department
8 shall hold one or more public hearings.

9 Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) If
10 the commission determines that the mobility needs of this state
11 would be most efficiently and economically met by jointly operating
12 two or more facilities as one operational and financial enterprise,
13 it may create a system composed of those facilities. The commission
14 may create more than one system and may combine two or more systems
15 into one system. The commission may finance, construct, and
16 operate an additional facility as an expansion of a system if the
17 commission determines that the facility would most efficiently and
18 economically be constructed and operated if it were a part of the
19 system and that the addition will benefit the system.

20 (b) The revenue of a system shall be accounted for
21 separately and may not be commingled with the revenue of a facility
22 that is not a part of the system.

23 Sec. 227.015. LOCATION OF FACILITIES. Notwithstanding any
24 other law, including Chapter 181, Utilities Code, Chapter 402,
25 Local Government Code, and Section 49.220, Water Code, the
26 department may specify the location of any facility on the Trans
27 Texas Corridor and may direct the time and manner of construction or

operation of any facility on the Trans Texas Corridor.

SUBCHAPTER C. DEVELOPMENT AND OPERATION

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

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

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

(b) If the department authorizes another governmental entity to construct or operate any facility on the Trans Texas Corridor, that entity will have all the powers granted to the department by this chapter with respect to that facility, including the right to collect fees, except that any property acquired shall be held in the name of the state.

(c) Notwithstanding any other law, if the department authorizes another governmental entity to construct or operate any facility on the Trans Texas Corridor, that entity may perform the authorized function without regard to geographic limits on the

1 entity's jurisdiction.

2 (d) If the department authorizes another governmental
3 entity to construct or operate any facility on the Trans Texas
4 Corridor, that entity will be liable for claims relating to the
5 Trans Texas Corridor only to the extent that the department would be
6 liable if it were constructing or operating the facility.

7 Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) To
8 the maximum extent practical and economical, the department shall
9 encourage the participation of private entities in the construction
10 and operation of facilities.

11 (b) The department shall contract with a private entity to
12 operate a railroad using facilities owned by the department and
13 may not use department employees to operate a railroad. The
14 department may maintain railroad facilities directly or through a
15 private entity.

16 (c) To remove any barriers to participation by small and
17 disadvantaged businesses, the department shall apply the same
18 procedures to exclusive development agreements that it applies to
19 contracts entered under other construction and design contracts.
20 The department shall encourage participation by small and
21 disadvantaged businesses in the performance of exclusive
22 development agreements.

23 Sec. 227.024. HIGHWAYS. (a) A highway, including a
24 turnpike, on the Trans Texas Corridor is a part of the state highway
25 system.

26 (b) Notwithstanding any other law, the department may
27 dedicate one or more highway lanes on the Trans Texas Corridor to

1 the exclusive use of designated classes of vehicles.

2 Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) The
3 commission may authorize the operation of vehicles exceeding the
4 height, length, and gross weight limitations of Subchapter C,
5 Chapter 621 on highway segments of the Trans Texas Corridor if
6 supported by an engineering and traffic study that includes an
7 analysis of the structural capacity of bridges and pavements,
8 current and projected traffic patterns and volume, and potential
9 effects on public safety.

10 (b) This section does not authorize the operation of
11 vehicles exceeding the maximum axle weights authorized under
12 Chapters 621, 622, and 623.

13 (c) The authority granted under this section does not apply
14 to the operation of a vehicle on a highway that is not part of the
15 Trans Texas Corridor.

16 Sec. 227.026. NON-HIGHWAY FACILITIES. (a) The department
17 may acquire rolling stock or other personal property under a
18 conditional sales contract, lease, equipment trust certificate, or
19 any other form of contract or trust agreement for use in connection
20 with a rail or other facility.

21 (b) The department may enter into agreements with a rail
22 operator, public utility, private utility, communications system,
23 common carrier, transportation system, or other entity for the
24 common use of any facility.

25 Sec. 227.027. ENVIRONMENTAL REVIEW. (a) The department
26 shall conduct or approve all environmental evaluations or studies
27 required for any activity associated with the Trans Texas Corridor.

1 (b) The commission may promulgate rules to allocate
2 responsibilities for conducting environmental evaluations or
3 studies or preparing environmental documentation among entities
4 involved in the construction or operation of any facility on the
5 Trans Texas Corridor.

6 Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) The
7 department may acquire, maintain, hold, restore, enhance, develop,
8 or redevelop property for the purpose of mitigating a past,
9 present, or future adverse environmental effect arising from the
10 construction or operation of any part of the Trans Texas Corridor
11 without regard to whether the need for mitigation has already been
12 established for a particular project.

13 (b) The department may contract with a governmental or
14 private entity to maintain, control, hold, restore, enhance,
15 develop, or redevelop property for the mitigation of a past,
16 present, or future adverse environmental effect arising from the
17 construction or operation of any part of the Trans Texas Corridor
18 without regard to whether the need for mitigation has already been
19 established for a particular project.

20 (c) If authorized by the applicable regulatory authority,
21 the department may pay a sum of money to an appropriate governmental
22 or private entity instead of acquiring or managing property for the
23 mitigation of a past, present, or future adverse environmental
24 effect arising from construction or operation of any part of the
25 Trans Texas Corridor without regard to whether the need for
26 mitigation has already been established for a particular project.

27 Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) The

1 department may construct a grade separation at an intersection of
2 the Trans Texas Corridor with another facility and may change the
3 line or grade of a facility to accommodate it to the design of a
4 grade separation. The department shall pay the cost of a grade
5 separation and any damage incurred in changing a line or grade of a
6 facility.

7 (b) If the department finds it necessary to change the
8 location of a portion of a facility, it shall reconstruct the
9 facility at the location the department determines to be most
10 favorable. The reconstructed facility must be of substantially the
11 same type and in as good condition as the original facility. The
12 department shall determine and pay the cost of the reconstruction
13 and any damage incurred in changing the location of a facility.

14 (c) This section does not apply to the conversion of any
15 road that is a part of the state highway system to a highway on the
16 Trans Texas Corridor.

17 Sec. 227.030. AUTHORITY TO ENTER EXCLUSIVE DEVELOPMENT
18 AGREEMENTS. (a) The department may enter an exclusive development
19 agreement with a private or governmental entity to construct or
20 operate any facility that is part of the Trans Texas Corridor.
21 Notwithstanding any other law, including Section 222.103(i), an
22 exclusive development agreement may include the functions of
23 design, construction, and operation in any combination and may use
24 any constitutionally permissible source of funds without
25 restriction on the number of exclusive development agreements that
26 the department may enter.

27 (b) The facility may be financed in whole or in part by

1 private investment.

2 (c) Notwithstanding any other law, the department:

3 (1) has broad discretion to negotiate the terms of
4 financing; and

5 (2) may negotiate provisions relating to professional
6 and consulting services provided in connection with a project and
7 to the construction and operation of the facility, including
8 provisions for combining those services in any combination.

9 Sec. 227.031. PROCESS FOR ENTERING EXCLUSIVE DEVELOPMENT
10 AGREEMENTS. (a) The department, when entering an exclusive
11 development agreement with a private entity, shall use a
12 competitive procurement process that provides the best value for
13 the state, including contracting through the issuance of requests
14 for proposals. The department shall publish in the request for
15 bids, proposals, or qualifications the criteria that will be used
16 to evaluate the offerors and the relative weight given to the
17 criteria.

18 (b) The department may accept unsolicited proposals for
19 proposed projects, but may not enter an exclusive development
20 agreement unless it first issues a request for competing
21 proposals.

22 (c) The department may require that a solicited or
23 unsolicited proposal be accompanied by a non-reimbursable fee
24 sufficient to cover all or part of its cost to review the proposal.

25 (d) The department may pay an unsuccessful private entity
26 that submits a response to a request for proposals a stipulated
27 amount of the final contract price for any costs incurred in

preparing that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. After payment of the stipulated amount, the department may make use of any work product contained in the proposal, including the technologies, techniques, methods, processes, and information contained in the project design.

(e) The department shall prescribe the form of an exclusive development agreement and may include any matter the department considers advantageous to the state.

(f) Subchapter A, Chapter 223, and Chapter 2254, Government Code, do not apply to an exclusive development agreement entered into under this section.

Sec. 227.032. CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS. Until a final contract is executed with respect to a proposed project, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release:

(1) all or any part of a proposal submitted by a private entity for an exclusive development agreement;

(2) any supplemental information or materials submitted by a private entity in connection with a proposal for an exclusive development agreement; and

(3) any information created or collected by the

1 department or its agents during consideration of a proposal for an
2 exclusive development agreement.

3 Sec. 227.033. FORMS OF SECURITY FOR CONTRACTORS. (a)
4 Notwithstanding any other law, including Section 223.006 and
5 Subchapter B, Chapter 2253, Government Code, the department shall
6 require a private entity entering into an exclusive development
7 agreement or a construction or maintenance contract to provide
8 performance and payment bonds or alternative forms of security in
9 an amount sufficient to protect the department and ensure the
10 proper performance of the agreement, and to protect payment bond
11 beneficiaries who have a direct contractual relationship with the
12 private entity or a subcontractor of the private entity to supply
13 labor or material.

14 (b) The performance and payment bonds or alternative forms
15 of security shall be in an amount equal to the cost of constructing
16 or maintaining the project unless the department determines that it
17 is impractical for the private entity to provide security in that
18 amount, in which case the department shall set the amount of the
19 bonds or the alternative forms of security. A payment or
20 performance bond or alternative form of security is not required
21 for the portion of an agreement that includes only design or
22 planning services, the performance of preliminary studies, or the
23 acquisition of real property. In no case will the amount of the
24 payment security be less than the amount of the performance
25 security.

26 (c) The department may require the following alternative
27 forms of security:

1 (1) a cashier's check drawn on a financial entity
2 specified by the department;

3 (2) United States bonds or notes;

4 (3) irrevocable bank letter of credit; or

5 (4) any other form of security determined suitable by
6 the department.

7 (d) The commission by rule shall prescribe requirements for
8 alternative forms of security provided under this section.

9 Sec. 227.034. UNAUTHORIZED USE. Notwithstanding any other
10 law, the department may remove unauthorized personal property,
11 including vehicles, from the Trans Texas Corridor without notice
12 and at the owner's expense. Removed property may be stored until
13 claimed by the owner. If removed property is not claimed by the
14 owner within 72 hours after the date and time of removal, it shall
15 be considered abandoned within the meaning of Chapter 683. The
16 department and its employees shall not be held liable for damage to
17 property that is removed from the Trans Texas Corridor under this
18 chapter.

19 SUBCHAPTER D. RIGHT OF WAY ACQUISITION

20 Sec. 227.041. POWERS AND PROCEDURES. (a) The commission
21 may acquire, in the name of the state, an interest in real property
22 or a property right that may be necessary or convenient for the
23 construction or operation of any facility that is part of the Trans
24 Texas Corridor. The commission may acquire an interest in real
25 property or a property right by condemnation or by purchase under
26 any terms and conditions it considers proper. Property may be
27 purchased for possible use as part of the Trans Texas Corridor even

1 if a final decision has not been made that the Trans Texas Corridor
2 will ultimately be located on that property. Property may be
3 purchased along alternative potential routes for the Trans Texas
4 Corridor even if only one of those potential routes will ultimately
5 be chosen as the final route.

6 (b) An interest in real property or a property right is
7 necessary or convenient for the construction or operation of a
8 facility if it is located in or contiguous to an existing or
9 planned segment of the Trans Texas Corridor and if its acquisition
10 will further the purposes of the Trans Texas Corridor. Permissible
11 purposes include providing right of way or a location for a
12 facility, providing land for mitigation of adverse environmental
13 effects, providing buffer zones for scenic or safety purposes,
14 allowing for possible future expansion of any facility, and
15 generating revenue, directly or indirectly, for use in constructing
16 or operating the Trans Texas Corridor.

17 (c) All laws governing the acquisition of right of way for a
18 state highway apply to the acquisition of right of way for the Trans
19 Texas Corridor unless in conflict with this chapter.

20 Sec. 227.042. RIGHT TO RECEIVE FEES AS PAYMENT FOR REAL
21 PROPERTY. (a) Instead of paying for real property with a single
22 fixed payment, the department may, with a landowner's consent, pay
23 the landowner in the form of an intangible legal right to receive a
24 percentage of identified fees related to the applicable segment of
25 the Trans Texas Corridor.

26 (b) A right to receive fees granted under this section shall
27 expire no later than 50 years after it is granted.

1 (c) A right to fees granted under this section shall be
2 subordinate to any bonds that are issued for the applicable segment
3 of the Trans Texas Corridor and that are secured by the same fees.

4 Sec. 227.043. GRANT OF LEGAL RIGHTS AS PAYMENT FOR REAL
5 PROPERTY. (a) Instead of paying for real property with a single
6 fixed payment, the department may, with a landowner's consent, pay
7 the landowner in the form of an exclusive or a nonexclusive right to
8 use or operate a facility on the Trans Texas Corridor.

9 (b) A right granted under this section shall expire no later
10 than 50 years after it is granted.

11 Sec. 227.044. PURCHASE AND LEASEBACK. The department may
12 acquire real property for the Trans Texas Corridor and immediately
13 lease it back to the seller for any period or for an indefinite
14 period.

15 Sec. 227.045. DECLARATION OF TAKING. (a) The department
16 may file a declaration of taking with the clerk of the court:

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

19 (2) to which the case is assigned.

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

24 (c) The declaration of taking must include:

25 (1) a specific reference to the legislative authority
26 for the condemnation;

27 (2) a description and plot plan of the real property to

1 be condemned, including the following information if applicable:

2 (A) the municipality in which the property is
3 located;

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

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

6 (3) a statement of the property interest to be
7 condemned;

8 (4) the name and address of each property owner that
9 the department can identify after reasonable investigation and a
10 description of the owner's interest in the property; and

11 (5) a statement that immediate possession of all or
12 part of the property to be condemned is necessary for the timely
13 construction of a project on the Trans Texas Corridor.

14 (d) A deposit to the registry of the court of an amount equal
15 to the appraised value, as determined by the department, of the
16 property to be condemned must accompany the declaration of taking.

17 (e) The date on which the declaration is filed is the date of
18 taking for the purpose of assessing damages to which a property
19 owner is entitled.

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

23 Sec. 227.046. POSSESSION OF PROPERTY. (a) Immediately on
24 the filing of a declaration of taking, the department shall serve a
25 copy of the declaration on each person possessing an interest in the
26 condemned property by a method prescribed by Section 21.016(d),
27 Property Code. The department shall file evidence of the service

1 with the clerk of the court. On filing of that evidence, the
2 department may take possession of the property pending further
3 proceedings.

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

8 (c) A property owner or tenant who refuses to vacate the
9 property or yield possession is subject to forcible entry and
10 detainer under Chapter 24, Property Code.

11 Sec. 227.047. RIGHT OF ENTRY. (a) The department and its
12 authorized agents may enter any real property, water, or premises
13 in this state to make a survey, sounding, drilling, or examination
14 it determines necessary or appropriate for the purposes of this
15 chapter.

16 (b) An entry under this section is not:

17 (1) a trespass; or

18 (2) an entry under a pending condemnation proceeding.

19 (c) The department shall make reimbursement for any actual
20 damages to real property, water, or premises that result from an
21 activity described by Subsection (a).

22 Sec. 227.048. SEVERANCE OF REAL PROPERTY. (a) If the Trans
23 Texas Corridor severs an owner's real property by dividing it into
24 two or more noncontiguous parcels, the department shall pay:

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

26 (2) the damages to the remainder of the owner's
27 property caused by the severance, including damages caused by the

1 inaccessibility of one tract from the other.

2 (b) The department may negotiate for and purchase the
3 remainder of the severed real property or either part of the severed
4 real property if the department and the owner agree on terms for the
5 purchase.

6 Sec. 227.049. DONATIONS. The department has the authority
7 to accept donations of interests in real property from any person
8 for use in connection with the Trans Texas Corridor.
9 Notwithstanding any other law, including Chapter 575, Government
10 Code, the commission may promulgate rules permitting the department
11 to accept gifts of real property from any local, state, or federal
12 governmental entity without formal acknowledgment by the
13 commission.

14 Sec. 227.050. OTHER GOVERNMENTAL ENTITIES. If the
15 department authorizes another governmental entity to construct or
16 operate any segment of or any facility on the Trans Texas Corridor,
17 that entity will have all the powers and duties of the department
18 under this subchapter.

19 SUBCHAPTER E. FINANCING

20 Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. To the full
21 extent permitted by the constitution, the department may use any
22 available source of funding in acquiring property for,
23 constructing, and operating the Trans Texas Corridor. Permissible
24 sources of funding include appropriations from the state highway
25 fund for construction or maintenance of highways; fees; proceeds
26 from bonds secured by fees; proceeds from bonds secured by the Texas
27 Mobility Fund; donations, whether in kind or in cash; private

1 investments; loans from the state infrastructure bank;
2 contributions by governmental entities; and loans, grants, and
3 reimbursements from the federal government.

4 Sec. 227.062. REVENUE BONDS. (a) The commission may
5 authorize the issuance of bonds to pay all or part of the cost of
6 acquiring, constructing, or operating a facility or a system
7 created under Section 227.014, or to refund any bonds previously
8 issued for the facility or system.

9 (b) Chapters 1201, 1202, 1204, 1207, and 1371, Government
10 Code apply to bonds issued by the commission. To the extent there
11 is a conflict between those laws and this chapter, the provisions of
12 this chapter prevail.

13 (c) The principal of, interest on, and any redemption
14 premium on bonds issued by the commission may be paid from any
15 source that is not dedicated to another purpose by the
16 constitution, by statute, or by contract.

17 (d) Bonds issued under this chapter do not constitute a debt
18 of the state or a pledge of the faith and credit of the state. Each
19 bond must contain on its face a statement to the effect that the
20 state is not obligated to pay the bond or the interest on the bond
21 from a source other than the amount pledged to pay the bond and the
22 interest on the bond, and neither the faith and credit nor the
23 taxing power of the state are pledged to the payment of the
24 principal of or interest on the bond.

25 (e) The commission may not incur financial obligations that
26 cannot be paid from revenue derived from owning or operating a
27 facility or system and from other revenue provided by law.

1 (f) In issuing revenue bonds for which the proceeds will
2 solely be used for a turnpike, the commission may exercise any
3 additional powers granted under Subchapter E, Chapter 361.

4 Sec. 227.063. LOANS. The department may borrow money from
5 the federal government or the state infrastructure bank created
6 under Subchapter D, Chapter 222, to fund the construction or
7 operation of a facility under this chapter.

8 SUBCHAPTER F. REVENUE

9 Sec. 227.071. FEES. (a) Notwithstanding any other law,
10 including Chapter 181, Utilities Code, Chapter 402, Local
11 Government Code, and Section 49.220, Water Code, and except as
12 provided in Subsection (e), the department may require any person,
13 including any governmental or private entity, to pay a fee as a
14 condition of using any part of the Trans Texas Corridor.

15 (b) The commission may establish fees to be charged by the
16 department under this chapter. Fees may be set as absolute amounts,
17 as a percentage of revenue, as a percentage of actual use or
18 throughput, as a designated portion or percentage of initial
19 project funding, or on any other reasonable basis. Subject to
20 approval of any tariff-regulating body having jurisdiction, the
21 commission may establish joint fees and divisions of fees.

22 (c) A fee may exceed the department's costs, but the
23 commission may not set a fee that is prohibitive or that
24 discriminates unreasonably among users or potential users of a
25 facility.

26 (d) In setting fees under this section, the commission shall
27 consider:

- 1 (1) the acquisition cost of the property being used;
2 (2) the value of the property being transported or of
3 the service being offered;
4 (3) any costs to the department or to the public
5 occasioned by the use, including environmental effects;
6 (4) comparable fees set by the competitive
7 marketplace; and
8 (5) the desirable effects of full utilization of the
9 Trans Texas Corridor on the state's economy and its citizens.

10 (e) If a public road is replaced or eliminated by the Trans
11 Texas Corridor and if any facility made use of the right of way of
12 that public road under Chapter 181, Utilities Code, Chapter 402,
13 Local Governmental Code, or Section 49.220, Water Code, the
14 department may not require the owner of that facility to pay a fee
15 as a condition of using a segment of the Trans Texas Corridor for a
16 replacement facility.

17 Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) The
18 department may lease property on the Trans Texas Corridor to any
19 governmental or private entity. A lease shall not be for a term
20 longer than 50 years.

21 (b) The department may grant a franchise right to use or
22 operate a facility on the Trans Texas Corridor. A franchise right
23 under this section may not be granted for a term longer than 50
24 years.

25 (c) The department may grant an exclusive or a nonexclusive
26 license to access and use any portion of the Trans Texas Corridor
27 for any purpose. A license granted under this section may be for

1 any period or for an indefinite period.

2 (d) Property may be leased and franchise rights and licenses
3 may be granted for any purpose, including use as a facility and use
4 for unrelated commercial, industrial, or agricultural purposes.

5 (e) In return for a lease, a franchise right, or a license,
6 the department may accept anything of value as consideration.
7 Permissible consideration includes cash payments, installment
8 payments, payments based on percentages of use or throughput,
9 interests in real estate, personal property, and intangible legal
10 rights.

11 Sec. 227.073. DISPOSITION OF FEES. To the extent that it is
12 not dedicated to another purpose by the constitution, by statute,
13 or by contract, all revenue received by the department under this
14 chapter shall be deposited to the credit of the state highway fund
15 and may be used for any purpose authorized by this chapter.
16 Subchapter D, Chapter 316, Government Code, and Section 403.095,
17 Government Code, do not apply to revenue received under this
18 chapter.

19 SECTION 2. Subchapter H, Chapter 545, Transportation Code,
20 is amended by adding Section 545.3531 to read as follows:

21 Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION
22 COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS TEXAS CORRIDOR. (a)
23 Notwithstanding Section 545.352, the Texas Transportation
24 Commission, by order recorded in its minutes and except as provided
25 in Subsection (d), may determine and declare on a highway segment of
26 the Trans Texas Corridor designated under Chapter 227 a reasonable
27 and safe prima facie speed limit in excess of a prima facie speed

1 limit in Section 545.352.

2 (b) In determining whether a prima facie speed limit is
3 reasonable and safe, the commission shall conduct an engineering
4 and traffic investigation and shall consider the width and
5 condition of the pavement, the usual traffic at the affected area,
6 the suitability of existing safety features, and other
7 circumstances.

8 (c) A prima facie speed limit that is declared by the
9 commission under this section is effective when the department
10 erects signs giving notice of the new limit. A new limit that is
11 enacted under this section is effective at all times or at other
12 times as determined.

13 (d) The commission may not:

14 (1) modify the rules established by Section
15 545.351(b); or

16 (2) establish a speed limit of more than 85 miles per
17 hour.

18 (e) The commission, in conducting the engineering and
19 traffic investigation specified by Subsection (b), shall follow the
20 "Procedures for Establishing Speed Zones" as adopted by the
21 commission.

22 SECTION 3. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2003.