

By: Krusee

H.B. No. 2702

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the construction, acquisition, financing, maintenance,
3 management, operation, ownership, and control of rail and highway
4 transportation facilities in this state and to the operation of
5 pocket bikes and minimotorbikes.

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

7 SECTION 1. Section 91.004, Transportation Code, is amended
8 to read as follows:

9 Sec. 91.004. GENERAL POWERS. (a) The department may:

10 (1) plan and make policies for the location,
11 construction, maintenance, and operation of a rail facility or
12 system in this state;

13 (2) acquire, finance, construct, maintain, and
14 subject to Section 91.005, operate a passenger or freight rail
15 facility, individually or as one or more systems;

16 (3) for the purpose of acquiring or financing a rail
17 facility or system, accept a grant or loan from a:

18 (A) department or agency of the United States;

19 (B) department, agency, or political subdivision
20 of this state; or

21 (C) public or private person;

22 (4) contract with a public or private person to
23 finance, construct, maintain, or operate a rail facility under this
24 chapter; or

1 (5) perform any act necessary to the full exercise of
2 the department's powers under this chapter.

3 (b) Except as provided by Subsection (c), money
4 appropriated or allocated by the United States for the construction
5 and maintenance in this state of rail facilities owned by any public
6 or private entity shall be administered by the commission and may be
7 spent only under the supervision of the department.

8 (c) Subsection (b) does not apply to money appropriated or
9 allocated:

10 (1) for a fixed rail guideway system constructed by a
11 transit authority described by Chapter 451, a transportation
12 authority described by Chapter 452 or 460, or a transit department
13 described by Chapter 453; or

14 (2) for use by:

15 (A) a port authority or navigation district
16 created or operating under Section 52, Article III, or Section 59,
17 Article XVI, Texas Constitution; or

18 (B) a district created under Chapter 623, Acts of
19 the 67th Legislature, Regular Session, 1981 (Article 6550c,
20 Vernon's Texas Civil Statutes).

21 SECTION 2. Section 91.051, Transportation Code, is amended
22 to read as follows:

23 Sec. 91.051. AWARDING OF CONTRACTS. Except for a contract
24 entered into under Section 91.052, 91.054, or 91.102 [~~Unless~~
25 ~~otherwise provided by this subchapter~~], a contract made by the
26 department for the financing, design, construction, maintenance,
27 or operation of a rail facility must be let by a competitive bidding

1 procedure in which the contract is awarded to the lowest
2 responsible bidder that complies with the department's criteria.

3 SECTION 3. Subchapter C, Chapter 91, Transportation Code,
4 is amended by adding Section 91.054 to read as follows:

5 Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To
6 the extent and in the manner that the department may enter into a
7 comprehensive development agreement under Chapter 361 with regard
8 to a turnpike project, the department may enter into a
9 comprehensive development agreement under this chapter that
10 provides for the financing, design, acquisition, construction,
11 maintenance, or operation of a rail facility or system. All
12 provisions of Chapter 361 relating to comprehensive development
13 agreements for turnpike projects apply to comprehensive
14 development agreements for facilities under this chapter,
15 including provisions relating to the confidentiality of
16 information. Claims arising under a comprehensive development
17 agreement are subject to Section 201.112.

18 (b) The department may combine in a comprehensive
19 development agreement under this chapter a rail facility or system
20 and a turnpike project as defined by Section 361.001.

21 SECTION 4. Section 91.074(c), Transportation Code, is
22 amended to read as follows:

23 (c) The department may contract with a person for the use of
24 all or part of a rail facility or system or may lease or sell all or
25 part of a rail facility or system, including all or any part of the
26 right-of-way adjoining trackwork, for any purpose, including
27 placing on the adjoining right-of-way a storage or transfer

1 facility, warehouse, garage, parking facility, telecommunication
2 line or facility, restaurant, or gas station. Any portion of a rail
3 facility or system that is used or leased by a private person under
4 this subsection for a commercial purpose is not exempt from ad
5 valorem taxation and is subject to local zoning regulations and
6 building standards.

7 SECTION 5. Section 201.903, Transportation Code, is amended
8 by adding Subsection (c) to read as follows:

9 (c) Each department sign on Interstate Highway 35 that
10 identifies an intersection of that highway and U.S. Highway 57 and
11 includes the words "Eagle Pass" must also contain the words
12 "Crystal City."

13 SECTION 6. Subchapter K, Chapter 201, Transportation Code,
14 is amended by adding Section 201.907 to read as follows:

15 Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or
16 a public or private entity contracted to operate a toll project may
17 contract with an agency of this state or a local governmental entity
18 for the services of peace officers employed by the agency or entity
19 to enforce laws related to:

20 (1) the regulation and control of vehicular traffic on
21 a state highway; and

22 (2) the payment of the proper toll on a toll project.

23 SECTION 7. Section 201.943, Transportation Code, is amended
24 by adding Subsection (1) to read as follows:

25 (1) Obligations may not be issued if the commission or the
26 department requires that toll roads be included in a regional
27 mobility plan in order for a local authority to receive an

1 allocation from the fund, except that bond proceeds deposited in
2 the fund and other money in the fund may be spent in the eight
3 metropolitan areas, as identified in the department's
4 transportation strategic plan and uniform transportation plan,
5 regardless of whether the regional mobility plan includes toll
6 roads.

7 SECTION 8. Section 202.112, Transportation Code, is amended
8 by adding Subsection (d) to read as follows:

9 (d) An option to acquire property purchased under this
10 section or Section 227.041 may not expire later than the 10th
11 anniversary of the date the option was purchased and may be renewed
12 for subsequent periods that expire not later than the 10th
13 anniversary of the date the option was renewed, by agreement of the
14 commission and the grantor of the option or the grantor's heirs or
15 assigns.

16 SECTION 9. The heading to Section 203.004, Transportation
17 Code, is amended to read as follows:

18 Sec. 203.004. [~~CONTRACTS FOR MANAGEMENT OF PROPERTY USED~~
19 ~~FOR~~] MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.

20 SECTION 10. Section 203.004, Transportation Code, is
21 amended by amending Subsection (a) and adding Subsection (a-1) to
22 read as follows:

23 (a) If authorized by an applicable regulatory authority, to
24 mitigate an adverse environmental impact that is a direct result of
25 a state highway improvement project, the [The] department may:

26 (1) pay a fee to an appropriate public agency or
27 private entity in lieu of acquiring or agreeing to manage property;

1 (2) transfer real property to an appropriate public
2 agency or private entity, with or without monetary consideration,
3 if the property is used or is proposed to be used for mitigation
4 purposes; or

5 (3) contract with any public or private entity for the
6 management of property owned by the department and used for [~~the~~]
7 mitigation purposes [~~of an adverse environmental impact directly~~
8 ~~resulting from the construction or maintenance of a state highway~~].

9 (a-1) Before the commission may acquire by purchase or
10 condemnation real property to mitigate an adverse environmental
11 impact that is a direct result of a state highway improvement
12 project, the department shall, if authorized by an applicable
13 regulatory authority, offer to purchase a conservation easement
14 from the owner of the real property. If the landowner does not
15 accept the offer to execute a conservation easement before the 61st
16 day after the date the offer is made, the department may acquire the
17 property by purchase or condemnation.

18 SECTION 11. Section 203.0521, Transportation Code, is
19 amended to read as follows:

20 Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a
21 proposed acquisition of a tract of real property under Section
22 203.052 would leave the owner of the property a remainder of the
23 tract, the department may negotiate for and purchase the remainder
24 or any part of a severed tract if the department and the owner agree
25 on terms for the purchase. Except as provided by Subsection (f),
26 the department [~~commission~~] shall offer to purchase a [~~the~~]
27 remainder if the department [~~commission~~] determines that:

1 (1) the remainder has little or no value or utility to
2 the owner; or

3 (2) the entire tract could be acquired for
4 substantially the same compensation as the partial tract.

5 (b) In acquiring a tract of real property under Section
6 203.051, if the acquisition severs an owner's real property, the
7 department shall pay:

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

9 (2) the damages to the remainder of the owner's
10 property caused by the severance, including damages caused by the
11 inaccessibility of one tract from the other [~~The department may~~
12 ~~acquire the remainder under this section only if the owner of the~~
13 ~~property consents to the acquisition of the remainder~~].

14 (c) Instead of a single fixed payment for real property
15 purchased under Subsection (a) for a toll project, the department
16 may agree to a payment to the owner in the form of:

17 (1) an intangible legal right to receive a percentage
18 of identified revenue attributable to the applicable segment of the
19 toll project; or

20 (2) a right to use, without charge, a segment or part
21 of the toll project [~~The department is not required to make an offer~~
22 ~~on a remainder if an appraisal or environmental investigation~~
23 ~~indicates the presence of hazardous materials or substances~~].

24 (d) A right to receive revenue under Subsection (c)(1) is
25 subject to any pledge of the revenue under the terms of a trust
26 agreement securing bonds issued for the applicable segment of the
27 toll project.

1 (e) The department and its designated agents may enter the
2 real property [~~a remainder~~] to conduct an appraisal, survey, or
3 environmental investigation to determine whether the department
4 will offer to acquire the real property [~~remainder~~].

5 (f) The department is not required to make an offer on a
6 remainder under Subsection (a) if an appraisal or environmental
7 investigation indicates the presence of hazardous materials or
8 substances.

9 SECTION 12. Section 203.092, Transportation Code, is
10 amended as follows:

11 Sec. 203.092. REIMBURSEMENT FOR RELOCATION OF UTILITY
12 FACILITIES. (a) A utility shall make a relocation of a utility
13 facility at the expense of this state if:

14 (1) relocation of the utility facility is required by
15 improvement of a highway in this state established by appropriate
16 authority as part of the National System of Interstate and Defense
17 Highways and the relocation is eligible for federal participation;
18 [~~or~~]

19 (2) relocation of the utility facility is required by
20 improvement of any segment of the state highway system and the
21 utility has a compensable property interest in the land occupied by
22 the facility to be relocated; or

23 (3) relocation of the utility facility is required by
24 any improvement, extension, or expansion of the state highway
25 system that has been designated or is converted to a toll project,
26 rail facility, turnpike project, or system as defined in any title
27 under this code, if the relocation was begun not later than one year

1 before the date of the designation or conversion.

2 (b) By agreement with the utility the department may
3 relocate the utility facility in accordance with this section.

4 (c) Subsection (a) includes a relocation for an extension of
5 a highway in an urban area.

6 (d) The cost of relocation includes the entire amount paid
7 by the utility properly attributable to the relocation less:

8 (1) any increase in the value of the new facility;

9 (2) the salvage value derived from the old facility;

10 and

11 (3) any other deduction established by regulations for
12 federal cost participation.

13 (e) To the extent any public utility was not reimbursed
14 previously for the relocation, removal, or adjustment of public
15 utility facilities on, across, or along the toll project, rail
16 facility, turnpike project, or system as provided in Subsection
17 (a), any entity to which the project, facility, or system is to be
18 transferred shall reimburse the public utility. This subsection
19 applies only to a relocation, removal, or adjustment that was begun
20 one year before the date of the transfer.

21 SECTION 13. Sections 223.041(b), (c), and (d),
22 Transportation Code, are amended to read as follows:

23 (b) The department, in setting a minimum level of
24 expenditures in these engineering-related activities that will be
25 paid to the private sector providers, shall provide that ~~[index the~~
26 ~~level of expenditures from the amount set by rider in the General~~
27 ~~Appropriations Act enacted by the 75th Legislature at its regular~~

1 ~~session in 1997, expressed as a percentage of the total funds~~
2 ~~appropriated in Strategy A.1.1. Plan/Design/Manage.~~

3 ~~[(c) Beginning in fiscal year 2000, the department shall~~
4 ~~increase its expenditures to private sector providers for~~
5 ~~engineering-related services at least one percentage point per year~~
6 ~~until]~~ the expenditure level for a state fiscal year in all
7 strategies paid to private sector providers for all department
8 engineering-related services for transportation projects is not
9 less than ~~[reaches a minimum of]~~ 35 percent of the total funds
10 appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy
11 A.1.2. of the General Appropriations Act for that state fiscal
12 biennium. The department shall attempt to make expenditures for
13 engineering-related services with private sector providers under
14 this subsection with historically underutilized businesses, as
15 defined by Section 2161.001, Government Code, in an amount
16 consistent with the applicable provisions of the Government Code,
17 any applicable state disparity study, and in accordance with the
18 good-faith-effort procedures outlined in the rules adopted by the
19 Texas Building and Procurement ~~[General Services]~~ Commission.

20 ~~[(d) The commission shall provide for hearings at which~~
21 ~~private sector complaints relating to the selection process are~~
22 ~~heard.]~~

23 SECTION 14. Subchapter A, Chapter 227, Transportation Code,
24 is amended by adding Section 227.004 to read as follows:

25 Sec. 227.004. REPORTS. (a) The department shall
26 periodically prepare reports detailing:

27 (1) the reasons for the immediate and future needs for

1 each mode of transportation in each segment of a Trans-Texas
2 Corridor project; and

3 (2) the reasonableness and necessity for each mode of
4 transportation in each segment of a Trans-Texas Corridor project in
5 the report.

6 (b) Not later than the seventh day before the date the
7 department submits a Tier 1 environmental impact statement and not
8 later than the 90th day before the department submits a Tier 2
9 environmental impact statement to the federal government for any
10 segment of a Trans-Texas Corridor route, the department shall:

11 (1) post the most recent applicable report required by
12 Subsection (a) on the department's Internet website; and

13 (2) provide a copy of the report to each state senator
14 or representative who represents all or part of the area in which
15 the segment of the route is located and the commissioners court of
16 each county in which the segment of the route is located.

17 SECTION 15. Section 227.021, Transportation Code, is
18 amended by adding Subsection (f) to read as follows:

19 (f) The department may not limit the public's direct access
20 to or from the Trans-Texas Corridor with the intent to benefit the
21 economic viability of an ancillary facility.

22 SECTION 16. Section 227.023, Transportation Code, is
23 amended by adding Subsection (d) to read as follows:

24 (d) If the department contracts with a private entity for
25 the collection of a fee for the use of a facility or a combination of
26 facilities that are part of the Trans-Texas Corridor, the private
27 entity shall submit to the department for approval:

1 (1) a plan outlining methods the entity will use to
2 collect the fee, including:

3 (A) any charge to be imposed as a penalty for late
4 payment of the fee;

5 (B) any charge to be imposed to recover the cost
6 of collecting a delinquent fee; and

7 (C) the methodology for increasing the amount of
8 the fee; and

9 (2) any proposed change in an approved plan for
10 collecting the fee.

11 SECTION 17. Section 227.028(a), Transportation Code, is
12 amended to read as follows:

13 (a) Subject to Section 203.004(a-1), the [~~The~~] department
14 may acquire, maintain, hold, restore, enhance, develop, or
15 redevelop property for the purpose of mitigating a past, present,
16 or future adverse environmental effect arising from the
17 construction or operation of any part of the Trans-Texas Corridor
18 without regard to whether the need for mitigation is established
19 for a particular project.

20 SECTION 18. Section 227.029(b), Transportation Code, is
21 amended to read as follows:

22 (b) If the department finds it necessary to change the
23 location of a portion of a facility, it shall reconstruct the
24 facility at a [~~the~~] location that the department determines
25 restores the utility of the facility [~~to be most favorable~~]. The
26 reconstructed facility must be of substantially the same type and
27 in as good condition as the original facility. The department shall

1 determine and pay the cost of the reconstruction and any damage
2 incurred in changing the location of a facility.

3 SECTION 19. Subchapter C, Chapter 227, Transportation Code,
4 is amended by adding Sections 227.032, 227.033, and 227.034 to read
5 as follows:

6 Sec. 227.032. HIGHWAYS INTERSECTING TRANS-TEXAS CORRIDOR.

7 (a) The department shall ensure that, at each intersection of a
8 segment of a state highway that is designated as part of the
9 Trans-Texas Corridor and a segment of a highway that is designated
10 as an interstate highway, state highway, or United States highway,
11 the Trans-Texas Corridor and the interstate highway, state highway,
12 or United States highway are directly accessible to each other.

13 (b) The department shall make every reasonable effort to
14 connect a segment of a state highway that is designated as part of
15 the Trans-Texas Corridor with significant farm-to-market and
16 ranch-to-market roads and major county and city arterials included
17 in the locally adopted long-range transportation plan as determined
18 by the department, taking into consideration:

19 (1) financial feasibility;

20 (2) advice solicited from:

21 (A) county commissioners courts;

22 (B) governing bodies of municipalities; and

23 (C) metropolitan planning organizations;

24 (3) circuitry of travel for landowners;

25 (4) access for emergency vehicles; and

26 (5) traffic volume.

27 Sec. 227.033. GROUNDWATER. (a) After receipt of an offer

1 to construct a facility for the transportation of groundwater from
2 the county in which the groundwater is pumped or extracted, but not
3 later than the 90th calendar day before entering into a lease
4 agreement, license agreement, or franchise agreement for the use of
5 any part of the Trans-Texas Corridor for that purpose, the
6 department shall provide written notice of the offer to:

7 (1) each groundwater conservation district,
8 subsidence district, or other local water authority having
9 territory in the county in which the groundwater is pumped or
10 extracted; and

11 (2) the commissioners court of the county in which the
12 groundwater is pumped or extracted.

13 (b) The department may not pump or extract, or allow the
14 pumping or extracting, of groundwater from the right-of-way of the
15 Trans-Texas Corridor unless the groundwater is needed for the
16 construction, operation, or maintenance of a facility other than a
17 public utility facility. If a well drilled and operated on the
18 Trans-Texas Corridor is located inside the boundaries of a
19 groundwater conservation district, the well is subject to the rules
20 of the district.

21 Sec. 227.034. PROHIBITION AGAINST LIMITING CONSTRUCTION OF
22 TRANSPORTATION PROJECTS. (a) A contract for the acquisition,
23 construction, maintenance, or operation of a facility on the
24 Trans-Texas Corridor may not contain a provision that limits or
25 prohibits construction or operation of a highway or other
26 transportation project that is:

27 (1) included in the unified transportation program of

1 the department;

2 (2) a project of a local government; or

3 (3) constructed or operated for the safety of
4 pedestrian or vehicular traffic.

5 (b) In this section, "transportation project" has the
6 meaning assigned by Section 370.003.

7 SECTION 20. Section 227.041, Transportation Code, is
8 amended by amending Subsection (b) and adding Subsections (d) and
9 (e) to read as follows:

10 (b) An interest in real property or a property right is
11 necessary or convenient for the construction or operation of a
12 facility if it is located in or contiguous to an existing or planned
13 segment of the Trans-Texas Corridor or is needed for mitigation of
14 adverse environmental effects, and if its acquisition will further
15 the primary purposes of the Trans-Texas Corridor. Primary purposes
16 include:

17 (1) providing right-of-way or a location for a
18 facility;

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

21 (3) providing buffer zones for scenic or safety
22 purposes;

23 (4) allowing for possible future expansion of any
24 facility; and

25 (5) generating revenue, directly or indirectly, for
26 use in constructing or operating the Trans-Texas Corridor from or
27 for ancillary facilities that directly benefit users of the

1 Trans-Texas Corridor.

2 (d) The commission may not condemn property contiguous to an
3 existing or planned segment of the Trans-Texas Corridor for an
4 ancillary facility.

5 (e) If the commission acquires property not immediately
6 needed for department purposes, the department is encouraged to
7 acquire an option to purchase the property under Subsection (a) or
8 to lease back purchased land under Section 227.043 to continue the
9 agricultural or recreational use of the property.

10 SECTION 21. Subchapter D, Chapter 227, Transportation Code,
11 is amended by adding Section 227.0415 to read as follows:

12 Sec. 227.0415. DEVELOPMENT RIGHTS. (a) In connection with
13 the acquisition of property located in an existing or planned
14 segment of the Trans-Texas Corridor for the purpose of providing a
15 location for an ancillary facility, the owner of the property to be
16 acquired may elect to retain the right to develop the property in
17 accordance with the department's development plans. If more than
18 one person owns an interest in the property, the election under this
19 subsection must be made by unanimous written consent of all persons
20 who own an interest in the property.

21 (b) If the owner does not develop the property within the
22 time period set out in the department's development plans, the
23 department may acquire the development rights for the property by
24 purchase or condemnation.

25 (c) Property that is developed by the owner under this
26 section is not exempt from ad valorem taxation and is subject to
27 local zoning regulations and building standards.

1 SECTION 22. Subchapter D, Chapter 227, Transportation Code,
2 is amended by adding Sections 227.047 and 227.048 to read as
3 follows:

4 Sec. 227.047. ACQUISITION OF REMAINDER. (a) If a proposed
5 acquisition of a tract of real property under Section 227.041 would
6 leave the owner of the property a remainder of the tract, the
7 department may negotiate for and purchase the remainder or any part
8 of a severed tract if the department and the owner agree on terms
9 for the purchase. Except as provided by Subsection (d), the
10 department shall offer to purchase a remainder if the department
11 determines that:

12 (1) the remainder has little or no value or utility to
13 the owner; or

14 (2) the entire tract could be acquired for
15 substantially the same compensation as the partial tract.

16 (b) In acquiring a tract of real property under Section
17 227.041, if the acquisition severs an owner's real property, the
18 department shall pay:

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

20 (2) the damages to the remainder of the owner's
21 property caused by the severance, including damages caused by the
22 loss of reasonable access between portions of a bisected tract.

23 (c) The department and its designated agents may enter the
24 real property to conduct an appraisal, survey, or environmental
25 investigation to determine whether the department will offer to
26 acquire the real property.

27 (d) The department is not required under Subsection (a) to

1 make an offer on a remainder if an appraisal or environmental
2 investigation indicates the presence of hazardous materials or
3 substances.

4 (e) If the department acquires a tract that severs an
5 owner's property, the department may allow the owner to build, in
6 compliance with federal law, an alternative access between the
7 severed tracts below the tract acquired by the department. An owner
8 must obtain department approval of the design specifications of the
9 alternative access.

10 Sec. 227.048. LOSS OF ACCESS. If a portion of a tract or
11 parcel of real property is acquired under this subchapter, the
12 department shall pay for loss of reasonable access to or from the
13 remaining property in determining the damage to the property owner.

14 SECTION 23. Section 227.082, Transportation Code, is
15 amended by adding Subsection (f) to read as follows:

16 (f) The department may lease property or grant a franchise
17 or license under this section only if each agreement has been
18 approved by the commissioners court of the county in which the
19 property, facility, or other part of the Trans-Texas Corridor is
20 located. This subsection does not apply to a lease of property or a
21 grant of a franchise or license to a private entity for the purpose
22 of operating a highway, turnpike, rail facility, or utility
23 facility under a comprehensive development agreement.

24 SECTION 24. Section 284.009, Transportation Code, as added
25 by Chapters 953 and 1325, Acts of the 78th Legislature, Regular
26 Session, 2003, is reenacted and amended to read as follows:

27 Sec. 284.009. CONVERSION AND TRANSFER [~~CONVEYANCE~~] OF STATE

1 HIGHWAY TO COUNTY [~~OR TOLL ROAD AUTHORITY~~]. (a) The commission may
2 transfer [~~convey~~] a nontoll state highway or a segment of a nontoll
3 state highway, including real property acquired to construct or
4 operate the highway, to [~~(i)~~] a county [~~or a toll road authority in~~
5 ~~the county in which the state highway or segment is located, or (ii)~~
6 ~~a county or toll road authority in a county adjacent to the county~~
7 ~~in which the highway or segment is located if the county or toll~~
8 ~~road authority in the county in which the segment or highway is~~
9 ~~located approves the conveyance,~~] for the purpose of converting the
10 highway to a toll facility to be operated and maintained [~~operation~~
11 ~~and maintenance~~] as a project under this chapter, if:

12 (1) the commission determines that the proposed
13 transfer [~~conveyance~~] will improve overall mobility in the region
14 or is the most feasible and economic means of accomplishing
15 necessary improvements to the highway;

16 (2) any funds paid by the department for the
17 construction, maintenance, and operation of the transferred
18 [~~conveyed~~] highway are repaid to the department; and

19 (3) the county [~~or toll road authority~~] agrees to
20 assume all liability and responsibility for the maintenance and
21 operation of the transferred [~~conveyed~~] highway on its transfer
22 [~~conveyance~~].

23 (b) A county [~~or toll road authority~~] that receives a
24 nontoll state highway or a segment of a nontoll state highway under
25 Subsection (a) may own, operate, and maintain the highway as a
26 pooled project under Section 284.065. [~~The commission may only~~
27 ~~make a conveyance under this section if the commission determines~~

1 ~~that the conveyance is the most feasible and economic means to~~
2 ~~accomplish necessary expansions, extensions, or improvements of~~
3 ~~the conveyed segment of the highway. Tolls may not be collected by~~
4 ~~an authority from a conveyed segment of highway except to finance~~
5 ~~the expansion, extension, operation, and maintenance of that~~
6 ~~highway segment.]~~

7 (c) The commission shall, at the time of a transfer
8 ~~[conveyance]~~, remove the highway or segment of highway from the
9 state highway system. After a transfer ~~[conveyance]~~, the
10 department has no liability, responsibility, or duty for the
11 maintenance or operation of the highway or segment.

12 (d) The commission may waive all or a portion of an amount
13 due under Subsection (a)(2) if it finds that the transfer
14 ~~[conveyance]~~ will result in substantial net benefits to the state,
15 the department, and the traveling public that equal or exceed the
16 amount of payment waived.

17 (e) Before transferring ~~[conveying]~~ a nontoll state highway
18 or a segment of a nontoll state highway under this section, the
19 commission shall conduct a public hearing to receive comments from
20 interested persons concerning the proposed transfer ~~[conveyance]~~.
21 Notice of the hearing shall be published in the Texas Register and
22 in one or more newspapers of general circulation in any county in
23 which the highway or segment is located.

24 (f) A county ~~[or toll road authority]~~ may use toll revenue
25 collected from a highway or segment of highway transferred under
26 this section or from a highway or segment of highway described by
27 Subsection (j) to fund a transportation project or an air quality

1 project.

2 (g) The commission shall adopt rules implementing this
3 section, including criteria and guidelines for approval of a
4 transfer [~~conveyance~~] of a highway or segment.

5 (h) In this section:

6 (1) "Air quality project" means a project or program
7 of a county [~~, toll road authority,~~] or another governmental entity
8 that the county or other governmental entity [~~toll road authority~~]
9 determines will mitigate or prevent air pollution caused by the
10 construction, maintenance, or use of public roads within the
11 county.

12 (2) "Transportation project" means the construction,
13 improvement, maintenance, or operation of a transportation
14 facility:

15 (A) under the jurisdiction of a county, toll road
16 authority, or another governmental entity;

17 (B) located inside or outside the county or area
18 served by the toll road authority; and

19 (C) that the county or toll road authority
20 determines will improve mobility within the county or area served
21 by the toll road authority.

22 (i) Funds received by the department under this section:

23 (1) shall be deposited to the credit of the state
24 highway fund; and

25 (2) are exempt from the application of Section
26 403.095, Government Code.

27 (j) The requirements of this section do not apply to a

1 highway or segment:

2 (1) that the commission by order designated as a toll
3 project before the contract to construct the highway or segment was
4 awarded, regardless of whether the highway or segment is operated
5 without tolls for a period before toll collection operations begin;

6 (2) that was designated as a toll project in a plan or
7 program of a metropolitan planning organization on or before May 1,
8 2005;

9 (3) that is reconstructed so that the number of
10 nontolled lanes on the highway or segment is greater than or equal
11 to the number in existence before the reconstruction;

12 (4) to which an adjacent facility is constructed with
13 a number of nontolled lanes that, when combined with the number of
14 nontolled lanes on the converted highway or segment, is greater
15 than or equal to the number in existence on the converted highway or
16 segment before the conversion; or

17 (5) that was open to traffic as a high-occupancy
18 vehicle lane on May 1, 2005. [~~This section applies only to a~~
19 ~~nontoll state highway or a segment of a nontoll state highway that~~
20 ~~is conveyed for purposes of creating an outer loop or connecting to~~
21 ~~an outer loop located primarily in a county having a population of~~
22 ~~more than three million or an adjacent county.]~~

23 SECTION 25. Subchapter A, Chapter 361, Transportation Code,
24 is amended by adding Sections 361.005 and 361.006 to read as
25 follows:

26 Sec. 361.005. REVENUE OF TURNPIKE PROJECT. Except as
27 provided by Subchapter E, toll revenue or other revenue derived

1 from a turnpike project that is collected or received by the
2 department under this chapter and any payment received by the
3 department under a comprehensive development agreement for a
4 turnpike project:

- 5 (1) shall be deposited in the state highway fund; and
6 (2) is exempt from the application of Section 403.095,
7 Government Code.

8 Sec. 361.006. USE OF CONTRACT PAYMENTS. Payments received
9 by the department under a comprehensive development agreement may
10 be used by the department to finance the construction, maintenance,
11 or operation of a transportation project or air quality project in
12 the region.

13 SECTION 26. Section 361.137(c), Transportation Code, is
14 amended to read as follows:

15 (c) The department may not file a declaration of taking
16 before the completion of:

17 (1) all environmental documentation, including a
18 final environmental impact statement or a record of decision, that
19 is required by federal or state law;

20 (2) all public hearings and meetings, including those
21 held in connection with the environmental process and under
22 Sections 201.604 and 203.021, that are required by federal or state
23 law; ~~and~~

24 (3) all notifications required by Section 203.022; and

25 (4) if the property contains a business, farm, or
26 ranch, a written notification to the property owner that the
27 occupants:

1 (A) will not be required to move before the 90th
2 day after the date of the notice; and

3 (B) will receive, not later than the 30th day
4 before the date by which the property must be vacated, a written
5 notice specifying the date by which the property must be vacated.

6 SECTION 27. Section 361.179(f), Transportation Code, is
7 amended to read as follows:

8 (f) The revenue and disbursements for each turnpike project
9 shall be kept separately. The revenue from one turnpike project may
10 not be used to pay the cost of another project except as authorized
11 by Sections [~~Section~~] 361.189 and 361.006.

12 SECTION 28. Subchapter F, Chapter 361, Transportation Code,
13 is amended by adding Section 361.237 to read as follows:

14 Sec. 361.237. OPERATION OF TURNPIKE PROJECT. The
15 department may enter into an agreement with one or more persons to
16 provide, on terms approved by the department, personnel, equipment,
17 systems, facilities, and services necessary to operate a turnpike
18 project, including the operation of toll plazas and lanes and
19 customer service centers and the collection of tolls.

20 SECTION 29. The heading to Section 361.255, Transportation
21 Code, is amended to read as follows:

22 Sec. 361.255. ELECTRONIC TOLL COLLECTION [~~USE AND RETURN OF~~
23 ~~TRANSPONDERS~~].

24 SECTION 30. Section 361.255, Transportation Code, is
25 amended by adding Subsections (c), (d), (e), and (f) to read as
26 follows:

27 (c) The department may enter into an agreement with one or

1 more persons to market and sell transponders for use on department
2 toll roads.

3 (d) The department may charge reasonable fees for
4 administering electronic toll collection customer accounts.

5 (e) A contract for the acquisition, construction,
6 maintenance, or operation of a toll project must ensure the
7 confidentiality of all electronic toll collection customer account
8 information, including contact and payment information and trip
9 data.

10 (f) Electronic toll collection customer account
11 information, including contact and payment information and trip
12 data, is confidential and not subject to disclosure under Chapter
13 552, Government Code.

14 SECTION 31. Section 361.302, Transportation Code, is
15 amended by adding Subsection (f) to read as follows:

16 (f) The department may combine in a comprehensive
17 development agreement under this chapter a turnpike project and a
18 rail facility as defined by Section 91.001.

19 SECTION 32. Section 361.3022, Transportation Code, is
20 amended by adding Subsections (e-1) and (e-2) and amending
21 Subsections (f), (i), and (j) to read as follows:

22 (e-1) Notwithstanding the requirements of this section, the
23 department may prequalify a private entity to submit a detailed
24 proposal to provide services under a design-build contract. The
25 department is not required to publish a request under Subsection
26 (c) for a design-build contract, and may enter into a design-build
27 contract based solely on an evaluation of detailed proposals

1 submitted in response to a request under Subsection (f) by
2 prequalified private entities. The commission shall adopt rules
3 establishing criteria for the prequalification of a private entity
4 that include the precertification requirements applicable to
5 providers of engineering services and the qualification
6 requirements for bidders on highway construction contracts. Rules
7 for design-build projects adopted pursuant to this subsection shall
8 also provide for an expedited selection process less costly to
9 proposers, reasonable bonding requirements, appropriate sharing of
10 risks, and incentives for proposers to develop innovative ideas.

11 (e-2) In this section, "design-build contract" means a
12 comprehensive development agreement that includes the design and
13 construction of a turnpike project, does not include the financing
14 of a turnpike project, and may include the acquisition,
15 maintenance, or operation of a turnpike project.

16 (f) The department shall issue a request for detailed
17 proposals from all private entities qualified under Subsection (e)
18 or (e-1) if the department proceeds with the further evaluation of a
19 proposed project. A request under this subsection may require
20 additional information relating to:

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

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

25 (3) detailed engineering or architectural designs;

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

27 (5) costing methodology; or

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

3 (i) The department may enter into negotiations
4 [~~discussions~~] with the private entity whose proposal offers the
5 apparent best value for the purpose of establishing the final terms
6 of a comprehensive development agreement. [~~The discussions shall~~
7 ~~be limited to:~~

8 [~~(1) incorporation of aspects of other proposals for~~
9 ~~the purpose of achieving the overall best value for the department;~~

10 [~~(2) clarifications and minor adjustments in~~
11 ~~scheduling, cash flow, and similar items; and~~

12 [~~(3) matters that have arisen since the submission of~~
13 ~~the proposal.~~]

14 (j) If at any point in negotiations [~~discussions~~] under
15 Subsection (i)[~~7~~] it appears to the department that the highest
16 ranking proposal will not provide the department with the overall
17 best value, the department may enter into negotiations
18 [~~discussions~~] with the private entity submitting the next-highest
19 ranking proposal.

20 SECTION 33. Section 361.305(a), Transportation Code, is
21 amended to read as follows:

22 (a) The department shall negotiate the terms of private
23 participation in a turnpike project, including:

24 (1) methods to determine the applicable cost, profit,
25 and project distribution between the private equity investors and
26 the department;

27 (2) subject to Section 227.023(d), reasonable methods

1 to determine and classify toll rates;

2 (3) acceptable safety and policing standards; and

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

6 SECTION 34. Section 362.0041, Transportation Code, is
7 transferred to Chapter 361, Transportation Code, designated as
8 Subchapter K, and amended to read as follows:

9 SUBCHAPTER K. CONVERSION OF NONTOLLED HIGHWAY

10 Sec. 361.401 [~~362.0041~~]. COMMISSION DETERMINATION
11 [~~CONVERSION OF PROJECTS~~]. The [~~(a) Except as provided in~~
12 ~~Subsections (d) and (g), the~~] commission may by order convert a
13 nontolled state highway or a segment of a nontolled state highway
14 [~~the free state highway system~~] to a turnpike project [~~toll~~
15 ~~facility~~] if the commission:

16 (1) [~~it~~] determines that the conversion will improve
17 overall mobility in the region or is the most feasible and economic
18 means to accomplish necessary expansion, improvements, or
19 extensions to that segment of the state highway system; and

20 (2) obtains county and voter approval as required by
21 Section 361.406.

22 Sec. 361.402. APPLICABILITY OF SUBCHAPTER. The
23 requirements of this subchapter do not apply to a highway or
24 segment:

25 (1) that the commission by order designated as a toll
26 project before the contract to construct the highway or segment was
27 awarded, regardless of whether the highway or segment is operated

1 without tolls for a period before toll collection operations begin;

2 (2) that was designated as a toll project in a plan or
3 program of a metropolitan planning organization on or before May 1,
4 2005;

5 (3) that is reconstructed so that the number of
6 nontolled lanes on the highway or segment is greater than or equal
7 to the number in existence before the reconstruction;

8 (4) to which an adjacent facility is constructed with
9 a number of nontolled lanes that, when combined with the number of
10 nontolled lanes on the converted highway or segment, is greater
11 than or equal to the number in existence on the converted highway or
12 segment before the conversion; or

13 (5) that was open to traffic as a high-occupancy
14 vehicle lane on May 1, 2005.

15 Sec. 361.403. PUBLIC HEARING. [~~(b)~~] Prior to converting a
16 state highway or a segment of a [the] state highway [system] under
17 this subchapter [section], the commission shall conduct a public
18 hearing for the purpose of receiving comments from interested
19 persons concerning the proposed conversion [transfer]. Notice of
20 the hearing shall be published in the Texas Register, one or more
21 newspapers of general circulation, and a newspaper, if any,
22 published in the county or counties in which the involved highway is
23 located.

24 Sec. 361.404. RULES. [~~(c)~~] The commission shall adopt
25 rules implementing this subchapter [section], including criteria
26 and guidelines for the approval of a conversion of a highway.

27 Sec. 361.405. QUEEN ISABELLA CAUSEWAY. [~~(d)~~] The

1 commission may not convert the Queen Isabella Causeway in Cameron
2 County to a turnpike project [~~toll facility~~].

3 Sec. 361.406. COUNTY AND VOTER APPROVAL. [~~(e) Subchapter~~
4 ~~G, Chapter 361, applies to a highway converted to a toll facility~~
5 ~~under this section.~~

6 [~~(f) Toll revenue collected under this section:~~

7 [~~(1) shall be deposited in the state highway fund;~~

8 [~~(2) may be used by the department to finance the~~
9 ~~improvement, extension, expansion, or operation of the converted~~
10 ~~segment of highway and may not be collected except for those~~
11 ~~purposes; and~~

12 [~~(3) is exempt from the application of Section~~
13 ~~403.095, Government Code.~~

14 [~~(g)~~] The commission may only convert a state highway or a
15 segment of a [~~the~~] state highway [~~system~~] under this subchapter
16 [~~section~~] if the conversion is approved by:

17 (1) the commissioners court of each county within
18 which the highway or segment is located; and

19 (2) the qualified voters who vote in an election under
20 Section 361.407 and who reside in the limits of:

21 (A) a county if any part of the highway or segment
22 to be converted is located in an unincorporated area of the county;
23 or

24 (B) a municipality in which the highway or
25 segment to be converted is wholly located.

26 Sec. 361.407. ELECTION TO APPROVE CONVERSION. (a) If
27 notified by the department of the proposed conversion of a highway

1 or segment under this subchapter, the governing body of a county or
2 municipality shall order an election for the approval of the
3 conversion.

4 (b) A governing body that orders an election shall publish
5 notice of the election in a newspaper of general circulation
6 published in the county or municipality at least once each week for
7 three consecutive weeks, with the first publication occurring at
8 least 21 days before the date of the election.

9 (c) The proposition submitted in the election must
10 distinctly describe the highway or segment proposed to be converted
11 and the limits of that highway or segment.

12 (d) At an election ordered under this section, the ballot
13 shall be printed to permit voting for or against the proposition:
14 "The conversion of (highway) from (beginning location) to (ending
15 location) to a toll project."

16 (e) A proposed conversion is approved only if it is approved
17 by a majority of the votes cast.

18 (f) A notice of the election and a certified copy of the
19 order canvassing the election results shall be sent to the
20 commission.

21 (g) The election shall be held on the first uniform election
22 date under Section 41.001, Election Code, on which the county or
23 municipality is holding another election that occurs on or after
24 the 62nd day after the date the election is ordered.

25 SECTION 35. Section 366.035, Transportation Code, is
26 amended by amending Subsection (a) and adding Subsections (h) and
27 (i) to read as follows:

1 (a) Except as provided under Subsections [~~Subsection~~] (g)
2 and (h), if the commission determines that the most feasible and
3 economic means to accomplish necessary expansion, improvements, or
4 extensions to the state highway system is the conversion to a
5 turnpike project of a nontolled segment of the [~~free~~] state highway
6 system, any segment located in a county of an authority or a county
7 in which an authority operates a turnpike project or in any county
8 adjacent to those counties may, on approval of the governor and the
9 affected authority, be transferred by order of the commission to
10 that authority. An authority that receives the segment of highway
11 may own, operate, and maintain the segment as a turnpike project or
12 system or a part of a turnpike project or system under this chapter.

13 (h) The commission may transfer a segment of the state
14 highway system to an authority under this section only if the
15 transfer is approved by the commissioners court of each county in
16 which the segment of highway to be transferred is located.

17 (i) The requirements of this section do not apply to a
18 segment of the state highway system:

19 (1) that the commission by order designated as a toll
20 project before the contract to construct the highway or segment was
21 awarded, regardless of whether the project is operated without
22 tolls for a period before toll collection operations begin;

23 (2) that was designated as a toll project in a plan or
24 program of a metropolitan planning organization on or before May 1,
25 2005;

26 (3) that is reconstructed so that the number of
27 nontolled lanes on the segment of highway is greater than or equal

1 to the number in existence before the reconstruction;

2 (4) to which an adjacent facility is constructed with
3 a number of nontolled lanes that, when combined with the number of
4 nontolled lanes on the converted segment of highway, is greater
5 than or equal to the number in existence on the converted highway or
6 segment before the conversion; or

7 (5) that was open to traffic as a high-occupancy
8 vehicle lane on May 1, 2005.

9 SECTION 36. Section 370.035, Transportation Code, is
10 amended by amending Subsection (a) and adding Subsection (i) to
11 read as follows:

12 (a) The commission by order may transfer [~~convert~~] a
13 nontolled segment of the [~~free~~] state highway system [~~to a turnpike~~
14 ~~project and transfer that segment~~] to an authority for the purpose
15 of converting the segment to a turnpike project, or may transfer an
16 existing toll [~~turnpike~~] project that is part of the state highway
17 system, whether previously tolled or not, to an authority if:

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

21 (2) the commission determines that the public has a
22 reasonable alternative route on nontoll roads;

23 (3) the authority agrees to assume all liability and
24 responsibility for the maintenance and operation of the turnpike
25 project on its transfer; [~~and~~]

26 (4) the transfer is approved by the governor; and

27 (5) in the case of a nontolled segment of the state

1 highway system, the transfer is approved by the commissioners court
2 of each county in which the segment of highway to be transferred is
3 located.

4 (i) The requirements of this section do not apply to a
5 nontolled segment of the state highway system:

6 (1) that the commission by order designated as a toll
7 project before the contract to construct the segment of highway was
8 awarded, regardless of whether the segment is operated without
9 tolls for a period before toll collection operations begin;

10 (2) that was designated as a toll project in a plan or
11 program of a metropolitan planning organization on or before May 1,
12 2005;

13 (3) that is reconstructed so that the number of
14 nontolled lanes on the segment of highway is greater than or equal
15 to the number in existence before the reconstruction;

16 (4) to which an adjacent facility is constructed with
17 a number of nontolled lanes that, when combined with the number of
18 nontolled lanes on the converted segment of highway, is greater
19 than or equal to the number in existence on the converted segment of
20 highway before the conversion; or

21 (5) that was open to traffic as a high-occupancy
22 vehicle lane on May 1, 2005.

23 SECTION 37. Subchapter D, Chapter 502, Transportation Code,
24 is amended by adding Section 502.1515 to read as follows:

25 Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES;
26 PAID ADVERTISING. The commission may authorize the department to
27 enter into a contract with a private vendor to produce and

1 distribute motor vehicle registration renewal notices. The
2 contract may provide for the inclusion of paid advertising in the
3 registration renewal notice packet.

4 SECTION 38. The heading to Section 542.203, Transportation
5 Code, is amended to read as follows:

6 Sec. 542.203. LIMITATIONS [~~LIMITATION~~] ON LOCAL
7 AUTHORITIES.

8 SECTION 39. Section 542.203, Transportation Code, is
9 amended by adding Subsections (d) and (e) to read as follows:

10 (d) A local authority may not implement or operate a
11 photographic traffic signal enforcement system with respect to a
12 highway under its jurisdiction. The attorney general shall enforce
13 this subsection.

14 (e) In this section, "photographic traffic signal
15 enforcement system" means a system that:

16 (1) consists of a camera system and vehicle sensor
17 installed to exclusively work in conjunction with an electrically
18 operated traffic-control signal;

19 (2) is capable of producing one or more recorded
20 photographic or digital images that depict the license plate
21 attached to the front or the rear of a motor vehicle that is not
22 operated in compliance with the instructions of the traffic-control
23 signal; and

24 (3) is designed to enforce compliance with the
25 instructions of the traffic-control signal by imposition of a civil
26 or administrative penalty against the owner of the motor vehicle.

27 SECTION 40. Section 551.301, Transportation Code, is

1 amended by amending Subdivision (2) and adding Subdivision (3) to
2 read as follows:

3 (2) "Motor assisted scooter":

4 (A) means a self-propelled device with:

5 (i) [~~(A)~~] at least two wheels in contact
6 with the ground during operation;

7 (ii) [~~(B)~~] a braking system capable of
8 stopping the device under typical operating conditions;

9 (iii) [~~(C)~~] a gas or electric motor not
10 exceeding 40 cubic centimeters;

11 (iv) [~~(D)~~] a deck designed to allow a
12 person to stand or sit while operating the device; and

13 (v) [~~(E)~~] the ability to be propelled by
14 human power alone; and

15 (B) does not include a pocket bike or
16 minimotorbike.

17 (3) "Pocket bike or minimotorbike" means a
18 self-propelled vehicle that is equipped with an electric motor or
19 internal combustion engine having a piston displacement of less
20 than 50 cubic centimeters, is designed to propel itself with not
21 more than two wheels in contact with the ground, has a seat or
22 saddle for the use of the operator, is not designed for use on a
23 highway, and is ineligible for a certificate of title under Chapter
24 501. The term does not include:

25 (A) a moped or motorcycle;

26 (B) an electric bicycle or motor-driven cycle, as
27 defined by Section 541.201;

1 (C) a motorized mobility device, as defined by
2 Section 542.009;

3 (D) an electric personal assistive mobility
4 device, as defined by Section 551.201; or

5 (E) a neighborhood electric vehicle.

6 SECTION 41. Subchapter D, Chapter 551, Transportation Code,
7 is amended by adding Section 551.304 to read as follows:

8 Sec. 551.304. APPLICATION OF SUBCHAPTER TO POCKET BIKE OR
9 MINIMOTORBIKE. This subchapter may not be construed to authorize
10 the operation of a pocket bike or minimotorbike on any:

11 (1) highway, road, or street;

12 (2) path set aside for the exclusive operation of
13 bicycles; or

14 (3) sidewalk.

15 SECTION 42. Section 11.11, Tax Code, is amended by adding
16 Subsection (j) to read as follows:

17 (j) For purposes of this section, any portion of a facility
18 owned by the Texas Department of Transportation that is part of the
19 Trans-Texas Corridor, is a rail facility or system, or is a highway
20 in the state highway system, and that is licensed or leased to a
21 private entity by that department under Chapter 91, 227, or 361,
22 Transportation Code, is public property used for a public purpose
23 if the rail facility or system, highway, or facility is operated by
24 the private entity to provide transportation or utility services.
25 Any part of a facility, rail facility or system, or state highway
26 that is licensed or leased to a private entity for a commercial
27 purpose is not exempt from taxation.

1 SECTION 43. Section 25.06, Tax Code, is amended by adding
2 Subsection (c) to read as follows:

3 (c) This section does not apply to:

4 (1) any portion of a facility owned by the Texas
5 Department of Transportation that is part of the Trans-Texas
6 Corridor, is a rail facility or system, or is a highway in the state
7 highway system and that is licensed or leased to a private entity by
8 that department under Chapter 91, 227, or 361, Transportation Code;
9 or

10 (2) a leasehold or other possessory interest granted
11 by the Texas Department of Transportation in a facility owned by
12 that department that is part of the Trans-Texas Corridor, is a rail
13 facility or system, or is a highway in the state highway system.

14 SECTION 44. Section 25.07, Tax Code, is amended by adding
15 Subsection (c) to read as follows:

16 (c) Subsection (a) does not apply to:

17 (1) any portion of a facility owned by the Texas
18 Department of Transportation that is part of the Trans-Texas
19 Corridor, is a rail facility or system, or is a highway in the state
20 highway system and that is licensed or leased to a private entity by
21 that department under Chapter 91, 227, or 361, Transportation Code;
22 or

23 (2) a leasehold or other possessory interest granted
24 by the Texas Department of Transportation in a facility owned by
25 that department that is part of the Trans-Texas Corridor, is a rail
26 facility or system, or is a highway in the state highway system.

27 SECTION 45. Section 21.021, Property Code, is amended by

1 amending Subsection (a) and adding Subsection (e) to read as
2 follows:

3 (a) After the special commissioners have made an award in a
4 condemnation proceeding, except as provided by Subsection (c) [~~of~~
5 ~~this section~~], the condemnor may take possession of the condemned
6 property pending the results of further litigation if the
7 condemnor:

8 (1) pays to the property owner the amount of damages
9 and costs awarded by the special commissioners or deposits that
10 amount of money with the court subject to the order of the property
11 owner;

12 (2) deposits with the court either the amount of money
13 awarded by the special commissioners as damages or a surety bond in
14 the same amount issued by a surety company qualified to do business
15 in this state, conditioned to secure the payment of an award of
16 damages by the court in excess of the award of the special
17 commissioners; [~~and~~]

18 (3) executes a bond that has two or more good and
19 solvent sureties approved by the judge of the court in which the
20 proceeding is pending and conditioned to secure the payment of
21 additional costs that may be awarded to the property owner by the
22 trial court or on appeal; and

23 (4) obtains from the court a writ of possession or
24 other order entitling the condemnor to possession of the condemned
25 property.

26 (e) Subsection (a)(4) does not apply to a condemnation by
27 the Texas Department of Transportation.

1 SECTION 46. Sections 91.071(b), 227.062(c)-(g), 361.180,
2 370.163(b), and 542.202(b)(3), Transportation Code, are repealed.

3 SECTION 47. REGIONAL TRANSIT SYSTEM REVIEW COMMITTEE. (a)
4 In this section, "region" means the region formed by two contiguous
5 counties each containing a municipality having a population of at
6 least 530,000 and the counties adjacent to one or both of those
7 counties.

8 (b) The Regional Transit System Review Committee is created
9 to conduct public hearings regarding, and study the implications
10 of, implementing regional transit service in the region.

11 (c) The committee consists of:

12 (1) each member of the legislature who represents a
13 district that contains territory in the region;

14 (2) each mayor of a municipality in the region;

15 (3) each county judge and commissioner in the region;

16 and

17 (4) the executive director of each transportation
18 authority in the region.

19 (d) In conducting hearings and studies the committee shall:

20 (1) examine whether a seamless system of transit
21 systems should be offered throughout the region;

22 (2) examine whether there should be a mechanism for
23 additional counties to participate in the regional transit system;

24 and

25 (3) perform a review of funding and financing options.

26 (e) The initial meeting of the committee shall take place
27 before September 30, 2005. At the initial meeting the committee

1 shall adopt rules governing the committee and establish a work plan
2 and schedule for future meetings.

3 (f) The committee may accept gifts, grants, technical
4 support, or any other resources from any source to carry out the
5 functions of the committee.

6 (g) Not later than September 1, 2006, the committee shall
7 issue a report summarizing:

- 8 (1) hearings conducted by the committee;
9 (2) studies conducted by the committee;
10 (3) any legislation proposed by the committee; and
11 (4) any other findings or recommendations of the
12 committee.

13 (h) This section expires September 1, 2007.

14 SECTION 48. (a) The Texas Department of Transportation
15 shall conduct a study to determine how to maximize the use of
16 highway rights-of-way by public utilities. The department shall
17 submit a written report of its findings to the appropriate
18 legislative committees not later than December 31, 2006.

19 (b) This section expires January 1, 2007.

20 SECTION 49. Section 21.021(a), Property Code, as amended by
21 this Act, applies only to a condemnation proceeding the petition
22 for which is filed on or after the effective date of this Act. A
23 condemnation proceeding the petition for which is filed before the
24 effective date of this Act is governed by the law in effect at the
25 time the petition was filed, and that law is continued in effect for
26 that purpose.

27 SECTION 50. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2005.