

By: Hill

H.B. No. 3184

A BILL TO BE ENTITLED

AN ACT

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relating to the financing, construction, improvement, maintenance,
and operation of toll facilities by the Texas Department of
Transportation.

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

1 authorized to be acquired under this chapter.

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

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

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

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

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

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

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

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

27 SECTION 4. The heading to Subchapter B, Chapter 361,

1 Transportation Code, is amended to read as follows:

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

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

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

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

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

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

26 SECTION 6. Section 361.042, Transportation Code, is
27 redesignated as Section 361.032, Transportation Code, and amended

1 to read as follows:

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

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

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

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

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

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

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

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

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

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

1 (6) ~~[employ attorneys to advance or defend legal~~
2 ~~actions pertaining to the division's activities, notwithstanding~~
3 ~~any other law to the contrary, including Section 402.0212,~~
4 ~~Government Code,~~

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

9 (7) ~~[(8)]~~ ~~adopt and enforce rules not inconsistent with~~
10 ~~this 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)]~~ notwithstanding Chapter 2113, Government Code,
14 engage in marketing, advertising, and other activities to promote
15 the development and use of turnpike projects and may enter into
16 contracts or agreements necessary to procure marketing,
17 advertising, or other promotional services from outside service
18 providers;

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

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

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

27 Sec. 361.033 ~~[361.054]~~. AUDIT. Notwithstanding any other

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

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

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

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

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

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

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

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

24 (C) effect traffic safety; or

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

27 (2) at any time determine to undertake a turnpike

1 project, except that the commission by order must approve [~~the~~
2 ~~location of the project before~~] final designation.

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

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

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

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

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

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

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

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

1 ~~[(d) At least once during each five-year period, the~~
2 ~~authority, after a public hearing, shall review the rules relating~~
3 ~~to environmental review and make appropriate changes.]~~

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

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

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

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

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

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

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

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

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

1 Sec. 361.132. ACQUISITION OF PROPERTY. (a) The department
2 [~~authority~~] may acquire, in the name of the state, public or private
3 real property it determines necessary or convenient for the
4 construction, expansion, enlargement, extension, improvement, or
5 operation of a turnpike project or for otherwise carrying out this
6 chapter.

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

9 (1) public parks, playgrounds, or reservations;

10 (2) parts of or rights in public parks, playgrounds,
11 or reservations;

12 (3) rights-of-way;

13 (4) property rights, including:

14 (A) a right of ingress or egress; and

15 (B) a reservation right in real property that
16 restricts or prohibits for not more than seven years the:

17 (i) addition of a new improvement on the
18 real property;

19 (ii) addition to or modification of an
20 existing improvement on the real property; or

21 (iii) subdivision of the real property;

22 (5) franchises;

23 (6) easements; and

24 (7) other interests in real property.

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

1 on the terms and at the price the department [~~authority~~] and the
2 owner consider reasonable.

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

7 (1) protect a turnpike project;

8 (2) drain a turnpike project;

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

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

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

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

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

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

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

1 (10) [~~(9)~~] accomplish any other purpose related to the
2 location, construction, improvement, maintenance, beautification,
3 preservation, or operation of a turnpike project.

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

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

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

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

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

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

1 (2) without advertisement, court order, or other
2 action or formality other than the regular and formal action of the
3 subdivision or agency concerned.

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

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

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

12 (2) survey lines and corners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 17. Section 361.136, Transportation Code, is
2 amended to read as follows:

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

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

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

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

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

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

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

20 (2) to which the case is assigned.

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

25 (c) The declaration of taking must include:

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

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

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

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

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

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

9 (4) the name and address of each property owner that
10 the department [~~authority~~] can obtain after reasonable
11 investigation and a description of the owner's interest in the
12 property; and

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

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

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

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

1 ~~[authority]~~ may take possession of the property pending the
2 litigation.

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

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

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

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

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

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

1 Texas Constitution.

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

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

12 (b) The bonds of each issue:

13 (1) must be dated;

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

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

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

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

26 (d) The proceeds of each bond issue shall be disbursed in
27 the manner and under the restrictions, if any, the commission

1 [~~authority~~] provides in the order [~~resolution~~] authorizing the
2 issuance of the bonds or in the trust agreement securing the bonds.

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

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

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

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

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

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

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

25 Sec. 361.173. PAYMENT OF BONDS; CREDIT OF STATE NOT
26 PLEDGED. (a) The principal of, interest on, and any redemption
27 premium on bonds issued by the commission under this chapter

1 [~~authority~~] are payable solely from:

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

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

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

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

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

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

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

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

26 (1) be payable from and secured by payments made under
27 an agreement with a local governmental entity as provided by

1 Subchapter A, Chapter 362, and may state on their faces any pledge
2 of revenue or taxes and any security for the bonds under the
3 agreement; and

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

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

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

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

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

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

20 (1) the issuance of the refunding bonds;

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

22 (3) the rights of the bondholders; and

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

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

27 (1) issue refunding bonds in exchange for outstanding

1 bonds; or

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

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

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

10 (e) A trust agreement may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (4) the redemption price or the purchase price of

1 bonds retired by call or purchase as provided by the bonds.

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

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

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

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

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

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

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

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

1 (b) The department's [~~authority's~~] use of a financing method
2 under Subsection (a) is subject to the prior approval of the
3 commission.

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

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

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

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

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

25 (h) [~~Money transferred to the department for the benefit of~~
26 ~~the authority under Section 8.02, Chapter 1171, Acts of the 75th~~
27 ~~Legislature, Regular Session, 1997, shall remain in the state~~

1 ~~treasury and may not be transferred to a private banking~~
2 ~~institution. This money is exempt from the application of Section~~
3 ~~403.095, Government Code, and is not subject to reduction or~~
4 ~~elimination under any other provision of the Government Code.~~

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

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

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

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

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

1 trust in the state treasury outside the general revenue fund. The
2 fund shall be kept separate from other funds of the department
3 [~~authority~~].

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

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

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

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

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

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

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

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

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

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

1 turnpike project;

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

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

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

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

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

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

1 Sec. 361.186. REMEDIES. Except to the extent restricted by
2 a trust agreement, a holder of a bond issued under this chapter [~~or~~
3 ~~of a coupon incident to a bond~~] and a trustee under a trust
4 agreement may:

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

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

8 (B) the trust agreement; or

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

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

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

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

20 (1) a turnpike project;

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

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

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

27 Sec. 361.188. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC

1 FUNDS. Bonds of the commission [~~authority, when they are~~
2 ~~accompanied by the unmatured coupons incident to the bonds,~~] may
3 secure the deposit of public funds of the state or a political
4 subdivision of the state to the extent of the lesser of the face
5 value of the bonds or their market value.

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

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

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

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

1 (b) Money repaid as required by the commission [~~department~~]
2 shall be deposited to the credit of the fund from which the money
3 was provided. Money deposited as required by this section is exempt
4 from the application of Section 403.095, Government Code.

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

7 [~~(a)~~] A contract of the department [~~authority~~] for the
8 construction, improvement, repair, or maintenance of a turnpike
9 project shall[~~, to the extent applicable,~~] be awarded under the
10 same terms as a contract of the department under Sections
11 223.001-223.007, [~~223.009,~~] and 223.009-223.011 [~~223.010~~].

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

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

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

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

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

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

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

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

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

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

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

1 relocate or remove the facility in accordance with the order of the
2 department [~~authority~~]. The department [~~authority~~], as a part of
3 the cost of the turnpike project or the cost of operating the
4 project, shall pay the cost of the relocation, removal, or grade
5 separation, including the cost of:

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

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

10 (3) maintenance of grade separation structures.

11 (d) The department [~~authority~~] and the public utility shall
12 have 90 days from the date the department [~~authority~~] provides
13 written notice to the public utility of the need for relocation of
14 utility facilities to reach an agreement concerning the period for
15 completion of the relocation. The 90-day period may be extended by
16 mutual written agreement. If the parties are unable to reach an
17 agreement for the period for completion of the relocation, the
18 department [~~authority~~] may specify a reasonable period. The
19 department [~~authority~~] may reduce the total costs to be paid by the
20 department [~~authority~~] by 10 percent for each 30-day period or
21 portion of a 30-day period that the relocation exceeds the period
22 specified by agreement between the department [~~authority~~] and
23 public utility or as reasonably specified by the department
24 [~~authority~~] if no agreement is reached, unless the public utility's
25 failure to timely perform results from a material action or
26 inaction by the department [~~authority~~] or from conditions that were
27 beyond the reasonable control of the utility. If an owner or

1 operator of a public utility facility does not timely remove or
 2 relocate the facility as required under Subsection (b) and the
 3 department [~~authority~~] relocates the facility, the department
 4 [~~authority~~] shall relocate the facility in a safe manner that
 5 complies with applicable law and utility construction standards
 6 recognized by the department [~~authority~~] and that minimizes
 7 disruption of utility service and shall notify the public utility
 8 and other appropriate regulatory agencies of the relocation. A
 9 public utility shall reimburse the department [~~authority~~] for
 10 expenses reasonably incurred for the relocation of a public utility
 11 facility unless the failure of the public utility to timely
 12 relocate the facility was the result of circumstances beyond the
 13 control of the utility, in which case the department [~~authority~~]
 14 shall pay the cost of the relocation.

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

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

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

25 (f) Notwithstanding anything in this chapter to the
 26 contrary, Subchapter C, Chapter 181, Utilities Code, applies to the
 27 erection, construction, maintenance, and operation of lines and

1 poles owned by an electric utility, as that term is defined by
2 Section 181.041, Utilities Code, over, under, across, on, and along
3 a turnpike project constructed by the department [~~authority~~]. ~~The~~
4 ~~authority has the powers and duties delegated to the commission by~~
5 ~~Subchapter C, Chapter 181, Utilities Code~~].

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

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

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

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

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

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

27 (c) The following entities shall consider offering motor

1 vehicle operators the option of using a transponder to pay tolls
2 without stopping, to mitigate congestion at toll locations, to
3 enhance traffic flow, and to otherwise increase the efficiency of
4 operations:

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

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

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

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

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

1 and administrative fee for each event of nonpayment under Section
2 361.252.

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

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

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

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

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

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

27 (b) Any peace officer of this state may seize a stolen or

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

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

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

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

17 (d) Evidence obtained from technology approved by the
18 department [~~authority~~] under Subsection (a) may not be used in the
19 prosecution of an offense other than under Section 361.252 or
20 361.253.

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

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

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

1 Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter
2 applies only to:

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

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

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

9 (4) a municipality with a population of more than
10 170,000 that is adjacent to the United Mexican States; ~~[or]~~

11 (5) a regional tollway authority created under Chapter
12 366; or

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

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

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

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

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

1 Sec. 361.283. DISCHARGE OF ~~[AUTHORITY'S]~~ OUTSTANDING
2 BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a
3 turnpike project under Section 361.282 must provide for the
4 discharge and final payment or redemption of the department's
5 ~~[authority's]~~ outstanding bonded indebtedness for the project.

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

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

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

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

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

27 SECTION 58. Section 361.301, Transportation Code, is

1 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

21 (e) An agreement under this section is not subject to the
22 requirements of Section 361.231.

23 SECTION 60. Subchapter I, Chapter 361, Transportation Code,
24 is amended by adding Section 361.3025 to read as follows:

25 Sec. 361.3025. PERFORMANCE AND PAYMENT SECURITY. (a)
26 Notwithstanding Section 223.006 and the requirements of Subchapter
27 B, Chapter 2253, Government Code, the department shall require a

1 private entity entering into an exclusive development agreement
2 under Section 361.302 to provide performance and payment bonds or
3 alternative forms of security in an amount sufficient to protect:

4 (1) the department and ensure the proper performance
5 of the agreement; and

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

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

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

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

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

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

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

26 (2) United States bonds or notes;

27 (3) irrevocable bank letter of credit; or

1 (4) any other form of security determined suitable by
2 the department.

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

5 SECTION 61. Section 361.303, Transportation Code, is
6 amended to read as follows:

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

12 (b) Notwithstanding Subsection (a), the department
13 [~~authority~~] may enter into an agreement that provides for the lease
14 of rights-of-way, the granting of easements, the issuance of
15 franchises, licenses, or permits, or any lawful uses to enable a
16 private entity to construct, operate, and maintain a turnpike
17 project, including supplemental facilities. At the termination of
18 the agreement, the turnpike project, including the facilities, is
19 to be in a state of proper maintenance as determined by the
20 department [~~authority~~] and shall be returned to the department
21 [~~authority~~] in satisfactory condition at no further cost.

22 SECTION 62. Section 361.304, Transportation Code, is
23 amended to read as follows:

24 Sec. 361.304. LIABILITY FOR PRIVATE OBLIGATIONS. The
25 department [~~authority~~] may not incur a financial obligation for a
26 private entity that constructs, maintains, or operates a turnpike
27 project. The state [~~, the authority,~~] or a political subdivision of

1 the state is not liable for any financial or other obligations of a
2 turnpike project solely because a private entity constructs,
3 finances, or operates any part of the project.

4 SECTION 63. Section 361.305, Transportation Code, is
5 amended to read as follows:

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

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

12 (2) reasonable methods to determine and classify toll
13 rates;

14 (3) acceptable safety and policing standards; and

15 (4) other applicable professional, consulting,
16 construction, operation, and maintenance standards, expenses, and
17 costs.

18 SECTION 64. Section 361.306, Transportation Code, is
19 amended to read as follows:

20 Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING
21 SELECTION AND NEGOTIATING PROCESS. (a) The commission [~~authority~~]
22 shall adopt rules, procedures, and guidelines governing selection
23 and negotiations to promote fairness, obtain private participants
24 in turnpike projects, and promote confidence among those
25 participants. The rules must contain criteria relating to the
26 qualifications of the participants and the award of the contracts
27 and may authorize the department [~~authority~~] to impose a fee for

1 reviewing proposals for private involvement in a turnpike project.

2 (b) The department may pay a private entity that submits an
3 unsuccessful response to a request for proposals a stipulated
4 amount of the final contract price for any costs incurred in
5 preparing the proposal. The stipulated amount must be stated in the
6 request for proposals and may not exceed the value of any work
7 product contained in the proposal that can, as determined by the
8 department, be used by the department in the performance of its
9 functions. After payment of the stipulated amount, the department
10 may make use of any work product contained in the proposal,
11 including the technologies, techniques, methods, processes, and
12 information contained in the project design.

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

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

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

20 SECTION 65. Section 361.307, Transportation Code, is
21 amended to read as follows:

22 Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER
23 GOVERNMENTAL AGENCIES. The department [~~authority~~] and a private
24 entity jointly may enter into an agreement with another
25 governmental agency or entity, including a federal agency, an
26 agency of this or another state, including the United Mexican
27 States or a state of the United Mexican States, or a political

1 subdivision, to independently or jointly provide services, to study
2 the feasibility of a turnpike project, or to finance, construct,
3 operate, and maintain a turnpike project.

4 SECTION 66. Section 361.331(a), Transportation Code, is
5 amended to read as follows:

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

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

13 SECTION 67. Section 361.333, Transportation Code, is
14 amended to read as follows:

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

- 18 (1) provide by order [~~resolution~~] for the issuance of
19 turnpike revenue bonds to pay all or part of the cost of a pooled
20 turnpike project; and
- 21 (2) pledge all or part of the revenue of the project.

22 SECTION 68. Sections 361.334(a) and (e), Transportation
23 Code, are amended to read as follows:

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

- 26 (1) refund any outstanding bonds issued under this
27 chapter for a pooled turnpike project, including any redemption

1 premium on the bonds and any interest accrued as of the date of
2 redemption of the bonds; and

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

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

6 (1) issue refunding bonds in exchange for outstanding
7 bonds; or

8 (2) sell refunding bonds and use the proceeds to
9 redeem outstanding bonds.

10 SECTION 69. Section 361.335, Transportation Code, is
11 amended to read as follows:

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

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

17 (A) pay all or part of the cost of a pooled
18 turnpike project; or

19 (B) construct an improvement, extension, or
20 enlargement to a pooled turnpike project; and

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

23 SECTION 70. Sections 362.003(b) and (c), Transportation
24 Code, are amended to read as follows:

25 (b) This chapter is cumulative of all laws affecting the
26 commission, the department, and the local governmental entities,
27 except that in the event any other law conflicts with this chapter,

1 the provisions of this chapter prevail. Chapters 1201 and 1371,
2 Government Code, and Subchapters A, B, and C, Chapter 1207,
3 Government Code, apply to bonds issued by the commission under this
4 chapter.

5 (c) The department may [~~This chapter is cumulative of all~~
6 ~~laws affecting the authority, and the authority is authorized to~~]
7 enter into all agreements necessary or convenient to effectuate the
8 purposes of this chapter. [~~Particularly, but not by way of~~
9 ~~limitation, the provisions of Chapters 1201 and 1371, Government~~
10 ~~Code, and Subchapters A-C, Chapter 1207, Government Code, and~~
11 ~~Chapter 361 are applicable to the bonds issued by the authority~~
12 ~~under this chapter.~~]

13 SECTION 71. Sections 362.007(a) and (b), Transportation
14 Code, are amended to read as follows:

15 (a) Under authority of Section 52, Article III, Texas
16 Constitution, a local governmental entity other than a nonprofit
17 corporation may, upon the required vote of the qualified voters, in
18 addition to all other debts, issue bonds or enter into and make
19 payments under agreements with the department [~~authority~~], not to
20 exceed 40 years in term, in any amount not to exceed one-fourth of
21 the assessed valuation of real property within the local
22 governmental entity, except that the total indebtedness of any
23 municipality shall never exceed the limits imposed by other
24 provisions of the constitution, and levy and collect taxes to pay
25 the interest thereon and provide a sinking fund for the redemption
26 thereof, for the purposes of construction, maintenance, and
27 operation of turnpike projects of the department [~~authority~~], or in

1 aid thereof.

2 (b) In addition to Subsection (a), a local governmental
3 entity may, within any applicable constitutional limitations,
4 agree with the department [~~authority~~] to issue bonds or enter into
5 and make payments under an agreement to construct, maintain, or
6 operate any portion of a turnpike project of the department
7 [~~authority~~].

8 SECTION 72. Section 362.008, Transportation Code, is
9 amended to read as follows:

10 Sec. 362.008. ADDITIONAL AGREEMENTS OF DEPARTMENT
11 [~~AUTHORITY~~]. The department [~~authority~~] may enter into any
12 agreement necessary or convenient to achieve the purposes of this
13 subchapter.

14 SECTION 73. The heading to Section 545.354, Transportation
15 Code, is amended to read as follows:

16 Sec. 545.354. AUTHORITY OF [~~TEXAS TURNPIKE AUTHORITY AND~~]
17 REGIONAL TOLLWAY AUTHORITIES TO ALTER SPEED LIMITS ON TURNPIKE
18 PROJECTS.

19 SECTION 74. Section 545.354(a)(1), Transportation Code, is
20 amended to read as follows:

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

24 SECTION 75. Section 621.102(a), Transportation Code, is
25 amended to read as follows:

26 (a) The [~~Except as provided by Subsection (h), the~~]
27 commission may set the maximum single axle weight, tandem axle

1 weight, or gross weight of a vehicle, or maximum single axle weight,
2 tandem axle weight, or gross weight of a combination of vehicles and
3 loads, that may be moved over a state highway or a farm or ranch road
4 if the commission finds that heavier maximum weight would rapidly
5 deteriorate or destroy the road or a bridge or culvert along the
6 road. A maximum weight set under this subsection may not exceed the
7 maximum set by statute for that weight.

8 SECTION 76. Sections 222.103(i) and (j), 361.005, 361.043,
9 361.046, 361.0485, 361.049, 361.050, 361.051, 361.052, 361.053,
10 361.055, 361.102, 361.184(f), 361.231(b), 361.237, 361.308,
11 362.001(1), 362.052, 362.053, and 621.102(h), Transportation Code,
12 are repealed.

13 SECTION 77. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2003.