

AN ACT

relating to the financing, construction, improvement, maintenance,
and operation of transportation and transportation facilities.

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

SECTION 1. Section 201.112(a), Transportation Code, is amended to read as follows:

(a) The commission may by rule establish procedures for the informal resolution of a claim arising out of a contract described by:

- (1) Section 22.018;
- (2) Chapter 223; ~~[or]~~
- (3) Chapter 361; or
- (4) Chapter 2254, Government Code.

SECTION 2. The heading to Chapter 361, Transportation Code, is amended to read as follows:

CHAPTER 361. STATE HIGHWAY ~~[TEXAS]~~ TURNPIKE
PROJECTS ~~[AUTHORITY]~~

SECTION 3. Sections 361.001(2), (3), (4), and (5), Transportation Code, are amended to read as follows:

(2) ~~["Board" means the board of directors of the authority.]~~

~~[(3)]~~ "Owner" includes a person having title to or an interest in any property, rights, easements, and interests authorized to be acquired under this chapter.

1 (3) [~~4~~] "Turnpike project" means a toll highway
2 constructed, maintained, or operated under this chapter as part of
3 the state highway system and any improvement, extension, or
4 expansion to the highway and includes:

5 (A) a facility to relieve traffic congestion and
6 promote safety;

7 (B) a bridge, tunnel, overpass, underpass,
8 interchange, entrance plaza, approach, toll house, service road,
9 ramp, or service station;

10 (C) an administration, storage, or other
11 building the department [~~authority~~] considers necessary to operate
12 the project;

13 (D) property rights, easements, and interests
14 the department [~~authority~~] acquires to construct or operate the
15 project;

16 (E) a parking area or structure, rest stop, park,
17 and any other improvement or amenity the department [~~authority~~]
18 considers necessary, useful, or beneficial for the operation of a
19 turnpike project; and

20 (F) a toll-free facility that is appurtenant to
21 and necessary for the efficient operation of a turnpike project,
22 including a service road, access road, ramp, interchange, bridge,
23 or tunnel.

24 (4) [~~5~~] "Regional tollway authority" means a
25 regional tollway authority created under Chapter 366.

26 SECTION 4. The heading to Subchapter B, Chapter 361,
27 Transportation Code, is amended to read as follows:

1 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS [~~TEXAS TURNPIKE AUTHORITY~~]

2 SECTION 5. Section 361.031, Transportation Code, as amended
3 by Chapters 920 and 1237, Acts of the 77th Legislature, Regular
4 Session, 2001, is reenacted and amended to read as follows:

5 Sec. 361.031. TEXAS TURNPIKE AUTHORITY. (a) The Texas
6 Turnpike Authority is a division of the Texas Department of
7 Transportation. The [that has full] authority is responsible for
8 promoting and coordinating the development of turnpike projects
9 under this chapter. The commission and the director shall assign
10 duties to [exercise all powers granted to it under this chapter.
11 ~~Powers granted to the department under this chapter and Chapter 362~~
12 ~~to study, design, construct, operate, expand, enlarge, or extend a~~
13 ~~turnpike project as a part of the state highway system shall be~~
14 ~~exercised by the department acting by and through]~~ the authority
15 and other offices of the department as appropriate for the proper
16 administration of this chapter and other law.

17 (b) The exercise by the department [~~authority~~] of the powers
18 conferred by this chapter in the construction, operation, and
19 maintenance of a turnpike project is:

20 (1) in all respects for the benefit of the people of
21 this state, for the increase of their commerce and prosperity, and
22 for the improvement of their health and living conditions and
23 public safety; and

24 (2) an essential governmental function of the state.

25 SECTION 6. Section 361.042, Transportation Code, is
26 redesignated as Section 361.032, Transportation Code, and amended
27 to read as follows:

1 Sec. 361.032 [~~361.042~~]. GENERAL POWERS AND DUTIES. (a) The
2 commission [~~board~~] shall[+]

3 ~~[(1) on its own initiative or at the request of the~~
4 ~~commission, consider, study, plan, and develop turnpike projects~~
5 ~~under this chapter,~~

6 ~~[(2)]~~ adopt rules for the implementation and
7 administration of this chapter [~~regulation of its affairs and the~~
8 ~~conduct of its business, and~~

9 ~~[(3) undertake such other duties as are delegated to~~
10 ~~it by the commission].~~

11 (b) The department [~~authority~~] may:

12 (1) construct, maintain, repair, and operate turnpike
13 projects in this state;

14 (2) acquire, hold, and dispose of property in the
15 exercise of its powers and the performance of its duties under this
16 chapter;

17 (3) with the approval of the governor and the
18 commission, enter into contracts or operating agreements with
19 similar authorities or agencies of another state, including a state
20 of the United Mexican States;

21 (4) enter into contracts or agreements necessary or
22 incidental to its duties and powers under this chapter;

23 (5) employ consulting engineers, accountants,
24 construction and financial experts, superintendents, managers, and
25 other employees and agents the department [~~authority~~] considers
26 necessary and set their compensation;

27 (6) [~~employ attorneys to advance or defend legal~~

1 ~~actions pertaining to the division's activities, notwithstanding~~
2 ~~any other law to the contrary, including Section 402.0212,~~
3 ~~Government Code,~~

4 ~~[(7)]~~ receive grants for the construction of a
5 turnpike project and receive contributions of money, property,
6 labor, or other things of value from any source to be used for the
7 purposes for which the grants or contributions are made;

8 (7) notwithstanding Chapter 2113, Government
9 Code, ~~[(8) adopt and enforce rules not inconsistent with this~~
10 ~~chapter for the use of any turnpike project, including rules~~
11 ~~establishing speed limits and maximum allowable vehicle and load~~
12 ~~weight limits for turnpike projects,~~

13 ~~[(9)]~~ engage in marketing, advertising, and other
14 activities to promote the development and use of turnpike projects
15 and may enter into contracts or agreements necessary to procure
16 marketing, advertising, or other promotional services from outside
17 service providers;

18 ~~[(10) with the concurrence of the commission, form,~~
19 ~~develop, or utilize a corporation created under Chapter 431 for the~~
20 ~~promotion and development of turnpike projects,] and~~

21 (8) ~~[(11)]~~ do all things necessary or appropriate to
22 carry out the powers expressly granted by this chapter.

23 SECTION 7. Section 361.054, Transportation Code, is
24 redesignated as Section 361.033, Transportation Code, and amended
25 to read as follows:

26 Sec. 361.033 ~~[361.054]~~. AUDIT. Notwithstanding any other
27 law to the contrary, the department ~~[authority]~~ shall have an

1 independent certified public accountant audit the department's
2 [~~authority's~~] books and accounts for activities under this chapter
3 at least annually. The audit shall be conducted in accordance with
4 the requirements of any trust agreement securing bonds issued under
5 this chapter that is in effect at the time of the audit. The cost of
6 the audit may be treated as part of the cost of construction or
7 operation of a turnpike project. This section does not affect the
8 ability of a state agency to audit the department's [~~authority's~~]
9 books and accounts.

10 SECTION 8. The heading to Subchapter C, Chapter 361,
11 Transportation Code, is amended to read as follows:

12 SUBCHAPTER C. DEVELOPMENT [~~APPROVAL~~] OF TURNPIKE PROJECTS

13 SECTION 9. Section 361.101, Transportation Code, is amended
14 to read as follows:

15 Sec. 361.101. DETERMINATION OF TURNPIKE PROJECTS. The
16 department [~~authority~~] may:

17 (1) construct, maintain, repair, and operate a
18 turnpike project to:

19 (A) facilitate vehicular traffic throughout this
20 state;

21 (B) promote the agricultural and industrial
22 development of this state;

23 (C) effect traffic safety; or

24 (D) improve connections between highways of this
25 state, adjoining states, and the United Mexican States; and

26 (2) at any time determine to undertake a turnpike
27 project, except that the commission by order must approve [~~the~~

1 ~~location of the project before]~~ final designation.

2 SECTION 10. Section 361.103, Transportation Code, is
3 amended to read as follows:

4 Sec. 361.103. APPLICATION OF OTHER LAW. All other law
5 applicable to the department, the commission, or the state highway
6 system shall apply to the development, construction, maintenance,
7 and operation of a turnpike project under this chapter unless in
8 conflict with a provision of this chapter. ~~[ENVIRONMENTAL REVIEW.~~

9 ~~(a) The authority by rule shall provide for the authority's~~
10 ~~environmental review of turnpike projects. The rules must provide~~
11 ~~for:~~

12 ~~[(1) public comment on environmental reviews of~~
13 ~~turnpike projects, including the types of projects for which public~~
14 ~~hearings are required, and a procedure for requesting a public~~
15 ~~hearing on an environmental review for which a public hearing is not~~
16 ~~required;~~

17 ~~[(2) the environmental factors and impacts the~~
18 ~~authority will evaluate in its environmental reviews; and~~

19 ~~[(3) environmental review of alternate routes for a~~
20 ~~proposed turnpike project.~~

21 ~~[(b) The environmental review of a turnpike project must be~~
22 ~~conducted before the location or alignment of the project is~~
23 ~~adopted.~~

24 ~~[(c) The commission must approve each environmental review~~
25 ~~under this section before construction of a turnpike project~~
26 ~~begins.~~

27 ~~[(d) At least once during each five-year period, the~~

1 ~~authority, after a public hearing, shall review the rules relating~~
2 ~~to environmental review and make appropriate changes.]~~

3 SECTION 11. Subchapter C, Chapter 361, Transportation Code,
4 is amended by adding Section 361.104 to read as follows:

5 Sec. 361.104. ENTRANCES AND EXITS OF TURNPIKE PROJECT. The
6 department shall:

7 (1) designate the location of and establish, limit,
8 and control the entrances and exits of a turnpike project as
9 considered necessary or desirable to ensure the proper operation
10 and maintenance of the project; and

11 (2) prohibit entrance to a project at any place not
12 designated as an entrance.

13 SECTION 12. Section 361.131, Transportation Code, is
14 amended to read as follows:

15 Sec. 361.131. POWERS AND PROCEDURES OF DEPARTMENT
16 ~~[AUTHORITY]~~ IN ACQUIRING PROPERTY. Except as otherwise provided by
17 this chapter, the department ~~[authority, acting by and through the~~
18 ~~board,~~] has the same powers and may use the same procedures:

19 (1) in acquiring property under this chapter as the
20 commission or the department in acquiring property under Subchapter
21 D, Chapter 203; and

22 (2) in disposing of surplus property acquired under
23 this chapter as the commission or the department under Subchapter
24 B, Chapter 202.

25 SECTION 13. Section 361.132, Transportation Code, is
26 amended to read as follows:

27 Sec. 361.132. ACQUISITION OF PROPERTY. (a) The department

1 ~~[authority]~~ may acquire, in the name of the state, public or private
2 real property it determines necessary or convenient for the
3 construction, expansion, enlargement, extension, improvement, or
4 operation of a turnpike project or for otherwise carrying out this
5 chapter.

6 (b) The real property the department ~~[authority]~~ may
7 acquire under this subchapter includes:

- 8 (1) public parks, playgrounds, or reservations;
- 9 (2) parts of or rights in public parks, playgrounds,
10 or reservations;
- 11 (3) rights-of-way;
- 12 (4) property rights, including:
 - 13 (A) a right of ingress or egress; and
 - 14 (B) a reservation right in real property that
15 restricts or prohibits for not more than seven years the:
 - 16 (i) addition of a new improvement on the
17 real property;
 - 18 (ii) addition to or modification of an
19 existing improvement on the real property; or
 - 20 (iii) subdivision of the real property;
- 21 (5) franchises;
- 22 (6) easements; and
- 23 (7) other interests in real property.

24 (c) The department ~~[authority]~~ may acquire the real
25 property by any method, including purchase and condemnation. The
26 department ~~[authority]~~ may purchase public or private real property
27 on the terms and at the price the department ~~[authority]~~ and the

1 owner consider reasonable.

2 (d) Property necessary or convenient for the construction
3 or operation of a turnpike project under Subsection (a) includes an
4 interest in real property, a property right, or materials that the
5 department [~~authority~~] determines are necessary or convenient to:

6 (1) protect a turnpike project;

7 (2) drain a turnpike project;

8 (3) divert a stream, river, or other watercourse from
9 the right-of-way of a turnpike project;

10 (4) store materials or equipment used in the
11 construction or maintenance of a turnpike project;

12 (5) provide a location for an ancillary facility that
13 generates revenue for use in the construction, maintenance, or
14 operation of a turnpike project, including a gas station, garage,
15 store, hotel, or restaurant;

16 (6) construct or operate a warehouse, toll house, toll
17 plaza, service station, or other facility used in connection with
18 the construction, maintenance, or operation of a turnpike project;

19 (7) [~~(6)~~] lay out, construct, or maintain a roadside
20 park;

21 (8) [~~(7)~~] lay out, construct, or maintain a parking
22 lot that will contribute to the maximum use of a turnpike project
23 with the least possible congestion;

24 (9) [~~(8)~~] mitigate an adverse environmental effect
25 that directly results from the construction or maintenance of a
26 turnpike project; or

27 (10) [~~(9)~~] accomplish any other purpose related to the

1 location, construction, improvement, maintenance, beautification,
2 preservation, or operation of a turnpike project.

3 (e) The department [~~authority~~] shall comply with all
4 relocation assistance procedures applicable to the department in
5 connection with any displacement of owners or tenants as a
6 consequence of the department's [~~authority's~~] acquisition of real
7 property under this chapter.

8 (f) The department [~~authority~~] may acquire timber, earth,
9 stone, gravel, or other materials as necessary to carry out a
10 purpose under this chapter.

11 SECTION 14. Sections 361.133(b) and (c), Transportation
12 Code, are amended to read as follows:

13 (b) The governing body of a political subdivision or public
14 agency may without advertising convey title to or rights or
15 easements in real property the department [~~authority~~] needs in
16 connection with the construction or operation of a turnpike
17 project.

18 (c) Notwithstanding any law to the contrary, a political
19 subdivision or a state agency may lease, lend, grant, or convey to
20 the department [~~authority~~] at its request real property, including
21 highways and other real property already devoted to public use,
22 that may be necessary or appropriate to accomplish the department's
23 [~~authority's~~] purposes. The political subdivision or state agency
24 may lease, lend, grant, or convey the property:

25 (1) on terms the subdivision or agency determines
26 reasonable and fair; and

27 (2) without advertisement, court order, or other

1 action or formality other than the regular and formal action of the
2 subdivision or agency concerned.

3 SECTION 15. Section 361.134, Transportation Code, is
4 amended to read as follows:

5 Sec. 361.134. DESCRIPTION OF REAL PROPERTY. Real property
6 acquired by the department under this chapter [~~authority~~] shall be
7 described so as to locate the boundary line of the property with
8 reference to:

9 (1) lot and block lines and corners of all existing and
10 recorded subdivision properties, if applicable; or

11 (2) survey lines and corners.

12 SECTION 16. Section 361.135, Transportation Code, is
13 amended to read as follows:

14 Sec. 361.135. CONDEMNATION OF REAL PROPERTY. (a) The
15 [~~board, with the concurrence of the~~] commission[7] may approve the
16 acquisition of [~~acquire~~] public or private real property in the
17 name of the state by the exercise of the power of condemnation under
18 the laws applicable to the exercise of that power on property for
19 public use if:

20 (1) the department [~~authority~~] and the owner cannot
21 agree on a reasonable price for the property; or

22 (2) the owner is legally incapacitated, absent,
23 unknown, or unable to convey title.

24 (b) The [~~board, with the concurrence of the~~] commission[7]
25 may approve the condemnation of [~~condemn~~] real property that the
26 commission [~~authority~~] determines is:

27 (1) necessary or convenient for the construction or

1 operation of [~~appropriate to construct or to efficiently operate~~] a
2 turnpike project, as described by Section 361.132(d);

3 (2) necessary to restore public or private property
4 damaged or destroyed, including property necessary or convenient to
5 mitigate an environmental effect that directly results from the
6 construction, operation, or maintenance of a turnpike project;

7 (3) necessary for access, approach, service, and
8 interchange roads;

9 (4) necessary to provide proper drainage and ground
10 slope for a turnpike project; or

11 (5) necessary otherwise to carry out this chapter.

12 (c) [~~The authority may construct a supplemental facility~~
13 ~~only on real property the authority purchases.~~

14 [~~(d)~~] The court having jurisdiction of a condemnation
15 proceeding may:

16 (1) make orders as are just to the department
17 [~~authority~~] and the owners of the real property; and

18 (2) require an undertaking or other security to secure
19 the owners against any loss or damage by reason of the department's
20 [~~board's~~] failure to accept and pay for the real property.

21 (d) [~~(e)~~] An undertaking or security under Subsection (c)(2)
22 [~~(d)(2)~~] or an act or obligation of the department [~~authority~~] or
23 the commission [~~board~~] does not impose any liability on the state,
24 the department [~~authority~~], or the commission [~~board~~] except
25 liability that may be paid from the money authorized by this
26 chapter.

27 SECTION 17. Section 361.136, Transportation Code, is

1 amended to read as follows:

2 Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) If a
3 turnpike project severs an owner's real property, the department
4 [~~authority~~] shall pay:

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

6 (2) the damages to the remainder of the owner's
7 property caused by the severance, including damages caused by the
8 inaccessibility of one tract from the other.

9 (b) The department [~~authority~~] may negotiate for and
10 purchase the severed real property or either part of the severed
11 real property if the department [~~authority~~] and the owner agree on
12 terms for the purchase.

13 SECTION 18. Sections 361.137(a), (b), (c), and (d),
14 Transportation Code, are amended to read as follows:

15 (a) The department [~~authority~~] may file a declaration of
16 taking with the clerk of the court:

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

19 (2) to which the case is assigned.

20 (b) The department [~~authority~~] may file the declaration of
21 taking concurrently with or subsequent to the petition but may not
22 file the declaration after the special commissioners have made an
23 award in 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 [~~authority~~] can obtain after reasonable
10 investigation and a description of the owner's interest in the
11 property; and

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

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

19 SECTION 19. Sections 361.138(a) and (b), Transportation
20 Code, are amended to read as follows:

21 (a) Immediately on the filing of a declaration of taking,
22 the department [~~authority~~] shall serve a copy of the declaration on
23 each person possessing an interest in the condemned property by a
24 method prescribed by Section 21.016(d), Property Code. The
25 department [~~authority~~] shall file evidence of the service with the
26 clerk of the court. On filing of that evidence, the department
27 [~~authority~~] may take possession of the property pending the

1 litigation.

2 (b) If the condemned property is a homestead or a portion of
3 a homestead as defined by Section 41.002, Property Code, the
4 department [~~authority~~] may not take possession sooner than the 31st
5 day after the date of service under Subsection (a).

6 SECTION 20. Section 361.141(a), Transportation Code, is
7 amended to read as follows:

8 (a) The department [~~authority~~] may not pay compensation for
9 public real property, parkways, streets, highways, alleys, or
10 reservations it takes, except for:

- 11 (1) parks and playgrounds; and
12 (2) property acquired under restrictions and
13 limitations requiring payment of compensation.

14 SECTION 21. Section 361.142, Transportation Code, is
15 amended to read as follows:

16 Sec. 361.142. COVENANTS, CONDITIONS, RESTRICTIONS, OR
17 LIMITATIONS. Covenants, conditions, restrictions, or limitations
18 affecting property acquired in any manner by the department
19 [~~authority~~] are not binding against the department [~~authority~~] and
20 do not impair the department's [~~authority's~~] ability to use the
21 property for a purpose authorized by this chapter. The
22 beneficiaries of the covenants, conditions, restrictions, or
23 limitations are not entitled to enjoin the department [~~authority~~]
24 from using the property for a purpose authorized under this
25 chapter, but this section does not affect the right of a person to
26 seek damages to the person's property under Section 17, Article I,
27 Texas Constitution.

1 SECTION 22. Sections 361.171(a), (b), (c), (d), and (e),
2 Transportation Code, are amended to read as follows:

3 (a) The commission [~~authority~~] by order [~~resolution~~] may
4 provide for the issuance of turnpike revenue bonds to pay all or
5 part of the cost of a turnpike project. Each project shall be
6 financed and built by a separate bond issue. The proceeds of a bond
7 issue may be used solely for the payment of the project for which
8 the bonds were issued and may not be divided between or among two or
9 more projects. Each project is a separate undertaking, the cost of
10 which shall be determined separately.

11 (b) The bonds of each issue:

12 (1) must be dated;

13 (2) bear interest at the rate or rates authorized by
14 law;

15 (3) mature at the time or times, not exceeding 40 years
16 from their date or dates, determined by the commission [~~authority~~];
17 and

18 (4) may be made redeemable before maturity, at the
19 price or prices and under the terms set by the commission
20 [~~authority~~] in the proceeding authorizing the issuance of the
21 bonds.

22 (c) The department [~~authority~~] may sell the bonds at public
23 or private sale in the manner and for the price it determines to be
24 in the best interest of the department [~~authority~~].

25 (d) The proceeds of each bond issue shall be disbursed in
26 the manner and under the restrictions, if any, the commission
27 [~~authority~~] provides in the order [~~resolution~~] authorizing the

1 issuance of the bonds or in the trust agreement securing the bonds.

2 (e) If the proceeds of a bond issue are less than the
3 turnpike project cost, additional bonds may in like manner be
4 issued to provide the amount of the deficit. Unless otherwise
5 provided in the order [~~resolution~~] authorizing the issuance of the
6 bonds or in the trust agreement securing the bonds, the additional
7 bonds are on a parity with and are payable from the same fund
8 without preference or priority of the bonds first issued.

9 SECTION 23. Section 361.172, Transportation Code, is
10 amended to read as follows:

11 Sec. 361.172. APPLICABILITY OF OTHER LAWS. (a) Except as
12 provided by Subsection (b), the commission [~~authority~~] may issue
13 turnpike revenue bonds or turnpike revenue refunding bonds under
14 this chapter without complying with any other law applicable to the
15 issuance of bonds.

16 (b) Notwithstanding any other provisions of this chapter,
17 the following laws apply to bonds issued by the commission under
18 this chapter [~~authority~~]:

19 (1) Chapters 1201, 1202, 1204, and 1371, Government
20 Code; and

21 (2) Subchapters A-C, Chapter 1207, Government Code.

22 SECTION 24. Section 361.173, Transportation Code, is
23 amended to read as follows:

24 Sec. 361.173. PAYMENT OF BONDS; CREDIT OF STATE NOT
25 PLEDGED. (a) The principal of, interest on, and any redemption
26 premium on bonds issued by the commission under this chapter
27 [~~authority~~] are payable solely from:

1 (1) the money authorized for their payment under this
2 chapter or other law; and

3 (2) the revenue of the turnpike project for which the
4 bonds were issued, including tolls pledged to pay the bonds.

5 (b) Bonds issued under this chapter do not constitute a debt
6 of the state or a pledge of the faith and credit of the state. Each
7 bond must contain on its face a statement to the effect that:

8 (1) the state, the commission, and the department
9 [~~authority~~] are not obligated to pay the bond or the interest on the
10 bond from a source other than the amount pledged to pay the bond and
11 the interest on the bond; and

12 (2) the faith and credit and the taxing power of the
13 state are not pledged to the payment of the principal of or interest
14 on the bond.

15 (c) The commission and the department [~~authority~~] may not
16 incur financial obligations that cannot be paid from tolls or
17 revenue derived from owning or operating turnpike projects or from
18 money provided by law.

19 SECTION 25. Section 361.174, Transportation Code, is
20 amended to read as follows:

21 Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR
22 TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of
23 this chapter, turnpike project bonds issued by the commission
24 [~~authority~~] may:

25 (1) be payable from and secured by payments made under
26 an agreement with a local governmental entity as provided by
27 Subchapter A, Chapter 362, and may state on their faces any pledge

1 of revenue or taxes and any security for the bonds under the
2 agreement; and

3 (2) be payable from and secured by money derived from
4 any other source available to the department [~~authority, other than~~
5 ~~money derived from a different turnpike project~~].

6 SECTION 26. Section 361.175, Transportation Code, is
7 amended to read as follows:

8 Sec. 361.175. TURNPIKE REVENUE REFUNDING BONDS. (a) The
9 commission [~~authority~~] by order [~~resolution~~] may provide for the
10 issuance of turnpike revenue refunding bonds to:

11 (1) refund any outstanding bonds issued under this
12 chapter for a turnpike project, including the payment of any
13 redemption premium on the bonds and any interest accrued as of the
14 date of redemption of the bonds; and

15 (2) construct improvements, extensions, or
16 enlargements to the turnpike project for which the outstanding
17 bonds were issued.

18 (b) This chapter, to the extent applicable, governs:

19 (1) the issuance of the refunding bonds;

20 (2) the maturities and other details of the bonds;

21 (3) the rights of the bondholders; and

22 (4) the rights and obligations of the commission and
23 the department [~~authority~~] with respect to the bonds and the
24 bondholders.

25 (c) The commission [~~authority~~] may:

26 (1) issue refunding bonds in exchange for outstanding
27 bonds; or

1 (2) sell refunding bonds and use the proceeds to pay or
2 provide for the payment of the outstanding bonds.

3 SECTION 27. Sections 361.176(a) and (e), Transportation
4 Code, are amended to read as follows:

5 (a) Bonds issued under this chapter may be secured by a
6 trust agreement between the commission [~~authority~~] and a corporate
7 trustee that is a trust company or a bank that has the powers of a
8 trust company.

9 (e) A trust agreement may:

10 (1) set forth the rights and remedies of the
11 bondholders and the trustee;

12 (2) restrict the individual right of action by
13 bondholders as is customary in trust agreements or trust indentures
14 securing corporate bonds and debentures; and

15 (3) contain provisions the commission [~~authority~~]
16 determines reasonable and proper for the security of the
17 bondholders.

18 SECTION 28. Section 361.177, Transportation Code, is
19 amended to read as follows:

20 Sec. 361.177. PROVISIONS PROTECTING AND ENFORCING RIGHTS
21 AND REMEDIES OF BONDHOLDERS. A trust agreement or order
22 [~~resolution~~] providing for the issuance of bonds may contain
23 reasonable provisions to protect and enforce the rights and
24 remedies of the bondholders, including:

25 (1) covenants stating the duties of the department
26 [~~authority~~] in relation to:

27 (A) the acquisition of property and the

1 construction, improvement, expansion, maintenance, repair,
2 operation, and insurance of the turnpike project in connection with
3 which the bonds were authorized; and

4 (B) the custody, safeguarding, and application
5 of money; and

6 (2) provisions for the employment of consulting
7 engineers in connection with the construction or operation of the
8 turnpike project.

9 SECTION 29. Section 361.178, Transportation Code, is
10 amended to read as follows:

11 Sec. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF
12 SECURITIES. A bank or trust company that has its main office or a
13 branch office in this state and that acts as depository of the
14 proceeds of bonds or of revenue may furnish indemnifying bonds or
15 pledge securities that the department [~~authority~~] requires.

16 SECTION 30. Sections 361.179(a), (b), (d), (e), and (g),
17 Transportation Code, are amended to read as follows:

18 (a) The department [~~authority~~] may:

19 (1) impose tolls for the use of each turnpike project
20 and the different parts or sections of each turnpike project; and

21 (2) notwithstanding anything in Chapter 202 to the
22 contrary, contract with a person for the use of part of a turnpike
23 project or lease or sell part of a turnpike project, including the
24 right-of-way adjoining the paved portion, for any purpose,
25 including placing on the adjoining right-of-way a gas station,
26 garage, store, hotel, restaurant, railroad tracks, telephone line,
27 telecommunication line, telecommunications facilities and

1 equipment, and electric line, and set the terms for the use, lease,
2 or sale.

3 (b) The tolls shall be set so that the aggregate of tolls
4 from the turnpike project:

5 (1) provides a fund sufficient with other revenue and
6 contributions, if any, to pay:

7 (A) the cost of maintaining, repairing, and
8 operating the project; and

9 (B) the principal of and interest on the bonds
10 issued for the project as those bonds become due and payable; and

11 (2) creates reserves for the purposes listed under
12 Subdivision (1).

13 (d) The tolls and other revenue derived from the turnpike
14 project for which bonds were issued, except the part necessary to
15 pay the cost of maintenance, repair, and operation and to provide
16 reserves for those costs as may be provided in the order
17 [~~resolution~~] authorizing the issuance of the bonds or in the trust
18 agreement securing the bonds, shall be set aside at regular
19 intervals as may be provided in the order [~~resolution~~] or trust
20 agreement in a sinking fund that is pledged to and charged with the
21 payment of:

22 (1) interest on the bonds as it becomes due;

23 (2) principal of the bonds as it becomes due;

24 (3) necessary charges of paying agents for paying
25 principal and interest; and

26 (4) the redemption price or the purchase price of
27 bonds retired by call or purchase as provided by the bonds.

1 (e) Use and disposition of money to the credit of the
2 sinking fund are subject to the order [~~resolution~~] authorizing the
3 issuance of the bonds or to the trust agreement.

4 (g) Money in the sinking fund, less the reserve provided by
5 the order [~~resolution~~] or trust agreement, if not used within a
6 reasonable time to purchase bonds for cancellation, shall be
7 applied to the redemption of bonds at the applicable redemption
8 price.

9 SECTION 31. Sections 361.181(a) and (b), Transportation
10 Code, are amended to read as follows:

11 (a) Notwithstanding Section 361.179 or any other provision
12 of this chapter to the contrary, the department [~~authority~~] may pay
13 the expenses of studying the cost and feasibility and any other
14 expenses relating to the preparation and issuance of turnpike
15 revenue bonds for the construction of a proposed turnpike project
16 by:

17 (1) using available revenue derived from an existing
18 turnpike project;

19 (2) borrowing money and issuing interest-bearing
20 evidences of indebtedness or entering into a loan agreement payable
21 out of available revenue anticipated to be derived from the
22 operation of an existing turnpike project; and

23 (3) pledging available revenue anticipated to be
24 derived from the operation of an existing turnpike project [~~, and~~

25 [~~(4) using money received from the department for~~
26 ~~feasibility studies undertaken at the request of the commission]~~.

27 (b) The department's [~~authority's~~] use of a financing method

1 under Subsection (a) is subject to the prior approval of the
2 commission.

3 SECTION 32. Sections 361.182(a), (b), (d), (f), (h), and
4 (i), Transportation Code, are amended to read as follows:

5 (a) The department may [~~authority shall~~] maintain the Texas
6 Turnpike Authority feasibility study fund. The fund is a revolving
7 fund held in trust by a banking institution chosen by the department
8 [~~authority~~] or, at the discretion of the department [~~authority~~], in
9 trust in the state treasury outside the general revenue fund. The
10 fund shall be kept separate from the money for any project.

11 (b) The department [~~authority~~] may transfer an amount from a
12 surplus fund established for a turnpike project to the feasibility
13 study fund if the remainder of the surplus fund is not less than any
14 minimum amount required by the trust agreement to be retained for
15 that project.

16 (d) The commission [~~authority~~] must authorize a feasibility
17 study. The [~~, subject to the prior approval of the~~] commission may
18 delegate this authority to the director.

19 (f) For a purpose described by Subsection (c), the
20 department [~~authority~~] may borrow money and issue promissory notes
21 or other interest-bearing evidences of indebtedness payable out of
22 the feasibility study fund, pledging money in the fund or to be
23 placed in the fund.

24 [~~Money transferred to the department for the benefit of~~
25 ~~the authority under Section 8.02, Chapter 1171, Acts of the 75th~~
26 ~~Legislature, Regular Session, 1997, shall remain in the state~~
27 ~~treasury and may not be transferred to a private banking~~

1 ~~institution. This money is exempt from the application of Section~~
 2 ~~403.095, Government Code, and is not subject to reduction or~~
 3 ~~elimination under any other provision of the Government Code.~~

4 ~~[(i)]~~ The commission may authorize ~~[request that the~~
 5 ~~authority conduct]~~ a feasibility study to be funded in accordance
 6 with Subchapter E, Chapter 222 ~~[for any proposed turnpike project.~~
 7 ~~The expenses of a study requested by the commission shall be paid~~
 8 ~~for by the department. If the turnpike project is constructed, the~~
 9 ~~department shall be reimbursed for money paid to the authority from~~
 10 ~~the proceeds of turnpike revenue bonds issued for, or other~~
 11 ~~proceeds that may be used for, the construction, improvement,~~
 12 ~~extension, expansion, or operation of the project].~~

13 SECTION 33. Section 361.183(b), Transportation Code, is
 14 amended to read as follows:

15 (b) Money spent under Subsection (a) for a proposed turnpike
 16 project is reimbursable, with the consent of the commission
 17 ~~[authority]~~, to the person paying the expenses out of the proceeds
 18 from turnpike revenue bonds issued for or other proceeds that may be
 19 used for the construction, improvement, extension, expansion, or
 20 operation of the project.

21 SECTION 34. Sections 361.184(a), (b), and (c),
 22 Transportation Code, are amended to read as follows:

23 (a) The department ~~[authority]~~ may maintain the Texas
 24 Turnpike Authority project revolving fund. The fund is a revolving
 25 fund held in trust by a banking institution chosen by the department
 26 ~~[authority]~~ or, at the discretion of the department ~~[authority]~~, in
 27 trust in the state treasury outside the general revenue fund. The

1 fund shall be kept separate from other funds of the department
2 [~~authority~~].

3 (b) The commission [~~board~~] may transfer, or direct the
4 department [~~authority~~] to transfer, into the project revolving fund
5 money from any permissible source, including:

6 (1) money from a surplus fund established for a
7 turnpike project if the remainder of the surplus fund is not less
8 than any minimum amount required by the trust agreement to be
9 retained for that project;

10 (2) money received under Subchapter I or from a
11 transfer of a turnpike project under Subchapter H;

12 (3) money received from the state highway fund; and

13 (4) contributions or assistance from the United
14 States, another state, a political subdivision of this state, the
15 United Mexican States, or a political subdivision of the United
16 Mexican States.

17 (c) The department [~~authority~~] may use money in the project
18 revolving fund to:

19 (1) finance the construction, maintenance, or
20 operation of a turnpike project;

21 (2) provide matching money necessary for a federal
22 grant or other type of participatory funding;

23 (3) provide credit enhancement for bonds issued to
24 construct, expand, or improve a turnpike project;

25 (4) provide security for or payment of future or
26 existing debt for construction, operation, or maintenance of a
27 turnpike project;

1 (5) borrow money and issue promissory notes or other
2 indebtedness payable out of the fund for any purpose authorized by
3 this chapter; and

4 (6) provide for any other reasonable purpose that
5 assists in the financings of the department [~~authority~~] as
6 authorized by this chapter.

7 SECTION 35. Section 361.185, Transportation Code, is
8 amended to read as follows:

9 Sec. 361.185. TRUST FUND. (a) All money received under
10 this chapter, whether as proceeds from the sale of bonds or as
11 revenue, is a trust fund to be held and applied as provided by this
12 chapter. Notwithstanding any other law, including Section 9,
13 Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997,
14 funds held under this chapter shall be held in trust by a banking
15 institution chosen by the department [~~authority~~] or, at the
16 discretion of the department [~~authority~~], in trust in the state
17 treasury outside the general revenue fund.

18 (b) The order [~~resolution~~] authorizing the issuance of
19 bonds or the trust agreement securing the bonds shall provide that
20 an officer to whom or a bank or trust company to which the money is
21 paid shall act as trustee of the money and shall hold and apply the
22 money for the purpose of the order [~~resolution~~] or trust agreement,
23 subject to this chapter and the order [~~resolution~~] or trust
24 agreement.

25 SECTION 36. Section 361.186, Transportation Code, is
26 amended to read as follows:

27 Sec. 361.186. REMEDIES. Except to the extent restricted by

1 a trust agreement, a holder of a bond issued under this chapter [~~or~~
2 ~~of a coupon incident to a bond~~] and a trustee under a trust
3 agreement may:

4 (1) protect and enforce by a legal proceeding a right
5 under:

6 (A) this chapter or another law of this state;

7 (B) the trust agreement; or

8 (C) the order [~~resolution~~] authorizing the
9 issuance of the bond; and

10 (2) compel the performance of a duty this chapter, the
11 trust agreement, or the order [~~resolution~~] requires the commission
12 or the department [~~authority~~] or an officer of the commission or
13 the department [~~authority~~] to perform, including the imposing of
14 tolls.

15 SECTION 37. Section 361.187(a), Transportation Code, is
16 amended to read as follows:

17 (a) The commission [~~authority~~] is exempt from taxation of or
18 assessments on:

19 (1) a turnpike project;

20 (2) property the department [~~authority~~] acquires or
21 uses under this chapter; or

22 (3) income from property described by Subdivision (1)
23 or (2).

24 SECTION 38. Section 361.188, Transportation Code, is
25 amended to read as follows:

26 Sec. 361.188. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC
27 FUNDS. Bonds of the commission [~~authority, when they are~~

1 ~~accompanied by the unmatured coupons incident to the bonds,~~ may
2 secure the deposit of public funds of the state or a political
3 subdivision of the state to the extent of the lesser of the face
4 value of the bonds or their market value.

5 SECTION 39. Section 361.189, Transportation Code, is
6 amended to read as follows:

7 Sec. 361.189. USE OF SURPLUS REVENUE. The commission by
8 order ~~[resolution]~~ may authorize the use of surplus revenue of a
9 turnpike project to pay the costs of another turnpike project,
10 other than a project financed under Subchapter I, or a toll-free
11 project. The commission may in the order ~~[resolution]~~ prescribe
12 terms for the use of the revenue, including the pledge of the
13 revenue, but may not take an action under this section that
14 violates, impairs, or is inconsistent with a bond order
15 ~~[resolution]~~, trust agreement, or indenture governing the use of
16 the surplus revenue.

17 SECTION 40. Section 361.191, Transportation Code, is
18 amended to read as follows:

19 Sec. 361.191. EXPENDITURE OF MONEY AUTHORIZED BY COMMISSION
20 ~~[DEPARTMENT OF TRANSPORTATION]~~. (a) The commission ~~[Texas~~
21 ~~Department of Transportation]~~ may provide for the expenditure of
22 money for the cost of the acquisition, construction, maintenance,
23 or operation of a turnpike project ~~[by the authority]~~. The
24 commission ~~[department]~~ may require the repayment of ~~[authority to~~
25 ~~repay]~~ money provided under this section from toll revenue or other
26 sources on terms established by the commission.

27 (b) Money repaid as required by the commission ~~[department]~~

1 shall be deposited to the credit of the fund from which the money
2 was provided. Money deposited as required by this section is exempt
3 from the application of Section 403.095, Government Code.

4 SECTION 41. Section 361.231(a), Transportation Code, is
5 amended to read as follows:

6 ~~[(a)]~~ A contract of the department ~~[authority]~~ for the
7 construction, improvement, repair, or maintenance of a turnpike
8 project shall~~[, to the extent applicable,]~~ be awarded under the
9 same terms as a contract of the department under Sections
10 223.001-223.007, ~~[223.009,]~~ and 223.009-223.011 ~~[223.010]~~.

11 SECTION 42. Sections 361.232(b), (c), and (d),
12 Transportation Code, are amended to read as follows:

13 (b) The department ~~[authority]~~ may construct a grade
14 separation at an intersection of a turnpike project with a railroad
15 or highway and change the line or grade of a highway to accommodate
16 it to the design of a grade separation. The department ~~[authority]~~
17 shall pay the cost of a grade separation and any damage incurred in
18 changing a line or grade of a railroad or highway as part of the cost
19 of the turnpike project.

20 (c) If feasible, the department ~~[authority]~~ shall provide
21 access to properties previously abutting a county or other public
22 road that is taken for a turnpike project and shall pay abutting
23 property owners the expenses or any resulting damages for denial of
24 access to the road.

25 (d) If the department ~~[authority]~~ finds it necessary to
26 change the location of a portion of a highway, it shall reconstruct
27 the highway at the location the ~~[authority and the]~~ department

1 determines [~~determine~~] to be most favorable. The reconstructed
2 highway must be of substantially the same type and in as good
3 condition as the original highway. The department [~~authority~~]
4 shall determine and pay the cost of the reconstruction and any
5 damage incurred in changing the location of a highway as part of the
6 cost of the turnpike project.

7 SECTION 43. Sections 361.233(a) and (c), Transportation
8 Code, are amended to read as follows:

9 (a) The department [~~authority~~] and its authorized agents
10 may enter any real property, water, or premises in this state to
11 make a survey, sounding, drilling, or examination it determines
12 necessary or appropriate for the purposes of this chapter.

13 (c) The department [~~authority~~] shall make reimbursement for
14 any actual damages to real property, water, or premises that result
15 from an activity described by Subsection (a).

16 SECTION 44. Sections 361.234(a), (b), (d), (e), (f), and
17 (g), Transportation Code, are amended to read as follows:

18 (a) The commission [~~authority~~] may adopt rules for the
19 installation, construction, maintenance, repair, renewal,
20 relocation, and removal of a public utility facility in, on, along,
21 over, or under a turnpike project.

22 (b) If the department [~~authority~~] determines it is
23 necessary that a public utility facility located in, on, along,
24 over, or under a turnpike project be relocated in the project,
25 removed from the project, or carried along or across the turnpike by
26 grade separation, the owner or operator of the facility shall
27 relocate or remove the facility in accordance with the order of the

1 department [~~authority~~]. The department [~~authority~~], as a part of
2 the cost of the turnpike project or the cost of operating the
3 project, shall pay the cost of the relocation, removal, or grade
4 separation, including the cost of:

5 (1) installing the facility in a new location or
6 locations;

7 (2) interests in real property, and other rights
8 acquired to accomplish the relocation or removal; and

9 (3) maintenance of grade separation structures.

10 (d) The department [~~authority~~] and the public utility shall
11 have 90 days from the date the department [~~authority~~] provides
12 written notice to the public utility of the need for relocation of
13 utility facilities to reach an agreement concerning the period for
14 completion of the relocation. The 90-day period may be extended by
15 mutual written agreement. If the parties are unable to reach an
16 agreement for the period for completion of the relocation, the
17 department [~~authority~~] may specify a reasonable period. The
18 department [~~authority~~] may reduce the total costs to be paid by the
19 department [~~authority~~] by 10 percent for each 30-day period or
20 portion of a 30-day period that the relocation exceeds the period
21 specified by agreement between the department [~~authority~~] and
22 public utility or as reasonably specified by the department
23 [~~authority~~] if no agreement is reached, unless the public utility's
24 failure to timely perform results from a material action or
25 inaction by the department [~~authority~~] or from conditions that were
26 beyond the reasonable control of the utility. If an owner or
27 operator of a public utility facility does not timely remove or

1 relocate the facility as required under Subsection (b) and the
 2 department [~~authority~~] relocates the facility, the department
 3 [~~authority~~] shall relocate the facility in a safe manner that
 4 complies with applicable law and utility construction standards
 5 recognized by the department [~~authority~~] and that minimizes
 6 disruption of utility service and shall notify the public utility
 7 and other appropriate regulatory agencies of the relocation. A
 8 public utility shall reimburse the department [~~authority~~] for
 9 expenses reasonably incurred for the relocation of a public utility
 10 facility unless the failure of the public utility to timely
 11 relocate the facility was the result of circumstances beyond the
 12 control of the utility, in which case the department [~~authority~~]
 13 shall pay the cost of the relocation.

14 (e) Notwithstanding anything in this chapter to the
 15 contrary, [~~+~~

16 [~~(1)~~] Subchapter B, Chapter 181, Utilities Code,
 17 applies to the laying and maintenance of pipes, mains, conductors,
 18 and other facilities used for conducting gas by a gas utility
 19 described in that subchapter through, under, along, across, and
 20 over a turnpike project constructed by the department [~~authority,~~
 21 ~~and~~

22 [~~(2) the authority has the powers and duties assigned~~
 23 ~~to the commission by Subchapter B, Chapter 181, Utilities Code].~~

24 (f) Notwithstanding anything in this chapter to the
 25 contrary, Subchapter C, Chapter 181, Utilities Code, applies to the
 26 erection, construction, maintenance, and operation of lines and
 27 poles owned by an electric utility, as that term is defined by

1 Section 181.041, Utilities Code, over, under, across, on, and along
2 a turnpike project constructed by the department [~~authority~~]. ~~The~~
3 ~~authority has the powers and duties delegated to the commission by~~
4 ~~Subchapter C, Chapter 181, Utilities Code~~].

5 (g) Notwithstanding anything in this chapter to the
6 contrary, the laws of this state applicable to the use of public
7 roads, streets, and waters of this state by a telephone and
8 telegraph corporation apply to the erection, construction,
9 maintenance, location, and operation of a line, pole, or other
10 fixture by a telephone and telegraph corporation over, under,
11 across, on, and along a turnpike project constructed by the
12 department [~~authority~~].

13 SECTION 45. Section 361.235(a), Transportation Code, is
14 amended to read as follows:

15 (a) The department [~~authority~~] may use real property owned
16 by the state, including submerged land, that the department
17 [~~authority~~] considers necessary for the construction or operation
18 of a turnpike project.

19 SECTION 46. Section 361.236, Transportation Code, is
20 amended to read as follows:

21 Sec. 361.236. MAINTENANCE OF TURNPIKE PROJECT. The
22 department [~~authority~~] shall maintain and keep in good condition
23 and repair each turnpike project opened to traffic.

24 SECTION 47. Section 361.238(c), Transportation Code, is
25 amended to read as follows:

26 (c) The following entities shall consider offering motor
27 vehicle operators the option of using a transponder to pay tolls

1 without stopping, to mitigate congestion at toll locations, to
2 enhance traffic flow, and to otherwise increase the efficiency of
3 operations:

- 4 (1) the department [~~authority~~];
5 (2) an entity to which a project authorized by this
6 chapter is transferred; or
7 (3) a third party service provider under contract with
8 an entity described by Subdivision (1) or (2).

9 SECTION 48. Section 361.251, Transportation Code, is
10 amended to read as follows:

11 Sec. 361.251. TURNPIKE PROJECT A STATE [~~PUBLIC~~] HIGHWAY. A
12 turnpike project is a state highway subject to all laws applicable
13 to the regulation and control of traffic on a state [~~public~~]
14 highway.

15 SECTION 49. Section 361.253, Transportation Code, is
16 amended by amending Subsections (b), (d), (e), and (g) and adding
17 Subsection (i) to read as follows:

18 (b) The department [~~authority~~] may impose and collect the
19 administrative fee, so as to recover the cost of collecting the
20 unpaid toll, not to exceed \$100. The department [~~authority~~] shall
21 send a written notice of nonpayment to the registered owner of the
22 vehicle at that owner's address as shown in the vehicle
23 registration records of the department by first class mail not
24 later than the 30th day after the date of the alleged failure to pay
25 and may require payment not sooner than the 30th day the date the
26 notice was mailed. The registered owner shall pay a separate toll
27 and administrative fee for each event of nonpayment under Section

1 361.252.

2 (d) It is an exception to the application of Subsection (a)
3 or (c) if the registered owner of the vehicle is a lessor of the
4 vehicle and not later than the 30th day after the date the notice of
5 nonpayment is mailed provides to the department [~~authority~~] a copy
6 of the rental, lease, or other contract document covering the
7 vehicle on the date of the nonpayment under Section 361.252, with
8 the name and address of the lessee clearly legible. If the lessor
9 provides the required information within the period prescribed, the
10 department [~~authority~~] may send a notice of nonpayment to the
11 lessee at the address shown on the contract document by first class
12 mail before the 30th day after the date of receipt of the required
13 information from the lessor. The lessee of the vehicle for which
14 the proper toll was not paid who is mailed a written notice of
15 nonpayment under this subsection and fails to pay the proper toll
16 and administrative fee within the time specified by the notice of
17 nonpayment commits an offense. The lessee shall pay a separate toll
18 and administrative fee for each event of nonpayment. Each failure
19 to pay a toll or administrative fee under this subsection is a
20 separate offense.

21 (e) It is an exception to the application of Subsection (a)
22 or (c) if the registered owner of the vehicle transferred ownership
23 of the vehicle to another person before the event of nonpayment
24 under Section 361.252 occurred, submitted written notice of the
25 transfer to the department in accordance with Section 520.023, and,
26 before the 30th day after the date the notice of nonpayment is
27 mailed, provides to the department [~~authority~~] the name and address

1 of the person to whom the vehicle was transferred. If the former
2 owner of the vehicle provides the required information within the
3 period prescribed, the department [~~authority~~] may send a notice of
4 nonpayment to the person to whom ownership of the vehicle was
5 transferred at the address provided the former owner by first class
6 mail before the 30th day after the date of receipt of the required
7 information from the former owner. The subsequent owner of the
8 vehicle for which the proper toll was not paid who is mailed a
9 written notice of nonpayment under this subsection and fails to pay
10 the proper toll and administrative fee within the time specified by
11 the notice of nonpayment commits an offense. The subsequent owner
12 shall pay a separate toll and administrative fee for each event of
13 nonpayment under Section 361.252. Each failure to pay a toll or
14 administrative fee under this subsection is a separate offense.

15 (g) The court in which a person is convicted of an offense
16 under this section shall also collect the proper toll and
17 administrative fee and forward the toll and fee to the department
18 for deposit in the depository bank used for that purpose
19 [~~authority~~].

20 (i) The department may contract, in accordance with Section
21 2107.003, Government Code, with a person to collect the unpaid toll
22 and administrative fee before referring the matter to a court with
23 jurisdiction over the offense.

24 SECTION 50. Section 361.255(b), Transportation Code, is
25 amended to read as follows:

26 (b) Any peace officer of this state may seize a stolen or
27 insufficiently funded transponder and return it to the department

1 ~~[authority]~~, except that an insufficiently funded transponder may
2 not be seized sooner than the 30th day after the date the department
3 ~~[authority]~~ has sent a notice of delinquency to the holder of the
4 account.

5 SECTION 51. Sections 361.256(a), (b), and (d),
6 Transportation Code, are amended to read as follows:

7 (a) To aid in the collection of tolls and in the enforcement
8 of toll violations, the department ~~[authority]~~ may use automated
9 enforcement technology that it determines is necessary, including
10 automatic vehicle license plate identification photography and
11 video surveillance, by electronic imaging or photographic copying.

12 (b) Automated enforcement technology approved by the
13 department ~~[authority]~~ under Subsection (a) may be used only for
14 the purpose of producing, depicting, photographing, or recording an
15 image of a license plate attached to the front or rear of a vehicle.

16 (d) Evidence obtained from technology approved by the
17 department ~~[authority]~~ under Subsection (a) may not be used in the
18 prosecution of an offense other than under Section 361.252 or
19 361.253.

20 SECTION 52. The heading to Subchapter H, Chapter 361,
21 Transportation Code, is amended to read as follows:

22 SUBCHAPTER H. TRANSFER OF TURNPIKE PROJECT [~~TO COUNTY,~~
23 ~~MUNICIPALITY, REGIONAL TOLLWAY AUTHORITY,~~
24 ~~OR LOCAL GOVERNMENT CORPORATION]~~

25 SECTION 53. Section 361.281, Transportation Code, is
26 amended to read as follows:

27 Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter

1 applies only to:

2 (1) a county with a population of more than 1.5
3 million;

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

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

8 (4) a municipality with a population of more than
9 170,000 that is adjacent to the United Mexican States; ~~or~~

10 (5) a regional tollway authority created under Chapter
11 366; or

12 (6) a regional mobility authority created under
13 Section 361.003.

14 SECTION 54. Section 361.282, Transportation Code, is
15 amended to read as follows:

16 Sec. 361.282. LEASE, SALE, OR CONVEYANCE OF TURNPIKE
17 PROJECT. (a) The department ~~[authority]~~ may lease, sell, or convey
18 in another manner a turnpike project to a county, a municipality,
19 regional tollway authority, regional mobility authority, or a local
20 government corporation created under Chapter 431.

21 (b) The ~~[authority, the]~~ commission~~[r]~~ and the governor
22 must approve the transfer of the turnpike project as being in the
23 best interests of the state and the entity receiving the turnpike
24 project.

25 SECTION 55. Section 361.283, Transportation Code, is
26 amended to read as follows:

27 Sec. 361.283. DISCHARGE OF ~~[AUTHORITY'S]~~ OUTSTANDING

1 BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a
2 turnpike project under Section 361.282 must provide for the
3 discharge and final payment or redemption of the department's
4 [~~authority's~~] outstanding bonded indebtedness for the project.

5 SECTION 56. Subchapter H, Chapter 361, Transportation Code,
6 is amended by adding Section 361.284 to read as follows:

7 Sec. 361.284. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a)
8 Except as provided by Subsection (b), an agreement to lease, sell,
9 or convey a turnpike project under Section 361.282 must provide for
10 the repayment of any expenditures of the department for the design,
11 construction, operation, and maintenance of the project that have
12 not been reimbursed with the proceeds of bonds issued for the
13 project.

14 (b) The commission may waive repayment of all or a portion
15 of the expenditures if it finds that the transfer will result in
16 substantial net benefits to the state, the department, and the
17 public that equal or exceed the amount of repayment waived.

18 SECTION 57. Section 361.285(a), Transportation Code, is
19 amended to read as follows:

20 (a) An agreement for the lease, sale, or conveyance of a
21 turnpike project under this subchapter shall be submitted to the
22 attorney general for approval as part of the records of proceedings
23 relating to the issuance of bonds of the county, municipality,
24 regional tollway authority, regional mobility authority, or local
25 government corporation.

26 SECTION 58. Section 361.301, Transportation Code, is
27 amended to read as follows:

1 Sec. 361.301. AGREEMENTS WITH PUBLIC OR PRIVATE ENTITIES TO
2 CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS. (a)
3 Notwithstanding Section 361.231 and Subchapter A, Chapter 2254,
4 Government Code, the department [~~The authority~~] may enter into an
5 agreement with a public or private entity, including a toll road
6 corporation, to permit the entity, independently or jointly with
7 the department [~~authority~~], to construct, maintain, repair, and
8 operate turnpike projects.

9 (b) The department [~~authority~~] may authorize the investment
10 of public and private money, including debt and equity
11 participation, to finance a function described by this section.

12 SECTION 59. Section 361.302, Transportation Code, is
13 amended to read as follows:

14 Sec. 361.302. EXCLUSIVE DEVELOPMENT AGREEMENTS WITH
15 [~~PUBLIC OR~~] PRIVATE ENTITIES. (a) Notwithstanding Subchapter A,
16 Chapter 2254, Government Code, the department [~~The authority~~] may
17 use an exclusive development agreement with a private entity to
18 construct, maintain, repair, operate, extend, or expand a turnpike
19 project. An exclusive development agreement may include the
20 functions of design, construction, and operation in any combination
21 and may use any constitutionally permissible source of funds
22 without restriction on the number of exclusive development
23 agreements that the department may enter.

24 (b) The project may be financed in whole or in part by
25 invested private funding [~~or by public and private funding~~].

26 (c) The department [~~authority~~]:

27 (1) has broad discretion to negotiate the terms of

1 financing; and

2 (2) may negotiate provisions relating to professional
3 and consulting services with regard to the turnpike project and to
4 the construction, maintenance, and operation of the project,
5 including provisions for combining those services.

6 (d) Until a final contract is executed relating to a
7 proposed project, the following information is confidential, is not
8 subject to disclosure, inspection, or copying under Chapter 552,
9 Government Code, and is not subject to disclosure, discovery,
10 subpoena, or other means of legal compulsion for its release:

11 (1) all or part of a proposal submitted by a private
12 entity for a turnpike project under an exclusive development
13 agreement;

14 (2) supplemental information or materials submitted
15 by a private entity in connection with a proposal for a turnpike
16 project under an exclusive development agreement; and

17 (3) information created or collected by the department
18 or its agents during consideration of a proposal for a turnpike
19 project under an exclusive development agreement.

20 (e) An agreement under this section is not subject to the
21 requirements of Section 361.231 except that the process by which a
22 private entity is chosen by the department to enter an agreement
23 under this section is subject to the extent possible to Section
24 361.050.

25 SECTION 60. Subchapter I, Chapter 361, Transportation Code,
26 is amended by adding Section 361.3021 to read as follows:

27 Sec. 361.3021. ADVERTISING. Before entering into an

1 agreement under Section 361.302, the department shall publish
2 notice in the Texas Register requesting competitive proposals for
3 the agreement.

4 SECTION 61. Subchapter I, Chapter 361, Transportation Code,
5 is amended by adding Section 361.3025 to read as follows:

6 Sec. 361.3025. PERFORMANCE AND PAYMENT SECURITY. (a)
7 Notwithstanding Section 223.006 and the requirements of Subchapter
8 B, Chapter 2253, Government Code, the department shall require a
9 private entity entering into an exclusive development agreement
10 under Section 361.302 to provide performance and payment bonds or
11 alternative forms of security in an amount sufficient to protect:

12 (1) the department and ensure the proper performance
13 of the agreement; and

14 (2) payment bond beneficiaries who have a direct
15 contractual relationship with the private entity or a subcontractor
16 of the private entity to supply labor or material.

17 (b) The performance and payment bonds or alternative forms
18 of security shall be in an amount equal to the cost of constructing
19 the project.

20 (c) If the department determines that it is impracticable
21 for a private entity to provide security in the amount described by
22 Subsection (b), the department shall set the amount of the bonds or
23 the alternative forms of security.

24 (d) A payment or performance bond or alternative form of
25 security is not required for the portion of an agreement that
26 includes only design or planning services, the performance of
27 preliminary studies, or the acquisition of real property.

1 (e) The amount of the payment security must not be less than
2 the amount of the performance security.

3 (f) In addition to performance and payment bonds, the
4 department may require the following alternate forms of security:

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

7 (2) United States bonds or notes;

8 (3) irrevocable bank letter of credit; or

9 (4) any other form of security determined suitable by
10 the department.

11 (g) The commission by rule shall prescribe requirements for
12 alternate forms of security provided under this section.

13 SECTION 62. Section 361.303, Transportation Code, is
14 amended to read as follows:

15 Sec. 361.303. OWNERSHIP OF TURNPIKE PROJECT. (a) A
16 turnpike project that is the subject of a development agreement
17 with a private entity, including the facilities acquired or
18 constructed on the project, is public property and belongs to the
19 department [~~authority~~].

20 (b) Notwithstanding Subsection (a), the department
21 [~~authority~~] may enter into an agreement that provides for the lease
22 of rights-of-way, the granting of easements, the issuance of
23 franchises, licenses, or permits, or any lawful uses to enable a
24 private entity to construct, operate, and maintain a turnpike
25 project, including supplemental facilities. At the termination of
26 the agreement, the turnpike project, including the facilities, is
27 to be in a state of proper maintenance as determined by the

1 department [~~authority~~] and shall be returned to the department
2 [~~authority~~] in satisfactory condition at no further cost.

3 SECTION 63. Section 361.304, Transportation Code, is
4 amended to read as follows:

5 Sec. 361.304. LIABILITY FOR PRIVATE OBLIGATIONS. The
6 department [~~authority~~] may not incur a financial obligation for a
7 private entity that constructs, maintains, or operates a turnpike
8 project. The state[~~, the authority,~~] or a political subdivision of
9 the state is not liable for any financial or other obligations of a
10 turnpike project solely because a private entity constructs,
11 finances, or operates any part of the project.

12 SECTION 64. Section 361.305, Transportation Code, is
13 amended to read as follows:

14 Sec. 361.305. TERMS OF PRIVATE PARTICIPATION. The
15 department [~~authority~~] shall negotiate the terms of private
16 participation in a turnpike project, including:

17 (1) methods to determine the applicable cost, profit,
18 and project distribution between the private equity investors and
19 the department [~~authority~~];

20 (2) reasonable methods to determine and classify toll
21 rates;

22 (3) acceptable safety and policing standards; and

23 (4) other applicable professional, consulting,
24 construction, operation, and maintenance standards, expenses, and
25 costs.

26 SECTION 65. Section 361.306, Transportation Code, is
27 amended to read as follows:

1 Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING
2 SELECTION AND NEGOTIATING PROCESS. (a) The commission [~~authority~~]
3 shall adopt rules, procedures, and guidelines governing selection
4 and negotiations to promote fairness, obtain private participants
5 in turnpike projects, and promote confidence among those
6 participants. The rules must contain criteria relating to the
7 qualifications of the participants and the award of the contracts
8 and may authorize the department [~~authority~~] to impose a fee for
9 reviewing proposals for private involvement in a turnpike project.

10 (b) The department may pay a private entity that submits an
11 unsuccessful response to a request for proposals a stipulated
12 amount of the final contract price for any costs incurred in
13 preparing the proposal. The stipulated amount must be stated in the
14 request for proposals and may not exceed one-third of the value of
15 any work product contained in the proposal that can, as determined
16 by the department, be used by the department in the performance of
17 its functions. After payment of the stipulated amount, the
18 department may make use of any work product contained in the
19 proposal, including the technologies, techniques, methods,
20 processes, and information contained in the project design.

21 (c) The department [~~authority~~] shall have up-to-date
22 procedures for participation in negotiations on turnpike projects.

23 (d) [~~(c)~~] The department [~~authority~~] has exclusive judgment
24 to determine the terms of an agreement.

25 (e) [~~(d)~~] The department [~~authority~~] shall include the
26 attorney general or the attorney general's designated
27 representative in a negotiation with a private participant.

1 SECTION 66. Section 361.307, Transportation Code, is
2 amended to read as follows:

3 Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER
4 GOVERNMENTAL AGENCIES. The department [~~authority~~] and a private
5 entity jointly may enter into an agreement with another
6 governmental agency or entity, including a federal agency, an
7 agency of this or another state, including the United Mexican
8 States or a state of the United Mexican States, or a political
9 subdivision, to independently or jointly provide services, to study
10 the feasibility of a turnpike project, or to finance, construct,
11 operate, and maintain a turnpike project.

12 SECTION 67. Section 361.331(a), Transportation Code, is
13 amended to read as follows:

14 (a) After the department [~~authority~~] conducts a public
15 hearing in each affected county, [~~and with the approval of~~] the
16 commission[~~, the authority~~] may designate as a pooled turnpike
17 project two or more turnpike projects that are wholly or partly
18 located in the territory of:

- 19 (1) a metropolitan planning organization; or
20 (2) two adjacent districts of the department.

21 SECTION 68. Section 361.333, Transportation Code, is
22 amended to read as follows:

23 Sec. 361.333. ISSUANCE OF TURNPIKE REVENUE BONDS; PLEDGE
24 OF PROJECT REVENUE. Subject to this chapter, the commission
25 [~~authority~~] may:

- 26 (1) provide by order [~~resolution~~] for the issuance of
27 turnpike revenue bonds to pay all or part of the cost of a pooled

1 turnpike project; and

2 (2) pledge all or part of the revenue of the project.

3 SECTION 69. Sections 361.334(a) and (e), Transportation
4 Code, are amended to read as follows:

5 (a) The commission [~~authority~~] by order [~~resolution~~] may
6 issue turnpike revenue refunding bonds to:

7 (1) refund any outstanding bonds issued under this
8 chapter for a pooled turnpike project, including any redemption
9 premium on the bonds and any interest accrued as of the date of
10 redemption of the bonds; and

11 (2) construct an improvement, extension, or
12 enlargement to a pooled turnpike project.

13 (e) The commission [~~authority~~] may:

14 (1) issue refunding bonds in exchange for outstanding
15 bonds; or

16 (2) sell refunding bonds and use the proceeds to
17 redeem outstanding bonds.

18 SECTION 70. Section 361.335, Transportation Code, is
19 amended to read as follows:

20 Sec. 361.335. ISSUANCE OF BONDS AND PLEDGE OF TURNPIKE
21 PROJECT REVENUE WITHOUT REGARD TO WHETHER BONDS ARE REFUNDED.
22 Without regard to whether bonds are refunded, the commission
23 [~~authority~~] by order [~~resolution~~] may:

24 (1) issue bonds, of parity or otherwise, to:

25 (A) pay all or part of the cost of a pooled
26 turnpike project; or

27 (B) construct an improvement, extension, or

1 enlargement to a pooled turnpike project; and

2 (2) pledge all or part of the revenue of the pooled
3 turnpike project to the payment of the bonds.

4 SECTION 71. Sections 362.003(b) and (c), Transportation
5 Code, are amended to read as follows:

6 (b) This chapter is cumulative of all laws affecting the
7 commission, the department, and the local governmental entities,
8 except that in the event any other law conflicts with this chapter,
9 the provisions of this chapter prevail. Chapters 1201 and 1371,
10 Government Code, and Subchapters A, B, and C, Chapter 1207,
11 Government Code, apply to bonds issued by the commission under this
12 chapter.

13 (c) The department may [~~This chapter is cumulative of all~~
14 ~~laws affecting the authority, and the authority is authorized to~~]
15 enter into all agreements necessary or convenient to effectuate the
16 purposes of this chapter. [~~Particularly, but not by way of~~
17 ~~limitation, the provisions of Chapters 1201 and 1371, Government~~
18 ~~Code, and Subchapters A-C, Chapter 1207, Government Code, and~~
19 ~~Chapter 361 are applicable to the bonds issued by the authority~~
20 ~~under this chapter.~~]

21 SECTION 72. Sections 362.007(a) and (b), Transportation
22 Code, are amended to read as follows:

23 (a) Under authority of Section 52, Article III, Texas
24 Constitution, a local governmental entity other than a nonprofit
25 corporation may, upon the required vote of the qualified voters, in
26 addition to all other debts, issue bonds or enter into and make
27 payments under agreements with the department [~~authority~~], not to

1 exceed 40 years in term, in any amount not to exceed one-fourth of
2 the assessed valuation of real property within the local
3 governmental entity, except that the total indebtedness of any
4 municipality shall never exceed the limits imposed by other
5 provisions of the constitution, and levy and collect taxes to pay
6 the interest thereon and provide a sinking fund for the redemption
7 thereof, for the purposes of construction, maintenance, and
8 operation of turnpike projects of the department [~~authority~~], or in
9 aid thereof.

10 (b) In addition to Subsection (a), a local governmental
11 entity may, within any applicable constitutional limitations,
12 agree with the department [~~authority~~] to issue bonds or enter into
13 and make payments under an agreement to construct, maintain, or
14 operate any portion of a turnpike project of the department
15 [~~authority~~].

16 SECTION 73. Section 362.008, Transportation Code, is
17 amended to read as follows:

18 Sec. 362.008. ADDITIONAL AGREEMENTS OF DEPARTMENT
19 [~~AUTHORITY~~]. The department [~~authority~~] may enter into any
20 agreement necessary or convenient to achieve the purposes of this
21 subchapter.

22 SECTION 74. The heading to Section 545.354, Transportation
23 Code, is amended to read as follows:

24 Sec. 545.354. AUTHORITY OF [~~TEXAS TURNPIKE AUTHORITY AND~~]
25 REGIONAL TOLLWAY AUTHORITIES TO ALTER SPEED LIMITS ON TURNPIKE
26 PROJECTS.

27 SECTION 75. Section 545.354(a)(1), Transportation Code, is

1 amended to read as follows:

2 (1) In this section, "authority" means [~~the Texas~~
3 ~~Turnpike Authority or~~] a regional tollway authority governed by
4 Chapter 366.

5 SECTION 76. Section 621.102(a), Transportation Code, is
6 amended to read as follows:

7 (a) The [~~Except as provided by Subsection (h), the~~]
8 commission may set the maximum single axle weight, tandem axle
9 weight, or gross weight of a vehicle, or maximum single axle weight,
10 tandem axle weight, or gross weight of a combination of vehicles and
11 loads, that may be moved over a state highway or a farm or ranch road
12 if the commission finds that heavier maximum weight would rapidly
13 deteriorate or destroy the road or a bridge or culvert along the
14 road. A maximum weight set under this subsection may not exceed the
15 maximum set by statute for that weight.

16 SECTION 77. Sections 222.103(i) and (j), 361.005, 361.043,
17 361.046, 361.0485, 361.049, 361.051, 361.052, 361.053, 361.055,
18 361.102, 361.184(f), 361.231(b), 361.237, 361.308, 362.001(1),
19 362.052, 362.053, and 621.102(h), Transportation Code, are
20 repealed.

21 SECTION 78. (a) Subchapter H, Chapter 201, Transportation
22 Code, is amended by adding Section 201.6011 to read as follows:

23 Sec. 201.6011. INTERNATIONAL TRADE CORRIDOR PLAN. (a) To
24 the extent possible, the department shall coordinate with
25 appropriate entities to develop an integrated international trade
26 corridor plan. The plan must:

27 (1) include strategies and projects to aid the

1 exchange of international trade using the system of multiple
2 transportation modes in this state; and

3 (2) assign priorities based on the amount of
4 international trade, measured by weight and value, using the
5 transportation systems of this state, including:

6 (A) border ports of entry;

7 (B) commercial ports;

8 (C) inland ports;

9 (D) highways;

10 (E) pipelines;

11 (F) railroads; and

12 (G) deepwater gulf ports.

13 (b) The department shall report on the implementation of
14 this section to the presiding officer of each house of the
15 legislature no later than December 1, 2004.

16 (b) This section takes effect September 1, 2003.

17 SECTION 79. (a) Section 456.022, Transportation Code, is
18 amended to read as follows:

19 Sec. 456.022. FORMULA ALLOCATION [BY CATEGORIES]. The
20 commission shall adopt rules establishing a formula allocating
21 funds among individual eligible public transportation providers.
22 The formula may take into account a transportation provider's
23 performance, the number of its riders, the need of residents in its
24 service area for public transportation, population, population
25 density, land area, and other factors established by the
26 commission. ~~[Under the formula program the commission shall~~
27 ~~allocate.~~

1 ~~[(1) 50 percent of the money to municipalities that~~
2 ~~are:~~

3 ~~[(A) designated recipients in urbanized areas or~~
4 ~~transit providers eligible under Section 456.003 and not served by~~
5 ~~a transit authority; and~~

6 ~~[(B) designated recipients that are not included~~
7 ~~in a transit authority but are located in urbanized areas that~~
8 ~~include one or more transit authorities and received state transit~~
9 ~~funding during the biennium that ended August 31, 1997; and~~

10 ~~[(2) 50 percent of the money to designated recipients~~
11 ~~in nonurbanized areas.]~~

12 (b) Section 456.024, Transportation Code, is repealed.

13 (c) This section takes effect September 1, 2004.

14 SECTION 80. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 3184 was passed by the House on May 9, 2003, by the following vote: Yeas 136, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3184 on May 26, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3184 on June 1, 2003, by the following vote: Yeas 142, Nays 1, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3184

I certify that H.B. No. 3184 was passed by the Senate, with amendments, on May 23, 2003, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3184 on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor