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H.B. No. 3588

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the construction, acquisition, financing, maintenance,
3 management, operation, ownership, and control of transportation
4 facilities and the progress, improvement, policing, and safety of
5 transportation in the state.

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

7 ARTICLE I. TRANS-TEXAS CORRIDOR

8 SECTION 1.01. The heading to Title 6, Transportation Code,
9 is amended to read as follows:

10 TITLE 6. ROADWAYS AND TRANS-TEXAS CORRIDOR

11 SECTION 1.02. The heading to Subtitle B, Title 6,
12 Transportation Code, is amended to read as follows:

13 SUBTITLE B. STATE HIGHWAY SYSTEM AND TRANS-TEXAS CORRIDOR

14 SECTION 1.03. Subtitle B, Title 6, Transportation Code, is
15 amended by adding Chapter 227 to read as follows:

16 CHAPTER 227. TRANS-TEXAS CORRIDOR

17 SUBCHAPTER A. GENERAL PROVISIONS

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

20 Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. (a)
21 Transportation vitally affects the economy of this state and the
22 public interest and welfare of its citizens. It is the policy of
23 this state to exercise the full extent of its constitutional power
24 to ensure the development of a new generation of facilities known as

1 the Trans-Texas Corridor. The Trans-Texas Corridor will combine
2 various facilities, including free highways, turnpikes, freight
3 rail, passenger and commuter rail, pipelines, communications
4 lines, and other utilities. These integrated corridors will
5 enhance the safety of travelers, relieve congestion, and protect
6 the human and natural environment by serving population centers
7 without directing traffic into heavily populated areas. Through
8 these safe and environmentally sound integrated corridors, the
9 Trans-Texas Corridor will provide for the secure and reliable
10 transportation of people, property, power, and information in ways
11 that will benefit all citizens of this state.

12 (b) The purpose of this chapter is to provide the commission
13 and the department with all powers necessary or convenient to the
14 construction and operation of the Trans-Texas Corridor. These
15 powers include the ability to use innovative financing and
16 contracting tools to permit the expeditious construction of the
17 Trans-Texas Corridor with a high degree of flexibility and
18 efficiency.

19 (c) It is the intent of the legislature that in exercising
20 the powers under this chapter the commission and the department
21 will solicit and consider the views of all persons through an active
22 program of public hearings, meetings, and opportunities for written
23 comment on proposed courses of action and will encourage efficiency
24 at all levels of private involvement by fostering a competitive
25 environment that will challenge private enterprise, reward
26 innovation, and achieve the best value for the state.

27 (d) This chapter shall be liberally construed to achieve its

1 purposes.

2 Sec. 227.003. DEFINITIONS. In this chapter:

3 (1) "Bond" has the meaning assigned by Title 9,
4 Government Code.

5 (2) "Construction" includes extension, expansion, and
6 improvement.

7 (3) "Credit agreement" has the meaning assigned by
8 Title 9, Government Code.

9 (4) "Facility" means:

10 (A) a state highway;

11 (B) a turnpike;

12 (C) a freight or passenger railroad, including a
13 commuter railroad, intercity railroad, and high-speed railroad;

14 (D) a public utility facility;

15 (E) any other mechanism for transporting people,
16 property, power, or information that relies on or benefits from
17 fixed structures; or

18 (F) any structure that is reasonably necessary
19 for the effective operation of a method of transportation,
20 including an intermodal transfer or staging area, weigh station,
21 inspection station, rest area, service station, restaurant, train
22 or bus station, warehouse, freight interchange, switching yard,
23 maintenance yard, and pipeline pumping station.

24 (4-a) "Facility" does not include a border inspection
25 facility that serves a bridge system that had more than 900,000
26 commercial border crossings during the state fiscal year ending
27 August 31, 2002.

1 (5) "Fee" includes any charge, toll, rent, lease
2 payment, user fee, franchise fee, percentage fee, license fee,
3 fare, tariff, or other consideration received in return for the use
4 of:

5 (A) property that is part of the Trans-Texas
6 Corridor;

7 (B) a facility on the Trans-Texas Corridor; or

8 (C) a service that is offered in connection with
9 the Trans-Texas Corridor.

10 (6) "Operation" includes maintenance and repair.

11 (7) "Public utility facility" means:

12 (A) a water, wastewater, natural gas, or
13 petroleum pipeline or facility;

14 (B) an electric transmission or distribution
15 facility; or

16 (C) telecommunications infrastructure,
17 including fiber optic cable, conduit, and wireless communications
18 facilities.

19 (8) "Trans-Texas Corridor" means the statewide system
20 of facilities designated by the commission under this chapter.

21 (9) "Turnpike" has the meaning assigned to turnpike
22 project under Section 361.001.

23 Sec. 227.004. RULES. The commission may adopt rules and the
24 department may implement procedures and forms as necessary or
25 convenient to implement and administer this chapter.

26 Sec. 227.005. APPLICABILITY. (a) All laws governing the
27 financing, design, construction, maintenance, or operation of a

1 highway in the state highway system apply to the financing, design,
2 construction, maintenance, or operation of a highway under this
3 chapter unless in conflict with this chapter.

4 (b) All laws governing the financing, design, construction,
5 maintenance, or operation of a turnpike by the department apply to
6 the financing, design, construction, maintenance, or operation of a
7 turnpike under this chapter unless in conflict with this chapter.

8 (c) This chapter does not apply to real or personal
9 property, operations, or construction, or to a project plan of a
10 transportation authority created under Subchapter O, Chapter 452,
11 or an authority created under Chapter 451, the principal
12 municipality of which has a population of 1.5 million or more,
13 unless the commission or its designee has signed a written
14 agreement with the transportation authority specifying the terms
15 and conditions under which the transportation authority may
16 participate in the Trans-Texas Corridor.

17 [Sections 227.006-227.010 reserved for expansion]

18 SUBCHAPTER B. ESTABLISHMENT

19 Sec. 227.011. DESIGNATION. The commission shall designate
20 facilities for the Trans-Texas Corridor.

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

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

- 1 (4) environmental effects, including the effect on air
2 quality;
3 (5) current and projected economic development;
4 (6) the current and projected need for additional
5 transportation options; and
6 (7) system connectivity.

7 Sec. 227.013. PUBLIC PARTICIPATION. Before designating a
8 route for a segment of the Trans-Texas Corridor, the department
9 shall hold at least one public hearing.

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

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

24 Sec. 227.015. LOCATION OF FACILITIES. Notwithstanding any
25 other law, including Chapter 181, Utilities Code, Chapter 402,
26 Local Government Code, and Section 49.220, Water Code, the
27 department may:

1 (1) specify the location of any facility on the
2 Trans-Texas Corridor; and

3 (2) direct the time and manner of construction or
4 operation of any facility on the Trans-Texas Corridor.

5 [Sections 227.016-227.020 reserved for expansion]

6 SUBCHAPTER C. DEVELOPMENT AND OPERATION

7 Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) The department
8 may:

9 (1) construct or operate any facility as part of the
10 Trans-Texas Corridor; or

11 (2) authorize a governmental or private entity to
12 construct or operate a facility that is part of the Trans-Texas
13 Corridor.

14 (b) Subject to Section 227.029, the department may grant or
15 deny access to the Trans-Texas Corridor.

16 (c) The department may not directly provide
17 telecommunications or information services or facilities to the
18 public.

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

25 (b) If the department authorizes another governmental
26 entity to construct or operate a facility on the Trans-Texas
27 Corridor, that entity has each power of the department under this

1 chapter with respect to that facility, including the right to
2 collect fees, except that any property acquired by the entity shall
3 be held in the name of the state.

4 (c) Notwithstanding any other law, if the department
5 authorizes another governmental entity to construct or operate a
6 facility on the Trans-Texas Corridor, that entity may construct or
7 operate the facility without regard to any geographic limit on the
8 entity's jurisdiction.

9 (d) If the department authorizes another governmental
10 entity to construct or operate a facility on the Trans-Texas
11 Corridor, that entity is liable for a claim relating to the
12 Trans-Texas Corridor only to the extent that the department would
13 be liable if it were constructing or operating the facility.

14 Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) To
15 the maximum extent practical and economical, the department shall
16 encourage the participation of private entities in the planning,
17 design, construction, and operation of facilities.

18 (b) The department shall contract with a private entity to
19 operate a railroad using rail facilities owned by the department
20 and may not use department employees to operate a railroad. The
21 department may maintain a rail facility directly or through a
22 private entity.

23 (c) To remove barriers to participation by small and
24 disadvantaged businesses, the department shall apply the same
25 procedures to exclusive development agreements that it applies to
26 contracts entered under other construction and design contracts.
27 The department shall encourage participation by small and

1 disadvantaged businesses in the performance of exclusive
2 development agreements.

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

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

13 (b) This section does not authorize the operation of a
14 vehicle that exceeds a maximum axle weight authorized by Chapter
15 621, 622, or 623.

16 Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) The
17 department may acquire rolling stock or other personal property
18 under a conditional sales contract, lease, equipment trust
19 certificate, or other form of contract or trust agreement for use in
20 connection with a facility.

21 (b) The department may enter into an agreement with a rail
22 operator, transportation common carrier, transportation system, or
23 any other entity for the common use of any facility.

24 (c) The department may enter into agreements with a public
25 or private utility, the owner or operator of a communications
26 system, utility common carrier, or transportation system, or
27 another entity for the common use of a public utility facility.

1 Sec. 227.027. ENVIRONMENTAL REVIEW. (a) The department
2 shall conduct or approve each environmental evaluation or study
3 required for an activity associated with the Trans-Texas Corridor.

4 (b) The commission may allocate responsibilities for
5 conducting environmental evaluations or studies or preparing
6 environmental documentation among entities involved in the
7 construction or operation of any facility of the Trans-Texas
8 Corridor.

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

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

23 (c) If authorized by the applicable regulatory authority,
24 the department may pay a sum of money to an appropriate governmental
25 or private entity instead of acquiring or managing property for the
26 mitigation of a past, present, or future adverse environmental
27 effect arising from construction or operation of any part of the

1 Trans-Texas Corridor without regard to whether the need for
2 mitigation has already been established for a particular project.

3 Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) The
4 department may construct a grade separation at an intersection of a
5 Trans-Texas Corridor facility with another facility and may change
6 the line or grade of a facility to accommodate the facility to the
7 design of a grade separation. The department shall pay the cost of
8 a grade separation and any damage incurred in changing a line or
9 grade of a facility.

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

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

20 Sec. 227.030. UNAUTHORIZED USE. The department may remove
21 unauthorized personal property, including a vehicle, from the
22 Trans-Texas Corridor without notice and at the owner's expense.
23 Removed property may be stored until claimed by the owner. If a
24 removed motor vehicle is not claimed by the owner within 72 hours
25 after the date and time of removal, it shall be considered abandoned
26 within the meaning of Chapter 683. The department and its employees
27 are not liable for damage to property that is removed from the

1 Trans-Texas Corridor under this section.

2 Sec. 227.031. EXCLUSIVE LANES. The department may dedicate
3 one or more lanes of a highway on the Trans-Texas Corridor to the
4 exclusive use of designated classes of vehicles.

5 [Sections 227.032-227.040 reserved for expansion]

6 SUBCHAPTER D. RIGHT-OF-WAY ACQUISITION

7 Sec. 227.041. POWERS AND PROCEDURES. (a) Except as
8 otherwise provided by this subchapter, the commission has the same
9 powers and duties relating to the condemnation and acquisition of
10 real property for a facility of the Trans-Texas Corridor that the
11 commission and the department have relating to the condemnation or
12 purchase of real property under Subchapter D, Chapter 361, and
13 Section 361.233 for a turnpike project. The commission may
14 purchase property or an option to purchase property that the
15 commission is considering for possible use as part of the
16 Trans-Texas Corridor even if it has not been finally decided that
17 the Trans-Texas Corridor will be located on that property.
18 Property may be purchased along alternative potential routes for
19 the Trans-Texas Corridor even if only one of those potential routes
20 will be selected as the final route.

21 (b) An interest in real property or a property right is
22 necessary or convenient for the construction or operation of a
23 facility if it is located in or contiguous to an existing or planned
24 segment of the Trans-Texas Corridor and if its acquisition will
25 further the primary purposes of the Trans-Texas Corridor. Primary
26 purposes include:

27 (1) providing right-of-way or a location for a

1 facility;

2 (2) providing land for mitigation of adverse
3 environmental effects;

4 (3) providing buffer zones for scenic or safety
5 purposes;

6 (4) allowing for possible future expansion of any
7 facility; and

8 (5) generating revenue, directly or indirectly, for
9 use in constructing or operating the Trans-Texas Corridor.

10 (c) Unless in conflict with this chapter, all laws governing
11 the acquisition of right-of-way for a state highway apply to the
12 acquisition of right-of-way for the Trans-Texas Corridor. Sections
13 203.056, 203.057, and 203.058 apply to an acquisition by the
14 department from a state agency. Compensation to a state agency
15 under those sections shall be reasonable and may take the form of a
16 single payment, a participation payment under Section 227.042, or
17 both a single payment and a participation payment.

18 Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL
19 PROPERTY. (a) As an alternative to paying for an interest in real
20 property or a real property right with a single fixed payment, the
21 department may, with the owner's consent, pay the owner by means of
22 a corridor participation payment.

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

1 (c) In this section, "corridor participation payment" means
2 an intangible legal right to receive a percentage of one or more
3 identified fees related to a segment of the Trans-Texas Corridor.

4 Sec. 227.043. LEGAL RIGHTS AS PAYMENT FOR REAL PROPERTY. As
5 an alternative to paying for an interest in real property or a
6 property right with a single fixed payment, the department may,
7 with the owner's consent, pay the owner by means of an exclusive or
8 nonexclusive right to use or operate a facility or a license to
9 operate a public utility facility on the Trans-Texas Corridor.

10 Sec. 227.044. PURCHASE AND LEASEBACK. The department may
11 acquire real property for the Trans-Texas Corridor and immediately
12 lease it back to the former owner for a fixed or indefinite term.

13 Sec. 227.045. POSSESSION OF HOMESTEAD PROPERTY UNDER
14 DECLARATION OF TAKING. If property condemned under this chapter is
15 a homestead or a portion of a homestead as defined by Section
16 41.002, Property Code, the department may not take possession
17 before the 91st day after the date of service of the declaration of
18 taking.

19 Sec. 227.046. RIGHT OF ENTRY TO PROPERTY WITH PUBLIC
20 UTILITY FACILITY. To ensure the safety and convenience of the
21 public, the department shall, when entering any real property,
22 water, or premises on which is located a public utility facility:

23 (1) comply with applicable industry standard safety
24 codes and practices; and

25 (2) give the owner or operator of the facility not less
26 than 10 days' notice before entering the real property, water, or
27 premises.

1 Sec. 227.047. DONATIONS. The department may accept
2 donations of an interest in real property from any person for use in
3 connection with the Trans-Texas Corridor. Notwithstanding any
4 other law, including Chapter 575, Government Code, the commission
5 may adopt rules authorizing the department to accept a gift of real
6 property from any local, state, or federal governmental entity
7 without formal acknowledgment by the commission.

8 Sec. 227.048. OTHER GOVERNMENTAL ENTITIES. If the
9 department authorizes another governmental entity to construct or
10 operate a segment of or a facility on the Trans-Texas Corridor, that
11 entity has all the powers and duties of the department under this
12 subchapter.

13 Sec. 227.049. COST OF RELOCATING PUBLIC UTILITY FACILITY.
14 (a) A telecommunications utility or a telecommunications utility
15 holding a certificate of convenience and necessity, certificate of
16 authority, or service provider certificate of authority shall
17 recover from the department its reasonable costs to relocate a
18 public utility facility to accommodate the development or
19 construction of the Trans-Texas Corridor.

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

23 (c) If a public utility facility is located on the
24 Trans-Texas Corridor, the department shall grant the owner
25 reasonable access to operate and maintain the utility facility in
26 accordance with industry standard safety codes and practices.

27 (d) Relocation of facilities pursuant to this section is

1 subject to the department's reasonable regulations pertaining to
2 public health, safety, and welfare.

3 [Sections 227.050-227.060 reserved for expansion]

4 SUBCHAPTER E. FINANCING

5 Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. To the full
6 extent permitted by the constitution, but subject to Section
7 227.0615, the department may use any available source of funding in
8 acquiring property for, constructing, and operating the
9 Trans-Texas Corridor, including:

10 (1) an appropriation from the state highway fund for
11 construction or maintenance of highways;

12 (2) a fee;

13 (3) proceeds from a bond secured by fees;

14 (4) proceeds from an obligation secured by the Texas
15 Mobility Fund;

16 (5) a donation, in kind or in cash;

17 (6) a private investment;

18 (7) money transferred from the state infrastructure
19 bank;

20 (8) a contribution from or contractual obligation of a
21 governmental entity; and

22 (9) a loan, grant, or reimbursement from the federal
23 government, subject to Section 227.0615.

24 Sec. 227.0615. LIMITATION ON DEPARTMENT FINANCIAL
25 PARTICIPATION. (a) Each fiscal year, the total amount disbursed by
26 the department out of the state highway fund for acquiring property
27 for and the initial construction of facilities of the Trans-Texas

1 Corridor may not exceed 20 percent of the obligation authority
2 under the federal-aid highway program that is distributed to this
3 state in that year.

4 (b) The limitation under Subsection (a) does not apply to:

5 (1) money spent for:

6 (A) feasibility studies, environmental studies,
7 and preliminary engineering conducted before the initial
8 construction of a facility; or

9 (B) operation or reconstruction of a facility;

10 (2) the proceeds of bonds or other public securities
11 issued to pay the cost of a facility deposited to the credit of the
12 state highway fund;

13 (3) revenue attributable to a facility deposited to
14 the credit of the state highway fund;

15 (4) loans deposited to the credit of the state highway
16 fund; or

17 (5) contributions from a public or private entity that
18 are deposited to the credit of the state highway fund.

19 (c) The commission may not disburse money out of the state
20 highway fund for the initial construction of a facility of the
21 Trans-Texas Corridor unless the commission finds that the
22 disbursement will reduce traffic congestion to an extent that is
23 comparable to the reduction in traffic congestion that would likely
24 be achieved by spending the same amount of money on the project that
25 is the most reasonable alternative.

26 Sec. 227.062. REVENUE BONDS. (a) The commission by order
27 may authorize the issuance of bonds to pay all or part of the cost of

1 a facility or system established under Section 227.014, to refund
2 any bonds previously issued for the facility or system, or to pay
3 for all or part of the cost of a facility or system that will become
4 a part of another system.

5 (b) As determined in the order authorizing the issuance, the
6 bonds of each issue shall:

7 (1) be dated;

8 (2) bear interest at the rate or rates provided by the
9 order and beginning on the dates provided by the order and as
10 authorized by law, or bear no interest;

11 (3) mature at the time or times provided by the order,
12 not exceeding 40 years from their date or dates; and

13 (4) be made redeemable before maturity at the price or
14 prices and under the terms provided by the order.

15 (c) The commission may sell the bonds at public or private
16 sale in the manner and for the price it determines to be in the best
17 interest of the department.

18 (d) The proceeds of each bond issue shall be disbursed in
19 the manner and under any restrictions provided in the order
20 authorizing the issuance.

21 (e) Additional bonds may be issued in the same manner to pay
22 the costs of a facility or system. Unless otherwise provided in the
23 order authorizing the issuance, the additional bonds shall be on a
24 parity, without preference or priority, with bonds previously
25 issued for that facility or system. In addition, the commission may
26 issue bonds for a facility or system secured by a lien on the
27 revenue of the facility or system subordinate to the lien on the

1 revenue securing other bonds issued for the facility or system.

2 (f) If the proceeds of a bond issue exceed the cost of the
3 facility or system for which the bonds were issued, the surplus
4 shall be segregated from the other money of the commission and used
5 only for the purposes specified in the order authorizing the
6 issuance.

7 (g) Bonds issued and delivered under this chapter and
8 interest coupons on the bonds are a security under Chapter 8,
9 Business & Commerce Code.

10 (h) Bonds issued under this chapter and income from the
11 bonds, including any profit made on the sale or transfer of the
12 bonds, are exempt from taxation in this state.

13 (i) In issuing bonds the proceeds of which are to be used
14 solely for a turnpike, the commission may exercise any additional
15 power granted by Subchapter E, Chapter 361.

16 Sec. 227.063. INTERIM BONDS. (a) The commission may,
17 before issuing definitive bonds, issue interim bonds, with or
18 without coupons, exchangeable for definitive bonds.

19 (b) The interim bonds may be authorized and issued in
20 accordance with this chapter, without regard to a requirement,
21 restriction, or procedural provision in any other law.

22 (c) An order authorizing interim bonds may provide that the
23 interim bonds recite that the bonds are issued under this chapter.
24 The recital is conclusive evidence of the validity and the
25 regularity of the bonds' issuance.

26 Sec. 227.064. PAYMENT OF BONDS; CREDIT OF STATE NOT
27 PLEDGED. (a) The principal of, interest on, and any redemption

1 premium on bonds issued by the commission are payable solely from:

2 (1) the revenue of the facility or system for which the
3 bonds are issued, including tolls and other fees pledged to pay the
4 bonds;

5 (2) money derived from any other source available to
6 the commission, including fees; and

7 (3) amounts received under a credit agreement relating
8 to the facility or system for which the bonds are issued.

9 (b) Bonds issued under this chapter do not constitute a debt
10 of this state or a pledge of the faith and credit of this state.
11 Each bond must contain on its face a statement to the effect that
12 the state is not obligated to pay the bond or the interest on the
13 bond from a source other than the amount pledged to pay the bond and
14 the interest on the bond, and the faith and credit and taxing power
15 of this state are not pledged to the payment of the principal of or
16 interest on the bond.

17 (c) The commission may not incur a financial obligation that
18 cannot be paid from revenue derived from owning or operating a
19 facility or system or from other revenue or money provided by law.

20 Sec. 227.065. EFFECT OF LIEN. (a) A lien on or a pledge of
21 revenue from a facility or system or other money under this chapter
22 or on a reserve, replacement, or other fund established in
23 connection with a bond issued under this chapter:

24 (1) is enforceable at the time of payment for and
25 delivery of the bond;

26 (2) applies to each item on hand or subsequently
27 received;

1 (3) applies without physical delivery of an item or
2 other act; and

3 (4) is enforceable against any person having a claim,
4 in tort, contract, or other remedy, against the commission or the
5 department without regard to whether the person has notice of the
6 lien or pledge.

7 (b) An order authorizing the issuance of bonds is not
8 required to be recorded except in the regular records of the
9 department.

10 Sec. 227.066. BOND INDENTURE. (a) Bonds under this chapter
11 may be secured by a bond indenture between the commission and a
12 corporate trustee that is a trust company or a bank that has the
13 powers of a trust company.

14 (b) A bond indenture may pledge or assign the fees and other
15 revenue to be received and other money derived from another source
16 available to the commission but may not convey or mortgage any part
17 of a facility or system.

18 (c) A bond indenture may:

19 (1) set forth the rights and remedies of the
20 bondholders and the trustee;

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

24 (3) contain provisions the commission determines
25 reasonable and proper for the security of the bondholders,
26 including covenants:

27 (A) establishing the commission's duties

1 relating to:

2 (i) the acquisition of property;

3 (ii) the construction, maintenance,
4 operation, and repair of and insurance for a facility or system; and

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

7 (B) prescribing events that constitute default;

8 (C) prescribing terms on which any or all of the
9 bonds become or may be declared due before maturity; and

10 (D) relating to the rights, powers, liabilities,
11 or duties that arise on the breach of a duty of the commission.

12 (d) An expense incurred in carrying out a trust agreement or
13 indenture may be treated as part of the cost of operating a facility
14 or system.

15 (e) In addition to all other rights by mandamus or other
16 court proceeding, an owner or trustee of a bond issued under this
17 chapter may enforce the owner's rights against the commission, the
18 department, or an agent or employee of the commission or department
19 and is entitled to:

20 (1) require the commission and department to impose
21 and collect fees, charges, and other revenue sufficient to carry
22 out any agreement contained in the applicable bond proceedings; and

23 (2) apply for and obtain the appointment of a receiver
24 for the facility or system.

25 Sec. 227.067. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)
26 The commission shall submit to the attorney general for examination
27 the record of proceedings relating to bonds authorized under this

1 chapter. The record shall include the bond proceedings and any
2 contract securing or providing revenue for the payment of the
3 bonds.

4 (b) If the attorney general determines that the bonds, the
5 bond proceedings, and any supporting contract are authorized by
6 law, the attorney general shall approve the bonds and deliver to the
7 comptroller:

8 (1) a copy of the legal opinion of the attorney general
9 stating the approval; and

10 (2) the record of proceedings relating to the
11 authorization of the bonds.

12 (c) On receipt of the legal opinion of the attorney general
13 and the record of proceedings relating to the authorization of the
14 bonds, the comptroller shall register the record of proceedings.

15 (d) After approval by the attorney general, the bonds, the
16 bond proceedings, and any supporting contract are valid,
17 enforceable, and incontestable in any court or other forum for any
18 reason and are binding obligations according to their terms for all
19 purposes.

20 Sec. 227.068. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES
21 OF SECURITIES. (a) A bank or trust company incorporated under the
22 laws of this state that acts as depository of the proceeds of bonds
23 or of revenue may furnish indemnifying bonds or pledge securities
24 that the commission requires.

25 (b) Bonds of the commission may secure the deposit of public
26 money of this state or a political subdivision of this state to the
27 extent of the lesser of the face value of the bonds or their market

1 value.

2 Sec. 227.069. APPLICABILITY OF OTHER LAW; CONFLICTS. All
3 laws affecting the issuance of bonds by governmental entities,
4 including Chapters 1201, 1202, 1204, 1207, and 1371, Government
5 Code, apply to bonds issued under this chapter. To the extent of a
6 conflict between those laws and this chapter, the provisions of
7 this chapter prevail.

8 Sec. 227.070. LOANS AND OTHER FUNDING. The department may
9 borrow money from the United States or use money in the state
10 infrastructure bank created under Subchapter D, Chapter 222, to
11 fund the construction or operation of a facility under this
12 chapter. Money borrowed under this section may be evidenced by the
13 issuance of bonds.

14 SUBCHAPTER F. REVENUE

15 Sec. 227.071. FEES. (a) Notwithstanding any other law,
16 including Chapters 161, 162, 163, and 181, Utilities Code, Chapter
17 402, Local Government Code, and Chapter 49, Water Code, and except
18 as provided in Subsection (e), the department may require a person,
19 including a governmental or private entity, to pay a fee as a
20 condition of using any part of the Trans-Texas Corridor.

21 (b) The commission may establish fees to be imposed by the
22 department under this chapter. Fees may be set as absolute amounts,
23 as a percentage of revenue, as a percentage of actual use or
24 throughput, as a designated portion or percentage of initial
25 facility funding, or on any other reasonable basis. Subject to
26 approval by a body having jurisdiction and authority to establish a
27 tariff, the commission may establish joint fees and divisions of

1 fees.

2 (c) A fee may exceed the department's costs, but the
3 commission may not establish a fee that is prohibitive or that
4 discriminates unreasonably among users or potential users of a
5 facility.

6 (d) In establishing a fee or the amount of a fee under this
7 section, the commission shall consider:

8 (1) the acquisition cost of the property being used;

9 (2) if applicable, the value of the property being
10 transported or of the service being offered;

11 (3) any cost to the department or to the public
12 occasioned by the use, including environmental effects;

13 (4) comparable fees set by the competitive
14 marketplace; and

15 (5) the desirable effects of full use of the
16 Trans-Texas Corridor on the state's economy and its residents.

17 (e) If a public road is replaced or eliminated by the
18 Trans-Texas Corridor and a facility used the right-of-way of that
19 road under Chapter 161, 162, 163, or 181, Utilities Code, Chapter
20 402, Local Government Code, or Chapter 49, Water Code, the
21 department may not require the owner of that facility to pay a fee
22 as a condition of using a segment of the Trans-Texas Corridor for
23 the location of a replacement facility.

24 (f) The department may not require the owner of a public
25 utility facility to pay a fee as a condition of crossing the
26 Trans-Texas Corridor.

27 Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) The

1 department may lease property on the Trans-Texas Corridor to any
2 public or private entity. A lease may be for a term not longer than
3 50 years.

4 (b) The department may grant a franchise to use or operate a
5 facility on the Trans-Texas Corridor. A franchise under this
6 section may be granted for a term not longer than 50 years.

7 (c) The department may grant an exclusive or nonexclusive
8 license to access or use any portion of the Trans-Texas Corridor for
9 any purpose. A license granted under this section may be for a
10 definite or indefinite term.

11 (d) Property may be leased or a franchise or license granted
12 for any purpose, including use as a facility and use for unrelated
13 commercial, industrial, or agricultural purposes.

14 (e) In return for a lease, franchise, or license, the
15 department may accept anything of value as consideration,
16 including:

17 (1) a cash payment;

18 (2) installment payments;

19 (3) one or more payments based on percentages of use or
20 throughput; and

21 (4) an interest in real or personal property, or an
22 intangible legal right.

23 Sec. 227.073. DISPOSITION OF FEES. To the extent that it is
24 not dedicated to another purpose by the constitution, by statute,
25 or by contract, revenue received by the department under this
26 chapter shall be deposited to the credit of the state highway fund
27 and may be used for any purpose authorized by this chapter.

1 Subchapter D, Chapter 316, Government Code, and Section 403.095,
2 Government Code, do not apply to revenue received under this
3 chapter.

4 SECTION 1.04. Subchapter H, Chapter 545, Transportation
5 Code, is amended by adding Section 545.3531 to read as follows:

6 Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION
7 COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a)
8 Notwithstanding Section 545.352, the Texas Transportation
9 Commission, by order recorded in its minutes and except as provided
10 by Subsection (d), may determine and declare on a highway segment of
11 the Trans-Texas Corridor designated under Chapter 227 a reasonable
12 and safe prima facie speed limit in excess of a prima facie speed
13 limit established by Section 545.352.

14 (b) In determining whether a prima facie speed limit is
15 reasonable and safe, the commission shall conduct an engineering
16 and traffic investigation and shall consider the width and
17 condition of the pavement, the usual traffic on the highway
18 segment, the suitability of existing safety features, and other
19 circumstances.

20 (c) A prima facie speed limit that is declared by the
21 commission under this section is effective when the department
22 erects signs giving notice of the new limit. A new limit that is
23 enacted under this section is effective at all times or at other
24 times as determined.

25 (d) The commission may not:

26 (1) modify the rules established by Section
27 545.351(b); or

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

3 (e) The commission, in conducting the engineering and
4 traffic investigation specified by Subsection (b), shall follow the
5 "Procedures for Establishing Speed Zones" as adopted by the
6 commission.

7 SECTION 1.05. This article takes effect immediately if this
8 Act receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this article takes effect September 1, 2003.

12 ARTICLE 2. REGIONAL MOBILITY AUTHORITIES

13 SECTION 2.01. Subtitle G, Title 6, Transportation Code, is
14 amended by adding Chapter 370 to read as follows:

15 CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

16 SUBCHAPTER A. GENERAL PROVISIONS

17 Sec. 370.001. SHORT TITLE. This chapter may be cited as the
18 Regional Mobility Authority Act.

19 Sec. 370.002. PURPOSES; LIBERAL CONSTRUCTION. (a) The
20 purposes of this chapter are:

21 (1) to expand and improve transportation facilities
22 and systems in this state;

23 (2) to promote the consideration and use of multimodal
24 forms of transportation to address transportation needs in regions
25 of the state;

26 (3) to create regional mobility authorities to secure
27 and acquire rights-of-way for urgently needed transportation

1 systems and to plan, design, construct, operate, expand, extend,
2 and modify those systems; and

3 (4) to reduce burdens and demands on the limited money
4 available to the commission and to increase the effectiveness and
5 efficiency of the commission.

6 (b) This chapter shall be liberally construed to effect its
7 purposes.

8 Sec. 370.003. DEFINITIONS. In this chapter:

9 (1) "Authority" means a regional mobility authority
10 organized under this chapter or under Section 361.003, as that
11 section existed before September 1, 2003.

12 (2) "Board" means the board of directors of an
13 authority.

14 (3) "Bond" includes a bond, certificate, note, or
15 other obligation of an authority authorized by this chapter,
16 another statute, or the Texas Constitution.

17 (4) "Bond proceeding" includes a bond resolution and a
18 bond indenture authorized by the bond resolution, a credit
19 agreement, loan agreement, or other agreement entered into in
20 connection with the bond or the payments to be made under the
21 agreement, and any other agreement between an authority and another
22 person providing security for the payment of a bond.

23 (5) "Bond resolution" means an order or resolution of
24 a board authorizing the issuance of a bond.

25 (6) "Bondholder" means the owner of a bond and
26 includes a trustee acting on behalf of an owner of a bond under the
27 terms of a bond indenture.

1 (7) "Exclusive development agreement" means an
2 agreement with a private entity that, at a minimum, provides for the
3 design and construction of a transportation project and may also
4 provide for the financing, acquisition, maintenance, or operation
5 of a transportation project.

6 (8) "Governmental entity" means a political
7 subdivision of the state, including a municipality or a county, a
8 political subdivision of a county, a group of adjoining counties, a
9 district organized or operating under Section 52, Article III, or
10 Section 59, Article XVI, Texas Constitution, the department, a rail
11 district, a transit authority, a nonprofit corporation, including a
12 transportation corporation, that is created under Chapter 431, or
13 any other public entity or instrumentality.

14 (9) "Highway" means a road, highway, farm-to-market
15 road, or street under the supervision of the state or a political
16 subdivision of this state.

17 (10) "Public utility facility" means:

18 (A) a water, wastewater, natural gas, or
19 petroleum pipeline or facility;

20 (B) an electric transmission or distribution
21 facility; or

22 (C) telecommunications infrastructure,
23 including fiber optic cable, conduit, and wireless communications
24 facilities.

25 (11) "Revenue" means fares, fees, rents, tolls, and
26 other money received by an authority from the ownership or
27 operation of a transportation project.

1 (12) "Surplus revenue" means revenue that exceeds:

2 (A) an authority's debt service requirements for
3 a transportation project, including the redemption or purchase
4 price of bonds subject to redemption or purchase as provided in the
5 applicable bond proceedings;

6 (B) coverage requirements of a bond indenture for
7 a transportation project;

8 (C) costs of operation and maintenance for a
9 transportation project;

10 (D) cost of repair, expansion, or improvement of
11 a transportation project;

12 (E) funds allocated for feasibility studies; and

13 (F) necessary reserves as determined by the
14 authority.

15 (13) "System" means a transportation project or a
16 combination of transportation projects designated as a system by
17 the board under Section 370.034.

18 (14) "Transportation project" means:

19 (A) a turnpike project;

20 (B) a system;

21 (C) a passenger or freight rail facility,
22 including:

23 (i) tracks;

24 (ii) a rail line;

25 (iii) switching, signaling, or other
26 operating equipment;

27 (iv) a depot;

1 (v) a locomotive;
2 (vi) rolling stock;
3 (vii) a maintenance facility; and
4 (viii) other real and personal property
5 associated with a rail operation;

6 (D) a roadway with a functional classification
7 greater than a local road or rural minor collector;

8 (E) a ferry;

9 (F) an airport;

10 (G) a pedestrian or bicycle facility;

11 (H) an air quality improvement initiative;

12 (I) a public utility facility; and

13 (J) if applicable, projects and programs listed
14 in the most recently approved state implementation plan for the
15 area covered by the authority, including an early action compact.

16 (14-a) "Transportation project" does not include a
17 border inspection facility that serves a bridge system that had
18 more than 900,000 commercial border crossings during the state
19 fiscal year ending August 31, 2002.

20 (15) "Turnpike project" means a highway of any number
21 of lanes, with or without grade separations, owned or operated by an
22 authority under this chapter and any improvement, extension, or
23 expansion to that highway, including:

24 (A) an improvement to relieve traffic congestion
25 or promote safety;

26 (B) a bridge, tunnel, overpass, underpass,
27 interchange, service road, ramp, entrance plaza, approach, or

1 tollhouse;

2 (C) an administration, storage, or other
3 building the authority considers necessary for the operation of a
4 turnpike project;

5 (D) a parking area or structure, rest stop, park,
6 and other improvement or amenity the authority considers necessary,
7 useful, or beneficial for the operation of a turnpike project; and

8 (E) a property right, easement, or interest the
9 authority acquires to construct or operate the turnpike project.

10 Sec. 370.004. CONSTRUCTION COSTS DEFINED. (a) The cost of
11 acquisition, construction, improvement, extension, or expansion of
12 a transportation project under this chapter includes the cost of:

13 (1) the actual acquisition, construction,
14 improvement, extension, or expansion of the transportation
15 project;

16 (2) the acquisition of real property, rights-of-way,
17 property rights, easements, and other interests in real property;

18 (3) machinery and equipment;

19 (4) interest payable before, during, and for not more
20 than three years after acquisition, construction, improvement,
21 extension, or expansion as provided in the bond proceedings;

22 (5) traffic estimates, revenue estimates, engineering
23 and legal services, plans, specifications, surveys, appraisals,
24 construction cost estimates, and other expenses necessary or
25 incidental to determining the feasibility of the acquisition,
26 construction, improvement, extension, or expansion;

27 (6) necessary or incidental administrative, legal,

1 and other expenses;

2 (7) compliance with laws, regulations, and
3 administrative rulings, including any costs associated with
4 necessary environmental mitigation measures;

5 (8) financing; and

6 (9) expenses related to the initial operation of the
7 transportation project.

8 (b) Costs attributable to a transportation project and
9 incurred before the issuance of bonds to finance the transportation
10 project may be reimbursed from the proceeds of sale of the bonds.

11 [Sections 370.005-370.030 reserved for expansion]

12 SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

13 Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY.

14 (a) At the request of one or more counties, the commission by order
15 may authorize the creation of a regional mobility authority for the
16 purposes of constructing, maintaining, and operating
17 transportation projects in a region of this state. An authority is
18 governed in accordance with Subchapter F.

19 (b) An authority may not be created without the approval of
20 the commission under Subsection (a).

21 Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a)
22 One or more counties may petition the commission for approval to
23 become part of an existing authority. The commission may approve
24 the petition only if:

25 (1) the board has agreed to the addition; and

26 (2) the commission finds that the affected political
27 subdivisions in the county or counties will be adequately

1 represented on the board.

2 (b) One or more counties may petition the commission for
3 approval to withdraw from an authority. The commission may approve
4 the petition only if:

5 (1) the authority has no bonded indebtedness; or

6 (2) the authority has debt other than bonded
7 indebtedness, but the board has agreed to the withdrawal.

8 (c) A county may not become part of an authority or withdraw
9 from an authority without the approval of the commission.

10 Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a)
11 An authority is a body politic and corporate and a political
12 subdivision of this state.

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

15 (c) The exercise by an authority of the powers conferred by
16 this chapter in the acquisition, design, financing, construction,
17 operation, and maintenance of a transportation project or system
18 is:

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

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

25 (d) The operations of an authority are governmental, not
26 proprietary, functions.

27 Sec. 370.033. GENERAL POWERS. (a) An authority, through

1 its board, may:

2 (1) adopt rules for the regulation of its affairs and
3 the conduct of its business;

4 (2) adopt an official seal;

5 (3) study, evaluate, design, finance, acquire,
6 construct, maintain, repair, and operate transportation projects,
7 individually or as one or more systems, provided that a
8 transportation project that is subject to Subpart C, 23 C.F.R. Part
9 450, is:

10 (A) included in the plan approved by the
11 applicable metropolitan planning organization; and

12 (B) consistent with the statewide transportation
13 program and the statewide transportation improvement plan;

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

17 (5) enter into contracts or operating agreements with
18 a similar authority, another governmental entity, or an agency of
19 the United States, a state of the United States, the United Mexican
20 States, or a state of the United Mexican States;

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

23 (7) cooperate and work directly with property owners
24 and governmental entities and officials to support an activity
25 required to promote or develop a transportation project;

26 (8) employ and set the compensation and benefits of
27 administrators, consulting engineers, attorneys, accountants,

1 construction and financial experts, superintendents, managers,
2 full-time and part-time employees, agents, consultants, and other
3 persons as the authority considers necessary or useful;

4 (9) notwithstanding Sections 221.003 and 222.031 and
5 subject to Subsection (j), apply for, directly or indirectly
6 receive and spend loans, gifts, grants, and other contributions for
7 any purpose of this chapter, including the construction of a
8 transportation project, and receive and spend contributions of
9 money, property, labor, or other things of value from any source,
10 including the United States, a state of the United States, the
11 United Mexican States, a state of the United Mexican States, the
12 commission, the department, a subdivision of this state, or a
13 governmental entity or private entity, to be used for the purposes
14 for which the grants, loans, or contributions are made, and enter
15 into any agreement necessary for the grants, loans, or
16 contributions;

17 (10) install, construct, maintain, repair, renew,
18 relocate, and remove public utility facilities in, on, along, over,
19 or under a transportation project;

20 (11) organize a corporation under Chapter 431 for the
21 promotion and development of transportation projects;

22 (12) adopt and enforce rules not inconsistent with
23 this chapter for the use of any transportation project, including
24 tolls, fares, or other user fees, speed and weight limits, and
25 traffic and other public safety rules, provided that an authority
26 must consider the same factors that the Texas Turnpike Authority
27 division of the department must consider in altering a prima facie

1 speed limit under Section 545.354;

2 (13) enter into leases, operating agreements, service
3 agreements, licenses, franchises, and similar agreements with a
4 public or private party governing the party's use of all or any
5 portion of a transportation project and the rights and obligations
6 of the authority with respect to a transportation project;

7 (14) borrow money from or enter into a loan agreement
8 or other arrangement with the state infrastructure bank; and

9 (15) do all things necessary or appropriate to carry
10 out the powers and duties expressly granted or imposed by this
11 chapter.

12 (b) Except as provided by this subsection, property that is
13 a part of a transportation project of an authority is not subject to
14 condemnation or the exercise of the power of eminent domain by any
15 person, including a governmental entity. The department may
16 condemn property that is a part of a transportation project of an
17 authority if the property is needed for the construction,
18 reconstruction, or expansion of a state highway or rail facility.

19 (c) An authority may, if requested by the commission,
20 perform any function not specified by this chapter to promote or
21 develop a transportation project in this state.

22 (d) An authority may sue and be sued and plead and be
23 impleaded in its own name.

24 (e) An authority may rent, lease, franchise, license, or
25 make portions of its properties available for use by others in
26 furtherance of its powers under this chapter by increasing the
27 feasibility or the revenue of a transportation project.

1 (f) An authority and a governmental entity may enter into a
2 contract, agreement, interlocal agreement, or other similar
3 arrangement under which the authority may plan, design, construct,
4 or operate a transportation project on behalf of the governmental
5 entity. An authority may enter into a contract with the department
6 under which the authority will plan, develop, operate, or maintain
7 a transportation project on behalf of the department.

8 (g) Payments to be made to an authority under a contract
9 described by Subsection (f) constitute operating expenses of the
10 transportation project or system that is to be operated under the
11 contract. The contract may extend for the number of years as agreed
12 to by the parties.

13 (h) An authority shall adopt a written drug and alcohol
14 policy restricting the use of controlled substances by officers and
15 employees of the authority, prohibiting the consumption of
16 alcoholic beverages by employees while on duty, and prohibiting
17 employees from working for the authority while under the influence
18 of a controlled substance or alcohol. An authority may adopt
19 policies regarding the testing of employees suspected of being in
20 violation of the authority's drug and alcohol policy. The policy
21 shall provide that, unless required by court order or permitted by
22 the person who is the subject of the testing, the authority shall
23 keep the results of the test confidential.

24 (i) An authority shall adopt written procedures governing
25 its procurement of goods and services that are consistent with
26 general laws applicable to the authority.

27 (j) An authority may not apply for federal highway or rail

1 funds without the approval of the department.

2 (k) The authority granted to an authority under Subsection
3 (a)(10) does not include the authority to operate a public utility
4 facility that provides retail public utility service.

5 (l) If an authority establishes an airport in Central Texas,
6 the authority may not establish the airport at a location
7 prohibited to the department by Section 21.069(c).

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

22 (b) The revenue of a system shall be accounted for
23 separately and may not be commingled with the revenue of a
24 transportation project that is not a part of the system or with the
25 revenue of another system.

26 Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY
27 SYSTEM PROJECTS. (a) The commission by order may convert a segment

1 of the free state highway system to a turnpike project and transfer
2 that segment to an authority, or may transfer an existing turnpike
3 project that is part of the state highway system, whether
4 previously tolled or not, to an authority if:

5 (1) the commission determines that the proposed
6 transfer is an integral part of the region's overall plan to improve
7 mobility in the region;

8 (2) the commission determines that the public has a
9 reasonable alternative route on nontoll roads; and

10 (3) the authority agrees to assume all liability and
11 responsibility for the maintenance and operation of the turnpike
12 project on its transfer.

13 (b) An authority shall reimburse the commission for the cost
14 of a transferred turnpike project unless the commission determines
15 that the transfer will result in a substantial net benefit to the
16 state, the department, and the traveling public that equals or
17 exceeds that cost.

18 (c) In computing the cost of the turnpike project, the
19 commission shall:

20 (1) include the total amount spent by the department
21 for the original construction of the turnpike project, including
22 the costs associated with the preliminary engineering and design
23 engineering for plans, specifications, and estimates, the
24 acquisition of necessary rights-of-way, and actual construction of
25 the turnpike project and all necessary appurtenant facilities; and

26 (2) consider the anticipated future costs of
27 expanding, improving, maintaining, operating, or extending the

1 turnpike project to be incurred by the authority and not by the
2 department if the turnpike project is transferred.

3 (d) The commission may, at the time a turnpike project is
4 transferred, remove the turnpike project from the state highway
5 system. After a transfer, the commission has no liability,
6 responsibility, or duty for the maintenance or operation of the
7 turnpike project.

8 (e) Before transferring a turnpike project that is part of
9 the state highway system under this section, the commission shall
10 conduct a public hearing at which interested persons shall be
11 allowed to speak on the proposed transfer. Notice of the hearing
12 must be published in the Texas Register, one or more newspapers of
13 general circulation in the counties in which the turnpike project
14 is located, and a newspaper, if any, published in the counties of
15 the applicable authority.

16 (f) The commission shall adopt rules to implement this
17 section. The rules shall include criteria and guidelines for the
18 approval of a transfer of a turnpike project.

19 (g) An authority shall adopt rules providing criteria and
20 guidelines for approval of the transfer of a turnpike project under
21 this section.

22 (h) The commission may not transfer the Queen Isabella
23 Causeway in Cameron County to an authority under this section.

24 Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO
25 DEPARTMENT. (a) An authority may transfer to the department a
26 turnpike project of the authority that has outstanding bonded
27 indebtedness if the commission:

1 (1) agrees to the transfer; and
2 (2) agrees to assume the outstanding bonded
3 indebtedness.

4 (b) The commission may assume the outstanding bonded
5 indebtedness only if the assumption:

6 (1) is not prohibited under the terms of an existing
7 trust agreement or indenture securing bonds or other obligations
8 issued by the commission for another project;

9 (2) does not prevent the commission from complying
10 with covenants of the commission under an existing trust agreement
11 or indenture; and

12 (3) does not cause a rating agency maintaining a
13 rating on outstanding obligations of the commission to lower the
14 existing rating.

15 (c) If the commission agrees to the transfer under
16 Subsection (a), the authority shall convey the turnpike project and
17 any real property acquired to construct or operate the turnpike
18 project to the department.

19 (d) At the time of a conveyance under this section, the
20 commission shall designate the turnpike project as part of the
21 state highway system. After the designation, the authority has no
22 liability, responsibility, or duty to maintain or operate the
23 transferred turnpike project.

24 Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS.

25 (a) The commission by order may transfer a ferry operated under
26 Section 342.001 to an authority if:

27 (1) the commission determines that the proposed

1 transfer is an integral part of the region's overall plan to improve
2 mobility in the region; and

3 (2) the authority:

4 (A) agrees to the transfer; and

5 (B) agrees to assume all liability and
6 responsibility for the maintenance and operation of the ferry on
7 its transfer.

8 (b) An authority shall reimburse the commission for the cost
9 of a transferred ferry unless the commission determines that the
10 transfer will result in a substantial net benefit to the state, the
11 department, and the traveling public that equals or exceeds that
12 cost.

13 (c) In computing the cost of the ferry, the commission
14 shall:

15 (1) include the total amount spent by the department
16 for the original construction of the ferry, including the costs
17 associated with the preliminary engineering and design engineering
18 for plans, specifications, and estimates, the acquisition of
19 necessary rights-of-way, and actual construction of the ferry and
20 all necessary appurtenant facilities; and

21 (2) consider the anticipated future costs of
22 expanding, improving, maintaining, or operating the ferry to be
23 incurred by the authority and not by the department if the ferry is
24 transferred.

25 (d) The commission shall, at the time the ferry is
26 transferred, remove the ferry from the state highway system. After
27 a transfer, the commission has no liability, responsibility, or

1 duty for the maintenance or operation of the ferry.

2 (e) Before transferring a ferry that is a part of the state
3 highway system under this section, the commission shall conduct a
4 public hearing at which interested persons shall be allowed to
5 speak on the proposed transfer. Notice of the hearing must be
6 published in the Texas Register, one or more newspapers of general
7 circulation in the counties in which the ferry is located, and a
8 newspaper, if any, published in the counties of the applicable
9 authority.

10 (f) The commission shall adopt rules to implement this
11 section. The rules must include criteria and guidelines for the
12 approval of a transfer of a ferry.

13 (g) An authority shall adopt rules establishing criteria
14 and guidelines for approval of the transfer of a ferry under this
15 section.

16 (h) An authority may temporarily charge a toll for use of a
17 ferry transferred under this section to pay the costs necessary for
18 an expansion of the ferry. An authority may permanently charge a
19 toll for use of ferry facilities that are an expansion of the ferry
20 transferred under this section.

21 (i) The commission may not transfer a ferry under this
22 section if the ferry is located in a municipality with a population
23 of 5,000 or less unless the city council of the municipality
24 approves the transfer.

25 Sec. 370.038. COMMISSION RULES. (a) The commission shall
26 adopt rules that:

27 (1) govern the creation of an authority;

1 (2) govern the commission's approval of a project
2 under Section 370.188 and other commission approvals required by
3 this chapter;

4 (3) establish design and construction standards for a
5 transportation project that will connect with a highway in the
6 state highway system or a department rail facility;

7 (4) establish minimum audit and reporting
8 requirements and standards;

9 (5) establish minimum ethical standards for authority
10 directors and employees; and

11 (6) govern the authority of an authority to contract
12 with the United Mexican States or a state of the United Mexican
13 States.

14 (b) The commission shall appoint a rules advisory committee
15 to advise the department and the commission on the development of
16 the commission's initial rules required by this section. The
17 committee must include one or more members representing an existing
18 authority, if applicable. Chapter 2110, Government Code, does not
19 apply to the committee. This subsection expires on the date the
20 commission adopts initial rules under this section.

21 [Sections 370.039-370.070 reserved for expansion]

22 SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

23 Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a)

24 An authority may pay the expenses of studying the cost and
25 feasibility and any other expenses relating to the preparation and
26 issuance of bonds for a proposed transportation project by:

27 (1) using legally available revenue derived from an

1 existing transportation project;

2 (2) borrowing money and issuing bonds or entering into
3 a loan agreement payable out of legally available revenue
4 anticipated to be derived from the operation of an existing
5 transportation project; or

6 (3) pledging to the payment of the bonds or a loan
7 agreement legally available revenue anticipated to be derived from
8 the operation of transportation projects or revenue legally
9 available to the authority from another source.

10 (b) Money spent under this section for a proposed
11 transportation project must be reimbursed to the transportation
12 project from which the money was spent from the proceeds of bonds
13 issued for the acquisition and construction of the proposed
14 transportation project.

15 (c) The use of any money of a transportation project to
16 study the feasibility of another transportation project or used to
17 repay any money used for that purpose does not constitute an
18 operating expense of the transportation project producing the
19 revenue and may be paid only from the surplus money of the
20 transportation project as determined by the authority.

21 Sec. 370.072. FEASIBILITY STUDY FUND. (a) An authority may
22 maintain a feasibility study fund. The fund is a revolving fund
23 held in trust by a banking institution chosen by the authority and
24 shall be kept separate from the money for a transportation project.

25 (b) An authority may transfer an amount from a surplus fund
26 established for a transportation project to the authority's
27 feasibility study fund if the remainder of the surplus fund after

1 the transfer is not less than any minimum amount required by the
2 bond proceedings to be retained for that transportation project.

3 (c) Money in the feasibility study fund may be used only to
4 pay the expenses of studying the cost and feasibility and any other
5 expenses relating to:

6 (1) the preparation and issuance of bonds for the
7 acquisition and construction of a proposed transportation project;

8 (2) the financing of the improvement, extension, or
9 expansion of an existing transportation project; and

10 (3) private participation, as authorized by law, in
11 the financing of a proposed transportation project, the refinancing
12 of an existing transportation project or system, or the
13 improvement, extension, or expansion of a transportation project.

14 (d) Money spent under Subsection (c) for a proposed
15 transportation project must be reimbursed from the proceeds of
16 revenue bonds issued for, or other proceeds that may be used for,
17 the acquisition, construction, improvement, extension, expansion,
18 or operation of the transportation project.

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

24 Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY,
25 OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more
26 municipalities, counties, or other governmental entities, a
27 combination of municipalities, counties, and other governmental

1 entities, or a private group or combination of individuals in this
2 state may pay all or part of the expenses of studying the cost and
3 feasibility and any other expenses relating to:

4 (1) the preparation and issuance of bonds for the
5 acquisition or construction of a proposed transportation project by
6 an authority;

7 (2) the improvement, extension, or expansion of an
8 existing transportation project of the authority; or

9 (3) the use of private participation under applicable
10 law in connection with the acquisition, construction, improvement,
11 expansion, extension, maintenance, repair, or operation of a
12 transportation project by an authority.

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

20 [Sections 370.074-370.110 reserved for expansion]

21 SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

22 Sec. 370.111. TRANSPORTATION REVENUE BONDS. (a) An
23 authority, by bond resolution, may authorize the issuance of bonds
24 to pay all or part of the cost of a transportation project, to
25 refund any bonds previously issued for the transportation project,
26 or to pay for all or part of the cost of a transportation project
27 that will become a part of another system.

1 (b) As determined in the bond resolution, the bonds of each
2 issue shall:

3 (1) be dated;

4 (2) bear interest at the rate or rates provided by the
5 bond resolution and beginning on the dates provided by the bond
6 resolution and as authorized by law, or bear no interest;

7 (3) mature at the time or times provided by the bond
8 resolution, not exceeding 40 years from their date or dates; and

9 (4) be made redeemable before maturity at the price or
10 prices and under the terms provided by the bond resolution.

11 (c) An authority may sell the bonds at public or private
12 sale in the manner and for the price it determines to be in the best
13 interest of the authority.

14 (d) The proceeds of each bond issue shall be disbursed in
15 the manner and under any restrictions provided in the bond
16 resolution.

17 (e) Additional bonds may be issued in the same manner to pay
18 the costs of a transportation project. Unless otherwise provided
19 in the bond resolution, the additional bonds shall be on a parity,
20 without preference or priority, with bonds previously issued and
21 payable from the revenue of the transportation project. In
22 addition, an authority may issue bonds for a transportation project
23 secured by a lien on the revenue of the transportation project
24 subordinate to the lien on the revenue securing other bonds issued
25 for the transportation project.

26 (f) If the proceeds of a bond issue exceed the cost of the
27 transportation project for which the bonds were issued, the surplus

1 shall be segregated from the other money of the authority and used
2 only for the purposes specified in the bond resolution.

3 (g) Bonds issued and delivered under this chapter and
4 interest coupons on the bonds are a security under Chapter 8,
5 Business & Commerce Code.

6 (h) Bonds issued under this chapter and income from the
7 bonds, including any profit made on the sale or transfer of the
8 bonds, are exempt from taxation in this state.

9 (i) Bonds issued under this chapter shall be considered
10 authorized investments under Chapter 2256, Government Code, for
11 this state, any governmental entity, and any other public entity
12 proposing to invest in the bonds.

13 Sec. 370.112. INTERIM BONDS. (a) An authority may, before
14 issuing definitive bonds, issue interim bonds, with or without
15 coupons, exchangeable for definitive bonds.

16 (b) The interim bonds may be authorized and issued in
17 accordance with this chapter, without regard to a requirement,
18 restriction, or procedural provision in any other law.

19 (c) A bond resolution authorizing interim bonds may provide
20 that the interim bonds recite that the bonds are issued under this
21 chapter. The recital is conclusive evidence of the validity and the
22 regularity of the bonds' issuance.

23 Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT.

24 (a) The principal of, interest on, and any redemption premium on
25 bonds issued by an authority are payable solely from:

26 (1) the revenue of the transportation project for
27 which the bonds are issued;

1 (2) payments made under an agreement with the
2 commission, the department, or other governmental entity as
3 provided by Subchapter G;

4 (3) money derived from any other source available to
5 the authority, other than money derived from a transportation
6 project that is not part of the same system or money derived from a
7 different system, except to the extent that the surplus revenue of a
8 transportation project or system has been pledged for that purpose;
9 and

10 (4) amounts received under a credit agreement relating
11 to the transportation project for which the bonds are issued.

12 (b) Bonds issued under this chapter do not constitute a debt
13 of this state or of a governmental entity, or a pledge of the faith
14 and credit of this state or of a governmental entity. Each bond
15 must contain on its face a statement to the effect that the state,
16 the authority, or any governmental entity is not obligated to pay
17 the bond or the interest on the bond from a source other than the
18 amount pledged to pay the bond and the interest on the bond, and
19 neither the faith and credit and taxing power of this state or of
20 any governmental entity are pledged to the payment of the principal
21 of or interest on the bond. This subsection does not apply to a
22 governmental entity that has entered into an agreement under
23 Section 370.303.

24 (c) An authority may not incur a financial obligation that
25 cannot be paid from revenue derived from owning or operating the
26 authority's transportation projects or from other revenue provided
27 by law.

1 Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of
2 revenue from a transportation project under this chapter or on a
3 reserve, replacement, or other fund established in connection with
4 a bond issued under this chapter:

5 (1) is enforceable at the time of payment for and
6 delivery of the bond;

7 (2) applies to each item on hand or subsequently
8 received;

9 (3) applies without physical delivery of an item or
10 other act; and

11 (4) is enforceable against any person having a claim,
12 in tort, contract, or other remedy, against the applicable
13 authority without regard to whether the person has notice of the
14 lien or pledge.

15 (b) A bond resolution is not required to be recorded except
16 in the regular records of the authority.

17 Sec. 370.115. BOND INDENTURE. (a) Bonds issued by an
18 authority under this chapter may be secured by a bond indenture
19 between the authority and a corporate trustee that is a trust
20 company or a bank that has the powers of a trust company.

21 (b) A bond indenture may pledge or assign the revenues to be
22 received but may not convey or mortgage any part of a transportation
23 project.

24 (c) A bond indenture may:

25 (1) set forth the rights and remedies of the
26 bondholders and the trustee;

27 (2) restrict the individual right of action by

1 bondholders as is customary in trust agreements or indentures of
2 trust securing corporate bonds and debentures; and

3 (3) contain provisions the authority determines
4 reasonable and proper for the security of the bondholders,
5 including covenants:

6 (A) establishing the authority's duties relating
7 to:

8 (i) the acquisition of property;

9 (ii) the construction, maintenance,
10 operation, and repair of and insurance for a transportation
11 project; and

12 (iii) custody, safeguarding, and
13 application of money;

14 (B) prescribing events that constitute default;

15 (C) prescribing terms on which any or all of the
16 bonds become or may be declared due before maturity; and

17 (D) relating to the rights, powers, liabilities,
18 or duties that arise on the breach of a duty of the authority.

19 (d) An expense incurred in carrying out a trust agreement
20 may be treated as part of the cost of operating the transportation
21 project.

22 (e) In addition to all other rights by mandamus or other
23 court proceeding, an owner or trustee of a bond issued under this
24 chapter may enforce the owner's rights against an issuing
25 authority, the authority's employees, the authority's board, or an
26 agent or employee of the authority's board and is entitled to:

27 (1) require the authority or the board to impose and

1 collect tolls, fares, fees, charges, and other revenue sufficient
2 to carry out any agreement contained in the bond proceedings; and

3 (2) apply for and obtain the appointment of a receiver
4 for the transportation project or system.

5 Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a)

6 An authority shall submit to the attorney general for examination
7 the record of proceedings relating to bonds authorized under this
8 chapter. The record shall include the bond proceedings and any
9 contract securing or providing revenue for the payment of the
10 bonds.

11 (b) If the attorney general determines that the bonds, the
12 bond proceedings, and any supporting contract are authorized by
13 law, the attorney general shall approve the bonds and deliver to the
14 comptroller:

15 (1) a copy of the legal opinion of the attorney general
16 stating the approval; and

17 (2) the record of proceedings relating to the
18 authorization of the bonds.

19 (c) On receipt of the legal opinion of the attorney general
20 and the record of proceedings relating to the authorization of the
21 bonds, the comptroller shall register the record of proceedings.

22 (d) After approval by the attorney general, the bonds, the
23 bond proceedings, and any supporting contract are valid,
24 enforceable, and incontestable in any court or other forum for any
25 reason and are binding obligations according to their terms for all
26 purposes.

27 Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES

1 OF SECURITIES. (a) A bank or trust company incorporated under the
2 laws of this state that acts as depository of the proceeds of bonds
3 or of revenue may furnish indemnifying bonds or pledge securities
4 that an authority requires.

5 (b) Bonds of an authority may secure the deposit of public
6 money of this state or a political subdivision of this state to the
7 extent of the lesser of the face value of the bonds or their market
8 value.

9 Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All
10 laws affecting the issuance of bonds by local governmental
11 entities, including Chapters 1201, 1202, 1204, and 1371, Government
12 Code, apply to bonds issued under this chapter. To the extent of a
13 conflict between those laws and this chapter, the provisions of
14 this chapter prevail.

15 [Sections 370.119-370.160 reserved for expansion]

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

18 Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER
19 COUNTIES. (a) An authority may acquire, construct, operate,
20 maintain, expand, or extend a transportation project only in:

21 (1) a county that is a part of the authority;

22 (2) a county in this state that is not a part of the
23 authority if:

24 (A) the transportation project in that county is
25 a continuation of a transportation project of the authority
26 extending from a county adjacent to that county;

27 (B) the county is given an opportunity to become

1 part of the authority on terms and conditions acceptable to the
2 authority and that county; and

3 (C) the commissioners court of the county agrees
4 to the proposed acquisition, construction, operation, maintenance,
5 expansion, or extension of the transportation project in that
6 county; or

7 (3) a county in another state or the United Mexican
8 States if:

9 (A) each governing body of a political
10 subdivision in which the project will be located agrees to the
11 proposed acquisition, construction, operation, maintenance,
12 expansion, or extension; and

13 (B) the project will bring significant benefits
14 to the counties in this state that are part of the authority.

15 (b) An authority, under an agreement with another
16 governmental entity, may construct, operate, maintain, expand, or
17 extend a transportation project in a county that is not part of the
18 authority and is not owned by the authority.

19 Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN
20 ACQUIRING PROPERTY. (a) An authority may construct or improve a
21 transportation project on real property, including a right-of-way
22 acquired by the authority or provided to the authority for that
23 purpose by the commission, a political subdivision of this state,
24 or any other governmental entity.

25 (b) Except as provided by this chapter, an authority has the
26 same powers and may use the same procedures as the commission in
27 acquiring property.

1 Sec. 370.163. ACQUISITION OF PROPERTY. (a) Except as
2 otherwise provided by this subchapter, the governing body of an
3 authority has the same powers and duties relating to the
4 condemnation and acquisition of real property for a transportation
5 project that the commission and the department have under
6 Subchapter D, Chapter 361, and Section 361.233 relating to the
7 condemnation or purchase of real property for a turnpike project.
8 Notwithstanding Section 361.135(a), the concurrence of the
9 commission is not a prerequisite to the exercise of the power of
10 condemnation by the governing body of the authority.

11 (b) An authority's acquisition of any property of the
12 commission under this or another section of this chapter or an
13 authority's relocation, rerouting, disruption, or alteration of a
14 facility of the commission is considered a conversion of a state
15 highway system under Section 370.035 and is subject to each
16 requirement, condition, or limitation provided by that section.

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

20 Sec. 370.164. DEPOSIT FOR DECLARATION OF TAKING. (a) A
21 deposit to the registry of the court of an amount equal to the fair
22 market value, as determined by the authority, of the property to be
23 condemned and any damages to the remaining property must accompany
24 the declaration of taking under this chapter.

25 (b) Instead of the deposit under Subsection (a), at its
26 option the authority may, concurrently with the declaration of a
27 taking, tender in favor of the owner of the property a bond or other

1 security in an amount sufficient to secure the owner for the value
2 of the property taken and damages to remaining property, subject to
3 the approval of the court.

4 (c) An owner may draw upon the deposit held by the court
5 under Subsection (a) on the same terms and conditions as are
6 applicable to a property owner's withdrawal of a commissioners'
7 award deposited under Section 21.021(a)(1), Property Code.

8 Sec. 370.165. DOCKET PREFERENCE FOR DECLARATION OF TAKING.
9 A property owner who is a defendant in an eminent domain action
10 filed by an authority under this chapter must give notice to the
11 court in which the action is pending of the property owner's
12 preference that the condemnation petition be placed on the court's
13 docket in the same manner as other cases pending in the court. The
14 notice must be given before the 21st day after the date of service
15 of process of both a condemnation petition and a notice of
16 declaration of taking. On receipt of timely notice from the
17 property owner, the court in which the action is pending shall place
18 the case on its docket in the same manner as other cases pending in
19 the court.

20 Sec. 370.166. PARTICIPATION PAYMENT FOR REAL PROPERTY. (a)
21 As an alternative to paying for an interest in real property or a
22 real property right with a single fixed payment, the authority may,
23 with the owner's consent, pay the owner by means of a participation
24 payment.

25 (b) A right to receive a participation payment under this
26 section is subordinate to any right to receive a fee as payment on
27 the principal of or interest on a bond that is issued for the

1 construction of the applicable segment.

2 (c) In this section, "participation payment" means an
3 intangible legal right to receive a percentage of one or more
4 identified fees related to a segment constructed by the authority.

5 Sec. 370.167. SEVERANCE OF REAL PROPERTY. (a) If a
6 transportation project of an authority severs a property owner's
7 real property, the authority shall pay:

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

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

12 (b) At its option, an authority may negotiate for and
13 purchase the severed real property or any part of the severed real
14 property if the authority and the property owner agree on terms for
15 the purchase. An authority may sell and dispose of severed real
16 property that it determines is not necessary or useful to the
17 authority. Severed property must be appraised before being offered
18 for sale by the authority.

19 Sec. 370.168. ACQUISITION OF RIGHTS IN PUBLIC REAL
20 PROPERTY. (a) An authority may use real property, including
21 submerged land, streets, alleys, and easements, owned by this state
22 or a local government that the authority considers necessary for
23 the construction or operation of a transportation project.

24 (b) This state or a local government having charge of public
25 real property may consent to the use of the property for a
26 transportation project.

27 (c) Except as provided by Section 370.035, this state or a

1 local government may convey, grant, or lease to an authority real
2 property, including highways and other real property devoted to
3 public use and rights or easements in real property, that may be
4 necessary or convenient to accomplish a purpose of the authority,
5 including the construction or operation of a transportation
6 project. A conveyance, grant, or lease under this section may be
7 made without advertising, court order, or other action other than
8 the normal action of this state or local government necessary for a
9 conveyance, grant, or lease.

10 (d) This section does not deprive the School Land Board of
11 the power to execute a lease for the development of oil, gas, and
12 other minerals on state-owned real property adjoining a
13 transportation project or in tidewater limits. A lease may provide
14 for directional drilling from the adjoining property or tidewater
15 area.

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

22 Sec. 370.169. COMPENSATION FOR AND RESTORATION OF PUBLIC
23 PROPERTY. (a) Except as provided by Section 370.035, an authority
24 may not pay compensation for public real property, parkways,
25 streets, highways, alleys, or reservations it takes, other than:

26 (1) a park, playground, or designated environmental
27 preserve;

1 (2) property owned by or on behalf of this state that
2 under law requires compensation to this state for the use or
3 acquisition of the property; or

4 (3) as provided by this chapter.

5 (b) Public property damaged in the exercise of a power
6 granted by this chapter shall be restored or repaired and placed in
7 its original condition as nearly as practicable.

8 (c) An authority has full easements and rights-of-way
9 through, across, under, and over any property owned by the state or
10 any local government that are necessary or convenient to construct,
11 acquire, or efficiently operate a transportation project or system
12 under this chapter. This subsection does not affect the obligation
13 of the authority under other law to compensate this state for the
14 use or acquisition of an easement or right-of-way on property owned
15 by or on behalf of this state. An authority's use of property owned
16 by or on behalf of this state is subject to any covenants,
17 conditions, restrictions, or limitations affecting that property.

18 Sec. 370.170. PUBLIC UTILITY FACILITIES. (a) An authority
19 may adopt rules for the installation, construction, operation,
20 maintenance, repair, renewal, relocation, or removal of a public
21 utility facility in, on, along, over, or under a transportation
22 project.

23 (b) If an authority determines it is necessary that a public
24 utility facility located in, on, along, over, or under a
25 transportation project be relocated in the transportation project,
26 removed from the transportation project, or carried along or across
27 the transportation project by grade separation, the owner or

1 operator of the facility shall relocate or remove the facility in
2 accordance with the requirements of the authority and in a manner
3 that does not impede the design, financing, construction,
4 operation, or maintenance of the transportation project.

5 (c) The authority, as a part of the cost of the
6 transportation project or the cost of operating the transportation
7 project, shall pay the cost of the relocation, removal, or grade
8 separation of a public utility facility under Subsection (a),
9 including the cost of:

- 10 (1) installation of the facility in a new location;
11 (2) damages incurred by the utility to its facilities
12 and services;
13 (3) interests in real property and other rights
14 acquired to accomplish the relocation or removal; and
15 (4) maintenance of grade separation structures.

16 (d) The authority may reduce the total costs to be paid by
17 the authority under Subsection (c) by 10 percent for each 30-day
18 period or portion of a 30-day period by which the relocation or
19 removal exceeds the reasonable limit specified by the authority
20 unless the failure of the owner or operator of the facility to
21 timely relocate or remove the facility results directly from:

- 22 (1) a material action or inaction of the authority; or
23 (2) conditions beyond the reasonable control of the
24 owner or operator of the facility, including:
25 (A) an act of God; or
26 (B) a labor shortage or strike.

27 (e) If an owner or operator of a public utility facility

1 does not timely relocate or remove the facility as required by
2 Subsection (b), the authority may do so at the expense of the owner
3 or operator. If the authority relocates or removes a facility under
4 this subsection the authority shall relocate or remove the facility
5 in a safe manner that:

6 (1) complies with applicable law; and

7 (2) attempts to minimize the disruption of utility
8 service.

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

16 (g) Not later than 60 days before relocating or removing a
17 public utility facility under Subsection (e), an authority shall
18 provide to the utility:

19 (1) written notice of the department's determination
20 that the facility must be removed;

21 (2) a final plan for relocation of the facility; and

22 (3) reasonable terms and conditions for the relocation
23 or removal of the facility.

24 (h) Subchapter C, Chapter 181, Utilities Code, applies to
25 the erection, construction, maintenance, and operation of a line or
26 pole owned by an electric utility, as that term is defined by
27 Section 181.041, Utilities Code, over, under, across, on, and along

1 a transportation project or system constructed by an authority. An
2 authority has:

3 (1) the powers and duties delegated to the
4 commissioners court by that subchapter; and

5 (2) exclusive jurisdiction and control of utilities
6 located in its rights-of-way.

7 (i) Subchapter B, Chapter 181, Utilities Code, applies to
8 the laying and maintenance of facilities used for conducting gas by
9 a gas utility, as that term is defined by Section 181.021, Utilities
10 Code, through, under, along, across, and over a transportation
11 project or system constructed by an authority except as otherwise
12 provided by this section. An authority has:

13 (1) the power and duties delegated to the
14 commissioners court by that subchapter; and

15 (2) exclusive jurisdiction and control of utilities
16 located in its right-of-way.

17 (j) The laws of this state applicable to the use of public
18 roads, streets, and waters by a telephone or telegraph corporation
19 apply to the erection, construction, maintenance, location, and
20 operation of a line, pole, or other fixture by a telephone or
21 telegraph corporation over, under, across, on, and along a
22 transportation project constructed by an authority under this
23 chapter.

24 Sec. 370.171. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION
25 PROJECT. An authority may lease, sell, or convey in any other
26 manner a transportation project to a governmental entity with the
27 approval of the governing body of the governmental entity to which

1 the project is transferred.

2 Sec. 370.172. REVENUE. (a) An authority may:

3 (1) impose tolls, fees, fares, or other charges for
4 the use of each of its transportation projects and the different
5 parts or sections of each of its transportation projects; and

6 (2) contract with a person for the use of part of a
7 transportation project, or lease or sell part of a transportation
8 project, including the right-of-way adjoining the portion used to
9 transport people and property, for any purpose, including placing
10 on the adjoining right-of-way a gas station, garage, store, hotel,
11 restaurant, parking facility, railroad track, billboard, livestock
12 pasturage, telephone line or facility, telecommunication line or
13 facility, data transmission line or facility, or electric line or
14 facility, under terms set by the authority.

15 (b) Tolls, fees, fares, or other charges must be set at
16 rates or amounts so that the aggregate of tolls, fees, fares, or
17 other charges from an authority's transportation project, together
18 with other revenue of the transportation project:

19 (1) provides revenue sufficient to pay:

20 (A) the cost of maintaining, repairing, and
21 operating the transportation project; and

22 (B) the principal of and interest on any bonds
23 issued for the transportation project as those bonds become due and
24 payable; and

25 (2) creates reserves for a purpose listed under
26 Subdivision (1).

27 (c) Tolls, fees, fares, or other usage charges are not

1 subject to supervision or regulation by any agency of this state or
2 another governmental entity.

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

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

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

13 (3) necessary charges of paying agents for paying
14 principal and interest;

15 (4) the redemption price or the purchase price of
16 bonds retired by call or purchase as provided in the bond
17 proceedings; and

18 (5) any amounts due under credit agreements.

19 (e) Use and disposition of money deposited to the credit of
20 the sinking fund is subject to the bond proceedings.

21 (f) To the extent permitted under the applicable bond
22 proceedings, revenue from one transportation project of an
23 authority may be used to pay the cost of another transportation
24 project of the authority.

25 (g) An authority may not use revenue from a transportation
26 project in a manner not authorized by this chapter. Except as
27 provided by this chapter, revenue derived from a transportation

1 project may not be applied for a purpose or to pay a cost other than
2 a cost or purpose that is reasonably related to or anticipated to be
3 for the benefit of a transportation project.

4 (h) An authority may not require the owner of a public
5 utility facility to pay a fee as a condition of placing a facility
6 across the rights-of-way.

7 Sec. 370.173. AUTHORITY REVOLVING FUND. (a) An authority
8 may maintain a revolving fund to be held in trust by a banking
9 institution chosen by the authority separate from any other funds
10 and administered by the authority's board.

11 (b) An authority may transfer into its revolving fund money
12 from any permissible source, including:

13 (1) money from a transportation project if the
14 transfer does not diminish the money available for the project to
15 less than any amount required to be retained by the bond proceedings
16 pertaining to the project;

17 (2) money received by the authority from any source
18 and not otherwise committed, including money from the transfer of a
19 transportation project or system or sale of authority assets;

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

21 (4) contributions, loans, grants, or assistance from
22 the United States, another state, another political subdivision of
23 this state, a foreign governmental entity, including the United
24 Mexican States or a state of the United Mexican States, a local
25 government, any private enterprise, or any person.

26 (c) The authority may use money in the revolving fund to:

27 (1) finance the acquisition, construction,

1 maintenance, or operation of a transportation project, including
2 the extension, expansion, or improvement of a transportation
3 project;

4 (2) provide matching money required in connection with
5 any federal, state, local, or private aid, grant, or other funding,
6 including aid or funding by or with public-private partnerships;

7 (3) provide credit enhancement either directly or
8 indirectly for bonds issued to acquire, construct, extend, expand,
9 or improve a transportation project;

10 (4) provide security for or payment of future or
11 existing debt for the design, acquisition, construction,
12 operation, maintenance, extension, expansion, or improvement of a
13 transportation project or system;

14 (5) borrow money and issue promissory notes or other
15 indebtedness payable out of the revolving fund for any purpose
16 authorized by this chapter; and

17 (6) provide for any other reasonable purpose that
18 assists in the financing of an authority as authorized by this
19 chapter.

20 (d) Money spent or advanced from the revolving fund for a
21 transportation project must be reimbursed from the money of that
22 transportation project. There must be a reasonable expectation of
23 repayment at the time the expenditure or advancement is authorized.

24 Sec. 370.174. USE OF SURPLUS REVENUE. (a) Each year, if an
25 authority determines that it has surplus revenue from
26 transportation projects, it shall reduce tolls, spend the surplus
27 revenue on other transportation projects in the counties of the

1 authority in accordance with Subsection (b), or deposit the surplus
2 revenue to the credit of the Texas Mobility Fund.

3 (b) Consistent with other law and commission rule, an
4 authority may spend surplus revenue on other transportation
5 projects by:

6 (1) constructing a transportation project located
7 within the counties of the authority;

8 (2) assisting in the financing of a toll or toll-free
9 transportation project of another governmental entity; or

10 (3) with the approval of the commission, constructing
11 a toll or toll-free transportation project and, on completion of
12 the project, transferring the project to another governmental
13 entity if:

14 (A) the other governmental entity authorizes the
15 authority to construct the project and agrees to assume all
16 liability and responsibility for the maintenance and operation of
17 the project on its transfer; and

18 (B) the project is constructed in compliance with
19 all laws applicable to the governmental entity.

20 Sec. 370.175. EXEMPTION FROM TAXATION OR ASSESSMENT. (a)
21 An authority is exempt from taxation of or assessments on:

22 (1) a transportation project or system;

23 (2) property the authority acquires or uses under this
24 chapter for a transportation project or system; or

25 (3) income from property described by Subdivision (1)
26 or (2).

27 (b) An authority is exempt from payment of development fees,

1 utility connection fees, assessments, and service fees imposed or
2 assessed by any governmental entity or any property owners' or
3 homeowners' association.

4 Sec. 370.176. ACTIONS AFFECTING EXISTING ROADS. (a) An
5 authority may impose a toll for transit over an existing free road,
6 street, or public highway transferred to the authority under this
7 chapter.

8 (b) An authority may construct a grade separation at an
9 intersection of a transportation project with a railroad or highway
10 and change the line or grade of a highway to accommodate the design
11 of the grade separation. The action may not affect a segment of the
12 state highway system without the department's consent. The
13 authority shall pay the cost of a grade separation and any damage
14 incurred in changing a line or grade of a railroad or highway as
15 part of the cost of the transportation project.

16 (c) If feasible, an authority shall provide access to
17 properties previously abutting a county road or other public road
18 that is taken for a transportation project and shall pay abutting
19 property owners the expenses or any resulting damages for a denial
20 of access to the road.

21 (d) If an authority changes the location of a segment of a
22 county road as part of its development of a transportation project,
23 the authority shall, on the request of the county, reconstruct that
24 segment of the road at a location that the authority determines, in
25 its discretion, restores the utility of the road. The
26 reconstruction and its associated costs are in furtherance of a
27 transportation project.

1 Sec. 370.177. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT
2 TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) The operator of a
3 vehicle, other than an authorized emergency vehicle as defined by
4 Section 541.201, that is driven or towed through a toll collection
5 facility of a turnpike project shall pay the proper toll. The
6 operator of a vehicle who drives or tows a vehicle through a toll
7 collection facility and does not pay the proper toll commits an
8 offense. An offense under this subsection is a misdemeanor
9 punishable by a fine not to exceed \$250.

10 (b) In the event of nonpayment of the proper toll as
11 required by Subsection (a), on issuance of a written notice of
12 nonpayment, the registered owner of the nonpaying vehicle is liable
13 for the payment of both the proper toll and an administrative fee.

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

24 (d) The registered owner of a vehicle for which the proper
25 toll was not paid who is mailed a written notice of nonpayment under
26 Subsection (c) and fails to pay the proper toll and administrative
27 fee within the time specified by the notice of nonpayment commits an

1 offense. Each failure to pay a toll or administrative fee under
2 this subsection is a separate offense.

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

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

1 address of the person to whom the vehicle was transferred. If the
2 former owner of the vehicle provides the required information
3 within the period prescribed, the authority may send a notice of
4 nonpayment to the person to whom ownership of the vehicle was
5 transferred at the address provided by the former owner by first
6 class mail before the 30th day after the date of receipt of the
7 required information from the former owner. The subsequent owner
8 of the 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 Subsection (a). Each failure to pay a toll or
14 administrative fee under this subsection is a separate offense.

15 (g) An offense under Subsection (d), (e), or (f) is a
16 misdemeanor punishable by a fine not to exceed \$250.

17 (h) The court in which a person is convicted of an offense
18 under this section shall also collect the proper toll and
19 administrative fee and forward the toll and fee to the authority.

20 (i) In the prosecution of an offense under this section,
21 proof that the vehicle passed through a toll collection facility
22 without payment of the proper toll together with proof that the
23 defendant was the registered owner or the driver of the vehicle when
24 the failure to pay occurred, establishes the nonpayment of the
25 registered owner. The proof may be by testimony of a peace officer
26 or authority employee, video surveillance, or any other reasonable
27 evidence.

1 (j) It is a defense to prosecution under this section that
2 the motor vehicle in question was stolen before the failure to pay
3 the proper toll occurred and was not recovered by the time of the
4 failure to pay, but only if the theft was reported to the
5 appropriate law enforcement authority before the earlier of:

6 (1) the occurrence of the failure to pay; or

7 (2) eight hours after the discovery of the theft.

8 (k) In this section, "registered owner" means the owner of a
9 vehicle as shown on the vehicle registration records of the
10 department or the analogous department or agency of another state
11 or country.

12 Sec. 370.178. USE AND RETURN OF TRANSPONDERS. (a) For
13 purposes of this section, "transponder" means a device placed on or
14 within an automobile that is capable of transmitting or receiving
15 information used to assess or collect tolls. A transponder is
16 insufficiently funded if there is no money in the account for which
17 the transponder was issued.

18 (b) Any law enforcement or peace officer of an entity with
19 which an authority has contracted under Section 370.182(c) may
20 seize a stolen or insufficiently funded transponder and return it
21 to the authority that issued the transponder. An insufficiently
22 funded transponder may not be seized before the 30th day after the
23 date that an authority has sent a notice of delinquency to the
24 holder of the account.

25 (c) The following entities shall consider offering motor
26 vehicle operators the option of using a transponder to pay tolls
27 without stopping, to mitigate congestion at toll locations, to

1 enhance traffic flow, and to otherwise increase the efficiency of
2 operations:

3 (1) the authority;

4 (2) an entity to which a project authorized by this
5 chapter is transferred; or

6 (3) a third-party service provider under contract with
7 an entity described by Subdivision (1) or (2).

8 Sec. 370.179. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a)
9 An authority by order may designate a turnpike project or a portion
10 of a project as a controlled-access toll road.

11 (b) An authority by order may:

12 (1) prohibit the use of or access to or from a turnpike
13 project by a motor vehicle, bicycle, another classification or type
14 of vehicle, or a pedestrian;

15 (2) deny access to or from:

16 (A) a turnpike project;

17 (B) real property adjacent to a turnpike project;

18 or

19 (C) a street, road, alley, highway, or other
20 public or private way intersecting a turnpike project;

21 (3) designate locations on a turnpike project at which
22 access to or from the toll road is permitted;

23 (4) control, restrict, and determine the type and
24 extent of access permitted at a designated location of access to a
25 turnpike project; or

26 (5) erect appropriate protective devices to preserve
27 the utility, integrity, and use of a turnpike project.

1 (c) Denial of access to or from a segment of the state
2 highway system is subject to the approval of the commission.

3 Sec. 370.180. PROMOTION OF TRANSPORTATION PROJECT. An
4 authority may promote the use of a transportation project,
5 including a project that it operates on behalf of another entity, by
6 appropriate means, including advertising or marketing as the
7 authority determines appropriate.

8 Sec. 370.181. OPERATION OF TRANSPORTATION PROJECT. (a) An
9 authority shall operate a transportation project with employees of
10 the authority or by using services contracted under Subsection (b)
11 or (c).

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

17 (c) An authority may contract with any state or local
18 government for the services of peace officers of that agency.

19 Sec. 370.182. AUDIT. An authority shall have a certified
20 public accountant audit the authority's books and accounts at least
21 annually. The cost of the audit may be treated as part of the cost
22 of construction or operation of a transportation project.

23 Sec. 370.183. DISADVANTAGED BUSINESSES. (a) Consistent
24 with general law, an authority shall:

25 (1) set goals for the award of contracts to
26 disadvantaged businesses and attempt to meet the goals;

27 (2) attempt to identify disadvantaged businesses that

1 provide or have the potential to provide supplies, materials,
2 equipment, or services to the authority; and

3 (3) give disadvantaged businesses full access to the
4 authority's contract bidding process, inform the businesses about
5 the process, offer the businesses assistance concerning the
6 process, and identify barriers to the businesses' participation in
7 the process.

8 (b) This section does not exempt an authority from
9 competitive bidding requirements provided by other law.

10 Sec. 370.184. PROCUREMENT. An authority shall adopt rules
11 governing the award of contracts for goods and services.
12 Notwithstanding any other provision of state law, an authority may
13 procure goods and services, including materials, engineering,
14 design, construction, operations, maintenance, and other goods and
15 services, through any procedure authorized by this chapter.
16 Procurement of professional services is governed by Chapter 2254,
17 Government Code.

18 Sec. 370.185. COMPETITIVE BIDDING. A contract made by an
19 authority may be let by a competitive bidding procedure in which the
20 contract is awarded to the lowest responsible bidder that complies
21 with the authority's criteria.

22 Sec. 370.186. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) An
23 authority may not construct, maintain, or operate a transportation
24 project that another governmental entity has determined to be a
25 project under Chapter 284, 366, or 452 unless the governmental
26 entity and the authority enter into a written agreement specifying
27 the terms and conditions under which the project shall be

1 undertaken.

2 (b) An authority may not receive or be paid revenue derived
3 by another governmental entity operating under Chapter 284, 366, or
4 452 unless the governmental entity and the authority enter into a
5 written agreement specifying the terms and conditions under which
6 the revenue shall be received by or paid to the authority.

7 Sec. 370.187. PROJECT APPROVAL. (a) An authority may not
8 begin construction of a transportation project that will connect to
9 the state highway system or to a department rail facility without
10 the approval of the commission.

11 (b) The commission by rule shall establish procedures and
12 criteria for an approval under this section. The rules must require
13 the commission to consider a request for project approval not later
14 than the 60th day after the date the department receives all
15 information reasonably necessary to review the request.

16 Sec. 370.188. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.

17 (a) An authority shall adopt rules for environmental review of a
18 transportation project that is not subject to review under the
19 National Environmental Policy Act (42 U.S.C. Section 4321 et seq.),
20 as amended. The rules must:

21 (1) specify the types of projects for which a public
22 hearing is required;

23 (2) establish procedures for public comment on the
24 environmental review, including a procedure for requesting a public
25 hearing on an environmental review for which a public hearing is not
26 required; and

27 (3) require:

1 (A) an evaluation of any direct or indirect
2 environmental effect of the project;

3 (B) an analysis of project alternatives; and

4 (C) a written report that briefly explains the
5 authority's review of the project and that specifies any mitigation
6 measures on environmental harm on which the project is conditioned.

7 (b) An environmental review of a project must be conducted
8 before the authority may approve the location or alignment of the
9 project.

10 (c) The authority shall consider the results of the
11 environmental review in executing its duties.

12 (d) The authority shall coordinate with the Texas
13 Commission on Environmental Quality and the Parks and Wildlife
14 Department in the preparation of an environmental review.

15 Sec. 370.189. DEPARTMENT MAINTENANCE AND OPERATION. (a)
16 If requested by an authority, the department may agree to assume all
17 or part of the duty to maintain or operate a turnpike project or
18 ferry of the authority.

19 (b) The authority shall reimburse the department for
20 necessary costs of maintaining or operating the turnpike project or
21 ferry as agreed by the department and the authority.

22 (c) Money received by the department under Subsection (b)
23 shall be deposited to the credit of the state highway fund and is
24 exempt from the application of Sections 403.095 and 404.071,
25 Government Code.

26 (d) If the department assumes all of the duty to maintain or
27 operate a turnpike project or ferry under Subsection (a), the

1 authority is not liable for damages resulting from the maintenance
2 or operation of the turnpike project or ferry.

3 (e) An agreement under this section is not a joint
4 enterprise for purposes of liability.

5 Sec. 370.190. PROPERTY OF RAPID TRANSIT AUTHORITIES. An
6 authority may not condemn or purchase real property of a rapid
7 transit authority operating pursuant to Chapter 451 that was
8 confirmed before July 1, 1985, and in which the principal
9 municipality has a population of less than 750,000, unless the
10 authority has entered into a written agreement with the rapid
11 transit authority specifying the terms and conditions under which
12 the condemnation or the purchase of the real property will take
13 place.

14 [Sections 370.191-370.250 reserved for expansion]

15 SUBCHAPTER F. GOVERNANCE

16 Sec. 370.251. BOARD OF DIRECTORS. (a) The governing body
17 of an authority is a board of directors consisting of
18 representatives of each county in which a transportation project of
19 the authority is located or is proposed to be located. The
20 commissioners court of each county that initially forms the
21 authority shall appoint at least two directors to the board.
22 Additional directors may be appointed to the board at the time of
23 initial formation by agreement of the counties creating the
24 authority to ensure fair representation of political subdivisions
25 in the counties of the authority that will be affected by a
26 transportation project of the authority, provided that the number
27 of directors must be an odd number. The commissioners court of a

1 county that is subsequently added to the authority shall appoint
2 one director to the board. The governor shall appoint one director
3 to the board who shall serve as the presiding officer of the board
4 and shall appoint an additional director to the board if an
5 appointment is necessary to maintain an odd number of directors on
6 the board.

7 (b) Unless the commissioners courts of the counties of the
8 authority unanimously agree otherwise, the commissioners court of
9 each county of an authority that contains an operating
10 transportation project of the authority shall appoint one
11 additional director.

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

15 (d) One director appointed to the initial board of an
16 authority by the commissioners court of a county shall be
17 designated by the court to serve a term of two years and one
18 director designated to serve a term of four years. If one or more
19 directors are subsequently appointed to the board, the directors
20 other than the subsequent appointees shall determine the length of
21 the appointees' terms, to comply with Subsection (c).

22 (e) If a vacancy occurs on the board, the appointing
23 authority shall promptly appoint a successor to serve for the
24 unexpired portion of the term.

25 (f) All appointments to the board shall be made without
26 regard to race, color, disability, sex, religion, age, or national
27 origin.

1 (g) The following individuals are ineligible to serve as a
2 director:

3 (1) an elected official;

4 (2) a person who is not a resident of a county within
5 the geographic area of the authority;

6 (3) a department employee;

7 (4) an employee of a governmental entity any part of
8 which is located within the geographic boundaries of the authority;
9 and

10 (5) a person owning an interest in real property that
11 will be acquired for an authority project, if it is known at the
12 time of the person's proposed appointment that the property will be
13 acquired for the authority project.

14 (h) Each director has equal status and may vote.

15 (i) The vote of a majority attending a board meeting is
16 necessary for any action taken by the board. If a vacancy exists on
17 a board, the majority of directors serving on the board is a quorum.

18 (j) The commission may refuse to authorize the creation of
19 an authority if the commission determines that the proposed board
20 will not fairly represent political subdivisions in the counties of
21 the authority that will be affected by the creation of the
22 authority.

23 Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE
24 AUTHORITY. If a county in which a turnpike authority under Chapter
25 366 operates or a county owning or operating a toll project under
26 Chapter 284 is part of an authority, the turnpike authority or the
27 county may submit to the commission a proposed structure for the

1 board and a method of appointment to the board:

2 (1) at the creation of the authority if the county is a
3 county that initially forms an authority;

4 (2) when a new county is added to the authority; and

5 (3) when the county is initially added to the
6 authority.

7 Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND
8 EMPLOYEES. (a) A director or employee of an authority may not:

9 (1) accept or solicit any gift, favor, or service
10 that:

11 (A) might reasonably influence the director or
12 employee in the discharge of an official duty; or

13 (B) the director or employee knows or should know
14 is being offered with the intent to influence the director's or
15 employee's official conduct;

16 (2) accept other employment or engage in a business or
17 professional activity that the director or employee might
18 reasonably expect would require or induce the director or employee
19 to disclose confidential information acquired by reason of the
20 official position;

21 (3) accept other employment or compensation that could
22 reasonably be expected to impair the director's or employee's
23 independence of judgment in the performance of the director's or
24 employee's official duties;

25 (4) make personal investments that could reasonably be
26 expected to create a substantial conflict between the director's or
27 employee's private interest and the interest of the authority;

1 (5) intentionally or knowingly solicit, accept, or
2 agree to accept any benefit for having exercised the director's or
3 employee's official powers or performed the director's or
4 employee's official duties in favor of another; or

5 (6) have a personal interest in an agreement executed
6 by the authority.

7 (b) A person is not eligible to serve as a director or chief
8 administrative officer of an authority if the person or the
9 person's spouse:

10 (1) is employed by or participates in the management
11 of a business entity or other organization, other than a
12 governmental entity, that is regulated by or receives funds from
13 the authority or the department;

14 (2) directly or indirectly owns or controls more than
15 a 10 percent interest in a business or other organization that is
16 regulated by or receives funds from the authority or the
17 department;

18 (3) uses or receives a substantial amount of tangible
19 goods, services, or funds from the authority or the department; or

20 (4) is required to register as a lobbyist under
21 Chapter 305, Government Code, because of the person's activities
22 for compensation on behalf of a profession related to the operation
23 of the authority or the department.

24 (c) A person is not eligible to serve as a director or chief
25 administrative officer of an authority if the person is an officer,
26 employee, or paid consultant of a Texas trade association in the
27 field of road construction or maintenance, public transportation,

1 or aviation, or if the person's spouse is an officer, manager, or
2 paid consultant of a Texas trade association in the field of road
3 construction or maintenance, public transportation, or aviation.

4 (d) In this section, "Texas trade association" means a
5 nonprofit, cooperative, and voluntarily joined association of
6 business or professional competitors in this state designed to
7 assist its members and its industry or profession in dealing with
8 mutual business or professional problems and in promoting their
9 common interests.

10 (e) A person is not ineligible to serve as a director or
11 chief administrative officer of an authority if the person has
12 received funds from the department for acquisition of highway
13 right-of-way unless the acquisition was for a project of the
14 authority.

15 Sec. 370.253. SURETY BONDS. (a) Before beginning a term,
16 each director shall execute a surety bond in the amount of \$25,000,
17 and the secretary and treasurer shall execute a surety bond in the
18 amount of \$50,000.

19 (b) Each surety bond must be:

20 (1) conditioned on the faithful performance of the
21 duties of office;

22 (2) executed by a surety company authorized to
23 transact business in this state; and

24 (3) filed with the secretary of state's office.

25 (c) The authority shall pay the expense of the bonds.

26 Sec. 370.254. REMOVAL OF DIRECTOR. (a) It is a ground for
27 removal of a director from the board if the director:

1 (1) did not have at the time of appointment the
2 qualifications required by Section 370.251;

3 (2) at the time of appointment or at any time during
4 the director's term, is ineligible under Section 370.251 or 370.252
5 to serve as a director;

6 (3) cannot discharge the director's duties for a
7 substantial part of the term for which the director is appointed
8 because of illness or disability; or

9 (4) is absent from more than half of the regularly
10 scheduled board meetings that the director is eligible to attend
11 during a calendar year.

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

15 (c) If the chief administrative officer of the authority has
16 knowledge that a potential ground for removal exists, that person
17 shall notify the presiding officer of the board of the ground. The
18 presiding officer shall then notify the person that appointed the
19 director that a potential ground for removal exists.

20 Sec. 370.255. COMPENSATION OF DIRECTOR. Each director is
21 entitled to reimbursement for the director's actual expenses
22 necessarily incurred in the performance of the director's duties.
23 A director is not entitled to any additional compensation for the
24 director's services.

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

1 Sec. 370.257. PUBLIC ACCESS. An authority shall:

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

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

9 Sec. 370.258. INDEMNIFICATION. (a) An authority may
10 indemnify one or more of its directors or officers for necessary
11 expenses and costs, including attorney's fees, incurred by the
12 directors or officers in connection with any claim asserted against
13 the directors or officers in their respective capacities as
14 directors or officers.

15 (b) If an authority does not fully indemnify a director or
16 officer as provided by Subsection (a), the court in a proceeding in
17 which any claim against the director or officer is asserted or any
18 court with jurisdiction of an action instituted by the director or
19 officer on a claim for indemnity may assess indemnity against the
20 authority, its receiver, or trustee only if the court finds that, in
21 connection with the claim, the director or officer is not guilty of
22 negligence or misconduct.

23 (c) A court may not assess indemnity under Subsection (b)
24 for an amount paid by the director or officer to the authority.

25 (d) This section applies to a current or former director or
26 officer of the authority.

27 Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) An

1 authority shall insure its officers and employees from liability
2 arising from the use, operation, or maintenance of equipment that
3 is used or may be used in connection with the laying out,
4 construction, or maintenance of the authority's transportation
5 projects.

6 (b) Insurance coverage under this section must be provided
7 by the purchase of a policy of liability insurance from a reliable
8 insurance company authorized to do business in this state. The form
9 of the policy must be approved by the commissioner of insurance.

10 (c) This section is not a waiver of immunity of the
11 authority or the counties in an authority from liability for the
12 torts or negligence of an officer or employee of an authority.

13 (d) In this section, "equipment" includes an automobile,
14 motor truck, trailer, aircraft, motor grader, roller, tractor,
15 tractor power mower, locomotive, rail car, and other power
16 equipment.

17 Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a)
18 A director, agent, or employee of an authority may not:

19 (1) contract with the authority; or

20 (2) be directly or indirectly interested in:

21 (A) a contract with the authority; or

22 (B) the sale of property to the authority.

23 (b) A person who violates Subsection (a) is liable for a
24 civil penalty to the authority in an amount not to exceed \$1,000.

25 Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An
26 authority shall make a strategic plan for its operations. A
27 majority of the commissioners courts of the counties of the

1 authority shall by concurrent resolution determine the types of
2 information required to be included in the strategic plan. Each
3 even-numbered year, an authority shall issue a plan covering the
4 succeeding five fiscal years, beginning with the next odd-numbered
5 fiscal year.

6 (b) Not later than March 31 of each year, an authority shall
7 file with the commissioners court of each county of the authority a
8 written report on the authority's activities describing all
9 transportation revenue bond issuances anticipated for the coming
10 year, the financial condition of the authority, all project
11 schedules, and the status of the authority's performance under the
12 most recent strategic plan. At the invitation of a commissioners
13 court of a county of the authority, representatives of the board and
14 the administrative head of an authority shall appear before the
15 commissioners court to present the report and receive questions and
16 comments.

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

20 Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a)
21 Chapter 551, Government Code, does not prohibit any open or closed
22 meeting of the board, a committee of the board, or the staff, or any
23 combination of the board or staff, from being held by telephone
24 conference call.

25 (b) A telephone conference call meeting is subject to the
26 notice requirements applicable to other meetings.

27 (c) Notice of a telephone conference call meeting that by

1 law must be open to the public must specify the location of the
2 meeting. The location must be a conference room of the authority or
3 other facility in a county of the authority that is accessible to
4 the public.

5 (d) Each part of the telephone conference call meeting that
6 by law must be open to the public shall be audible to the public at
7 the location specified in the notice and shall be tape-recorded or
8 documented by written minutes. On conclusion of the meeting, the
9 tape recording or the written minutes of the meeting shall be made
10 available to the public.

11 [Sections 370.263-370.300 reserved for expansion]

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

14 Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE
15 PROJECTS. (a) The department may agree with an authority to
16 provide for or contribute to the payment of costs of financial or
17 engineering and traffic feasibility studies and the design,
18 financing, acquisition, construction, operation, or maintenance of
19 a turnpike project or system on terms agreed on by the commission or
20 department, as applicable, and the authority. The agreement may
21 not be inconsistent with the rights of the bondholders or persons
22 operating the turnpike project under a lease or other contract.

23 (b) The department may use its engineering and other
24 personnel, including consulting engineers and traffic engineers,
25 to conduct feasibility studies under Subsection (a).

26 (c) An obligation or expense incurred by the commission or
27 department under this section is a part of the cost of the turnpike

1 project for which the obligation or expense was incurred. The
2 commission or department may require money contributed by the
3 commission or department under this section to be repaid from tolls
4 or other revenue of the turnpike project on which the money was
5 spent. Money repaid as required by the commission or department
6 shall be deposited to the credit of the fund from which the
7 contribution was made. Money deposited as required by this section
8 is exempt from the application of Section 403.095, Government Code.

9 (d) The commission or department may use federal money for
10 any purpose described by this chapter.

11 (e) A turnpike project developed by an authority may not be
12 part of the state highway system unless otherwise agreed to by the
13 authority and the department.

14 (f) The commission may grant or loan department money to an
15 authority for the acquisition of land for or the construction,
16 maintenance, or operation of a turnpike project. The commission
17 may require the authority to repay money provided under this
18 section from toll revenue or other sources on terms established by
19 the commission.

20 (g) Money repaid as required by the commission shall be
21 deposited to the credit of the fund from which the money was
22 provided. Money deposited as required by this section is exempt
23 from the application of Section 403.095, Government Code.

24 Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND
25 OPERATE TRANSPORTATION PROJECTS. (a) An authority may enter into
26 an agreement with a public or private entity, including a toll road
27 corporation, the United States, a state of the United States, the

1 United Mexican States, a state of the United Mexican States,
2 another governmental entity, or a political subdivision, to permit
3 the entity, independently or jointly with the authority, to study
4 the feasibility of a transportation project or to acquire, design,
5 finance, construct, maintain, repair, operate, extend, or expand a
6 transportation project. An authority and a private entity jointly
7 may enter into an agreement with another governmental entity to
8 study the feasibility of a transportation project or to acquire,
9 design, finance, construct, maintain, repair, operate, extend, or
10 expand a transportation project.

11 (b) An authority has broad discretion to negotiate
12 provisions in a development agreement with a private entity. The
13 provisions may include provisions relating to:

14 (1) the design, financing, construction, maintenance,
15 and operation of a transportation project in accordance with
16 standards adopted by the authority; and

17 (2) professional and consulting services to be
18 rendered under standards adopted by the authority in connection
19 with a transportation project.

20 (c) An authority may not incur a financial obligation on
21 behalf of, or guarantee the obligations of, a private entity that
22 constructs, maintains, or operates a transportation project.

23 (d) An authority or a county in an authority is not liable
24 for any financial or other obligation of a transportation project
25 solely because a private entity constructs, finances, or operates
26 any part of a transportation project.

27 (e) An authority may authorize the investment of public and

1 private money, including debt and equity participation, to finance
2 a function described by this section.

3 Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL
4 GOVERNMENTAL ENTITIES. (a) A governmental entity other than a
5 nonprofit corporation may, consistent with the Texas Constitution,
6 issue bonds, notes, or other obligations or enter into and make
7 payments under agreements with an authority to acquire, construct,
8 maintain, or operate a transportation project, whether inside or
9 outside the geographic boundaries of the governmental entity,
10 including agreements to pay the principal of, and interest on,
11 bonds, notes, or other obligations issued by the authority and make
12 payments under any related credit agreements. The entity may
13 impose and collect taxes to pay the interest on the bonds and to
14 provide a sinking fund for the redemption of the bonds.

15 (b) In addition to the powers provided by Subsection (a), a
16 governmental entity may, to the extent constitutionally permitted,
17 agree with an authority to issue bonds, notes, or other
18 obligations, create a taxing district or an entity to promote
19 economic development, fund public improvements to promote economic
20 development, or enter into and make payments under an agreement to
21 acquire, construct, maintain, or operate any portion of a
22 transportation project of the authority. An agreement may include
23 a means for a local governmental entity to provide funds for a
24 transportation project that benefits the governmental entity to be
25 developed by the authority.

26 (c) To make payments under an agreement under Subsection
27 (b), to pay the interest on bonds issued under Subsection (b), or to

1 provide a sinking fund for the bonds or the agreement, a
2 governmental entity may:

3 (1) pledge revenue from any available source,
4 including annual appropriations;

5 (2) impose and collect taxes; or

6 (3) pledge revenue and impose and collect taxes.

7 (d) The term of an agreement under this section may not
8 exceed 40 years.

9 (e) An election required to authorize action under this
10 subchapter must be held in conformity with Chapter 1251, Government
11 Code, or other law applicable to the governmental entity.

12 (f) The governing body of any governmental entity issuing
13 bonds, notes, or other obligations or entering into agreements
14 under this section may exercise the authority granted to the
15 governing body of an issuer with regard to issuance of obligations
16 under Chapter 1371, Government Code, except that the prohibition in
17 that chapter on the repayment of an obligation with ad valorem taxes
18 does not apply to an issuer exercising the authority granted by this
19 section.

20 Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An
21 authority may enter into any agreement necessary or convenient to
22 achieve the purposes of this subchapter.

23 Sec. 370.305. EXCLUSIVE DEVELOPMENT AGREEMENTS. An
24 authority may use an exclusive development agreement to finance,
25 acquire, construct, maintain, repair, operate, extend, or expand a
26 transportation project by invested private funding or by public
27 funding, private funding, or any combination. An agreement under

1 this section is not subject to a requirement or restriction of
2 Section 222.103(i).

3 Sec. 370.306. PROCESS FOR ENTERING INTO EXCLUSIVE
4 DEVELOPMENT AGREEMENTS. (a) If an authority enters into an
5 exclusive development agreement, the authority shall use a
6 competitive procurement process that provides the best value for
7 the authority. The authority may accept unsolicited proposals for
8 a proposed transportation project or solicit proposals in
9 accordance with this section.

10 (b) The authority shall establish rules and procedures for
11 accepting unsolicited proposals that require the private entity to
12 include in the proposal:

13 (1) information regarding the proposed project
14 location, scope, and limits;

15 (2) information regarding the private entity's
16 qualifications, experience, technical competence, and capability
17 to develop the project; and

18 (3) a proposed financial plan for the proposed project
19 that includes, at a minimum:

20 (A) projected project costs; and

21 (B) proposed sources of funds.

22 (c) The authority shall publish a request for competing
23 proposals and qualifications in the Texas Register that includes
24 the criteria used to evaluate the proposals, the relative weight
25 given to the criteria, and a deadline by which proposals must be
26 received if:

27 (1) the authority decides to issue a request for

1 qualifications for a proposed project; or

2 (2) the authority authorizes the further evaluation of
3 an unsolicited proposal.

4 (d) A proposal submitted in response to a request published
5 under Subsection (c) must contain, at a minimum, the information
6 required by Subsections (b)(2) and (3).

7 (e) An authority may interview a private entity submitting
8 an unsolicited proposal or responding to a request under Subsection
9 (c). The authority shall evaluate each proposal based on the
10 criteria described in the notice. The authority must qualify at
11 least two private entities to submit detailed proposals for a
12 project under Subsection (f) unless the authority does not receive
13 more than one proposal or one response to a request under Subsection
14 (c).

15 (f) An authority shall issue a request for detailed
16 proposals from all private entities qualified under Subsection (e)
17 if the authority proceeds with the further evaluation of a proposed
18 project. A request under this subsection may require additional
19 information relating to:

20 (1) the private entity's qualifications and
21 demonstrated technical competence;

22 (2) the feasibility of developing the project as
23 proposed;

24 (3) detailed engineering or architectural designs;

25 (4) the private entity's ability to meet schedules;

26 (5) costing methodology; or

27 (6) any other information the authority considers

1 relevant or necessary.

2 (g) In issuing a request for proposals under Subsection (f),
3 an authority may solicit input from entities qualified under
4 Subsection (e) or any other person. An authority may also solicit
5 input regarding alternative technical concepts after issuing a
6 request under Subsection (f).

7 (h) An authority shall rank each proposal based on the
8 criteria described in the request for proposals and select the
9 private entity whose proposal offers the best value to the
10 authority.

11 (i) An authority may require that an unsolicited proposal be
12 accompanied by a nonrefundable fee sufficient to cover all or part
13 of its cost to review the proposal.

14 (j) An authority shall pay an unsuccessful private entity
15 that submits a response to a request for detailed proposals under
16 Subsection (f) a stipulated amount of the final contract price for
17 any costs incurred in preparing that proposal. The stipulated
18 amount must be stated in the request for proposals and may not
19 exceed the value of any work product contained in the proposal that
20 can, as determined by the authority, be used by the authority in the
21 performance of its functions. After payment of the stipulated
22 amount:

23 (1) the authority owns the exclusive rights to, and
24 may make use of any work product contained in, the proposal,
25 including the technologies, techniques, methods, processes, and
26 information contained in the project design; and

27 (2) the work product contained in the proposal becomes

1 the property of the authority.

2 (k) An authority shall prescribe the general form of an
3 exclusive development agreement and may include any matter the
4 authority considers advantageous to the authority. The authority
5 and the private entity shall negotiate the specific terms of an
6 exclusive development agreement.

7 (l) Subchapter A, Chapter 223, of this code and Chapter
8 2254, Government Code, do not apply to an exclusive development
9 agreement entered into under Section 370.305.

10 Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR
11 EXCLUSIVE DEVELOPMENT AGREEMENTS. To encourage private entities to
12 submit proposals under Section 370.306, the following information
13 is confidential, is not subject to disclosure, inspection, or
14 copying under Chapter 552, Government Code, and is not subject to
15 disclosure, discovery, subpoena, or other means of legal compulsion
16 for its release until a final contract for a proposed project is
17 entered into:

18 (1) all or part of a proposal submitted by a private
19 entity for an exclusive development agreement, except information
20 provided under Sections 370.306(b)(1) and (2);

21 (2) supplemental information or material submitted by
22 a private entity in connection with a proposal for an exclusive
23 development agreement; and

24 (3) information created or collected by an authority
25 or its agent during consideration of a proposal for an exclusive
26 development agreement.

27 Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. (a)

1 Notwithstanding Section 223.006 and the requirements of Subchapter
2 B, Chapter 2253, Government Code, an authority shall require a
3 private entity entering into an exclusive development agreement
4 under Section 370.005 to provide a performance and payment bond or
5 an alternative form of security in an amount sufficient to:

6 (1) ensure the proper performance of the agreement;

7 and

8 (2) protect:

9 (A) the authority; and

10 (B) payment bond beneficiaries who have a direct
11 contractual relationship with the private entity or a subcontractor
12 of the private entity to supply labor or material.

13 (b) A performance and payment bond or alternative form of
14 security shall be in an amount equal to the cost of constructing or
15 maintaining the project.

16 (c) If an authority determines that it is impracticable for
17 a private entity to provide security in the amount described by
18 Subsection (b), the authority shall set the amount of the bonds or
19 the alternative forms of security.

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

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

26 (f) In addition to performance and payment bonds, an
27 authority may require the following alternative forms of security:

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

3 (2) a United States bond or note;

4 (3) an irrevocable bank letter of credit; or

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

7 (g) An authority by rule shall prescribe requirements for
8 alternative forms of security provided under this section.

9 Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) A
10 transportation project that is the subject of a development
11 agreement with a private entity, including the facilities acquired
12 or constructed on the project, is public property and belongs to the
13 authority that entered into the agreement.

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

23 Sec. 370.310. TERMS OF PRIVATE PARTICIPATION. An authority
24 shall negotiate the terms of private participation in a
25 transportation project, including:

26 (1) methods to determine the applicable cost, profit,
27 and project distribution between the private equity investors and

1 the authority;

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

4 (3) acceptable safety and policing standards; and

5 (4) other applicable professional, consulting,
6 construction, operation, and maintenance standards, expenses, and
7 costs.

8 Sec. 370.311. RULES, PROCEDURES, AND GUIDELINES GOVERNING

9 NEGOTIATING PROCESS. (a) An authority shall adopt rules,
10 procedures, and other guidelines governing negotiations to promote
11 fairness, obtain private participants in transportation projects,
12 and promote confidence among those participants. The rules must
13 contain criteria relating to the qualifications of the participants
14 and the award of the contracts and may authorize the authority to
15 impose a fee for reviewing proposals for private involvement in a
16 transportation project.

17 (b) An authority shall have up-to-date procedures for
18 participation in negotiations on transportation projects.

19 (c) An authority has exclusive judgment to determine the
20 terms of an agreement.

21 (d) A proposal and related information submitted for
22 private involvement in a transportation project, and all documents
23 and information created by the authority or its agents during the
24 authority's consideration of a proposal for private involvement in
25 a transportation project, are excepted from disclosure,
26 inspection, or copying under Chapter 552, Government Code, and are
27 not subject to discovery, subpoena, or other means of legal

1 compulsion for release, until the authority has entered into an
2 agreement or until it has determined not to develop a proposed
3 project through an agreement with a private entity.

4 (e) An authority may agree to acquire the work product of an
5 unsuccessful proposer for the development of a project through an
6 exclusive development agreement or other form of private
7 involvement in a transportation project if the payment for such
8 work product does not exceed its value to the authority.

9 Sec. 370.312. PARTICIPATION ON CERTAIN OTHER BOARDS,
10 COMMISSIONS, OR PUBLIC BODIES. (a) An authority may participate in
11 and designate board members to serve as representatives on boards,
12 commissions, or public bodies, the purposes of which are to promote
13 the development of joint toll facilities in this state, between
14 this state and other states of the United States, or between this
15 state and the United Mexican States or states of the United Mexican
16 States.

17 (b) A fee or expense associated with authority
18 participation under this section may be reimbursed from money in
19 the authority's feasibility study fund.

20 Sec. 370.313. COMBINATION OF ENGINEERING, DESIGN, AND
21 CONSTRUCTION SERVICES. An authority may procure a combination of
22 engineering, design, and construction services in a single
23 procurement for a transportation project provided that any contract
24 awarded must be the one that results in the best value to the
25 authority.

26 Sec. 370.314. PERFORMANCE AND PAYMENT BONDS AND SECURITY.
27 Notwithstanding Chapter 2253, Government Code, an authority shall

1 require any party to an agreement to operate or maintain a
2 transportation project to provide performance and payment bonds or
3 other forms of security in amounts considered by the authority to be
4 adequate to protect the authority and to assure performance of all
5 obligations to the authority and to subcontractors providing
6 materials or labor for a transportation project.

7 Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. In the event
8 that an authority is requested by the commission to participate in
9 the development of a transportation project that has been
10 designated as part of the Trans-Texas Corridor, the authority shall
11 have, in addition to all powers granted in this chapter, all powers
12 of the department related to the development of Trans-Texas
13 Corridor projects.

14 [Sections 370.316-370.330 reserved for expansion]

15 SUBCHAPTER H. DISSOLUTION OF AUTHORITY

16 Sec. 370.331. VOLUNTARY DISSOLUTION. (a) An authority may
17 not be dissolved unless the dissolution is approved by the
18 commission.

19 (b) A board may submit a request to the commission for
20 approval to dissolve.

21 (c) The commission may approve a request to dissolve only
22 if:

23 (1) all debts, obligations, and liabilities of the
24 authority have been paid and discharged or adequate provision has
25 been made for the payment of all debts, obligations, and
26 liabilities;

27 (2) there are no suits pending against the authority,

1 or adequate provision has been made for the satisfaction of any
2 judgment, order, or decree that may be entered against it in any
3 pending suit; and

4 (3) the authority has commitments from other
5 governmental entities to assume jurisdiction of all authority
6 transportation facilities.

7 Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission
8 by order may require an authority to dissolve if the commission
9 determines that the authority has not substantially complied with
10 the requirements of a commission rule or an agreement between the
11 department and the authority.

12 (b) The commission may not require dissolution unless:

13 (1) the conditions described in Sections
14 370.331(c)(1) and (2) have been met; and

15 (2) the holders of any indebtedness have evidenced
16 their agreement to the dissolution.

17 SECTION 2.02. Section 361.003, Transportation Code, is
18 repealed.

19 SECTION 2.03. (a) This article takes effect immediately if
20 this Act receives a vote of two-thirds of all members elected to
21 each house, as provided by Section 39, Article III, Texas
22 Constitution. If this Act does not receive the vote necessary for
23 immediate effect, this article takes effect September 1, 2003.

24 (b) This article does not affect the term of a member of the
25 board of directors of a regional mobility authority serving on the
26 effective date of this article.

27 ARTICLE 3. EXCLUSIVE DEVELOPMENT AGREEMENTS

1 SECTION 3.01. Chapter 201, Transportation Code, is amended
2 by adding Subchapter N to read as follows:

3 SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

4 Sec. 201.951. DEFINITIONS. In this subchapter:

5 (1) "Exclusive development agreement" means an
6 agreement with a private entity that, at a minimum, provides for the
7 design and construction of a transportation project of the
8 department and may also provide for the financing, acquisition,
9 maintenance, or operation of a transportation project.

10 (2) "Transportation project" includes a facility as
11 defined by Section 227.003.

12 Sec. 201.9511. APPLICABILITY OF BIDDING PROCEDURE
13 REQUIREMENT. An exclusive development agreement is not subject to
14 a requirement or restriction of Section 222.103(i).

15 Sec. 201.952. AUTHORITY TO ENTER INTO EXCLUSIVE DEVELOPMENT
16 AGREEMENTS. (a) Subject to Section 201.953, the department may
17 enter into exclusive development agreements.

18 (b) The department may negotiate provisions relating to
19 professional and consulting services in connection with an
20 exclusive development agreement.

21 (c) Subject to Section 201.953, the department may use any
22 constitutionally permissible source of funds without restriction
23 on the number of exclusive development agreements that may be
24 entered into.

25 Sec. 201.953. LIMITATION ON DEPARTMENT FINANCIAL
26 PARTICIPATION. The amount of money disbursed by the department
27 from the state highway fund and the Texas mobility fund during a

1 federal fiscal year to pay the costs under exclusive development
2 agreements may not exceed 40 percent of the obligation authority
3 under the federal-aid highway program that is distributed to this
4 state for the fiscal year.

5 Sec. 201.9531. EXCLUSION OF EXPENDITURES. Money spent by
6 the department under this chapter is not included in computing the
7 amount required to be spent for engineering and design contracts
8 under Section 223.041 in any fiscal year.

9 Sec. 201.954. PROCESS FOR ENTERING INTO EXCLUSIVE
10 DEVELOPMENT AGREEMENTS. (a) If the department enters into an
11 exclusive development agreement, the department shall use a
12 competitive procurement process that provides the best value for
13 the department. The department may accept unsolicited proposals
14 for a proposed project or solicit proposals in accordance with this
15 section.

16 (b) The department shall establish rules and procedures for
17 accepting unsolicited proposals that require the private entity to
18 include in the proposal:

19 (1) information regarding the proposed project
20 location, scope, and limits;

21 (2) information regarding the private entity's
22 qualifications, experience, technical competence, and capability
23 to develop the project; and

24 (3) a proposed financial plan for the proposed project
25 that includes, at a minimum:

26 (A) projected project costs; and

27 (B) proposed sources of funds.

1 (c) The department shall publish a request for competing
2 proposals and qualifications in the Texas Register that includes
3 the criteria used to evaluate the proposals, the relative weight
4 given to the criteria, and a deadline by which proposals must be
5 received if:

6 (1) the department decides to issue a request for
7 qualifications for a proposed project; or

8 (2) the department authorizes the further evaluation
9 of an unsolicited proposal.

10 (d) A proposal submitted in response to a request published
11 under Subsection (c) must contain, at a minimum, the information
12 required by Subsections (b)(2) and (3).

13 (e) The department may interview a private entity
14 submitting an unsolicited proposal or responding to a request under
15 Subsection (c). The department shall evaluate each proposal based
16 on the criteria described in the notice. The department must
17 qualify at least two private entities to submit detailed proposals
18 for a project under Subsection (f) unless the department does not
19 receive more than one proposal or one response to a request under
20 Subsection (c).

21 (f) The department shall issue a request for detailed
22 proposals from all private entities qualified under Subsection (e)
23 if the department proceeds with the further evaluation of a
24 proposed project. A request under this subsection may require
25 additional information relating to:

26 (1) the private entity's qualifications and
27 demonstrated technical competence;

1 (2) the feasibility of developing the project as
2 proposed;

3 (3) detailed engineering or architectural designs;

4 (4) the private entity's ability to meet schedules;

5 (5) costing methodology; or

6 (6) any other information the department considers
7 relevant or necessary.

8 (g) In issuing a request for proposals under Subsection (f),
9 the department may solicit input from entities qualified under
10 Subsection (e) or any other person. The department may also solicit
11 input regarding alternative technical concepts after issuing a
12 request under Subsection (f).

13 (h) The department shall rank each proposal based on the
14 criteria described in the request for proposals and select the
15 private entity whose proposal offers the best value to the
16 department.

17 (i) The department may require that an unsolicited proposal
18 be accompanied by a nonrefundable fee sufficient to cover all or
19 part of its cost to review the proposal.

20 (j) The department shall pay an unsuccessful private entity
21 that submits a response to a request for detailed proposals under
22 Subsection (f) a stipulated amount of the final contract price for
23 any costs incurred in preparing that proposal. The stipulated
24 amount must be stated in the request for proposals and may not
25 exceed the value of any work product contained in the proposal that
26 can, as determined by the department, be used by the department in
27 the performance of its functions. The use by the department of any

1 design element contained in an unsuccessful proposal is at the sole
2 risk and discretion of the department and does not confer liability
3 on the recipient of the stipulated amount under this section. After
4 payment of the stipulated amount:

5 (1) the department owns the exclusive rights to, and
6 may make use of any work product contained in, the proposal,
7 including the technologies, techniques, methods, processes, and
8 information contained in the project design; and

9 (2) the work product contained in the proposal becomes
10 the property of the department.

11 (k) The department may prescribe the general form of an
12 exclusive development agreement and may include any matter the
13 department considers advantageous to the department. The
14 department and the private entity shall negotiate the specific
15 terms of an exclusive development agreement.

16 (1) Subchapter A, Chapter 223, of this code and Chapter
17 2254, Government Code, do not apply to an exclusive development
18 agreement entered into under Sections 201.952.

19 Sec. 201.955. CONFIDENTIALITY OF NEGOTIATIONS FOR
20 EXCLUSIVE DEVELOPMENT AGREEMENTS. To encourage private entities to
21 submit proposals under Section 201.954, the following information
22 is confidential, is not subject to disclosure, inspection, or
23 copying under Chapter 552, Government Code, and is not subject to
24 disclosure, discovery, subpoena, or other means of legal compulsion
25 for its release until a final contract for a proposed project is
26 entered into:

27 (1) all or part of a proposal submitted by a private

1 entity for an exclusive development agreement, except information
2 provided under Section 201.954(b)(1) and (2);

3 (2) supplemental information or material submitted by
4 a private entity in connection with a proposal for an exclusive
5 development agreement; and

6 (3) information created or collected by the department
7 or its agent during consideration of a proposal for an exclusive
8 development agreement.

9 Sec. 201.956. PERFORMANCE AND PAYMENT SECURITY. (a)
10 Notwithstanding Section 223.006 and the requirements of Subchapter
11 B, Chapter 2253, Government Code, the department shall require a
12 private entity entering into an exclusive development agreement
13 under Section 201.952 to provide a performance and payment bond or
14 an alternative form of security in an amount sufficient to:

15 (1) ensure the proper performance of the agreement;
16 and

17 (2) protect:
18 (A) the department; and
19 (B) payment bond beneficiaries who have a direct
20 contractual relationship with the private entity or a subcontractor
21 of the private entity to supply labor or material.

22 (b) A performance and payment bond or alternative form of
23 security shall be in an amount equal to the cost of constructing or
24 maintaining the project.

25 (c) If the department determines that it is impracticable
26 for a private entity to provide security in the amount described by
27 Subsection (b), the department shall set the amount of the bonds or

1 the alternative forms of security.

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

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

8 (f) In addition to performance and payment bonds, the
9 department may require the following alternative forms of security:

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

12 (2) a United States bond or note;

13 (3) an irrevocable bank letter of credit; or

14 (4) any other form of security determined suitable by
15 the department.

16 (g) The department by rule shall prescribe requirements for
17 alternative forms of security provided under this section.

18 Sec. 201.957. EXPIRATION. This subchapter expires August
19 31, 2011.

20 SECTION 3.02. Sections 222.103(h) and (j), Transportation
21 Code, are repealed.

22 SECTION 3.03. This article takes effect immediately if this
23 Act receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this article takes effect September 1, 2003.

27 ARTICLE 4. ADVANCE ACQUISITION OF PROPERTY

1 SECTION 4.01. The heading to Chapter 202, Transportation
2 Code, is amended to read as follows:

3 CHAPTER 202. CONTROL OF TRANSPORTATION [~~HIGHWAY~~] ASSETS

4 SECTION 4.02. Chapter 202, Transportation Code, is amended
5 by adding Subchapter F to read as follows:

6 SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

7 Sec. 202.111. DEFINITION. In this subchapter, "advance
8 acquisition" means an acquisition by the commission under Section
9 202.112.

10 Sec. 202.112. ADVANCE ACQUISITIONS. (a) The commission
11 may acquire or purchase an option to acquire property for possible
12 use in or in connection with a transportation facility, including a
13 facility as defined by Section 227.003, before a final decision has
14 been made as to whether the transportation facility will be located
15 on that property. An advance acquisition may be made under any
16 terms and conditions the commission considers proper.

17 (b) An advance acquisition shall be made by the commission
18 using the procedures authorized under Subchapter D of Chapter 203
19 or other law authorizing the commission or the department to
20 acquire real property or an interest in real property for a
21 transportation facility. If the commission acquires real property
22 or an interest in real property under Subchapter D of Chapter 203 or
23 other law, the commission may make an advance acquisition in the
24 manner provided by this subchapter.

25 (c) The commission may not make an advance acquisition by
26 condemnation.

27 Sec. 202.113. MANAGEMENT. If requested by the department,

1 property acquired by advance acquisition may be managed by the
2 General Land Office on behalf of the department as the department
3 and the General Land Office may agree. Subchapter E, Chapter 31,
4 Natural Resources Code, does not apply to property acquired under
5 this subchapter.

6 Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. The commission
7 shall dispose of property acquired by advance acquisition that is
8 not needed for a transportation facility in the manner provided by
9 Subchapter B.

10 ARTICLE 5. DRIVER RESPONSIBILITY

11 SECTION 5.01. Subtitle I, Title 7, Transportation Code, is
12 amended by adding Chapter 708 to read as follows:

13 CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 708.001. DEFINITIONS. In this chapter, "department"
16 and "license" have the meanings assigned by Section 521.001.

17 Sec. 708.002. RULES. The department shall adopt and
18 enforce rules to implement and enforce this chapter.

19 Sec. 708.003. FINAL CONVICTIONS. For purposes of this
20 chapter, a conviction for an offense to which this chapter applies
21 is a final conviction, regardless of whether the sentence is
22 probated.

23 [Sections 708.004-708.050 reserved for expansion]

24 SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

25 Sec. 708.051. NONAPPLICABILITY. This subchapter does not
26 apply to:

27 (1) a conviction that became final before September 1,

1 2003; or

2 (2) an offense covered by Subchapter C.

3 Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS.

4 (a) The driver's license of a person accumulates a point under this
5 subchapter as of the date the department records a conviction of the
6 person under Section 521.042 or other applicable law.

7 (b) For each conviction arising out of a separate
8 transaction, the department shall assign points to a person's
9 license as follows:

10 (1) two points for a moving violation of the traffic
11 law of this state or another state that is not described by
12 Subdivision (2); and

13 (2) three points for a moving violation of the traffic
14 law of this state, another state, or a political subdivision of this
15 or another state that resulted in an accident.

16 (c) The department by rule shall designate the offenses that
17 constitute a moving violation of the traffic law under this
18 section.

19 (d) Notwithstanding Subsection (b), the department may not
20 assign points to a person's driver's license if the offense of which
21 the person was convicted is the offense of speeding and the person
22 was at the time of the offense driving less than 10 percent faster
23 than the posted speed limit. This subsection does not apply to an
24 offense committed in a school crossing zone as defined by Section
25 541.302.

26 (e) Notwithstanding Subsection (b), the department may not
27 assign points to a person's license if the offense committed by the

1 person was adjudicated under Article 45.051(c-1) or 45.0511(1)(1),
2 Code of Criminal Procedure.

3 Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Each year, the
4 department shall assess a surcharge on the license of a person who
5 has accumulated six or more points under this subchapter during the
6 preceding 36-month period.

7 Sec. 708.054. AMOUNT OF POINTS SURCHARGE. The amount of a
8 surcharge under this chapter is \$100 for the first six points and
9 \$25 for each additional point.

10 Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The
11 department shall notify the holder of a driver's license of the
12 assignment of a fifth point on that license by first class mail sent
13 to the person's most recent address as shown on the records of the
14 department.

15 [Sections 708.056-708.100 reserved for expansion]

16 SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND
17 LICENSE SUSPENSIONS

18 Sec. 708.101. NONAPPLICABILITY. This subchapter does not
19 apply to a conviction that became final before September 1, 2003.

20 Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN
21 INTOXICATED DRIVER OFFENSES. (a) In this section, "offense
22 relating to the operating of a motor vehicle while intoxicated" has
23 the meaning assigned by Section 49.09, Penal Code.

24 (b) Each year the department shall assess a surcharge on the
25 license of each person who during the preceding 36-month period has
26 been finally convicted of an offense relating to the operating of a
27 motor vehicle while intoxicated.

1 (c) The amount of a surcharge under this section is \$1,000
2 per year, except that the amount of the surcharge is:

3 (1) \$1,500 per year for a second or subsequent
4 conviction within a 36-month period; and

5 (2) \$2,000 for a first or any subsequent conviction if
6 it is shown on the trial of the offense that an analysis of a
7 specimen of the person's blood, breath, or urine showed an alcohol
8 concentration level of 0.16 or more at the time the analysis was
9 performed.

10 (d) A surcharge under this section for the same conviction
11 may not be assessed in more than three years.

12 Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE
13 LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Each
14 year the department shall assess a surcharge on the license of each
15 person who during the preceding 36-month period has been convicted
16 of an offense under Section 521.457, 601.191, or 601.371.

17 (b) The amount of a surcharge under this section is \$250 per
18 year.

19 Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT
20 VALID LICENSE. (a) Each year the department shall assess a
21 surcharge on the license of a person who during the preceding
22 36-month period has been convicted of an offense under Section
23 521.021.

24 (b) The amount of a surcharge under this section is \$100 per
25 year.

26 (c) A surcharge under this section for the same conviction
27 may not be assessed in more than three years.

1 [Sections 708.105-708.150 reserved for expansion]

2 SUBCHAPTER D. COLLECTION OF SURCHARGES

3 Sec. 708.151. NOTICE OF SURCHARGE. The department shall
4 notify the holder of a driver's license of the assessment of a
5 surcharge on that license by first class mail sent to the person's
6 most recent address as shown on the records of the department. The
7 notice must specify the date by which the surcharge must be paid and
8 state the consequences of a failure to pay the surcharge.

9 Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) If before the
10 30th day after the date the department sends a notice under Section
11 708.151 the person fails to pay the amount of a surcharge on the
12 person's license or fails to enter into an installment payment
13 agreement with the department, the license of the person is
14 automatically suspended.

15 (b) A license suspended under this section remains
16 suspended until the person pays the amount of the surcharge and any
17 related costs.

18 Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The
19 department by rule shall provide for the payment of a surcharge in
20 installments.

21 (b) A rule under this section:

22 (1) may not permit a person to pay a surcharge:

23 (A) of less than \$2,300 over a period of more than
24 12 consecutive months; or

25 (B) of \$2,300 or more over a period of more than
26 24 consecutive months; and

27 (2) may provide that if the person fails to make a

1 required installment payment, the department may declare the amount
2 of the unpaid surcharge immediately due and payable.

3 Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) The
4 department by rule may authorize the payment of a surcharge by use
5 of a credit card. The rules shall require the person to pay all
6 costs incurred by the department in connection with the acceptance
7 of the credit card.

8 (b) If a surcharge or a related cost is paid by credit card
9 and the amount is subsequently reversed by the issuer of the credit
10 card, the license of the person is automatically suspended.

11 (c) A license suspended under this section remains
12 suspended until the person pays the amount of the surcharge and any
13 related costs.

14 Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. The
15 department may enter into a contract with a private attorney or a
16 public or private vendor for the provision of services for the
17 collection of surcharges receivable under this chapter.

18 Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO
19 COMPTROLLER. Each surcharge collected by the department under this
20 chapter shall be remitted to the comptroller as required by Section
21 780.002, Health and Safety Code.

22 SECTION 5.02. Subtitle B, Title 9, Health and Safety Code,
23 is amended by adding Chapter 780 to read as follows:

24 CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

25 Sec. 780.001. DEFINITIONS. In this chapter:

26 (1) "Account" means the designated trauma facility and
27 emergency medical services account established under Section

1 780.003.

2 (2) "Commissioner" means the commissioner of public
3 health.

4 (3) "Department" means the Texas Department of Health.

5 Sec. 780.002. DEPOSITS TO ACCOUNT. (a) On the first Monday
6 of each month, the Department of Public Safety shall remit the
7 surcharges collected during the previous month under the driver
8 responsibility program operated by that department under Chapter
9 708, Transportation Code, to the comptroller.

10 (b) The comptroller shall deposit 49.5 percent of the money
11 received under Subsection (a) to the credit of the account
12 established under this chapter and 49.5 percent of the money to the
13 general revenue fund. The remaining one percent of the amount of
14 the surcharges shall be deposited to the general revenue fund and
15 may be appropriated only to the Department of Public Safety for
16 administration of the driver responsibility program operated by
17 that department under Chapter 708, Transportation Code.

18 (c) Notwithstanding Subsection (b), in any state fiscal
19 biennium the comptroller shall deposit 49.5 percent of the
20 surcharges collected under Chapter 708, Transportation Code, to the
21 credit of the general revenue fund only until the total amount of
22 the surcharges deposited to the credit of the general revenue fund
23 under Subsection (b), and the court costs deposited to the credit of
24 that fund under Section 542.4031(b)(1), Transportation Code,
25 equals \$250 million for that biennium. If in any state fiscal
26 biennium the amount received by the comptroller under those laws
27 exceeds \$250 million, the comptroller shall deposit 49.5 percent of

1 the additional amount received under Subsection (a) to the account
2 established under this chapter and 49.5 percent of the additional
3 amount to the credit of the Texas mobility fund.

4 Sec. 780.003. ACCOUNT. (a) The designated trauma facility
5 and emergency medical services account is created as an account in
6 the state treasury. Money in the account may be appropriated only
7 to the department for the purposes described by Section 780.004.

8 (b) The account is composed of money deposited to the credit
9 of the account under Section 780.002, and the earnings of the
10 account.

11 (c) Sections 403.095 and 404.071, Government Code, do not
12 apply to the account.

13 Sec. 780.004. PAYMENTS FROM THE ACCOUNT. (a) The
14 commissioner, with advice and counsel from the chairpersons of the
15 trauma service area regional advisory councils, shall use money
16 appropriated from the account established under this chapter to
17 fund designated trauma facilities, county and regional emergency
18 medical services, and trauma care systems in accordance with this
19 section.

20 (b) The commissioner shall maintain a reserve of \$500,000 of
21 money appropriated from the account for extraordinary emergencies.

22 (c) In any fiscal year, the commissioner shall use at least
23 96 percent of the money appropriated from the account, after any
24 amount necessary to maintain the reserve established by Subsection
25 (b) is deducted, to fund a portion of the uncompensated trauma care
26 provided at facilities designated as state trauma facilities by the
27 department. Funds may be disbursed under this subsection based on a

1 proportionate share of uncompensated trauma care provided in the
2 state and may be used to fund innovative projects to enhance the
3 delivery of patient care in the overall emergency medical services
4 and trauma care system.

5 (d) In any fiscal year, the commissioner shall use not more
6 than two percent of the money appropriated from the account, after
7 any amount necessary to maintain the reserve established by
8 Subsection (b) is deducted, to fund, in connection with an effort to
9 provide coordination with the appropriate trauma service area, the
10 cost of supplies, operational expenses, education and training,
11 equipment, vehicles, and communications systems for local
12 emergency medical services. The money shall be distributed on
13 behalf of eligible recipients in each county to the trauma service
14 area regional advisory council for that county. To receive a
15 distribution under this subsection, the regional advisory council
16 must be incorporated as an entity that is exempt from federal income
17 tax under Section 501(a), Internal Revenue Code of 1986, and its
18 subsequent amendments, by being listed as an exempt organization
19 under Section 501(c)(3) of the code. The share of the money
20 allocated to the eligible recipients in a county's geographic area
21 shall be based on the relative geographic size and population of the
22 county and on the relative number of emergency or trauma care runs
23 performed by eligible recipients in the county. Money that is not
24 disbursed by a regional advisory council to eligible recipients for
25 approved functions by the end of the fiscal year in which the funds
26 were disbursed shall be returned to the department to be used in
27 accordance with Subsection (c).

1 (e) In any fiscal year, the commissioner may use not more
2 than one percent of the money appropriated from the account, after
3 any amount necessary to maintain the reserve established by
4 Subsection (b) is deducted, for operation of the 22 trauma service
5 areas and for equipment, communications, and education and training
6 for the areas. Money distributed under this subsection shall be
7 distributed on behalf of eligible recipients in each county to the
8 trauma service area regional advisory council for that county. To
9 receive a distribution under this subsection, the regional advisory
10 council must be incorporated as an entity that is exempt from
11 federal income tax under Section 501(a), Internal Revenue Code of
12 1986, and its subsequent amendments, by being listed as an exempt
13 organization under Section 501(c)(3) of the code. A regional
14 advisory council's share of money distributed under this section
15 shall be based on the relative geographic size and population of
16 each trauma service area and on the relative amount of trauma care
17 provided. Money that is not disbursed by a regional advisory
18 council to eligible recipients for approved functions by the end of
19 the fiscal year in which the funds were disbursed shall be returned
20 to the department to be used in accordance with Subsection (c).

21 (f) In any fiscal year, the commissioner may use not more
22 than one percent of money appropriated from the account, after any
23 amount necessary to maintain the reserve established by Subsection
24 (b) is deducted, to fund the administrative costs of the bureau of
25 emergency management of the department associated with
26 administering the trauma program, the state emergency medical
27 services program, and the account and to fund the costs of

1 monitoring and providing technical assistance for those programs
2 and that account.

3 (g) In a trauma service area that includes a county with a
4 population of 3.3 million or more, a trauma service area regional
5 advisory council may enter into an agreement with a regional
6 council of governments to execute its responsibilities and
7 functions under this chapter.

8 Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT.
9 Money distributed under Section 780.004 shall be used in compliance
10 with Section 780.004 on the authorization of the executive
11 committee of the trauma service area regional advisory council.

12 Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. For a period of
13 not less than one year or more than three years, as determined by
14 the commissioner, the department may not disburse money under
15 Section 780.004 to a county, municipality, or local recipient that
16 the commissioner finds used money in violation of that section.

17 SECTION 5.03. Not later than December 1, 2004, the Texas
18 Department of Health shall submit to the lieutenant governor and
19 the speaker of the house of representatives a report concerning the
20 use of money under Chapter 780, Health and Safety Code, as added by
21 this article, and any recommended changes to law to ensure
22 appropriate funding and coordination of services.

23 ARTICLE 6. RAIL FACILITIES

24 SECTION 6.01. The legislature finds that:

25 (1) the transportation of materials, products, and
26 people is essential to the continued economic vitality of this
27 state;

1 (2) the state contains many industries that are
2 heavily dependent on rail transportation for the movement of
3 materials and products;

4 (3) the rail transportation system in some areas of
5 this state is adversely affected by abandonment and discontinuance
6 proceedings that cause the cessation of rail service to those
7 areas;

8 (4) materials and products that cannot be transported
9 by rail are typically transported by truck over state highways and
10 local roads and bridges, thereby contributing to increased
11 congestion and roadway maintenance costs, decreased safety for the
12 traveling public, and a decrease in the expected life of those
13 roadways;

14 (5) the provision of passenger rail facilities and
15 systems will contribute to reducing the number of persons traveling
16 over state highways and local roads and bridges, thereby resulting
17 in decreased congestion and improved safety and air quality; and

18 (6) it is in the interest of all citizens of this state
19 that rail facilities and systems be part of a comprehensive state
20 transportation system to provide for the most efficient and
21 economical movement of essential materials and products to local,
22 national, and export markets and to provide for improved mobility
23 on, and the increased reliability of, the state's transportation
24 system.

25 SECTION 6.02. Title 5, Transportation Code, is amended by
26 adding Subtitle A to read as follows:

27 SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

1 CHAPTER 91. RAIL FACILITIES

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 91.001. DEFINITIONS. In this chapter:

4 (1) "Commission" means the Texas Transportation
5 Commission.

6 (2) "Construction" includes design, planning, and
7 preliminary studies.

8 (3) "Department" means the Texas Department of
9 Transportation.

10 (4) "Maintenance facility" includes:

11 (A) a workshop;

12 (B) a service, storage, security, or personnel
13 facility; and

14 (C) equipment for a facility described by
15 Paragraph (A) or (B).

16 (5) "Operation" includes policing.

17 (6) "Rail facility" means real or personal property,
18 or any interest in that property, that is determined to be necessary
19 or convenient for the provision of a freight or passenger rail
20 facility or system, including commuter rail, intercity rail, and
21 high-speed rail. The term includes all property or interests
22 necessary or convenient for the acquiring, providing, using, or
23 equipping of a rail facility or system, including rights-of-way,
24 rolling stock, trackwork, train controls, stations, and
25 maintenance facilities.

26 (7) "Revenue" includes a charge, toll, rent, payment,
27 user fee, franchise fee, license fee, fare, tariff, and other

1 consideration:

2 (A) received in return for the use of:

3 (i) a rail facility; or

4 (ii) a service offered in connection with
5 the operation of a rail facility; or

6 (B) resulting from a sale or conveyance of a rail
7 facility.

8 (8) "Right-of-way" means a strip of land of a length
9 and width determined by the commission to be required, necessary,
10 or convenient for the provision of a rail facility or system and the
11 space over, under, or on the land where trackwork is to be located.

12 (9) "Station" means a passenger or freight service
13 building, terminal, station, ticketing facility, waiting area,
14 platform, concession, elevator, escalator, facility for
15 handicapped access, access road, parking facility for passengers,
16 baggage handling facility, or local maintenance facility, together
17 with any interest in real property necessary or convenient for
18 those items.

19 (10) "Surplus revenue" means:

20 (A) revenue that exceeds the department's debt
21 service requirements, coverage requirements of any bond indenture,
22 costs of operation and maintenance, and cost of expansion or
23 improvement of a rail facility or system; and

24 (B) reserves and reserve funds maintained by the
25 department under this chapter.

26 (11) "Trackwork" means track, track beds, track bed
27 preparation, ties, rail fasteners, slabs, rails, emergency

1 crossovers, setout tracks, storage tracks, drains, fences,
2 ballast, switches, bridges, and structures.

3 (12) "Train controls" includes:

4 (A) signals, lights, and other signaling;

5 (B) interlocking equipment;

6 (C) speed monitoring equipment;

7 (D) braking systems;

8 (E) central traffic control facilities; and

9 (F) communication systems.

10 Sec. 91.002. PUBLIC PURPOSE. The following functions are
11 public and governmental functions, exercised for a public purpose,
12 and matters of public necessity:

13 (1) the acquisition, financing, construction,
14 operation, and maintenance of a rail facility under this chapter;

15 (2) the sale, lease, or license of a rail facility to a
16 rail operator and other public or private persons under this
17 chapter; and

18 (3) the exercise of any other power granted under this
19 chapter to the commission and the department.

20 Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. This chapter
21 shall be liberally construed to effect its purposes.

22 Sec. 91.004. RULES. The commission may adopt rules and the
23 department may adopt procedures and prescribe forms necessary to
24 implement this chapter.

25 Sec. 91.005. GENERAL POWERS. The department may:

26 (1) plan and make policies for the location,
27 construction, maintenance, and operation of a rail facility or

1 system in this state;

2 (2) acquire, finance, construct, maintain, and
3 operate a passenger or freight rail facility, individually or as
4 one or more systems;

5 (3) for the purpose of acquiring or financing a rail
6 facility or system, accept a grant or loan from a:

7 (A) department or agency of the United States;

8 (B) department, agency, or political subdivision
9 of this state; or

10 (C) public or private person;

11 (4) contract with a public or private person to
12 finance, construct, maintain, or operate a rail facility under this
13 chapter; or

14 (5) perform any act necessary to the full exercise of
15 the department's powers under this chapter.

16 Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. The department
17 shall contract with a private entity to operate a railroad using
18 facilities owned by the department and may not use department
19 employees to operate a railroad. The department may maintain a
20 railroad facility directly or through a private entity.

21 Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL
22 SUBDIVISIONS. Within available resources, an agency or political
23 subdivision of this state shall cooperate with and assist the
24 department in exercising its powers and duties under this chapter.

25 Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR
26 DISCONTINUE SERVICE. On receipt of notice of intent to abandon or
27 discontinue rail service served under 49 C.F.R. Section 1152.20, as

1 amended, the department shall coordinate with the governing body of
2 a municipality, county, or rural rail transportation district in
3 which all or a segment of the line is located to determine whether:

4 (1) the department should acquire the rail facility to
5 which the notice relates; or

6 (2) any other actions should be taken to provide for
7 continued rail transportation service.

8 [Sections 91.009–91.030 reserved for expansion]

9 SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

10 Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the
11 commission determines that the provision of rail transportation
12 services would be most efficiently and economically met by jointly
13 operating two or more rail facilities as one operational and
14 financial enterprise, it may create a system composed of those
15 facilities.

16 (b) The commission may create more than one system and may
17 combine two or more systems into one system.

18 (c) The department may finance, acquire, construct, and
19 operate additional rail facilities as additions to and expansions
20 of the system if the commission determines that the facility would
21 most efficiently and economically be acquired and constructed if it
22 were a part of the system and that the addition will benefit the
23 system.

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

27 Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The

1 commission may authorize the department to acquire an existing rail
2 facility at a location and on a route the commission determines to
3 be feasible and viable for rail transportation service.

4 (b) The department may enter into an agreement with the
5 owner of an operating railroad for the acquisition or use of a rail
6 facility on terms the department considers to be in the best
7 interest of the state.

8 (c) The department may acquire rolling stock or other
9 personal property under:

10 (1) conditional sales contracts;

11 (2) leases;

12 (3) equipment trust certificates; or

13 (4) any other form of contract or trust agreement.

14 Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department
15 shall conduct or approve all environmental evaluations or studies
16 required for the construction, maintenance, or operation of a rail
17 facility.

18 (b) The commission may adopt rules to allocate
19 responsibility for conducting an environmental evaluation or study
20 or preparing environmental documentation among entities involved
21 in the construction, maintenance, or operation of a rail facility
22 under this chapter.

23 Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department
24 may acquire, maintain, hold, restore, enhance, develop, or
25 redevelop property for the purpose of mitigating a past, present,
26 or future adverse environmental effect arising from the
27 construction, maintenance, or operation of a rail facility without

1 regard to whether the need for mitigation has already been
2 established for a particular project.

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

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

17 Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR
18 PRIVATE ENTITY. (a) The department, for the purpose of acquiring,
19 constructing, maintaining, and operating freight or passenger rail
20 facilities and systems in this state, may:

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

24 (2) at the expense of the department, relocate, raise,
25 reroute, or change the grade of the construction of a street, alley,
26 highway, road, railroad, electric line and facility, telegraph and
27 telephone property and facility, pipeline and facility, conduit and

1 facility, and other properties, whether publicly or privately
2 owned, as necessary or useful in the construction, maintenance, and
3 operation of a rail facility or system.

4 (b) The department shall provide reasonable notice to the
5 owner of the applicable facility of the need for the alteration
6 under Subsection (a)(2) and allow that owner the opportunity to
7 complete or to direct the completion of the alteration. The owner
8 of the facility may require payment before the alteration is
9 completed.

10 Sec. 91.036. EXPENDITURE OF FUNDS. The department may
11 receive, accept, and expend funds from this state, a federal
12 agency, or other public or private source for:

13 (1) rail planning;

14 (2) studies to determine the viability of a rail
15 facility for rail transportation service;

16 (3) studies to determine the necessity for the
17 department's acquisition or construction of a rail facility; and

18 (4) the acquisition, construction, maintenance, or
19 operation of a rail facility under this chapter, including the
20 assessment and remediation of environmental contamination existing
21 in or on a rail facility.

22 Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. This
23 chapter does not apply to real or personal property, operations, or
24 construction, or to a project plan of a transportation authority
25 created under Subchapter O, Chapter 452, or an authority created
26 under Chapter 451, the principal municipality of which has a
27 population of 1.5 million or more, unless the commission or its

1 designee has signed a written agreement with the transportation
2 authority specifying the terms and conditions under which the
3 transportation authority may participate.

4 [Sections 91.038-91.050 reserved for expansion]

5 SUBCHAPTER C. CONTRACTS

6 Sec. 91.051. AWARDING OF CONTRACTS. Unless otherwise
7 provided by this subchapter, a contract made by the department for
8 the construction, maintenance, or operation of a rail facility must
9 be let by a competitive bidding procedure in which the contract is
10 awarded to the lowest responsible bidder that complies with the
11 department's criteria.

12 Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE
13 RAIL FACILITIES. The department may enter into an agreement with a
14 public entity, including a political subdivision of this state, to
15 permit the entity, independently or jointly with the department, to
16 acquire, construct, maintain, or operate a rail facility or system.

17 Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) The
18 department may enter into an exclusive development agreement with a
19 private entity to construct, maintain, or operate a rail facility
20 or system. An exclusive development agreement may provide for:

21 (1) the lease of rights-of-way, the granting of
22 easements, or the issuance of franchises, concessions, licences, or
23 permits that are necessary to enable a private entity to construct,
24 maintain, or operate a rail facility or system; or

25 (2) the design, construction, maintenance, and
26 operation of a rail facility in any combination.

27 (b) The department, when contracting with a private entity

1 under this section, shall use a competitive procurement process
2 that provides the best value for the department, including
3 contracting through the issuance of requests for proposals. The
4 department shall publish in the request for bids, proposals, or
5 qualifications the criteria that will be used to evaluate the
6 bidders and the relative weight given to the criteria. The
7 department may accept unsolicited proposals for proposed projects
8 provided that the department issues a request for competing
9 proposals for those proposed projects accepted for further
10 evaluation. The department may require that a solicited or
11 unsolicited proposal be accompanied by a nonrefundable fee
12 sufficient to cover the department's cost to review the proposal.

13 (c) The department has broad discretion to negotiate
14 provisions in an exclusive development agreement with a private
15 entity. The provisions may relate to:

16 (1) professional and consulting services to be
17 rendered in connection with a rail facility or system; and

18 (2) the construction, maintenance, and operation of a
19 rail facility or system, including provisions for combining those
20 services.

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

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

27 (f) Section 91.051 does not apply to an agreement entered

1 into under this section.

2 Sec. 91.054. PAYMENT FOR WORK PRODUCT. (a) The department
3 may pay an unsuccessful private entity that submits a response to a
4 request for proposals a stipulated amount of the final contract
5 price for costs incurred in preparing that proposal. The
6 stipulated amount must be stated in the request for proposals and
7 may not exceed the value of any work product contained in the
8 proposal that can, as determined by the department, be used by the
9 department in the performance of its functions.

10 (b) After payment of the stipulated amount, the department
11 may make use of any work product contained in the proposal,
12 including the work product contained in the project design.

13 Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. The
14 department may not incur a financial obligation on behalf of, or
15 otherwise guarantee the obligations of, a private entity that
16 constructs, maintains, or operates a rail facility or system.

17 Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Until a
18 final contract is executed with respect to a proposed project, the
19 following information is confidential, is not subject to
20 disclosure, inspection, or copying under Chapter 552, Government
21 Code, and is not subject to disclosure, discovery, subpoena, or
22 other means of legal compulsion for its release:

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

26 (2) any supplemental information or materials
27 submitted by a private entity in connection with a proposal for a

1 project under an exclusive development agreement; and

2 (3) any information created or collected by the
3 department or its agents during consideration of a proposal for a
4 project under an exclusive development agreement.

5 Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. (a)

6 Notwithstanding the requirements of Subchapter B, Chapter 2253,
7 Government Code, the department shall require a private entity
8 entering into an exclusive development agreement under Section
9 91.053 to provide performance and payment bonds or alternative
10 forms of security in an amount sufficient to:

11 (1) adequately protect the department and ensure the
12 proper performance of the agreement; and

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

16 (b) The performance and payment bonds or alternative forms
17 of security shall be in an amount equal to the cost of constructing
18 the project unless the department determines that it is
19 impracticable for the private entity to provide security in that
20 amount, in which case the department shall set the amount of the
21 bonds or the alternative forms of security. The amount of the
22 payment security may not be less than the amount of the performance
23 security.

24 (c) A payment and 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 (d) In addition to performance and payment bonds, the
2 department may require the following alternative forms of security:

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

5 (2) United States bonds or notes;

6 (3) an irrevocable bank letter of credit; or

7 (4) any other form of security determined suitable by
8 the department.

9 (e) The commission by rule shall prescribe requirements for
10 alternative forms of security provided under this section.

11 Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) The
12 department shall:

13 (1) set goals for the award of contracts to small and
14 disadvantaged businesses and attempt to meet the goals;

15 (2) attempt to identify small and disadvantaged
16 businesses that provide or have the potential to provide supplies,
17 materials, equipment, or services to the department; and

18 (3) give small and disadvantaged businesses full
19 access to the department's contract bidding process and other
20 contracting processes, inform the businesses about those
21 processes, offer the businesses assistance concerning those
22 processes, and identify barriers to the businesses' participation
23 in those processes.

24 (b) This section does not exempt the department from
25 competitive bidding requirements imposed by other law.

26 [Sections 91.059–91.070 reserved for expansion]

27 SUBCHAPTER D. FINANCING OF RAIL FACILITIES

1 Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. The
2 department may use any legally permissible source of funding in
3 acquiring, constructing, maintaining, and operating a rail
4 facility or system, including:

5 (1) appropriations from the state highway fund that
6 are not dedicated for another purpose by Section 7-a or 7-b, Article
7 VIII, Texas Constitution;

8 (2) proceeds from bonds secured by the Texas Mobility
9 Fund;

10 (3) donations, whether in kind or in cash; and

11 (4) loans from the state infrastructure bank.

12 Sec. 91.072. REVENUE BONDS. (a) The commission may
13 authorize the issuance of bonds to:

14 (1) pay all or part of the cost of acquiring,
15 constructing, maintaining, or operating a rail facility or system;
16 or

17 (2) refund any bonds previously issued for the
18 facility or system.

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

23 Sec. 91.073. PAYMENT OF BONDS. The principal of, interest
24 on, and any redemption premium on bonds issued by the commission
25 under this chapter are payable solely from:

26 (1) the revenue of the rail facility or system for
27 which the bonds are issued, including revenue pledged to pay the

1 bonds;

2 (2) money received under Section 91.075;

3 (3) money derived from any other source available to
4 the department under this chapter, other than money derived from a
5 rail facility that is not part of the same system, except that
6 surplus revenue derived from one rail facility or system may be used
7 for another; and

8 (4) amounts received under a credit agreement relating
9 to the rail facility or system for which the bonds are issued.

10 Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Bonds issued
11 under this chapter do not constitute a debt of the state or a pledge
12 of the faith and credit of the state. Each bond must contain on its
13 face a statement to the effect that the state is not obligated to
14 pay the bond or the interest on the bond from a source other than the
15 amount pledged to pay the bond and the interest on the bond, and
16 neither the faith and credit nor taxing power of the state is
17 pledged to the payment of the principal of or interest on the bond.

18 (b) The commission and the department may not incur
19 financial obligations under this chapter that cannot be paid from
20 revenue derived from owning or operating the department's rail
21 facilities and systems and from other revenue provided by law.

22 Sec. 91.075. GRANTS AND LOANS. The department may apply
23 for, accept, and expend money from grants, loans, or reimbursements
24 for any purpose of this chapter, including paying for the cost of
25 the acquisition, construction, maintenance, and operation of a rail
26 facility or system.

27 Sec. 91.076. REVENUE. (a) The department may require a

1 person, including any public or private entity, to pay a fee as a
2 condition of using any part of a rail facility or system. A fee may
3 not be required in connection with the placement, maintenance, or
4 other use of a utility facility.

5 (b) The department shall establish and maintain rents or
6 other compensation for the use of rail facilities or systems in an
7 amount that is, together with other revenue of the department
8 received under this chapter, sufficient to enable the department to
9 comply with the requirements of Section 91.073.

10 (c) The department may contract with a person for the use of
11 all or part of a rail facility or system or may lease or sell all or
12 part of a rail facility or system, including all or any part of the
13 right-of-way adjoining trackwork, for any purpose, including
14 placing on the adjoining right-of-way a storage or transfer
15 facility, warehouse, garage, parking facility, telecommunication
16 line or facility, restaurant, or gas station.

17 (d) All revenue received by the department under this
18 chapter:

19 (1) shall be deposited to the credit of the state
20 highway fund and may be used for any purpose authorized by this
21 chapter; and

22 (2) is exempt from the application of Section 403.095,
23 Government Code.

24 [Sections 91.077-91.090 reserved for expansion]

25 SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

26 Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The
27 commission may authorize the department to acquire in the name of

1 the state a right-of-way, a property right, or other interest in
2 real property determined to be necessary or convenient for the
3 department's acquisition, construction, maintenance, or operation
4 of rail facilities.

5 (b) The commission may authorize the department to acquire
6 property by any method, including purchase and condemnation.
7 Property may be purchased under any terms determined by the
8 department to be in the best interest of the state.

9 (c) Property may be purchased along alternative potential
10 routes for a rail facility even if only one of those potential
11 routes will ultimately be chosen as the final route.

12 Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL
13 FACILITIES. Property necessary or convenient for the department's
14 acquisition, construction, maintenance, or operation of rail
15 facilities includes an interest in real property or a property
16 right the commission determines is necessary or convenient to
17 provide:

- 18 (1) right-of-way for a location for:
19 (A) a rail facility; or
20 (B) the future expansion of a rail facility;
21 (2) land for mitigation of adverse environmental
22 effects;
23 (3) buffer zones for scenic or safety purposes; and
24 (4) revenue for use in acquiring, constructing,
25 maintaining, or operating a rail facility or system, including
26 revenue received under a contract described by Section 91.076(c).

27 Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property

1 necessary or convenient for a rail facility, the department may
2 enter any premises or real property, including a body of water, to
3 make a survey, geotechnical evaluation, sounding, or examination.

4 (b) An entry under Subsection (a) is not:

5 (1) a trespass; or

6 (2) an entry under a pending condemnation procedure.

7 (c) The department shall make reimbursements for actual
8 damages that result from an entry under Subsection (a).

9 Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL
10 SUBDIVISION OR PUBLIC AGENCY. The governing body of a
11 municipality, county, political subdivision, or public agency may,
12 without advertisement, convey the title to or a right in property
13 determined to be necessary or convenient by the department under
14 this subchapter.

15 Sec. 91.095. DISPOSAL OF PROPERTY. The department may
16 sell, convey, or otherwise dispose of any rights or other interests
17 in real property acquired under this subchapter that the commission
18 determines are no longer needed for department purposes.

19 [Sections 91.096–91.100 reserved for expansion]

20 SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

21 Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION
22 SERVICES. The department may contract with a county or other
23 political subdivision of the state for the department to provide
24 rail transportation services on terms agreed to by the parties.

25 Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The
26 department may lease all or part of a rail facility or system to a
27 rail operator. The department may contract with a rail operator for

1 the use or operation of all or part of a rail facility or system.

2 (b) The department shall encourage to the maximum extent
3 practical the participation of private enterprise in the operation
4 of rail facilities and systems.

5 (c) A lease agreement shall provide for the department's
6 monitoring of a rail operator's service and performance.

7 (d) The department may enter into an agreement with a rail
8 operator to sell all or any part of state-owned rail facilities on
9 terms the department considers to be in the best interest of the
10 state.

11 Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department
12 may:

13 (1) enter into an agreement with a rail operator,
14 public utility, private utility, communication system, common
15 carrier, or transportation system for the common use of its
16 facilities, installations, or properties; and

17 (2) establish through routes, joint fares, and,
18 subject to approval of a tariff-regulating body having
19 jurisdiction, divisions of tariffs.

20 Sec. 91.104. ROUTINGS. The department may determine
21 routings for rail facilities acquired, constructed, or operated by
22 the department under this chapter.

23 Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND
24 EQUIPMENT. (a) A utility has the same right to place its
25 facilities, lines, or equipment in, over, or across right-of-way
26 that is part of a state-owned rail facility as the utility has with
27 respect to the right-of-way of a state highway under Chapter 181,

1 Utilities Code. A utility shall notify the department of the
2 utility's intention to exercise authority over right-of-way that is
3 part of state-owned rail facilities.

4 (b) On receipt of notice under Subsection (a), the
5 department may designate the location in the right-of-way where the
6 utility may place its facilities, lines, or equipment.

7 (c) The department may require a utility to relocate the
8 utility's facilities, lines, or equipment, if the department
9 considers the relocation to be necessary. The department shall pay
10 for any relocation, raising, rerouting, changing, or altering of a
11 facility, line, or equipment under this section unless otherwise
12 agreed to in writing by the interested persons. If a utility
13 facility is replaced, the cost of replacement is limited to an
14 amount equal to the cost of replacing the facility with a comparable
15 facility, less the net salvage value of the replaced facility.

16 (d) A utility may use and operate a facility required to be
17 relocated under this section at the new location for the same period
18 and on the same terms as the utility had the right to do at the
19 previous location of the facility.

20 SECTION 6.03. Section 25.07(b), Tax Code, is amended to
21 read as follows:

22 (b) Except as provided by Subsections (b) and (c) of Section
23 11.11 of this code, a leasehold or other possessory interest in
24 exempt property may not be listed if:

- 25 (1) the property is permanent university fund land;
26 (2) the property is county public school fund
27 agricultural land;

1 (3) the property is a part of a public transportation
2 facility owned by an incorporated city or town or rural rail
3 transportation district and:

4 (A) is an airport passenger terminal building or
5 a building used primarily for maintenance of aircraft or other
6 aircraft services, for aircraft equipment storage, or for air
7 cargo;

8 (B) is an airport fueling system facility;

9 (C) is in a foreign-trade zone:

10 (i) that has been granted to a joint airport
11 board under Chapter 129, Acts of the 65th Legislature, Regular
12 Session, 1977 (Article 1446.8, Vernon's Texas Civil Statutes);

13 (ii) the area of which in the portion of the
14 zone located in the airport operated by the joint airport board does
15 not exceed 2,500 acres; and

16 (iii) that is established and operating
17 pursuant to federal law; or

18 (D)(i) is in a foreign trade zone established
19 pursuant to federal law after June 1, 1991, which operates pursuant
20 to federal law;

21 (ii) is contiguous to or has access via a
22 taxiway to an airport located in two counties, one of which has a
23 population of 500,000 or more according to the federal decennial
24 census most recently preceding the establishment of the foreign
25 trade zone; and

26 (iii) is owned, directly or through a
27 corporation organized under the Development Corporation Act of 1979

1 (Article 5190.6, Vernon's Texas Civil Statutes), by the same
2 incorporated city or town which owns the airport;

3 (4) the interest is in a part of:

4 (A) a park, market, fairground, or similar public
5 facility that is owned by an incorporated city or town; or

6 (B) a convention center, visitor center, sports
7 facility with permanent seating, concert hall, arena, or stadium
8 that is owned by an incorporated city or town as such leasehold or
9 possessory interest serves a governmental, municipal, or public
10 purpose or function when the facility is open to the public,
11 regardless of whether a fee is charged for admission;

12 (5) the interest involves only the right to use the
13 property for grazing or other agricultural purposes;

14 (6) the property is owned by the Texas National
15 Research Laboratory Commission or by a corporation formed by the
16 Texas National Research Laboratory Commission under Section
17 465.008(g), Government Code, and is used or is useful in connection
18 with an eligible undertaking as defined by Section 465.021,
19 Government Code; or

20 (7) the property is:

21 (A) owned by a municipality, a public port, or a
22 navigation district created or operating under Section 59, Article
23 XVI, Texas Constitution, or under a statute enacted under Section
24 59, Article XVI, Texas Constitution; and

25 (B) used as an aid or facility incidental to or
26 useful in the operation or development of a port or waterway or in
27 aid of navigation-related commerce.

1 SECTION 6.04. Section 2, Chapter 1244, Acts of the 77th
2 Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's
3 Texas Civil Statutes), is repealed.

4 SECTION 6.05. This article takes effect immediately if this
5 Act receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this article takes effect September 1, 2003.

9 ARTICLE 7. DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

10 SECTION 7.01. Subchapter C, Chapter 521, Transportation
11 Code, is amended by adding Section 521.058 to read as follows:

12 Sec. 521.058. DISPOSITION OF FEES. Each fee collected
13 under this subchapter shall be deposited to the credit of the Texas
14 mobility fund.

15 SECTION 7.02. Section 521.313, Transportation Code, is
16 amended by adding Subsection (c) to read as follows:

17 (c) Each fee collected under this section shall be deposited
18 to the credit of the Texas mobility fund.

19 SECTION 7.03. Section 521.3466, Transportation Code, is
20 amended by adding Subsection (e) to read as follows:

21 (e) Each fee collected under this section shall be deposited
22 to the credit of the Texas mobility fund.

23 SECTION 7.04. Subchapter R, Chapter 521, Transportation
24 Code, is amended by adding Section 521.427 to read as follows:

25 Sec. 521.427. DISPOSITION OF FEES. (a) Except as provided
26 by Subsections (b) and (c), each fee collected under this
27 subchapter shall be deposited to the credit of the Texas mobility

1 fund.

2 (b) Subsection (a) does not apply to:

3 (1) the portion of a fee collected under Section
4 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of
5 the 75th Legislature, Regular Session, 1997, that is required by
6 Section 662.011 to be deposited to the credit of the motorcycle
7 education fund account;

8 (2) a fee collected under Section 521.421(f), as added
9 by Chapter 510, Acts of the 75th Legislature, Regular Session,
10 1997;

11 (3) a fee collected under Section 521.421(g); or

12 (4) a fee collected under Section 521.422(b) or (c).

13 (c) The first \$90,500,254 of fees to which Subsection (a)
14 applies that are collected during the state fiscal biennium ending
15 August 31, 2005, shall be deposited to the credit of the general
16 revenue fund. This subsection expires September 1, 2005.

17 SECTION 7.05. Section 522.029, Transportation Code, is
18 amended by adding Subsection (i) to read as follows:

19 (i) Except as provided by Section 662.011, each fee
20 collected under this section shall be deposited to the credit of the
21 Texas mobility fund.

22 SECTION 7.06. Section 524.051, Transportation Code, is
23 amended by adding Subsection (c) to read as follows:

24 (c) Each fee collected under this section shall be deposited
25 to the credit of the Texas mobility fund.

26 SECTION 7.07. Subchapter H, Chapter 548, Transportation
27 Code, is amended by adding Section 548.508 to read as follows:

1 Sec. 548.508. DISPOSITION OF FEES. Except as provided by
2 Section 382.0622, Health and Safety Code, and Section 548.5055,
3 each fee collected by the department under this subchapter shall be
4 deposited to the credit of the Texas mobility fund.

5 SECTION 7.08. Section 644.153, Transportation Code, is
6 amended by adding Subsection (i) to read as follows:

7 (i) Each penalty collected under this section shall be
8 deposited to the credit of the Texas mobility fund.

9 SECTION 7.09. Section 724.046, Transportation Code, is
10 amended by adding Subsection (c) to read as follows:

11 (c) Each fee collected under this section shall be deposited
12 to the credit of the Texas mobility fund.

13 SECTION 7.10. Section 521.055(d), Transportation Code, is
14 repealed.

15 SECTION 7.11. This article applies only to a fee or penalty
16 collected on or after the effective date of this Act.

17 ARTICLE 8. ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

18 SECTION 8.01. Subchapter A, Chapter 222, Transportation
19 Code, is amended by adding Section 222.003 to read as follows:

20 Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY
21 FUND. (a) The commission may issue bonds and other public
22 securities secured by a pledge of and payable from revenue
23 deposited to the credit of the state highway fund.

24 (b) The aggregate principal amount of the bonds and other
25 public securities that are issued may not exceed \$2 billion. The
26 commission may only issue bonds or other public securities in an
27 aggregate principal amount of not more than \$1 billion each year.

1 (c) Proceeds from the sale of bonds and other public
2 securities issued under this section shall be used to fund state
3 highway improvement projects. Proceeds may be used only to fund
4 projects that, as determined by the commission:

5 (1) allow the department to draw down additional
6 federal-aid highway funds;

7 (2) are eligible for expedited contracting under
8 Subchapter C, Chapter 223;

9 (3) facilitate, for the purpose of reducing
10 unemployment or underemployment, the retention of businesses in
11 this state or the ability to provide an incentive for new businesses
12 to locate in this state; or

13 (4) reduce accidents or correct or improve hazardous
14 locations on the state highway system.

15 (d) Of the aggregate principal amount of bonds and other
16 public securities that may be issued under this section, the
17 commission shall issue bonds or other public securities in an
18 aggregate principal amount of \$500 million to fund projects
19 eligible under Subsection (c)(4). The commission by rule shall
20 prescribe criteria for selecting projects eligible for funding
21 under this section. In establishing criteria for projects eligible
22 under Subsection (c)(4), the commission shall consider accident
23 data, traffic volume, pavement geometry, and other conditions that
24 can create or exacerbate hazardous roadway conditions.

25 (e) The proceeds of bonds and other public securities issued
26 under this section may not be used for any purpose other than any
27 costs related to the bonds and other public securities and the

1 purposes for which revenues are dedicated under Section 7-a,
2 Article VIII, Texas Constitution. The proceeds of bonds and other
3 public securities issued under this section may not be used for the
4 construction of a state highway or other facility on the
5 Trans-Texas Corridor. For purposes of this section, the
6 "Trans-Texas Corridor" means the statewide system of multimodal
7 facilities under the jurisdiction of the department that is
8 designated by the commission, notwithstanding the name given to
9 that corridor.

10 (f) The commission may enter into bond enhancement
11 agreements relating to the bonds and other public securities
12 authorized by this section. The agreements may be secured by and
13 payable from the same sources as the bonds and other public
14 securities.

15 (g) All laws affecting the issuance of bonds and other
16 public securities by governmental entities, including Chapters
17 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to
18 the issuing of bonds and other public securities and the entering
19 into of bond enhancement agreements under this section.

20 (h) The proceeds of bonds and other public securities issued
21 under this section may be used to:

22 (1) finance other funds relating to the public
23 security, including debt service reserve and contingency; and

24 (2) pay the cost or expense of the issuance of the
25 public security.

26 (i) Bonds and other public securities and bond enhancement
27 agreements authorized by this section may not have a principal

1 amount or terms that, at the time the bonds or other public
2 securities are issued or the agreements entered into, are expected
3 by the commission to cause annual expenditures with respect to the
4 obligations to exceed 10 percent of the amount deposited to the
5 credit of the state highway fund in the immediately preceding year.

6 (j) Bonds and other public securities issued under this
7 section may be sold in such manner and subject to such terms and
8 provisions as set forth in the order authorizing their issuance,
9 and such bonds and other public securities must mature not later
10 than 20 years after their dates of issuance, subject to any
11 refundings or renewals.

12 (k) The comptroller shall withdraw from the state highway
13 fund and forward at the direction of the commission to another
14 person the amounts as determined by the commission to permit timely
15 payment of:

16 (1) the principal of and interest on the bonds and
17 other public securities that mature or become due; and

18 (2) any cost related to the bonds and other public
19 securities that become due, including payments under bond
20 enhancement agreements.

21 SECTION 8.02. This article takes effect on the date on which
22 the constitutional amendment proposed by the 78th Legislature,
23 Regular Session, 2003, that authorizes the legislature to provide
24 for the issuance of bonds and other public securities secured by the
25 state highway fund for highway improvement projects takes effect.
26 If that amendment is not approved by the voters, this article has no
27 effect.

ARTICLE 9. PASS-THROUGH TOLLS

SECTION 9.01. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section 222.104 to read as follows:

Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway.

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

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

(d) The department may enter into an agreement with a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 that provides for:

(1) the payment of pass-through tolls to the authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway converted to a toll facility of the authority or county that the department estimates it would have incurred if the highway had not been converted; or

1 (2) the payment by an authority or county of
2 pass-through tolls to the department as reimbursement for all or a
3 portion of the costs incurred by the department to design,
4 construct, and maintain a state highway or a portion of a state
5 highway converted to a toll facility of the authority or county.

6 (e) The department or other public entity may use any
7 available funds for the purpose of making a pass-through toll
8 payment under this section.

9 (f) The commission may adopt rules necessary to implement
10 this section. Rules adopted under this subsection may establish
11 criteria for:

12 (1) determining the amount of pass-through tolls to be
13 paid under this section; and

14 (2) allocating the risk that traffic volume will be
15 higher or lower than the parties to an agreement under this section
16 anticipated in entering the agreement.

17 (g) Money received by the department under this section
18 shall be deposited to the credit of the state highway fund and is
19 exempt from the application of Section 403.095, Government Code.

20 SECTION 9.02. This article takes effect immediately if this
21 Act receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this article takes effect September 1, 2003.

25 ARTICLE 10. TEXAS TURNPIKE AUTHORITY

26 SECTION 10.01. Section 201.112(a), Transportation Code, is
27 amended to read as follows:

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

- 4 (1) Section 22.018;
5 (2) Subchapter N;
6 (3) Chapter 223;
7 (4) Chapter 361; or
8 (5) [~~3~~] Chapter 2254, Government Code.

9 SECTION 10.02. This article takes effect immediately if
10 this Act receives a vote of two-thirds of all the members elected to
11 each house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary for
13 immediate effect, this article takes effect September 1, 2003.

14 ARTICLE 11. PROPERTY TRANSFER

15 SECTION 11.01. Section 201.103, Transportation Code, is
16 amended to read as follows:

17 Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.

18 (a) The commission shall plan and make policies for the location,
19 construction, and maintenance of a comprehensive system of state
20 highways and public roads.

21 (b) The commission shall designate as part of the state
22 highway system a highway that it determines is necessary for the
23 proper development and operation of the system. The commission may
24 remove a segment of the state highway system that it determines is
25 not needed for the system. In planning and making policies, the
26 commission shall consider, for incorporation into the state highway
27 system, turnpikes that other governmental or private entities are

1 authorized to construct.

2 (c) The commission biennially shall submit a report of its
3 work to the governor and the legislature. The report must include
4 the recommendations of the commission and of the director.

5 (d) [~~(b)~~] The director, under the direction and with the
6 approval of the commission, shall prepare a comprehensive plan
7 providing a system of state highways.

8 SECTION 11.02. Section 202.021, Transportation Code, is
9 amended to read as follows:

10 Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) The
11 commission may recommend to the governor the sale or transfer of any
12 interest in real property, including a highway right-of-way, that:

- 13 (1) was acquired for a highway purpose; and
14 (2) as determined by the commission, is no longer
15 needed for a state highway [~~that~~] purpose.

16 (b) Except as provided by Subsection (c), real property
17 shall be transferred or sold with the following priorities:

- 18 (1) to a governmental entity that has the authority to
19 condemn the property; or
20 (2) to the general public.

21 (c) A highway right-of-way [~~that is sold~~] shall be
22 transferred or sold with the following priorities:

- 23 (1) to a governmental entity with the authority to
24 condemn the property;
25 (2) to abutting or adjoining landowners; or
26 (3) [~~(2)~~] to the general public.

27 (d) [~~(c)~~] The commission shall:

1 (1) determine the fair value of the state's interest in
2 the real property; and

3 (2) if the value is \$10,000 or more, advise the
4 governor of the value.

5 (e) The commission may waive payment for real property
6 transferred to a governmental entity under this section if the
7 estimated cost of future maintenance on the property equals or
8 exceeds the fair value of the property.

9 (f) Any revenue [~~(d) Revenue~~] from the sale of property
10 under this subchapter shall be deposited to the credit of the state
11 highway fund.

12 (g) [~~(e)~~] The governor may execute a deed conveying the
13 state's interest in the property.

14 (h) If the commission determines that the value of the real
15 property is less than \$10,000, it may authorize the executive
16 director to execute a deed conveying the state's interest in the
17 property without a recommendation to the governor.

18 SECTION 11.03. Section 202.030(a), Transportation Code, is
19 amended to read as follows:

20 (a) The attorney general must approve a transfer or
21 conveyance that is made under this subchapter if the value of the
22 real property transferred or conveyed is \$10,000 or more.

23 SECTION 11.04. Subchapter B, Chapter 202, Transportation
24 Code, is amended by adding Section 202.033 to read as follows:

25 Sec. 202.033. TRANSFER OF HISTORIC BRIDGE. (a) In this
26 section, "historic bridge" means a bridge that is included on or
27 eligible to be included on the National Register of Historic

1 Places.

2 (b) The department may transfer ownership of a historic
3 bridge scheduled for replacement to a governmental entity or a
4 responsible private entity. The entity that accepts ownership of
5 the bridge:

6 (1) assumes all legal and financial responsibility for
7 the bridge; and

8 (2) must maintain and preserve the bridge and its
9 historic features.

10 (c) The following laws do not apply to a transfer under this
11 section:

12 (1) Chapter 2175, Government Code;

13 (2) Section 202.030(a); and

14 (3) Section 202.031.

15 SECTION 11.05. This article takes effect immediately if
16 this Act receives a vote of two-thirds of all the members elected to
17 each house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary for
19 immediate effect, this article takes effect September 1, 2003.

20 ARTICLE 12. CONVERSION OF NONTOLL STATE HIGHWAY

21 SECTION 12.01. Subchapter A, Chapter 284, Transportation
22 Code, is amended by adding Section 284.009 to read as follows:

23 Sec. 284.009. CONVEYANCE OF STATE HIGHWAY TO COUNTY. (a)
24 The commission may convey a nontoll state highway or a segment of a
25 nontoll state highway, including real property acquired to
26 construct or operate the highway, to a county for operation and
27 maintenance as a project under this chapter if:

1 (1) the commission determines that the proposed
2 conveyance will improve overall mobility in the region or is the
3 most feasible and economic means of accomplishing necessary
4 improvements to the highway;

5 (2) any funds paid by the department for the
6 construction, maintenance, and operation of the conveyed highway
7 are repaid to the department; and

8 (3) the county agrees to assume all liability and
9 responsibility for the maintenance and operation of the conveyed
10 highway on its conveyance.

11 (b) A county that receives a nontoll state highway or a
12 segment of a nontoll state highway under Subsection (a) may own,
13 operate, and maintain the highway as a pooled project under Section
14 284.065.

15 (c) The commission shall, at the time of a conveyance,
16 remove the highway or segment of highway from the state highway
17 system. After a conveyance, the department has no liability,
18 responsibility, or duty for the maintenance or operation of the
19 highway or segment.

20 (d) The commission may waive all or a portion of an amount
21 due under Subsection (a)(2) if it finds that the conveyance will
22 result in substantial net benefits to the state, the department,
23 and the traveling public that equal or exceed the amount of payment
24 waived.

25 (e) Before conveying a nontoll state highway or a segment of
26 a nontoll state highway under this section, the commission shall
27 conduct a public hearing to receive comments from interested

1 persons concerning the proposed conveyance. Notice of the hearing
2 shall be published in the Texas Register and in one or more
3 newspapers of general circulation in any county in which the
4 highway or segment is located.

5 (f) A county may use toll revenue collected under this
6 section to fund a transportation project or an air quality project.

7 (g) The commission shall adopt rules implementing this
8 section, including criteria and guidelines for approval of a
9 conveyance of a highway or segment.

10 (h) Funds received by the department under this section:

11 (1) shall be deposited to the credit of the state
12 highway fund; and

13 (2) are exempt from the application of Section
14 403.095, Government Code.

15 (i) In this section:

16 (1) "Air quality project" means a project or program
17 of a county or another governmental entity that the county
18 determines will mitigate or prevent air pollution caused by the
19 construction, maintenance, or use of public roads within the
20 county.

21 (2) "Transportation project" means the construction,
22 improvement, maintenance, or operation of a transportation
23 facility:

24 (A) under the jurisdiction of a county or another
25 governmental entity;

26 (B) located inside or outside the county; and

27 (C) that the county determines will improve

1 mobility within the county.

2 SECTION 12.02. Section 362.0041, Transportation Code, is
3 amended by amending Subsections (a), (c), and (d) and adding
4 Subsections (e)-(h) to read as follows:

5 (a) Except as provided in Subsections [~~Subsection~~] (d) and
6 (g), [~~if~~] the commission may by order convert [~~finds that the~~
7 ~~conversion of~~] a segment of the free state highway system to a toll
8 facility if it determines that the conversion will improve overall
9 mobility in the region or is the most feasible and economic means to
10 accomplish necessary [~~expansion~~] improvements [~~, or extensions~~] to
11 that segment or to another segment of the state highway system [~~,~~
12 ~~that segment may be converted by order of the commission to a~~
13 ~~turnpike project under Chapter 361~~].

14 (c) The commission shall adopt rules implementing this
15 section, including [~~such rules to include~~] criteria and guidelines
16 for the approval of a conversion of a highway.

17 (d) The commission may not convert the Queen Isabella
18 Causeway in Cameron County to a toll facility [~~turnpike project~~].

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

21 (f) Toll revenue collected under this section:

22 (1) shall be deposited in the state highway fund;

23 (2) may be used by the department for any function
24 performed by the department or to fund an air quality project; and

25 (3) is exempt from the application of Section 403.095,
26 Government Code.

27 (g) The commission may not convert a segment of the state

1 highway system under this section unless it obtains the approval of
2 the metropolitan planning organization within whose boundaries the
3 segment is located.

4 (h) In this section, "air quality project" means a project
5 or program of the department or another governmental entity that
6 the commission determines will mitigate or prevent air pollution
7 caused by the construction, maintenance, or use of public roads.

8 SECTION 12.03. Section 366.035, Transportation Code, is
9 amended to read as follows:

10 Sec. 366.035. CONVEYANCE [~~CONVERSION~~] OF STATE HIGHWAY
11 [~~SYSTEM PROJECTS~~]. (a) The commission may convey a nontoll state
12 highway or a segment of a nontoll state highway, including real
13 property acquired to construct or operate the highway, to an
14 authority for operation and maintenance as a turnpike project under
15 this chapter if:

16 (1) the commission determines that the proposed
17 conveyance will improve overall mobility in the region or is the
18 most feasible and economic means to accomplish necessary
19 improvements to the highway;

20 (2) any funds paid by the department for the
21 construction, maintenance, and operation of the conveyed highway
22 are repaid to the department; and

23 (3) the authority agrees to assume all liability and
24 responsibility for the maintenance and operation of the conveyed
25 highway on its conveyance.

26 (b) [~~Except as provided under Subsection (g), if the~~
27 commission determines that the most feasible and economic means to

1 ~~accomplish necessary expansion, improvements, or extensions to the~~
2 ~~state highway system is the conversion to a turnpike project of a~~
3 ~~segment of the free state highway system, any segment located in a~~
4 ~~county of an authority or a county in which an authority operates a~~
5 ~~turnpike project or in any county adjacent to those counties may, on~~
6 ~~approval of the governor and the affected authority, be transferred~~
7 ~~by order of the commission to that authority.] An authority that~~
8 receives the segment or ~~[of]~~ highway may own, operate, and maintain
9 the segment or highway as a turnpike project or system or a part of a
10 turnpike project or system under this chapter.

11 (c) The commission may waive all or a portion of an amount
12 due under Subsection (a)(2) if it finds that the conveyance will
13 result in substantial net benefits to the state, the department,
14 and the traveling public that equal or exceed the amount of payment
15 waived.

16 (d) [(b) An authority shall reimburse the commission for
17 the cost of a transferred highway, unless the commission determines
18 that the transfer will result in substantial net benefits to the
19 state, the department, and the traveling public that exceed that
20 cost. The cost includes the total amount expended by the department
21 for the original construction of the highway, including all costs
22 associated with the preliminary engineering and design engineering
23 for plans, specifications, and estimates, the acquisition of
24 necessary rights-of-way, and actual construction of the highway and
25 all necessary appurtenant facilities. Costs anticipated to be
26 expended to expand, improve, or extend the highway shall be
27 deducted from the costs to be reimbursed to the commission.

1 ~~[(c)]~~ The commission shall, at the time of a conveyance
2 ~~[transfer]~~, remove the segment or ~~[of]~~ highway from the state
3 highway system. After a conveyance, ~~[transfer]~~ the commission has
4 no liability, responsibility, or duty for the maintenance or
5 operation of the segment or highway.

6 (e) ~~[(d)]~~ Before conveying ~~[transferring]~~ a segment or ~~[of~~
7 ~~the state]~~ highway ~~[system]~~ under this section, the commission
8 shall conduct a public hearing to receive comments from interested
9 persons concerning the proposed conveyance ~~[transfer]~~. Notice of
10 the hearing must be published in the Texas Register, one or more
11 newspapers of general circulation in the counties in which the
12 segment or highway is located, and a newspaper, if any, published in
13 the counties of the applicable authority.

14 (f) An authority may use toll revenue collected under this
15 section to fund a transportation project or an air quality project.

16 (g) ~~[(e)]~~ The commission shall adopt rules implementing
17 this section. The rules shall include criteria and guidelines for
18 the approval of a conveyance ~~[transfer]~~ of a highway.

19 (h) ~~[(f)]~~ An authority shall adopt rules providing criteria
20 and guidelines for approving the acceptance of a highway under this
21 section.

22 (i) ~~[(g)]~~ The commission may not transfer the Queen
23 Isabella Causeway in Cameron County to an authority under this
24 section.

25 (j) Funds received by the department under this section:

26 (1) shall be deposited to the credit of the state
27 highway fund; and

1 (2) are exempt from the application of Section
2 403.095, Government Code.

3 (k) In this section:

4 (1) "Air quality project" means a project or program
5 of an authority or another governmental entity that the authority
6 determines will mitigate or prevent air pollution caused by the
7 construction, maintenance, or use of public roads within the
8 counties of the authority.

9 (2) "Transportation project" means the construction,
10 improvement, maintenance, or operation of a transportation
11 facility:

12 (A) under the jurisdiction of an authority or
13 another governmental entity;

14 (B) located inside or outside the counties of the
15 authority; and

16 (C) that the authority determines will improve
17 mobility within the counties of the authority.

18 ARTICLE 13. TRANSFER OF POWER AND AUTHORITY OVER RAILROADS

19 SECTION 13.01. Article 6445, Revised Statutes, is amended
20 to read as follows:

21 Art. 6445. POWER AND AUTHORITY. (a) Power and authority
22 are hereby conferred upon the Texas Department of Transportation
23 ~~[Railroad Commission of Texas]~~ over all railroads, and suburban,
24 belt and terminal railroads, and over all public wharves, docks,
25 piers, elevators, warehouses, sheds, tracks and other property used
26 in connection therewith in this State, and over all persons,
27 associations and corporations, private or municipal, owning or

1 operating such railroad, wharf, dock, pier, elevator, warehouse,
2 shed, track or other property to fix, and it is hereby made the duty
3 of the said department [~~Commission~~] to adopt all necessary rates,
4 charges and regulations, to govern and regulate such railroads,
5 persons, associations and corporations, and to correct abuses and
6 prevent unjust discrimination in the rates, charges and tolls of
7 such railroads, persons, associations and corporations, and to fix
8 division of rates, charges and regulations between railroads and
9 other utilities and common carriers where a division is proper and
10 correct, and to prevent any and all other abuses in the conduct of
11 their business and to do and perform such other duties and details
12 in connection therewith as may be provided by law.

13 (b) All powers and duties of the Railroad Commission of
14 Texas that relate to railroads are transferred to the Texas
15 Department of Transportation.

16 (c) All personnel, property, assets, contracts, and
17 obligations of the Railroad Commission of Texas, including funds
18 appropriated by the legislature, that relate to railroads are
19 transferred to the Texas Department of Transportation. The
20 validity of a prior action of the commission that relates to
21 railroads is not affected by the transfer.

22 (d) All rules and forms of the Railroad Commission of Texas
23 that relate to railroads remain in effect as rules or forms of the
24 Texas Department of Transportation until amended or repealed by the
25 department.

26 (e) A reference in law to the Railroad Commission of Texas
27 that relates to railroads means the Texas Department of

1 Transportation.

2 (f) A complaint, investigation, or contested case pending
3 before the Railroad Commission of Texas that is related to
4 railroads is transferred without change in status to the Texas
5 Department of Transportation.

6 SECTION 13.02. (a) On September 1, 2003, the Texas
7 Department of Transportation replaces the Railroad Commission of
8 Texas as the governmental entity with power and authority over
9 railroads.

10 (b) Before September 1, 2003, the Texas Department of
11 Transportation shall determine:

12 (1) which actions of the Railroad Commission of Texas
13 relate to the commission's power and authority over railroads;

14 (2) which property of the Railroad Commission of Texas
15 relates to the commission's power and authority over railroads;

16 (3) which employees of the Railroad Commission of
17 Texas primarily perform duties that relate to railroads and whether
18 an employee who performs duties that relate to railroads:

19 (A) shall become an employee of the Texas
20 Department of Transportation;

21 (B) must reapply with the Texas Department of
22 Transportation for a comparable employment position; or

23 (C) shall be terminated; and

24 (4) which funds and obligations of the Railroad
25 Commission of Texas relate to the commission's power and authority
26 over railroads.

27 ARTICLE 14. TEXAS-MEXICO BORDER TRADE CORRIDOR PLAN

1 SECTION 14.01. Subchapter H, Chapter 201, Transportation
2 Code, is amended by adding Section 201.6011 to read as follows:

3 Sec. 201.6011. TEXAS-MEXICO BORDER TRADE CORRIDOR PLAN.

4 The department shall coordinate an integrated trade transportation
5 corridor plan for cross-border traffic. The plan must:

6 (1) include strategies and projects to aid the
7 exchange of international trade using the system of multiple
8 transportation modes in this state; and

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

12 (A) border ports of entry;

13 (B) commercial ports;

14 (C) inland ports;

15 (D) highways;

16 (E) pipelines;

17 (F) railroads; and

18 (G) deepwater gulf ports.

19 ARTICLE 15. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

20 SECTION 15.01. Subtitle K, Title 6, Transportation Code, is
21 amended by adding Chapter 461 to read as follows:

22 CHAPTER 461. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

23 Sec. 461.001. LEGISLATIVE INTENT AND CONSTRUCTION. (a)

24 Public transportation services are provided in this state by many
25 different entities, both public and private. The multiplicity of
26 public transportation providers and services, coupled with a lack
27 of coordination between state oversight agencies, has generated

1 inefficiencies, overlaps in service, and confusion for consumers.

2 It is the intent of this chapter:

3 (1) to eliminate waste in the provision of public
4 transportation services;

5 (2) to generate efficiencies that will permit
6 increased levels of service; and

7 (3) to further the state's efforts to reduce air
8 pollution.

9 (b) This chapter shall be liberally construed to achieve its
10 purposes.

11 Sec. 461.002. DEFINITIONS. In this chapter:

12 (1) "Public transportation provider" means any entity
13 that provides public transportation services if it is a
14 governmental entity or if it receives financial assistance from a
15 governmental entity, whether state, local, or federal. The term
16 does not include private carriers that do not receive financial
17 assistance from a governmental entity. It also does not include a
18 person who provides intercity rail or bus service, commercial air
19 transportation, water transportation, or nonstop service to or from
20 a point located outside this state. If a person provides both
21 public transportation services and services that are not public
22 transportation services, that person is included within the term
23 only with regard to the provision of public transportation services
24 and to the extent of those public transportation services.

25 (2) "Public transportation services" means any
26 conveyance of passengers and their hand-carried baggage by a
27 governmental entity or by a private entity if the private entity

1 receives financial assistance for that conveyance from any
2 governmental entity. It does not include intercity rail or bus
3 service, commercial air transportation, water transportation, or
4 nonstop service to or from a point located outside this state.

5 Sec. 461.003. RULES OF TEXAS TRANSPORTATION COMMISSION.

6 (a) The commission by rule may:

7 (1) require a state agency that is responsible for
8 ensuring the provision of public transportation services to
9 contract with the department for the department to assume the
10 responsibilities of that agency relating to the provision of public
11 transportation services; and

12 (2) require a public transportation provider to
13 provide detailed information on its provision of public
14 transportation services, including revenues, routes, maps,
15 categories of passengers served, number of passengers served, and
16 equipment use and condition.

17 (b) Except with regard to health and human services programs
18 funded by this state, the commission may not direct the planning or
19 operations of an authority created or operating under Chapter 451,
20 452, or 453.

21 (c) The commission shall adopt other rules, including rules
22 defining terms, necessary to implement this chapter.

23 Sec. 461.004. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION.

24 (a) The department shall identify:

25 (1) overlaps and gaps in the provision of public
26 transportation services, including services that could be more
27 effectively provided by existing, privately funded transportation

1 resources;

2 (2) underused equipment owned by public
3 transportation providers; and

4 (3) inefficiencies in the provision of public
5 transportation services by any public transportation provider.

6 (b) The department may contract with any public or private
7 transportation provider for the department to arrange for the
8 provision of public transportation services.

9 Sec. 461.005. ELIMINATION OF OVERLAPPING SERVICE. (a) To
10 eliminate waste and maximize efficiency, the department shall
11 encourage public transportation providers to agree on the
12 allocation of specific services and service areas among the
13 providers. The department may incorporate these discussions in
14 planning processes such as the development of the statewide
15 transportation improvement program or a local transportation
16 improvement plan.

17 (b) If public transportation providers do not reach an
18 agreement on a service plan under Subsection (a), the department
19 may develop an interim service plan for that area.

20 (c) The department may require that all or a percentage of
21 the vehicles used to provide public transportation services comply
22 with specified emissions standards. The standards may vary among
23 geographic areas based on the need of each area to reduce levels of
24 air pollution. This subsection does not apply to an authority
25 created under Chapter 451, 452, or 453.

26 Sec. 461.006. DUTIES OF PUBLIC TRANSPORTATION PROVIDERS.
27 Each public transportation provider shall cooperate with the

1 department in eliminating waste and ensuring efficiency and maximum
2 coverage in the provision of public transportation services.

3 Sec. 461.007. INCENTIVES FOR EFFICIENCY. (a)

4 Notwithstanding any other law, including a law establishing a
5 formula for the allocation of public transportation grants, the
6 commission may increase or reduce the amount of a grant made to a
7 public transportation provider based on whether the public
8 transportation provider is complying fully with this chapter.

9 (b) Notwithstanding any other law, the commission may
10 consider whether a public transportation provider in a geographic
11 area of this state is complying fully with this chapter in executing
12 the commission's other responsibilities relating to that area.

13 SECTION 15.02. Section 455.0015, Transportation Code, is
14 amended by amending Subsection (b) and adding Subsections (c) and
15 (d) to read as follows:

16 (b) It is the intent of the legislature that, whenever
17 possible, and to the maximum extent feasible, the existing network
18 of transportation providers, and in particular the fixed route
19 components of the existing networks, be used to meet the client
20 transportation requirements of the state's social service agencies
21 and their agents. The legislature recognizes the contributions of
22 nonprofit entities dedicated to providing social services and
23 related activities and encourages the continued community
24 involvement of these entities in this area. The legislature
25 likewise recognizes the potential cost savings and other benefits
26 of utilizing existing private sector transportation resources. The
27 department will contract with and promote the use of private sector

1 transportation resources to the maximum extent feasible consistent
2 with the goals of this subsection.

3 (c) Each health and human services agency of this state
4 shall contract with the department for the department to assume all
5 responsibilities of the health and human services agency relating
6 to the provision of transportation services for clients of eligible
7 programs.

8 (d) The department may contract with any public or private
9 transportation provider or with any regional transportation broker
10 for the provision of public transportation services.

11 SECTION 15.03. Section 455.004, Transportation Code, is
12 amended to read as follows:

13 Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY
14 COMMITTEE. (a) A public transportation advisory committee
15 consisting of nine members shall:

16 (1) advise the commission on the needs and problems of
17 the state's public transportation providers, including the methods
18 for allocating state public transportation money;

19 (2) comment on rules involving public transportation
20 during development of the rules and before the commission finally
21 adopts the rules unless an emergency requires immediate commission
22 action; ~~and~~

23 (3) advise the commission on the implementation of
24 Chapter 461; and

25 (4) perform any other duty determined by the
26 commission.

27 (b) The commission shall appoint members of the advisory

1 committee. The membership of the committee shall ~~[governor, the~~
2 ~~lieutenant governor, and the speaker of the house of~~
3 ~~representatives each shall appoint three members of the committee.~~
4 ~~The appointing officers shall allocate among themselves the~~
5 ~~authority for appointment of members with different types of~~
6 ~~qualifications. The committee must]~~ include:

7 (1) four members who ~~[one member to]~~ represent a
8 diverse cross-section of public transportation providers ~~[in rural~~
9 ~~areas];~~

10 (2) three members who ~~[one member to]~~ represent a
11 diverse cross-section of transportation users ~~[municipal transit~~
12 ~~systems in urban areas with populations of less than 200,000]; and~~

13 (3) two members who ~~[one member to represent~~
14 ~~metropolitan transit authorities in urban areas with populations of~~
15 ~~200,000 or more;~~

16 ~~[(4) one member to represent transportation providers~~
17 ~~for persons with disabilities and the elderly; and~~

18 ~~[(5) five members who have a knowledge of and interest~~
19 ~~in public transportation to]~~ represent the general public.

20 (c) A member serves at the pleasure of the commission
21 ~~[officer appointing the member]~~. A member is not entitled to
22 compensation for service on the committee but is entitled to
23 reimbursement for reasonable expenses the member incurs in
24 performing committee duties.

25 (d) The public transportation advisory committee shall meet
26 ~~[quarterly or]~~ as requested by the commission.

27 (e) The commission may adopt rules to govern the operation

1 of the advisory committee.

2 SECTION 15.04. Section 461.012, Health and Safety Code, is
3 amended by adding Subsection (g) to read as follows:

4 (g) The commission shall contract with the Texas Department
5 of Transportation for the Texas Department of Transportation to
6 assume all responsibilities of the commission relating to the
7 provision of transportation services for clients of eligible
8 programs.

9 SECTION 15.05. Section 533.012, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) At the
12 department's request, all state departments, agencies, officers,
13 and employees shall cooperate with the department in activities
14 that are consistent with their functions.

15 (b) The department shall contract with the Texas Department
16 of Transportation for the Texas Department of Transportation to
17 assume all responsibilities of the department relating to the
18 provision of transportation services for clients of eligible
19 programs.

20 SECTION 15.06. Section 22.001, Human Resources Code, is
21 amended by adding Subsection (e) to read as follows:

22 (e) The department shall contract with the Texas Department
23 of Transportation for the Texas Department of Transportation to
24 assume all responsibilities of the department relating to the
25 provision of transportation services for clients of eligible
26 programs.

27 SECTION 15.07. Section 40.002, Human Resources Code, is

1 amended by adding Subsection (f) to read as follows:

2 (f) The department may contract with the Texas Department of
3 Transportation for the Texas Department of Transportation to assume
4 all responsibilities of the department relating to the provision of
5 transportation services for clients of eligible programs.

6 SECTION 15.08. Section 91.021, Human Resources Code, is
7 amended by adding Subsection (g) to read as follows:

8 (g) The commission shall contract with the Texas Department
9 of Transportation for the Texas Department of Transportation to
10 assume all responsibilities of the commission relating to the
11 provision of transportation services for clients of eligible
12 programs.

13 SECTION 15.09. Section 101.0256, Human Resources Code, is
14 amended to read as follows:

15 Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a)
16 The department and the Texas Department of Human Services shall
17 develop standardized assessment procedures to share information on
18 common clients served in a similar service region.

19 (b) The department shall contract with the Texas Department
20 of Transportation for the Texas Department of Transportation to
21 assume all responsibilities of the department relating to the
22 provision of transportation services for clients of eligible
23 programs.

24 SECTION 15.10. Section 111.0525, Human Resources Code, is
25 amended by adding Subsection (d) to read as follows:

26 (d) The commission shall contract with the Texas Department
27 of Transportation for the Texas Department of Transportation to

1 assume all responsibilities of the commission relating to the
2 provision of transportation services for clients of eligible
3 programs.

4 SECTION 15.11. Section 301.063, Labor Code, is amended by
5 adding Subsection (f) to read as follows:

6 (f) The commission shall contract with the Texas Department
7 of Transportation for the Texas Department of Transportation to
8 assume all responsibilities of the commission relating to the
9 provision of transportation services for clients of eligible
10 programs.

11 SECTION 15.12. LEGISLATIVE INTENT REGARDING PROVISION OF
12 HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS
13 DEPARTMENT OF TRANSPORTATION. It is the intent of the legislature
14 that the provision of health and human service transportation
15 through the Texas Department of Transportation will improve the
16 delivery of transportation services to clients and enhance their
17 access to transportation services. Furthermore, it is the intent
18 of the legislature that these services be provided in a manner that
19 will generate efficiencies in operation, control costs, and permit
20 increased levels of service. The Texas Department of
21 Transportation shall encourage cooperation and coordination among
22 transportation providers, regional transportation brokers, and
23 actual and potential clients in an effort to achieve the stated
24 legislative goals.

25 SECTION 15.13. Any funds that are used by the Texas
26 Department of Transportation to implement the transportation
27 services provided in Sections 15.02, 15.04, 15.05, 15.06, 15.07,

1 15.08, 15.09, 15.10, and 15.11 shall be accounted for and budgeted
2 separately from other funds appropriated to the Texas Department of
3 Transportation for any other public transportation program or
4 budget strategy.

5 ARTICLE 16. RAIL LINES

6 SECTION 16.01. Section 5, Chapter 623, Acts of the 67th
7 Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas
8 Civil Statutes), is amended by adding Subsection (s) to read as
9 follows:

10 (s) A district may not sell a rail line of the district
11 unless the sale is approved by the Texas Transportation Commission
12 as being consistent with the policies of this Act. The commission
13 by rule shall adopt procedures for applying for and obtaining
14 approval under this subsection.

15 ARTICLE 17. DRIVER'S LICENSES

16 SECTION 17.01. (a) Section 521.142(a), Transportation
17 Code, is amended to read as follows:

18 (a) An application for an original license must state the
19 applicant's full name and place and date of birth. This information
20 must be verified by presentation of proof of identity satisfactory
21 to the department. The department shall accept as proof of the
22 applicant's identity an identity document that is issued by the
23 government of another country, if that document bears the
24 applicant's photograph, full name, and date of birth, and the
25 government of the other country has established reasonable
26 mechanisms by which the department can verify the identity
27 document. For purposes of this section, an identity document

1 includes a passport, a consular identity document, and a national
2 identity document. On the reverse side of a driver's license, the
3 department shall print the license holder's country of citizenship
4 and indicate the country of citizenship by a uniform symbol or code
5 on the face of the license in the space where the department
6 indicates a restriction or endorsement.

7 (b) Subsection (a) of this section takes effect September 1,
8 2003.

9 ARTICLE 18. MEMBERSHIP OF TEXAS TRANSPORTATION COMMISSION

10 SECTION 18.01. Section 201.051(a), Transportation Code, is
11 amended to read as follows:

12 (a) The Texas Transportation Commission consists of five
13 [~~three~~] members appointed by the governor with the advice and
14 consent of the senate.

15 SECTION 18.02. Section 201.052, Transportation Code, is
16 amended to read as follows:

17 Sec. 201.052. TERMS. Members of the commission serve
18 staggered six-year terms, with the terms of either one or two
19 members [~~one member's term~~] expiring February 1 of each
20 odd-numbered year.

21 SECTION 18.03. Promptly after this article takes effect,
22 the governor shall appoint two additional members to the Texas
23 Transportation Commission. Of those members, the governor shall
24 designate one to serve a term expiring February 1, 2007, and one to
25 serve a term expiring February 1, 2009.

26 ARTICLE 19. BORDER REGION HIGH-SPEED

27 RAIL AUTHORITIES

1 SECTION 19.01. Chapter 13, Title 112, Revised Statutes, is
2 amended by adding Article 6550c-4 to read as follows:

3 Art. 6550c-4. BORDER REGION HIGH-SPEED RAIL AUTHORITIES

4 Sec. 1. DEFINITIONS. In this article:

5 (1) "Authority" means a border region high-speed rail
6 authority created under this article.

7 (2) "Authority property" means all property an
8 authority owns or leases under a long-term lease.

9 (3) "Border region" means the Texas-Louisiana border
10 region or the Texas-Mexico border region, as defined by Section
11 2056.002, Government Code.

12 (4) "Commission" means the Texas Transportation
13 Commission.

14 (5) "Department" means the Texas Department of
15 Transportation.

16 (6) "High-speed rail" means the rail technology that
17 permits the operation of rolling stock between scheduled stops at
18 speeds greater than 80 miles per hour.

19 (7) "High-speed rail facility" means any property
20 necessary for the transportation of passengers and baggage between
21 points in a border region by high-speed rail. The term includes
22 rolling stock, locomotives, stations, parking areas, and rail
23 lines.

24 (8) "System" means all of the high-speed rail and
25 intermodal facilities leased or owned by or operated on behalf of an
26 authority.

27 Sec. 2. CREATION OF AUTHORITIES. The commission by order

1 may authorize the creation of an authority in each border region for
2 the purposes of financing, acquiring property for, constructing,
3 maintaining, and operating a high-speed rail system in each border
4 region.

5 Sec. 3. GOVERNING BODY. (a) The governing body of an
6 authority is a board of directors consisting of representatives of
7 each county in the border region for which the authority is created.
8 The board is composed of 11 members appointed by the governor.

9 (b) The members of the board shall elect one member as
10 presiding officer. The presiding officer may select another member
11 to preside in the absence of the presiding officer.

12 (c) The presiding officer shall call at least one meeting of
13 the board each year and may call other meetings as the presiding
14 officer determines are appropriate.

15 (d) A member of the board is not entitled to compensation
16 for serving as a member but is entitled to reimbursement for
17 reasonable expenses incurred while serving as a member.

18 (e) The board shall adopt rules for its proceedings and
19 appoint an executive committee. The board may employ and
20 compensate persons to carry out the powers and duties of the
21 authority.

22 (f) Chapter 171, Local Government Code, applies to a member
23 of the board.

24 Sec. 4. POWERS AND DUTIES OF AUTHORITY. (a) An authority
25 is a public body and a political subdivision of the state exercising
26 public and essential governmental functions and has all the powers
27 necessary or convenient to carry out the purposes of this article.

1 An authority, in the exercise of powers under this article, is
2 performing only governmental functions and is a governmental unit
3 within the meaning of Chapter 101, Civil Practice and Remedies
4 Code.

5 (b) An authority is subject every 12th year to review under
6 Chapter 325, Government Code (Texas Sunset Act).

7 (c) An authority may sue and be sued in all courts, may
8 institute and prosecute suits without giving security for costs,
9 and may appeal from a judgment without giving a supersedeas or cost
10 bond. An action at law or in equity against an authority must be
11 brought in the county in which a principal office of the authority
12 is located, except that in an eminent domain proceeding involving
13 an interest in land, suit must be brought in the county in which the
14 land is located.

15 (d) An authority may acquire by grant, purchase, gift,
16 devise, lease, or otherwise and may hold, use, sell, lease, or
17 dispose of real and personal property, licenses, patents, rights,
18 and interests necessary, convenient, or useful for the full
19 exercise of its powers.

20 (e) An authority may acquire, construct, develop, own,
21 operate, and maintain intermodal and high-speed rail facilities to
22 connect political subdivisions in the applicable border region.
23 For this purpose and with the consent of a municipality, county, or
24 other political subdivision, an authority may use streets, alleys,
25 roads, highways, and other public ways of the municipality, county,
26 or other political subdivision and may relocate, raise, reroute,
27 change the grade of, or alter, at the expense of the authority, the

1 construction of any street, alley, highway, road, railroad,
2 electric lines and facilities, telegraph and telephone properties
3 and facilities, pipelines and facilities, conduits and facilities,
4 and other properties, whether publicly or privately owned, as
5 necessary or useful in the construction, reconstruction, repair,
6 maintenance, and operation of the system. An authority may not use
7 or alter a road or highway that is part of the state highway system
8 without the permission of the commission or a railroad without
9 permission of the railroad. An authority may acquire by purchase
10 any interest in real property for the acquisition, construction, or
11 operation of a high-speed rail facility on terms and at a price as
12 agreed to between the authority and the owner. The governing body
13 of a municipality, county, other political subdivision, or public
14 agency may convey title or rights and easements to any property
15 needed by an authority to effect its purposes in connection with the
16 acquisition, construction, or operation of the system.

17 (f) An authority has the right of eminent domain to acquire
18 real property in fee simple or an interest in real property less
19 than fee simple in, on, under, or above land, including an easement,
20 right-of-way, or right of use of airspace or subsurface space. The
21 power of eminent domain under this section does not apply to land
22 under the jurisdiction of the department or a rail line owned by a
23 common carrier or municipality. An authority shall, to the extent
24 possible, use existing rail or intermodal transportation corridors
25 for the alignment of its system. A proceeding for the exercise of
26 the power of eminent domain is begun by the adoption by the board of
27 a resolution declaring the public necessity for the acquisition by

1 an authority of the property or interest described in the
2 resolution and that the acquisition is necessary and proper for the
3 construction, extension, improvement, or development of high-speed
4 rail facilities and is in the public interest. The resolution of an
5 authority is conclusive evidence of the public necessity of the
6 proposed acquisition and that the real or personal property or
7 interest in property is necessary for public use.

8 (g) With the consent of the property owner, instead of
9 paying for real property with a single fixed payment, an authority
10 may pay the owner in the form of:

11 (1) an intangible legal right to receive a percentage
12 of identified fees related to the applicable segment of the system;
13 or

14 (2) an exclusive or nonexclusive right to use or
15 operate a part of the system.

16 (h) An authority may make agreements with a public utility,
17 private utility, communication system, common carrier, state
18 agency, or transportation system for the joint use of facilities,
19 installations, or properties inside or outside the border region
20 and establish through routes and joint fares.

21 (i) An authority may adopt rules to govern the operation of
22 the authority, its employees, the system, service provided by the
23 authority, and any other necessary matter concerning its purposes,
24 including rules relating to health, safety, alcohol or beverage
25 service, food service, and telephone and utility services, to
26 protect the health, safety, and general welfare of residents of the
27 border region and people who use the authority's services.

1 (j) An authority may enter into a joint ownership agreement
2 with any person.

3 (k) An authority shall establish and maintain rates or other
4 compensation for the use of the facilities of the system acquired,
5 constructed, operated, regulated, or maintained by the authority
6 that is reasonable and nondiscriminatory and, together with grants
7 received by the authority, is sufficient to produce revenues
8 adequate:

9 (1) to pay all expenses necessary for the operation
10 and maintenance of the properties and facilities of the authority;

11 (2) to pay the interest on and principal of bonds
12 issued by the authority and payable in whole or in part from the
13 revenues, as they become due and payable; and

14 (3) to comply with the terms of an agreement made with
15 the holders of bonds or with any person in their behalf.

16 (l) An authority may make contracts, leases, and agreements
17 with, and accept grants and loans from, the United States, this
18 state, agencies and political subdivisions of this state, and other
19 persons and entities and may perform any act necessary for the full
20 exercise of the powers vested in it. The commission may enter into
21 an interlocal agreement with an authority under which the authority
22 may exercise a power or duty of the commission for the development
23 and efficient operation of an intermodal corridor in the border
24 region. An authority may acquire rolling stock or other property
25 under conditional sales contracts, leases, equipment trust
26 certificates, or any other form of contract or trust agreement. A
27 revenue bond indenture may limit the exercise of the powers granted

1 by this section, and a limit applies as long as the revenue bonds
2 issued under the indenture are outstanding and unpaid.

3 (m) An authority by resolution may adopt rules governing the
4 use, operation, and maintenance of the system and may determine or
5 change a routing as the board considers advisable.

6 (n) An authority may lease all or part of the high-speed
7 rail facilities to, or contract for the use or operation of all or
8 part of the high-speed rail facilities by, an operator. An
9 authority shall encourage to the maximum extent practicable the
10 participation of private enterprise in the operation of high-speed
11 rail facilities. The term of an operating contract under this
12 subsection may not exceed 20 years.

13 (o) An authority may contract with a county or other
14 political subdivision of this state for the authority to provide
15 high-speed rail transportation services to an area outside the
16 border region on the terms and conditions agreed to by the parties.

17 (p) An authority may purchase an additional insured
18 provision to any liability insurance contract.

19 (q) Before beginning the operation of high-speed rail
20 facilities, the board shall adopt an annual operating budget
21 specifying the anticipated revenues and expenses of the authority
22 for the remainder of the fiscal year. Each year the board shall
23 adopt an operating budget for the authority. The fiscal year of an
24 authority ends September 30 unless changed by the board. The board
25 shall hold a public hearing before adopting a budget other than the
26 initial budget. Notice of each hearing must be published at least
27 seven days before the date of the hearing in a newspaper of general

1 circulation in each county in the applicable border region. A
2 budget may be amended at any time if notice of the proposed
3 amendment is given in the notice of the meeting at which the
4 amendment will be considered. An expenditure that is not budgeted
5 may not be made.

6 (r) An authority is eligible to participate in the Texas
7 County and District Retirement System.

8 (s) The board shall by resolution name one or more banks for
9 the deposit of authority funds. Authority funds are public funds
10 and may be invested in securities permitted by Chapter 2256,
11 Government Code. To the extent funds of an authority are not
12 insured by the Federal Deposit Insurance Corporation or its
13 successor, they shall be collateralized in the manner provided for
14 county funds.

15 (t) To provide tax benefits to another party that are
16 available with respect to property under the laws of a foreign
17 country or to encourage private investment with a transportation
18 authority in the United States, and notwithstanding any other
19 provision of this article, an authority may enter into and execute,
20 as it considers appropriate, contracts, agreements, notes,
21 security agreements, conveyances, bills of sale, deeds, leases as
22 lessee or lessor, and currency hedges, swap transactions, or
23 agreements relating to foreign and domestic currency. The
24 agreements or instruments may have the terms, maturities, duration,
25 provisions as to governing law, indemnities, and other provisions
26 that are approved by the board. In connection with any transaction
27 authorized by this subsection, the authority shall deposit in

1 trust, escrow, or similar arrangement cash or lawful investments or
2 securities, or shall enter into one or more payment agreements,
3 financial guarantees, or insurance contracts with counterparties
4 having either a corporate credit or debt rating in any form, a
5 claims-paying ability, or a rating for financial strength of "AA"
6 or better by Moody's Investors Service, Inc., or by Standard &
7 Poor's Corporation or "A-" or better by Best's rating system that,
8 by their terms, including interest to be earned on any cash or
9 securities, are sufficient in amount to pay when due all amounts
10 required to be paid by the authority as rent over the full term of
11 the transaction plus any optional purchase price due under the
12 transaction. A certification in advance by an independent
13 financial expert, banker, or certified public accountant, who is
14 not an employee of the authority, certifying compliance with this
15 requirement constitutes conclusive evidence of compliance.
16 Property sold, acquired, or otherwise transferred under this
17 subsection is considered for all purposes to be property owned and
18 held by the authority and used for public purposes.

19 Sec. 5. BONDS AND NOTES. (a) An authority may issue
20 revenue bonds and notes in amounts the board considers necessary or
21 appropriate for the acquisition, purchase, construction,
22 reconstruction, repair, equipping, improvement, or extension of
23 the authority's high-speed rail facilities. A bond or note is fully
24 negotiable and may be made redeemable before maturity, at the
25 option of the authority and at the price and under the terms the
26 board determines in the resolution authorizing the bond or note and
27 may be sold at public or private sale, as the board determines.

1 (b) An authority shall submit all bonds and notes and the
2 record of proceedings relating to their issuance to the attorney
3 general for examination before delivery. If the attorney general
4 determines that they have been issued in accordance with the
5 constitution and this article and that they will be binding
6 obligations of the authority, the attorney general shall approve
7 them, and the comptroller shall register them. A bond or note
8 issued under this article is incontestable after approval,
9 registration, and sale and delivery of the bond or note to the
10 purchaser.

11 (c) To secure the payment of the bond or note, an authority
12 may encumber and pledge all or any part of the revenues of its
13 high-speed rail facilities, may mortgage and encumber all or part
14 of the property of the high-speed rail facilities and any thing
15 pertaining to them that is acquired or to be acquired, and may
16 prescribe the terms and provisions of the bond or note in any manner
17 not inconsistent with this article. If not prohibited by the
18 resolution or indenture relating to outstanding bonds or notes, an
19 authority may encumber separately any item of real or personal
20 property.

21 (d) A bond or note is a legal and authorized investment for
22 banks, trust companies, savings and loan associations, and
23 insurance companies. The bond or note is eligible to secure the
24 deposit of public funds of this state or a municipality, county,
25 school district, or other political corporation or subdivision of
26 this state. The bond or note is lawful and sufficient security for
27 the deposits to the extent of the principal amount or market value

1 of the bond or note, whichever is less.

2 Sec. 6. COMPETITIVE BIDS. A contract in the amount of more
3 than \$15,000 for the construction of improvements or the purchase
4 of material, machinery, equipment, supplies, or any other property
5 other than real property may be let only on competitive bids after
6 notice published, at least 15 days before the date set for receiving
7 bids, in a newspaper of general circulation in each county in the
8 applicable border region. The board may adopt rules governing the
9 taking of bids and the awarding of contracts. This section does not
10 apply to:

- 11 (1) personal or professional services;
12 (2) the acquisition of an existing rail transportation
13 system; or
14 (3) a contract with a common carrier to construct
15 lines or to operate high-speed rail service on lines owned in whole
16 or in part by the carrier.

17 Sec. 7. EXEMPTION FROM TAXES. The property, material
18 purchases, revenues, and income of an authority and the interest on
19 a bond or note issued by an authority are exempt from all taxes
20 imposed by this state or a political subdivision of this state.

21 SECTION 19.02. Not later than September 1, 2004, the Texas
22 Transportation Commission shall create the border region
23 high-speed rail authorities as required by this Act.

24 ARTICLE 20. SUSPENSION OF SENTENCE AND DEFERRAL
25 OF FINAL DISPOSITION OF CERTAIN OFFENSES

26 SECTION 20.01. Article 45.051, Code of Criminal Procedure,
27 is amended to read as follows:

1 Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL
2 DISPOSITION. (a) On a plea of guilty or nolo contendere by a
3 defendant or on a finding of guilt in a misdemeanor case punishable
4 by fine only and payment of all court costs, the judge [~~justice~~]
5 may, at the judge's discretion, defer further proceedings without
6 entering an adjudication of guilt and place the defendant on
7 probation for a period not to exceed 180 days. An order of deferral
8 under this subsection terminates any liability under a bail bond or
9 an appearance bond given for the charge.

10 (b) During the deferral period, the judge [~~justice~~] may, at
11 the judge's discretion, require the defendant to:

12 (1) post a bond in the amount of the fine assessed to
13 secure payment of the fine;

14 (2) pay restitution to the victim of the offense in an
15 amount not to exceed the fine assessed;

16 (3) submit to professional counseling;

17 (4) submit to diagnostic testing for alcohol or a
18 controlled substance or drug;

19 (5) submit to a psychosocial assessment;

20 (6) participate in an alcohol or drug abuse treatment
21 or education program;

22 (7) pay the costs of any diagnostic testing,
23 psychosocial assessment, or participation in a treatment or
24 education program either directly or through the court as court
25 costs; [~~and~~]

26 (8) complete a driving safety course approved under
27 the Texas Driver and Traffic Safety Education Act (Article

1 4413(29c), Vernon's Texas Civil Statutes) or another course as
2 directed by the judge;

3 (9) present to the court satisfactory evidence that
4 the defendant has complied with each requirement imposed by the
5 judge under this article; and

6 (10) comply with any other reasonable condition.

7 (c) On determining that ~~[At the conclusion of the deferral~~
8 ~~period, if]~~ the defendant ~~[presents satisfactory evidence that he]~~
9 has complied with the requirements imposed by the judge under this
10 article, the judge ~~[justice]~~ shall dismiss the complaint, and it
11 shall be clearly noted in the docket that the complaint is dismissed
12 and that there is not a final conviction. ~~[Otherwise, the justice~~
13 ~~may proceed with an adjudication of guilt. After an adjudication of~~
14 ~~guilt, the justice may reduce the fine assessed or may then impose~~
15 ~~the fine assessed, less any portion of the assessed fine that has~~
16 ~~been paid.]~~ If the complaint is dismissed, a special expense not to
17 exceed the amount of the fine assessed may be imposed. Other than
18 an offense under Section 545.413, Transportation Code, this
19 subsection does not apply to an offense involving the operation of a
20 motor vehicle.

21 (c-1) This subsection applies only to an offense involving
22 the operation of a motor vehicle, other than an offense under
23 Section 545.413, Transportation Code. At the conclusion of the
24 deferral period, if the defendant presents satisfactory evidence
25 that the defendant has complied with the requirements imposed, the
26 justice shall proceed with an adjudication of guilt but may not
27 impose the fine assessed or a reduced fine.

1 (d) If by [~~at~~] the conclusion of the deferral period the
2 defendant does not present satisfactory evidence that the defendant
3 complied with the requirements imposed, the judge [~~justice~~] may
4 impose the fine assessed or impose a lesser fine. The imposition of
5 the fine or lesser fine constitutes a final conviction of the
6 defendant.

7 (e) Records relating to a complaint dismissed as provided by
8 this article may be expunged under Article 55.01 [~~of this code~~]. If
9 a complaint is dismissed under this article, there is not a final
10 conviction and the complaint may not be used against the person for
11 any purpose.

12 (f) This article does not apply to:

13 (1) an offense to which Section 542.404 or 729.004(b),
14 Transportation Code, applies; or

15 (2) a traffic offense committed by a person who holds a
16 commercial driver's license.

17 SECTION 20.02. Article 45.0511, Code of Criminal Procedure,
18 is amended to read as follows:

19 Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR
20 COURSE DISMISSAL [~~DEFERRED DISPOSITION~~] PROCEDURES [~~APPLICABLE TO~~
21 ~~TRAFFIC OFFENSES~~]. (a) This article applies only to an alleged
22 offense that:

23 (1) is within the jurisdiction of a justice court or a
24 municipal court;

25 (2) involves [~~involving~~] the operation of a motor
26 vehicle; and

27 (3) is [~~other than a commercial motor vehicle, as~~]

1 defined by:

2 (A) Section 472.022 [~~522.003~~], Transportation
3 Code;

4 (B) Subtitle C, Title 7, Transportation Code; or

5 (C) Section 729.001(a)(3), Transportation Code [~~7~~
6 ~~and supplements Article 45.051~~].

7 (b) The judge [~~During the deferral period under Article~~
8 ~~45.051, the justice:~~

9 [(1)] shall require the defendant to successfully
10 complete a driving safety course approved by the Texas Education
11 Agency or a course under the motorcycle operator training and
12 safety program approved by the designated state agency under
13 Chapter 662, Transportation Code, if:

14 (1) the defendant elects driving safety course or
15 motorcycle operator training course dismissal under this article;

16 (2) [~~deferred disposition and~~] the defendant has not
17 completed an approved driving safety course or motorcycle operator
18 training course, as appropriate, within the [~~preceding~~] 12 months
19 preceding the date of the offense; [and]

20 (3) [~~(2) may require the defendant to successfully~~
21 ~~complete a driving safety course approved by the Texas Education~~
22 ~~Agency if the defendant has completed an approved driving safety~~
23 ~~course within the preceding 12 months.~~

24 [(c) ~~Subsection (b)(1) applies only if:~~

25 [(1)] the defendant [~~person~~] enters a plea under
26 Article 45.021 in person or in writing of no contest or guilty on or
27 [~~and,~~] before the answer date on the notice to appear and:

1 (A) presents in person or by counsel to the court
2 a [~~an oral or written~~] request to take a course; or

3 (B) sends to the court by certified mail, return
4 receipt requested, postmarked on or before the answer date on the
5 notice to appear, a written request to take a course;

6 ~~(4) [(2) the court enters judgment on the person's
7 plea of no contest or guilty at the time the plea is made but defers
8 imposition of the judgment for 180 days;~~

9 ~~[(3)]~~ the defendant [~~person~~] has a valid Texas
10 driver's license or permit;

11 (5) [~~(4)~~] the defendant [~~person~~] is charged with an
12 offense to which this article applies, other than speeding 25 miles
13 per hour or more over the posted speed limit; and

14 (6) [~~(5)~~] the defendant [~~person~~] provides evidence of
15 financial responsibility as required by Chapter 601,
16 Transportation Code[+]

17 ~~[(6) the defendant's driving record as maintained by
18 the Texas Department of Public Safety shows the defendant has not
19 completed an approved driving safety course or motorcycle operator
20 training course, as appropriate, within the 12 months preceding the
21 date of the offense; and~~

22 ~~[(7) the defendant files an affidavit with the court
23 stating that the person is not taking a course under this section
24 and has not completed a course that is not shown on the person's
25 driving record within the 12 months preceding the date of the
26 offense].~~

27 (c) The court shall enter judgment on the defendant's plea

1 of no contest or guilty at the time the plea is made, defer
2 imposition of the judgment, and allow the defendant 90 days to
3 successfully complete the approved driving safety course or
4 motorcycle operator training course and present to the court:

5 (1) a uniform certificate of completion of the driving
6 safety course or a verification of completion of the motorcycle
7 operator training course;

8 (2) the defendant's driving record as maintained by
9 the Department of Public Safety showing that the defendant had not
10 completed an approved driving safety course or motorcycle operator
11 training course, as applicable, within the 12 months preceding the
12 date of the offense; and

13 (3) an affidavit stating that the defendant was not
14 taking a driving safety course or motorcycle operator training
15 course, as applicable, under this article on the date the request to
16 take the course was made and had not completed such a course that is
17 not shown on the defendant's driving record within the 12 months
18 preceding the date of the offense.

19 (d) Notwithstanding Subsections (b)(2) and (3), ~~[Subsection~~
20 ~~(c)(1), on a written motion submitted to the court]~~ before the final
21 disposition of the case, the court may grant a request to take a
22 driving safety course or a motorcycle operator training course
23 under this article.

24 (e) A request to take a driving safety course made at or
25 before the time and at the place at which a defendant ~~[person]~~ is
26 required to appear in court is an appearance in compliance with the
27 defendant's ~~[person's]~~ promise to appear.

1 (f) In addition to court costs and fees authorized or
2 imposed by a law of this state and applicable to the offense, the
3 [The] court may:

4 (1) require a defendant [person] requesting a [driving
5 safety] course under Subsection (b) to pay an administrative [a]
6 fee set by the court to cover the cost of administering this article
7 at an amount of not more than \$10; or

8 (2) require a defendant requesting a course under
9 Subsection (d) to pay a fee set by the court at an amount not to
10 exceed the maximum amount of the fine for the offense committed by
11 the defendant[, including any other fee authorized by statute or
12 municipal ordinance, to cover the cost of administering this
13 article].

14 (g) A defendant [person] who requests but does not take a
15 course is not entitled to a refund of the fee.

16 (h) Fees collected by a municipal court shall be deposited
17 in the municipal treasury. Fees collected by another court shall be
18 deposited in the county treasury of the county in which the court is
19 located.

20 (i) If a defendant [person] requesting a [driving safety]
21 course under this article fails to comply with Subsection (c)
22 [furnish evidence of the successful completion of the course to the
23 court], the court shall:

24 (1) notify the defendant [person] in writing, mailed
25 to the address on file with the court or appearing on the notice to
26 appear, of that failure; and

27 (2) require the defendant [person] to appear at the

1 time and place stated in the notice to show cause why the evidence
2 was not timely submitted to the court.

3 (j) If the defendant [~~A person who~~] fails to appear at the
4 time and place stated in the notice under Subsection (i), or appears
5 at the time and place stated in the notice but does not show good
6 cause for the defendant's failure to comply with Subsection (c),
7 the court shall enter an adjudication of guilt and impose sentence
8 [~~commits a misdemeanor punishable as provided by Section 543.009,~~
9 ~~Transportation Code~~].

10 (k) On a defendant's [~~person's~~] showing of good cause for
11 failure to furnish evidence to the court, the court may allow an
12 extension of time during which the defendant [~~person~~] may present:

13 (1) a uniform certificate of course completion as
14 evidence that the defendant [~~person~~] successfully completed the
15 driving safety course; or

16 (2) a verification of course completion as evidence
17 that the defendant successfully completed the motorcycle operator
18 training course.

19 (1) When a defendant [~~person~~] complies with Subsection (c)
20 [~~(b) and a uniform certificate of course completion is accepted by~~
21 ~~the court~~], the court shall:

22 (1) proceed with an adjudication of guilt, but may not
23 impose the fine assessed or a reduced fine [~~remove the judgment and~~
24 ~~dismiss the charge~~];

25 (2) report the fact that the defendant [~~person~~]
26 successfully completed a driving safety course or a motorcycle
27 operator training course and the date of completion to the Texas

1 Department of Public Safety for inclusion in the person's driving
2 record; and

3 (3) state in that ~~[this]~~ report whether the course was
4 taken under ~~[the procedure provided by]~~ this article to provide
5 information necessary to determine eligibility to take a subsequent
6 course under Subsection (b).

7 (m) If the defendant is charged with more than one offense,
8 the defendant may complete a driving safety course in connection
9 with only one of the charges ~~[The court may dismiss only one charge~~
10 ~~for each completion of a course].~~

11 (n) ~~[A charge that is dismissed under this article may not~~
12 ~~be part of a person's driving record or used for any purpose.~~

13 ~~[(o)]~~ An insurer delivering or issuing for delivery a motor
14 vehicle insurance policy in this state may not cancel or increase
15 the premium charged an insured under the policy because the court
16 proceeded with an adjudication of guilt under Subsection (1)(1) or
17 because the insured completed a driving safety course or a
18 motorcycle operator training course ~~[or had a charge dismissed]~~
19 under this article.

20 (o) ~~[(p)]~~ The court shall advise a defendant ~~[person]~~
21 charged with a misdemeanor under Section 472.022, Transportation
22 Code, Subtitle C, Title 7, Transportation Code, or Section
23 729.001(a)(3), Transportation Code, committed while operating a
24 motor vehicle of the defendant's ~~[person's]~~ right under this
25 article to successfully complete a driving safety course or, if the
26 offense was committed while operating a motorcycle, a motorcycle
27 operator training course. The right to complete a course does not

1 apply to a defendant [~~person~~] charged with:

2 (1) a violation of Section 545.066, [~~545.401,~~
3 ~~545.421,~~] 550.022, or 550.023, Transportation Code; [~~7~~] or

4 (2) an offense to which [~~serious traffic violation as~~
5 ~~defined by~~] Section 542.404 or 729.004(b) [~~522.003~~],
6 Transportation Code, applies.

7 (p) A notice to appear issued for an offense to which this
8 article applies must inform a defendant charged with an offense
9 under Section 472.022, Transportation Code, an offense under
10 Subtitle C, Title 7, Transportation Code, or an offense under
11 Section 729.001(a)(3), Transportation Code, committed while
12 operating a motor vehicle of the defendant's right to complete a
13 driving safety course or, if the offense was committed while
14 operating a motorcycle, of the defendant's right to complete a
15 motorcycle operator training course. The notice required by this
16 subsection must read substantially as follows:

17 "You may be able to require that this charge be dismissed by
18 successfully completing a driving safety course or a motorcycle
19 operator training course. You will lose that right if, on or before
20 your appearance date, you do not provide the court with notice of
21 your request to take the course."

22 (q) If the notice required by Subsection (p) is not provided
23 to the defendant charged with the offense, the defendant may
24 continue to exercise the defendant's right to take a driving safety
25 course or a motorcycle operator training course until the notice
26 required by Subsection (p) is provided to the defendant or there is
27 a final disposition of the case.

1 (r) This article does not apply to an offense committed by a
2 person who holds a commercial driver's license.

3 (s) An order of deferral under Subsection (c) terminates any
4 liability under a bail bond or appearance bond given for the charge.

5 ~~[(q) Nothing in this article shall prevent a court from assessing~~
6 ~~a special expense for deferred disposition in the same manner as~~
7 ~~provided by Article 45.051. For a deferred disposition under~~
8 ~~Subsection (b)(1), the court may only collect a fee of not more than~~
9 ~~\$10 in addition to any applicable court cost.]~~

10 SECTION 20.03. Section 472.022(f), Transportation Code, is
11 amended to read as follows:

12 (f) Articles 45.051 and 45.0511 [~~Article 45.54~~], Code of
13 Criminal Procedure, do [~~does~~] not apply to an offense under this
14 section committed in a construction or maintenance work zone when
15 workers are present.

16 SECTION 20.04. The following laws are repealed:

17 (1) Section 543.101, Transportation Code; and

18 (2) Section 543.117, Transportation Code.

19 SECTION 20.05. (a) This article takes effect September 1,
20 2003.

21 (b) Articles 45.051 and 45.0511, Code of Criminal
22 Procedure, as amended by this article, apply only to an offense
23 committed on or after September 1, 2003.

24 (c) An offense committed before September 1, 2003, is
25 covered by the law in effect on the date the offense was committed,
26 and the former law is continued in effect for that purpose.

27 ARTICLE 21. DRIVER'S LICENSES

1 SECTION 21.01. Section 521.292, Transportation Code, is
2 amended by adding Subsection (c) to read as follows:

3 (c) For purposes of Subsection (a)(3), (7), or (9) and
4 Subsection (b), an adjudication of guilt under Article 45.051(c-1),
5 Code of Criminal Procedure, is not a conviction.

6 ARTICLE 22. COMMERCIAL DRIVER'S LICENSES

7 SECTION 22.01. Section 522.003(25), Transportation Code, is
8 amended to read as follows:

9 (25) "Serious traffic violation" means:

10 (A) a conviction arising from the driving of a
11 ~~[commercial]~~ motor vehicle, other than a parking, vehicle weight,
12 or vehicle defect violation, for:

13 (i) ~~[(A)]~~ excessive speeding, involving a
14 single charge of driving 15 miles per hour or more above the posted
15 speed limit;

16 (ii) ~~[(B)]~~ reckless driving, as defined by
17 state or local law;

18 (iii) ~~[(C)]~~ a violation of a state or local
19 law related to motor vehicle traffic control, including a law
20 regulating the operation of vehicles on highways, arising in
21 connection with a fatal accident;

22 (iv) ~~[(D)]~~ improper or erratic traffic lane
23 change;

24 (v) ~~[(E)]~~ following the vehicle ahead too
25 closely; or

26 (vi) ~~[(F) operating]~~ a ~~[commercial motor~~
27 ~~vehicle in]~~ violation of Section 522.011; or

1 (B) a violation of Section [or] 522.015.

2 SECTION 22.02. Section 522.081, Transportation Code, is
3 amended to read as follows:

4 Sec. 522.081. DISQUALIFICATION. (a) This subsection
5 applies [~~only~~] to a violation committed while operating any motor
6 vehicle, including a commercial motor vehicle. A person who holds a
7 commercial driver's license is disqualified from driving a
8 commercial motor vehicle for:

9 (1) 60 days if convicted of:

10 (A) two serious traffic violations that occur
11 within a three-year period; or

12 (B) one violation of a law that regulates the
13 operation of a motor vehicle at a railroad grade crossing; or

14 (2) 120 days if convicted of:

15 (A) three serious traffic violations arising
16 from separate incidents occurring within a three-year period; or

17 (B) two violations of a law that regulates the
18 operation of a motor vehicle at a railroad grade crossing that occur
19 within a three-year period[~~, or~~

20 [~~(3) one year if convicted of three violations of a law~~
21 ~~that regulates the operation of a motor vehicle at a railroad grade~~
22 ~~crossing that occur within a three-year period]~~.

23 (b) This subsection applies to a violation committed while
24 operating any motor vehicle, including a commercial motor vehicle,
25 except as provided by this subsection. A person who holds a
26 commercial driver's license is disqualified from driving a
27 commercial motor vehicle for one year:

1 (1) if convicted of three violations of a law that
2 regulates the operation of a motor vehicle at a railroad grade
3 crossing that occur within a three-year period;

4 (2) on first conviction of:

5 (A) [~~(1)~~] driving a [~~commercial~~] motor vehicle
6 under the influence of alcohol or a controlled substance, including
7 a violation of Section 49.04 or 49.07, Penal Code;

8 (B) [~~(2) driving a commercial motor vehicle~~
9 ~~while the person's alcohol concentration was 0.04 or more;~~

10 [~~(3) intentionally~~] leaving the scene of an accident
11 involving a [~~commercial~~] motor vehicle driven by the person;

12 (C) [~~(4)~~] using a [~~commercial~~] motor vehicle in
13 the commission of a felony, other than a felony described by
14 Subsection (d)(2);

15 (D) [~~(5) refusing to submit to a test to~~
16 ~~determine the person's alcohol concentration or the presence in the~~
17 ~~person's body of a controlled substance or drug while driving a~~
18 ~~commercial motor vehicle;~~

19 [~~(6)~~] causing the death of another person through the
20 negligent or criminal operation of a [~~commercial~~] motor vehicle; or

21 (E) [~~(7)~~] driving a commercial motor vehicle
22 while the person's commercial driver's license is revoked,
23 suspended, or canceled, or while the person is disqualified from
24 driving a commercial motor vehicle, for an action or conduct that
25 occurred while operating a commercial motor vehicle;

26 (3) for refusing to submit to a test under Chapter 724
27 to determine the person's alcohol concentration or the presence in

1 the person's body of a controlled substance or drug while operating
2 a motor vehicle in a public place; or

3 (4) if an analysis of the person's blood, breath, or
4 urine under Chapter 724 determines that the person:

5 (A) had an alcohol concentration of 0.04 or more,
6 or that a controlled substance or drug was present in the person's
7 body, while operating a commercial motor vehicle in a public place;
8 or

9 (B) had an alcohol concentration of 0.08 or more
10 while operating a motor vehicle, other than a commercial motor
11 vehicle, in a public place.

12 (c) A person who holds a commercial driver's license is
13 disqualified from operating a commercial motor vehicle for three
14 years if:

15 (1) the person:

16 (A) is convicted of an offense [~~If a violation~~]
17 listed in Subsection (b)(2) and the vehicle being operated by the
18 person was transporting a hazardous material required to be
19 placarded; or

20 (B) refuses to submit to a test under Chapter 724
21 to determine the person's alcohol concentration or the presence in
22 the person's body of a controlled substance or drug while operating
23 a motor vehicle in a public place and the vehicle being operated by
24 the person was transporting a hazardous material required to be
25 placarded; or

26 (2) an analysis of the person's blood, breath, or urine
27 under Chapter 724 determines that while transporting a hazardous

1 material required to be placarded the person:

2 (A) while operating a commercial motor vehicle in
3 a public place had an alcohol concentration of 0.04 or more, or a
4 controlled substance or drug present in the person's body; or

5 (B) while operating a motor vehicle, other than a
6 commercial motor vehicle, in a public place had an alcohol
7 concentration of 0.08 or more [~~(b) occurred while the person was~~
8 ~~transporting a hazardous material required to be placarded, the~~
9 ~~person is disqualified for three years~~].

10 (d) A person is disqualified from driving a commercial motor
11 vehicle for life:

12 (1) if the person [~~+~~
13 [~~(1)~~] is convicted [~~of~~] two or more times [~~violations~~]
14 of an offense specified by Subsection (b)(2) [~~(b)~~], or a
15 combination of those offenses, arising from two or more separate
16 incidents; [~~or~~]

17 (2) if the person uses a [~~commercial~~] motor vehicle in
18 the commission of a felony involving:

19 (A) the manufacture, distribution, or dispensing
20 of a controlled substance; or

21 (B) possession with intent to manufacture,
22 distribute, or dispense a controlled substance; or

23 (3) for any combination of two or more of the
24 following, arising from two or more separate incidents:

25 (A) a conviction of the person for an offense
26 described by Subsection (b)(2);

27 (B) a refusal by the person described by

1 Subsection (b)(3); and

2 (C) an analysis of the person's blood, breath, or
3 urine described by Subsection (b)(4).

4 (e) A person may not be issued a commercial driver's license
5 if, in connection with the person's operation of a commercial motor
6 vehicle, the person commits an offense or engages in conduct that
7 would disqualify the holder of a commercial driver's license from
8 operating a commercial motor vehicle, or is determined to have had
9 an alcohol concentration of 0.04 or more or to have had a controlled
10 substance or drug present in the person's body. The period of
11 prohibition under this subsection is equal to the appropriate
12 period of disqualification required by Subsections (a)-(d).

13 (f) In this section, "felony" means an offense under state
14 or federal law that is punishable by death or imprisonment for a
15 term of more than one year.

16 SECTION 22.03. Section 522.087, Transportation Code, is
17 amended to read as follows:

18 Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION.

19 (a) A person is automatically disqualified under Section
20 522.081(a)(1)(B), Section 522.081(b)(2) [~~522.081(b)(1), (3), (4),~~
21 ~~(6), or (7)]~~, or Section 522.081(d)(2). An appeal may not be taken
22 from the disqualification.

23 (b) Disqualifying a person under Section 522.081(a), other
24 than under Subdivision (1)(B) of that subsection, Section
25 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the
26 notice and hearing procedures of Sections 521.295-521.303. An
27 appeal of the disqualification is subject to Section 521.308.

1 SECTION 22.04. (a) This article takes effect June 1, 2005.

2 (b) Sections 522.081 and 522.087, Transportation Code, as
3 amended by this article, apply only to conduct that is engaged in or
4 to an offense that is committed on or after the effective date of
5 this article. Conduct that is engaged in or an offense committed
6 before the effective date of this article is governed by Sections
7 522.081 and 522.087, Transportation Code, as those sections existed
8 immediately before the effective date of this article, and the
9 former law is continued in effect for that purpose.

10 ARTICLE 23. HIGHWAY BEAUTIFICATION FEE

11 SECTION 23.01. Section 391.063, Transportation Code, is
12 amended to read as follows:

13 Sec. 391.063. LICENSE FEE AND HIGHWAY BEAUTIFICATION FEE.

14 (a) The commission may set the amount of a license fee according to
15 a scale graduated by the number of units of outdoor advertising
16 owned by a license applicant.

17 (b) In addition to the fee under Subsection (a), the
18 department shall collect from each license applicant an additional
19 fee of \$11, of which:

20 (1) \$9 shall be used by the department only to assist
21 owners of outdoor advertising in relocating outdoor advertising
22 required to be removed or relocated under this chapter; and

23 (2) \$2 shall be used by the department for landscaping
24 highways that are part of the interstate or primary system.

25 SECTION 23.02. Section 394.025, Transportation Code, is
26 amended by adding Subsection (c) to read as follows:

27 (c) In addition to the fee under Subsection (a), the

1 department shall collect from each permit applicant an additional
2 fee of \$11, of which:

3 (1) \$9 shall be used by the department only to assist
4 owners of off-premise signs in relocating signs required to be
5 relocated or removed under this chapter; and

6 (2) \$2 shall be used by the department for landscaping
7 rural roads as defined by Section 394.002 that are under the
8 jurisdiction of this state.

9 SECTION 23.03. This article applies only to an application
10 for a permit or permit renewal for outdoor advertising or an
11 off-premise sign received by the Texas Department of Transportation
12 on or after the effective date of this Act. An application received
13 before the effective date of this Act is covered by the law in
14 effect on the date the application was received, and the former law
15 is continued in effect for that purpose.

16 ARTICLE 24. MISCELLANEOUS PROVISIONS

17 SECTION 24.01. (a) Subchapter D, Chapter 542,
18 Transportation Code, is amended by adding Section 542.4031 to read
19 as follows:

20 Sec. 542.4031. ADDITIONAL COURT COST. (a) In addition to
21 other costs, including a cost under Section 542.403, a person
22 convicted of an offense under this subtitle shall pay \$30 as a court
23 cost.

24 (b) The officer who collects a cost under this section shall
25 send the cost to the comptroller. Of each \$30 court cost received
26 by the comptroller:

27 (1) \$20 shall be deposited to the credit of the general

1 revenue fund; and

2 (2) \$10 shall be deposited to the credit of the
3 designated trauma facility and emergency medical services account
4 under Section 780.003, Health and Safety Code.

5 (c) Notwithstanding Subsection (b)(1), the comptroller
6 shall deposit court costs received under that subsection to the
7 credit of the general revenue fund only until the total amount of
8 the court costs deposited to the credit of the general revenue fund
9 under that subsection and the surcharges deposited to the credit of
10 that fund under Section 780.002(b), Health and Safety Code, equals
11 \$250 million for that biennium. If in any state fiscal biennium the
12 amount received by the comptroller under those laws exceeds \$250
13 million, the comptroller shall deposit the additional amount
14 received under Subsection (b)(1) to the credit of the Texas
15 mobility fund.

16 (b) Article 45.0511, Code of Criminal Procedure, is amended
17 by adding Subsection (r) to read as follows:

18 (r) In addition to any other fee or special expense imposed
19 on a defendant under this section, the justice shall require the
20 defendant to pay \$30 as a court cost. The officer who collects the
21 cost required by this subsection shall send the cost to the
22 comptroller. Of each \$30 court cost received by the comptroller:

23 (1) \$20 shall be deposited to the credit of the general
24 revenue fund; and

25 (2) \$10 shall be deposited to the credit of the
26 designated trauma facility and emergency medical services account
27 under Section 780.003, Health and Safety Code.

1 (c) The change in law made by this section applies only to an
2 offense committed on or after the effective date of this section.
3 For the purposes of this section, an offense is committed before the
4 effective date of this section if any element of the offense occurs
5 before that date. An offense committed before the effective date of
6 this section is governed by the law in effect when the offense was
7 committed, and the former law is continued in effect for that
8 purpose.

9 SECTION 24.02. Chapter 551, Transportation Code, is amended
10 by adding Subchapter D to read as follows:

11 SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES

12 Sec. 551.301. DEFINITION. In this subchapter,
13 "neighborhood electric vehicle" means a vehicle subject to Federal
14 Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).

15 Sec. 551.302. OPERATION ON ROADWAY. (a) A neighborhood
16 electric vehicle may be operated only on a street or highway for
17 which the posted speed limit is 35 miles per hour or less. The
18 vehicle may cross a road or street at an intersection where the road
19 or street has a posted speed limit of more than 35 miles per hour.

20 (b) A county or municipality may prohibit the operation of a
21 neighborhood electric vehicle on any street or highway if the
22 governing body of the county or municipality determines that the
23 prohibition is necessary in the interest of safety.

24 (c) The department may prohibit the operation of a
25 neighborhood electric vehicle on a highway if it determines that
26 the prohibition is necessary in the interest of safety.

27 SECTION 24.03. (a) Section 456.022, Transportation Code,

1 is amended to read as follows:

2 Sec. 456.022. FORMULA ALLOCATION [BY CATEGORIES]. The
3 commission shall adopt rules establishing a formula to allocate
4 funds to eligible public transportation providers. The formula may
5 take into account:

- 6 (1) the provider's performance;
7 (2) the number of passengers served by the provider;
8 (3) the need for public transportation by residents of
9 the provider's service area;
10 (4) the population, population density, and land area
11 of the provider's service area; and
12 (5) other factors established by the commission.

13 ~~[Under the formula program the commission shall allocate:~~

14 ~~[(1) 50 percent of the money to municipalities that~~
15 ~~are:~~

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

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

23 ~~[(2) 50 percent of the money to designated recipients~~
24 ~~in nonurbanized areas.]~~

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

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

27 SECTION 24.04. Subchapter B, Chapter 391, Transportation

1 Code, is amended by adding Section 391.0331 to read as follows:

2 Sec. 391.0331. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION.

3 (a) If any outdoor advertising use, structure, or permit may not be
4 continued because of widening, construction, or reconstruction of a
5 highway, the owner of the outdoor advertising is entitled to
6 relocate the use, structure, or permit to another location in
7 accordance with applicable administrative rules and policies of the
8 department.

9 (b) Subject to federal and state regulations, any
10 governmental entity, quasi-governmental entity, or public utility
11 that acquires outdoor advertising by eminent domain or causes the
12 need for the outdoor advertising to be relocated under this section
13 shall pay the costs related to the acquisition or relocation.

14 (c) If a governmental entity prohibits the relocation of
15 outdoor advertising as provided under this section, the
16 governmental entity shall pay fair compensation.

17 SECTION 24.05. (a) Subchapter H, Chapter 545,
18 Transportation Code, is amended by adding Section 545.3571 to read
19 as follows:

20 Sec. 545.3571. DESIGNATION OF SCHOOL CROSSING ZONES AND
21 SCHOOL CROSSWALKS AND INSTALLATION OF OFFICIAL TRAFFIC CONTROL
22 DEVICES. (a) Except as provided by Subsection (b), not later than
23 the 30th day before the date the construction of a new public
24 elementary or secondary school is scheduled to be completed or the
25 date students are scheduled to begin attending a newly constructed
26 public elementary or secondary school, whichever is earlier, the
27 Texas Department of Transportation or the appropriate local

1 authority, as applicable, shall designate each necessary school
2 crossing zone and school crosswalk for the school and install the
3 appropriate official traffic control devices for each designated
4 school crossing zone.

5 (b) If the Texas Department of Transportation or the
6 appropriate local authority does not receive timely notice required
7 by Section 11.168, Education Code, the department or local
8 authority must comply with Subsection (a) not later than the 30th
9 day after receiving notice that the construction of a new public
10 elementary or secondary school is or is about to be completed or
11 that students are or are scheduled to begin attending a newly
12 constructed public elementary or secondary school.

13 (b) Section 545.3571, Transportation Code, as added by
14 Subsection (a) of this section, applies to:

15 (1) construction of a new public elementary or
16 secondary school scheduled to be completed on or after October 31,
17 2003; or

18 (2) a newly constructed public elementary or secondary
19 school that students are scheduled to begin attending on or after
20 October 31, 2003.

21 SECTION 24.06. Subchapter D, Chapter 11, Education Code, is
22 amended by adding Section 11.168 to read as follows:

23 Sec. 11.168. NOTICE CONCERNING NEWLY CONSTRUCTED SCHOOL.
24 Not later than the 60th day before the date construction of a new
25 elementary or secondary school is scheduled to be completed or
26 students are scheduled to begin attending a newly constructed
27 elementary or secondary school, whichever is earlier, the board of

1 trustees of the independent school district in which the new school
2 is located shall provide notice of that scheduled date to the Texas
3 Department of Transportation or the county, municipality, or other
4 local entity that is responsible under Section 545.3571,
5 Transportation Code, for designating crossing zones and school
6 crosswalks for the school and installing official traffic control
7 devices for the designated school crossing zones.

8 SECTION 24.07. Section 201.601, Transportation Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) The plan must include a component that is not
11 financially constrained and identifies projects designed to
12 relieve congestion. In developing that component of the plan, the
13 department shall seek opinions and assistance from officials who
14 have local responsibility for modes of transportation listed in
15 Subsection (a).

16 SECTION 24.08. Section 545.066(c), Transportation Code, is
17 amended to read as follows:

18 (c) An offense under this section is a misdemeanor
19 punishable by a fine of not less than \$200 or more than \$1,000,
20 except that the offense is:

21 (1) a Class A misdemeanor if the person causes serious
22 bodily injury to another; or

23 (2) a state jail felony if the person has been
24 previously convicted under Subdivision (1).

25 SECTION 24.09. (a) The change in law made by Section
26 545.066(c), Transportation Code, as amended by this article,
27 applies only to an offense committed on or after the effective date

1 of this Act. For purposes of this section, an offense is committed
2 before the effective date of this Act if any element of the offense
3 occurs before that date.

4 (b) An offense committed before the effective date of this
5 Act is covered by the law in effect when the offense was committed,
6 and the former law is continued in effect for that purpose.

7 SECTION 24.10. Section 521.121(a), Transportation Code, is
8 amended to read as follows:

9 (a) The driver's license must include:

10 (1) a distinguishing number assigned by the department
11 to the license holder;

12 (2) a color photograph of the entire face of the
13 holder;

14 (3) the full name, date of birth, and residence
15 address of the holder; ~~and~~

16 (4) a brief description of the holder; and

17 (5) a code reflecting the ethnicity of the holder.

18 SECTION 24.11. Section 521.142(c), Transportation Code, is
19 amended to read as follows:

20 (c) The application must state:

21 (1) the sex of the applicant;

22 (2) the residence address of the applicant;

23 (3) whether the applicant has been licensed to drive a
24 motor vehicle before;

25 (4) if previously licensed, when and by what state or
26 country;

27 (5) whether that license has been suspended or revoked

1 or a license application denied;

2 (6) the date and reason for the suspension,
3 revocation, or denial;

4 (7) whether the applicant is a citizen of the United
5 States; ~~and~~

6 (8) the county of residence of the applicant; and

7 (9) the ethnicity of the applicant.

8 ARTICLE 25. GENERAL PROVISIONS; EFFECTIVE DATE

9 SECTION 25.01. Money required to be deposited to a specific
10 fund or account by a change in law made by this Act is exempt from
11 Section 403.095, Government Code.

12 SECTION 25.02. Except as otherwise provided by this Act,
13 this Act takes effect September 1, 2003.