

1-1 By: Krusee (Senate Sponsor - Staples) H.B. No. 2702
1-2 (In the Senate - Received from the House May 13, 2005;
1-3 May 16, 2005, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 18, 2005, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 7, Nays 0; May 18, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2702 By: Staples

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the construction, acquisition, financing, maintenance,
1-11 management, operation, ownership, and control of transportation
1-12 facilities and the progress, improvement, policing, and safety of
1-13 transportation in this state; providing a penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. RAIL FACILITIES

1-16 SECTION 1.01. Section 91.051, Transportation Code, is
1-17 amended to read as follows:

1-18 Sec. 91.051. AWARDING OF CONTRACTS. Except for a contract
1-19 entered into under Section 91.052, 91.054, or 91.102 [~~Unless~~
1-20 ~~otherwise provided by this subchapter~~], a contract made by the
1-21 department for the construction, maintenance, or operation of a
1-22 rail facility must be let by a competitive bidding procedure in
1-23 which the contract is awarded to the lowest responsible bidder that
1-24 complies with the department's criteria.

1-25 SECTION 1.02. Subchapter C, Chapter 91, Transportation
1-26 Code, is amending by adding Sections 91.054-91.061 to read as
1-27 follows:

1-28 Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

1-29 (a) The department may enter into a comprehensive development
1-30 agreement with a private entity to acquire, construct, maintain, or
1-31 operate a rail facility or system.

1-32 (b) In this subchapter, "comprehensive development
1-33 agreement" means an agreement that, at a minimum, provides for the
1-34 design and construction of a rail facility or system and may also
1-35 provide for the financing, acquisition, maintenance, or operation
1-36 of the rail facility or system.

1-37 (c) The department may negotiate provisions relating to
1-38 professional and consulting services provided in connection with a
1-39 comprehensive development agreement.

1-40 (d) The department may authorize the investment of public
1-41 and private money, including debt and equity participation, to
1-42 finance a function described by this section.

1-43 (e) Claims arising under a comprehensive development
1-44 agreement are subject to Section 201.112.

1-45 (f) The authority to enter into comprehensive development
1-46 agreements provided by this section expires on August 31, 2011.

1-47 Sec. 91.055. PROCESS FOR ENTERING INTO COMPREHENSIVE
1-48 DEVELOPMENT AGREEMENTS. (a) If the department enters into a
1-49 comprehensive development agreement, the department shall use a
1-50 competitive procurement process that provides the best value for
1-51 the department. The department may accept unsolicited proposals
1-52 for a proposed project or solicit proposals in accordance with this
1-53 section.

1-54 (b) The department shall establish rules and procedures for
1-55 accepting unsolicited proposals that require the private entity to
1-56 include in the proposal:

1-57 (1) information regarding the proposed project
1-58 location, scope, and limits;

1-59 (2) information regarding the private entity's
1-60 qualifications, experience, technical competence, and capability
1-61 to develop the project; and

1-62 (3) any other information the department considers
1-63 relevant or necessary.

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

2-6 (1) the department decides to issue a request for
 2-7 qualifications for a proposed project; or

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

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

2-13 (e) The department may interview a private entity
 2-14 submitting an unsolicited proposal or responding to a request under
 2-15 Subsection (c). The department shall evaluate each proposal based
 2-16 on the criteria described in the request for competing proposals
 2-17 and qualifications and may qualify or shortlist private entities to
 2-18 submit detailed proposals under Subsection (f). The department
 2-19 must qualify or shortlist at least two private entities to submit
 2-20 detailed proposals for a project under Subsection (f) unless the
 2-21 department does not receive more than one proposal or one response
 2-22 to a request under Subsection (c).

2-23 (f) The department shall issue a request for detailed
 2-24 proposals from all private entities qualified or shortlisted under
 2-25 Subsection (e) if the department proceeds with the further
 2-26 evaluation of a proposed project. A request under this subsection
 2-27 may require additional information relating to:

2-28 (1) the private entity's qualifications and
 2-29 demonstrated technical competence;

2-30 (2) the feasibility of developing the project as
 2-31 proposed;

2-32 (3) engineering or architectural designs;

2-33 (4) the private entity's ability to meet schedules;

2-34 (5) a financial plan, including costing methodology
 2-35 and cost proposals; or

2-36 (6) any other information the department considers
 2-37 relevant or necessary.

2-38 (g) In issuing a request for proposals under Subsection (f),
 2-39 the department may solicit input from entities qualified under
 2-40 Subsection (e) or any other person. The department may also solicit
 2-41 input regarding alternative technical concepts after issuing a
 2-42 request under Subsection (f).

2-43 (h) The department shall evaluate each proposal based on the
 2-44 criteria described in the request for detailed proposals and select
 2-45 the private entity whose proposal offers the apparent best value to
 2-46 the department.

2-47 (i) The department may enter into discussions with the
 2-48 private entity whose proposal offers the apparent best value. The
 2-49 discussions shall be limited to:

2-50 (1) incorporation of aspects of other proposals for
 2-51 the purpose of achieving the overall best value for the department;

2-52 (2) clarifications and minor adjustments in
 2-53 scheduling, cash flow, and similar items; and

2-54 (3) matters that have arisen since the submission of
 2-55 the proposal.

2-56 (j) If at any point in negotiations under Subsection (i) it
 2-57 appears to the department that the highest ranking proposal will
 2-58 not provide the department with the overall best value, the
 2-59 department may enter into negotiations with the private entity
 2-60 submitting the next highest ranking proposal.

2-61 (k) The department may withdraw a request for competing
 2-62 proposals and qualifications or a request for detailed proposals at
 2-63 any time. The department may then publish a new request for
 2-64 competing proposals and qualifications.

2-65 (l) The department may require that an unsolicited proposal
 2-66 be accompanied by a nonrefundable fee sufficient to cover all or
 2-67 part of its cost to review the proposal.

2-68 (m) The department shall pay an unsuccessful private entity
 2-69 that submits a responsive proposal in response to a request for

3-1 detailed proposals under Subsection (f) a stipulated amount in
3-2 exchange for the work product contained in that proposal. The
3-3 stipulated amount must be stated in the request for proposals and
3-4 may not exceed the value of any work product contained in the
3-5 proposal that can, as determined by the department, be used by the
3-6 department in the performance of its functions. The use by the
3-7 department of any design element contained in an unsuccessful
3-8 proposal is at the sole risk and discretion of the department and
3-9 does not confer liability on the recipient of the stipulated amount
3-10 under this section. After payment of the stipulated amount:

3-11 (1) the department owns with the unsuccessful proposer
3-12 jointly the rights to, and may make use of any work product
3-13 contained in, the proposal, including the technologies,
3-14 techniques, methods, processes, ideas, and information contained
3-15 in the project design; and

3-16 (2) the use by the unsuccessful proposer of any
3-17 portion of the work product contained in the proposal is at the sole
3-18 risk of the unsuccessful proposer and does not confer liability on
3-19 the department.

3-20 (n) The department may prescribe the general form of a
3-21 comprehensive development agreement and may include any matter the
3-22 department considers advantageous to the department. The
3-23 department and the private entity shall finalize the specific terms
3-24 of a comprehensive development agreement.

3-25 (o) Chapter 2254, Government Code, does not apply to a
3-26 comprehensive development agreement entered into under Section
3-27 91.054.

3-28 Sec. 91.056. CONFIDENTIALITY OF INFORMATION RELATING TO
3-29 COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To encourage private
3-30 entities to submit proposals under Section 91.055, the following
3-31 information is confidential, is not subject to disclosure,
3-32 inspection, or copying under Chapter 552, Government Code, and is
3-33 not subject to disclosure, discovery, subpoena, or other means of
3-34 legal compulsion for its release until a final contract for a
3-35 proposed project is entered into:

3-36 (1) all or part of a proposal that is submitted by a
3-37 private entity for a comprehensive development agreement, except
3-38 information provided under Sections 91.055(b)(1) and (2), unless
3-39 the private entity consents to the disclosure of the information;

3-40 (2) supplemental information or material submitted by
3-41 a private entity in connection with a proposal for a comprehensive
3-42 development agreement, unless the private entity consents to the
3-43 disclosure of the information or material; and

3-44 (3) information created or collected by the department
3-45 or its agent during consideration of a proposal for a comprehensive
3-46 development agreement.

3-47 (b) After the department completes its final ranking of
3-48 proposals under Section 91.055(h), the final rankings of each
3-49 proposal under each of the published criteria cease to be
3-50 confidential.

3-51 Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY.

3-52 (a) Notwithstanding the requirements of Subchapter B, Chapter
3-53 2253, Government Code, the department shall require a private
3-54 entity entering into a comprehensive development agreement under
3-55 Section 91.054 to provide a performance and payment bond or an
3-56 alternative form of security in an amount sufficient to:

3-57 (1) ensure the proper performance of the agreement;
3-58 and

3-59 (2) protect:

3-60 (A) the department; and

3-61 (B) payment bond beneficiaries who have a direct
3-62 contractual relationship with the private entity or a subcontractor
3-63 of the private entity to supply labor or material.

3-64 (b) A performance and payment bond or alternative form of
3-65 security shall be in an amount equal to the cost of constructing or
3-66 maintaining the project.

3-67 (c) If the department determines that it is impracticable
3-68 for a private entity to provide security in the amount described by
3-69 Subsection (b), the department shall set the amount of the bonds or

4-1 the alternative forms of security.

4-2 (d) A payment or performance bond or alternative form of
 4-3 security is not required for the portion of an agreement that
 4-4 includes only design or planning services, the performance of
 4-5 preliminary studies, or the acquisition of real property.

4-6 (e) The amount of the payment security must not be less than
 4-7 the amount of the performance security.

4-8 (f) In addition to or instead of performance and payment
 4-9 bonds, the department may require the following alternative forms
 4-10 of security:

4-11 (1) a cashier's check drawn on a financial entity
 4-12 specified by the department;

4-13 (2) a United States bond or note;

4-14 (3) an irrevocable bank letter of credit; or

4-15 (4) any other form of security determined suitable by
 4-16 the department.

4-17 (g) The commission by rule shall prescribe requirements for
 4-18 alternate forms of security provided under this section.

4-19 Sec. 91.058. OWNERSHIP OF RAIL FACILITY OR SYSTEM. (a) A
 4-20 rail facility or system that is the subject of a comprehensive
 4-21 development agreement with a private entity, including the
 4-22 facilities acquired or constructed on the project, is public
 4-23 property and shall be owned by the department.

4-24 (b) Notwithstanding Subsection (a), the department may
 4-25 enter into an agreement that provides for the lease of
 4-26 rights-of-way, the granting of easements, the issuance of
 4-27 franchises, licenses, or permits, or any lawful uses to enable a
 4-28 private entity to construct, operate, and maintain a rail facility
 4-29 or system. At the termination of the agreement, the rail facility
 4-30 or system is to be in a state of proper maintenance as determined by
 4-31 the department and shall be returned to the department in
 4-32 satisfactory condition at no further cost.

4-33 Sec. 91.059. LIABILITY FOR PRIVATE OBLIGATIONS. The
 4-34 department may not incur a financial obligation for a private
 4-35 entity that constructs, maintains, or operates a rail facility or
 4-36 system. The state or a political subdivision of the state is not
 4-37 liable for any financial or other obligations of a rail facility or
 4-38 system solely because a private entity constructs, finances, or
 4-39 operates any part of the project.

4-40 Sec. 91.060. TERMS OF PRIVATE PARTICIPATION. (a) The
 4-41 department shall negotiate the terms of private participation in a
 4-42 rail facility or system, including:

4-43 (1) methods to determine the applicable cost, profit,
 4-44 and project distribution among the private participants and the
 4-45 department;

4-46 (2) reasonable methods to determine and classify fare
 4-47 rates and responsibility for the setting of fares;

4-48 (3) acceptable safety and policing standards; and

4-49 (4) other applicable professional, consulting,
 4-50 construction, operation, and maintenance standards, expenses, and
 4-51 costs.

4-52 (b) A comprehensive development agreement entered into
 4-53 under Section 91.054 must include a provision authorizing the
 4-54 department to purchase, under terms and conditions agreed to by the
 4-55 parties, the interest of a private participant in a rail facility or
 4-56 system financed, constructed, operated, or maintained under the
 4-57 comprehensive development agreement.

4-58 Sec. 91.061. RULES, PROCEDURES, AND GUIDELINES GOVERNING
 4-59 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt
 4-60 rules, procedures, and guidelines governing selection of a
 4-61 developer for a comprehensive development agreement and
 4-62 negotiations to promote fairness, obtain private participants in
 4-63 rail facility projects, and promote confidence among those
 4-64 participants. The rules must contain criteria relating to the
 4-65 qualifications of the participants and the award of the contracts.

4-66 (b) The department shall have up-to-date procedures for
 4-67 participation in negotiations on rail facility projects.

4-68 (c) The department has exclusive judgment to determine the
 4-69 terms of an agreement.

SECTION 1.03. Section 91.071(b), Transportation Code, is amended to read as follows:

(b) Each fiscal year, the total amount disbursed by the department from the state highway fund to implement this chapter may not exceed \$25 [~~\$12.5~~] million. This subsection does not apply to:

(1) the acquisition of abandoned rail facilities described in Section 91.007;

(2) funding derived from the issuance of bonds, private investment, and donations;

(3) federal funds from the Federal Railroad Administration, from the Federal Transit Administration, or authorized and appropriated by the United States Congress for a specific project;

(4) grants awarded by the governor from the Texas Enterprise Fund; and

(5) grading and bed preparation.

SECTION 1.04. Section 91.074(c), Transportation Code, is amended to read as follows:

(c) The department may contract with a person for the use of all or part of a rail facility or system or may lease or sell all or part of a rail facility or system, including all or any part of the right-of-way adjoining trackwork, for any purpose, including placing on the adjoining right-of-way a storage or transfer facility, warehouse, garage, parking facility, telecommunication line or facility, restaurant, or gas station. A rail facility or system that is used or leased by a private entity under this subsection for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

SECTION 1.05. Subchapter D, Chapter 91, Transportation Code, is amended by adding Section 91.075 to read as follows:

Sec. 91.075. PASS-THROUGH FARES. (a) In this section, "pass-through fare" means:

(1) a per passenger fee or a per passenger mile fee that is determined by the number of passengers using a passenger rail facility; or

(2) a fee that is determined based on the number of carloads or commodity tonnages shipped using a freight rail facility.

(b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through fares to the public or private entity as reimbursement for the acquisition, design, development, financing, construction, relocation, maintenance, or operation of a passenger rail facility or a freight rail facility by the entity.

(c) The department may use any available funds for the purpose of making a pass-through fare payment under this section, including funds from the state infrastructure bank.

(d) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for:

(1) determining the amount of pass-through fares to be paid under this section; and

(2) allocating the risk that ridership on a passenger rail facility or carloads or commodity tonnages shipped on a freight rail facility will be higher or lower than the parties to an agreement under this section anticipated in entering into the agreement.

ARTICLE 2. HIGHWAYS

SECTION 2.01. Section 201.001, Transportation Code, is amended to read as follows:

Sec. 201.001. DEFINITIONS. (a) In this title:

(1) "Commission" means the Texas Transportation Commission.

(2) "Department" means the Texas Department of Transportation.

(3) "Director" means the executive director of the Texas Department of Transportation.

6-1 (b) In this subtitle, "toll project" means one or more
 6-2 tolled lanes of a highway or an entire toll highway constructed,
 6-3 maintained, or operated as a part of the state highway system and
 6-4 any improvement, extension, or expansion to the highway, including:

6-5 (1) a facility to relieve traffic congestion and
 6-6 promote safety;

6-7 (2) a bridge, tunnel, overpass, underpass,
 6-8 interchange, entrance plaza, approach, toll booth, toll plaza,
 6-9 service road, ramp, or service center;

6-10 (3) an administration, storage, or other building,
 6-11 operations center, maintenance or other facility, equipment, or
 6-12 system the department considers necessary to operate the project;

6-13 (4) property rights, easements, and interests the
 6-14 department acquires to construct, maintain, or operate the project;

6-15 (5) a parking area or structure, rest stop, park, and
 6-16 any other improvement or amenity the department considers
 6-17 necessary, useful, or beneficial for the operation and maintenance
 6-18 of the project; and

6-19 (6) a nontolled facility that is appurtenant to and
 6-20 necessary for the efficient operation and maintenance of the
 6-21 project, including a connector, service road, access road, ramp,
 6-22 interchange, bridge, or tunnel.

6-23 SECTION 2.02. Sections 201.115(a) and (c), Transportation
 6-24 Code, are amended to read as follows:

6-25 (a) The commission may authorize the department to borrow
 6-26 money from any source to carry out the functions of the department.

6-27 (c) If the department [~~commission~~] borrows money by the
 6-28 issuance of notes, the notes shall be considered a state security
 6-29 for purposes of Chapter 1231, Government Code [~~issued in accordance~~
 6-30 ~~with the requirements of Subchapter N, except that the maturity~~
 6-31 ~~limitations in Subsection (b) supersede the maturity limitations in~~
 6-32 ~~Section 201.963].~~

6-33 SECTION 2.03. Section 201.615, Transportation Code, is
 6-34 amended by amending Subsection (a) and adding Subsection (c) to
 6-35 read as follows:

6-36 (a) The department shall consider the following factors
 6-37 when developing transportation projects that involve the
 6-38 construction, reconstruction, rehabilitation, or resurfacing of a
 6-39 highway, other than a maintenance resurfacing project:

6-40 (1) the extent to which the project promotes safety;

6-41 (2) the durability of the project;

6-42 (3) the economy of maintenance of the project;

6-43 (4) the impact of the project on:

6-44 (A) the natural and artificial environment;

6-45 (B) the scenic and aesthetic character of the
 6-46 area in which the project is located;

6-47 (C) preservation efforts; and

6-48 (D) each affected local community and its
 6-49 economy; [~~and~~]

6-50 (5) the access for other modes of transportation,
 6-51 including those that promote physically active communities; and

6-52 (6) except as provided by Subsection (c), the
 6-53 aesthetic character of the project, including input from each
 6-54 affected local community.

6-55 (c) Subsection (a)(6) does not apply to transportation
 6-56 projects that involve the rehabilitation or resurfacing of a bridge
 6-57 or highway.

6-58 SECTION 2.04. Section 202.112, Transportation Code, is
 6-59 amended by adding Subsection (d) to read as follows:

6-60 (d) An option to acquire property purchased under this
 6-61 section or Section 227.041 may not expire later than the fifth
 6-62 anniversary of the date the option was purchased and may be renewed
 6-63 for subsequent periods that expire not later than the fifth
 6-64 anniversary of the date the option was renewed, by agreement of the
 6-65 commission and the grantor of the option or the grantor's heirs or
 6-66 assigns.

6-67 SECTION 2.05. Section 203.004, Transportation Code, is
 6-68 transferred to Subchapter H, Chapter 201, Transportation Code,
 6-69 redesignated as Section 201.617, Transportation Code, and amended

7-1 to read as follows:

7-2 Sec. 201.617 [203.004]. [~~CONTRACTS FOR MANAGEMENT OF~~
7-3 ~~PROPERTY USED FOR~~] MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.

7-4 (a) If authorized by an applicable regulatory authority, to
7-5 mitigate an adverse environmental impact that is a direct result of
7-6 a state highway improvement project, the [The] department may:

7-7 (1) pay a fee to an appropriate public agency or
7-8 private entity in lieu of acquiring or agreeing to manage property;

7-9 (2) transfer real property to an entity designated by
7-10 an agency of the United States without monetary consideration if
7-11 the property is used or is proposed to be used for mitigation
7-12 purposes; or

7-13 (3) contract with any public or private entity for the
7-14 management of property owned by the department and used for [the]
7-15 mitigation purposes [of an adverse environmental impact directly
7-16 resulting from the construction or maintenance of a state highway].

7-17 (a-1) Before the commission may acquire by purchase or
7-18 condemnation real property to mitigate an adverse environmental
7-19 impact that is a direct result of a state highway improvement
7-20 project, the department shall, if authorized by an applicable
7-21 regulatory authority, offer to purchase a conservation easement
7-22 from the owner of the real property. If the landowner does not
7-23 accept the offer to execute a conservation easement before the 61st
7-24 day after the date the offer is made, the department may acquire the
7-25 property by purchase or condemnation.

7-26 (b) A contract under this section is not subject to Chapter
7-27 771, Government Code.

7-28 (c) In this section, "management" [~~"management," in~~
7-29 ~~connection with property,~~] means administration, control, or
7-30 maintenance that is required by an agency of the United States.

7-31 SECTION 2.06. Subchapter K, Chapter 201, Transportation
7-32 Code, is amended by adding Section 201.907 to read as follows:

7-33 Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or
7-34 a public or private entity contracted to operate a toll project may
7-35 contract with an agency of this state or a local governmental entity
7-36 for the services of peace officers employed by the agency or entity
7-37 to enforce laws related to:

7-38 (1) the regulation and control of vehicular traffic on
7-39 a state highway; and

7-40 (2) the payment of the proper toll on a toll project.

7-41 SECTION 2.07. Section 203.052(b), Transportation Code, is
7-42 amended to read as follows:

7-43 (b) Property necessary or convenient to a state highway for
7-44 purposes of Subsection (a) includes an interest in real property, a
7-45 property right, or a material that the commission determines is
7-46 necessary or convenient to:

7-47 (1) protect a state highway;

7-48 (2) drain a state highway;

7-49 (3) divert a stream, river, or other watercourse from
7-50 the right-of-way of a state highway;

7-51 (4) store materials or equipment for use or used in the
7-52 construction or maintenance of a state highway;

7-53 (5) construct or operate a warehouse or other facility
7-54 used in connection with the construction, maintenance, or operation
7-55 of a state highway;

7-56 (6) lay out, construct, or maintain a roadside park;

7-57 (7) lay out, construct, or maintain a parking lot that
7-58 will contribute to maximum use of a state highway with the least
7-59 possible congestion;

7-60 (8) mitigate an adverse environmental effect that
7-61 directly results from construction or maintenance of a state
7-62 highway; [~~or~~]

7-63 (9) provide a location between the main lanes of a
7-64 highway or between a department rail facility and highway for a gas
7-65 station, convenience store, or similar facility that:

7-66 (A) provides services to and directly benefits
7-67 users of a state highway toll project;

7-68 (B) is not within five miles of an entrance or
7-69 exit ramp; and

8-1 (C) is not located within five miles of an
8-2 existing privately owned establishment providing similar services;
8-3 (10) construct or operate a toll booth, toll plaza,
8-4 service center, or other facility used in connection with the
8-5 construction, maintenance, or operation of a toll project; or
8-6 (11) accomplish any other purpose related to the
8-7 location, construction, improvement, maintenance, beautification,
8-8 preservation, or operation of a state highway.

8-9 SECTION 2.08. Section 203.0521, Transportation Code, is
8-10 amended to read as follows:

8-11 Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a
8-12 proposed acquisition of a tract of real property under Section
8-13 203.052 would leave the owner of the property a remainder of the
8-14 tract, the department may negotiate for and purchase the remainder
8-15 or any part of the severed real property if the department and the
8-16 owner agree on terms for the purchase. The department [~~commission~~]
8-17 shall offer, except as provided by Subsection (f), to purchase a
8-18 [~~the~~] remainder if the department [~~commission~~] determines that:

8-19 (1) the remainder has little or no value or utility to
8-20 the owner; or

8-21 (2) the entire tract could be acquired for
8-22 substantially the same compensation as the partial tract.

8-23 (b) In acquiring real property under Subsection (a), the
8-24 department shall pay:

8-25 (1) the value of the property acquired; and

8-26 (2) the damages to the remainder of the owner's
8-27 property caused by the severance, including damages caused by the
8-28 loss of reasonable access to one tract from the other [~~The~~
8-29 ~~department may acquire the remainder under this section only if the~~
8-30 ~~owner of the property consents to the acquisition of the~~
8-31 ~~remainder~~].

8-32 (c) Instead of a single fixed payment for real property
8-33 purchased under Subsection (a) for a toll project, the department
8-34 may agree to a payment to the owner in the form of:

8-35 (1) an intangible legal right to receive a percentage
8-36 of identified revenue attributable to the applicable segment of the
8-37 toll project; or

8-38 (2) an exclusive or nonexclusive right to use or
8-39 operate a segment or part of the toll project [~~The department is not~~
8-40 ~~required to make an offer on a remainder if an appraisal or~~
8-41 ~~environmental investigation indicates the presence of hazardous~~
8-42 ~~materials or substances~~].

8-43 (d) A right to received revenue under Subsection (c)(1) is
8-44 subject to any pledge of the revenue under the terms of a trust
8-45 agreement securing bonds issued for the applicable segment of the
8-46 toll project.

8-47 (e) The department and its designated agents may enter the
8-48 real property [~~a remainder~~] to conduct an appraisal, survey, or
8-49 environmental investigation to determine whether the department
8-50 will offer to acquire the real property [~~remainder~~].

8-51 (f) The department is not required under Subsection (a) to
8-52 make an offer on a remainder if an appraisal or environmental
8-53 investigation indicates the presence of hazardous materials or
8-54 substances.

8-55 SECTION 2.09. Section 203.055, Transportation Code, is
8-56 amended to read as follows:

8-57 Sec. 203.055. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY
8-58 [~~CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR~~
8-59 ~~PUBLIC AGENCY~~]. (a) The governing body of a political subdivision
8-60 or public agency that owns or is in charge of public real property
8-61 may consent to the use of the property for highway purposes.

8-62 (b) The governing body of a political subdivision or public
8-63 agency may, without advertisement, convey the title to or rights or
8-64 easements [~~a right~~] in real property that the department needs [~~+~~

8-65 [~~(1) is owned by the political subdivision or public~~
8-66 ~~agency, and~~

8-67 [~~(2) may be acquired by the commission under this~~
8-68 ~~subchapter~~] for highway purposes.

8-69 (c) Notwithstanding any law to the contrary, at the request

9-1 of the department, a political subdivision or a state agency may
9-2 lease, lend, grant, or convey to the department real property,
9-3 including a highway or real property currently devoted to public
9-4 use, that may be necessary or appropriate to accomplish the
9-5 department's purposes. The political subdivision or state agency
9-6 may lease, lend, grant, or convey the property:

9-7 (1) on terms the subdivision or agency determines
9-8 reasonable and fair; and

9-9 (2) without advertisement, court order, or other
9-10 action or formality other than the regular and formal action of the
9-11 subdivision or agency concerned.

9-12 [~~(b) In this section, "political subdivision" includes a~~
9-13 ~~county or municipality.]~~

9-14 SECTION 2.10. Sections 361.137, 361.138, 361.233, and
9-15 361.142, Transportation Code, are transferred to Subchapter D,
9-16 Chapter 203, Transportation Code, redesignated as Sections
9-17 203.066, 203.067, 203.068, and 203.069, Transportation Code, and
9-18 amended to read as follows:

9-19 Sec. 203.066 [~~361.137~~]. DECLARATION OF TAKING FOR TOLL
9-20 PROJECT. (a) This section and Section 203.067 apply only to a
9-21 taking for a toll project.

9-22 (b) The department may file a declaration of taking with the
9-23 clerk of the court:

9-24 (1) in which the department files a condemnation
9-25 petition under Chapter 21, Property Code; or

9-26 (2) to which the case is assigned.

9-27 (c) [~~(b)~~] The department may file the declaration of taking
9-28 concurrently with or subsequent to the petition but may not file the
9-29 declaration after the special commissioners have made an award in
9-30 the condemnation proceeding.

9-31 (d) [~~(c)~~] The department may not file a declaration of
9-32 taking before the completion of:

9-33 (1) all environmental documentation, including a
9-34 final environmental impact statement or a record of decision, that
9-35 is required by federal or state law;

9-36 (2) all public hearings and meetings, including those
9-37 held in connection with the environmental process and under
9-38 Sections 201.604 and 203.021, that are required by federal or state
9-39 law; and

9-40 (3) all notifications required by Section 203.022.

9-41 (e) [~~(d)~~] The declaration of taking must include:

9-42 (1) a specific reference to the legislative authority
9-43 for the condemnation;

9-44 (2) a description and plot plan of the real property to
9-45 be condemned, including the following information if applicable:

9-46 (A) the municipality in which the property is
9-47 located;

9-48 (B) the street address of the property; and

9-49 (C) the lot and block number of the property;

9-50 (3) a statement of the property interest to be
9-51 condemned;

9-52 (4) the name and address of each property owner that
9-53 the department can obtain after reasonable investigation and a
9-54 description of the owner's interest in the property; and

9-55 (5) a statement that immediate possession of all or
9-56 part of the property to be condemned is necessary for the timely
9-57 construction of a toll [~~turnpike~~] project.

9-58 (f) [~~(d-1)~~] A deposit to the registry of the court of an
9-59 amount equal to the appraised value, as determined by the
9-60 department, of the property to be condemned must accompany the
9-61 declaration of taking.

9-62 (g) [~~(e)~~] The date on which the declaration is filed is the
9-63 date of taking for the purpose of assessing damages to which a
9-64 property owner is entitled.

9-65 (h) The filing of a declaration of taking does not affect
9-66 the special commissioners' hearing or any other proceeding

9-67 [~~(f) After a declaration of taking is filed, the case shall~~
9-68 ~~proceed as any other case in eminent domain]~~ under Chapter 21,
9-69 Property Code.

10-1 (i) A taking under this section gives rise to compensable
 10-2 damages for early possession, as determined by the special
 10-3 commissioners under Chapter 21, Property Code.

10-4 Sec. 203.067 [361.138]. POSSESSION OF PROPERTY FOR TOLL
 10-5 PROJECT. (a) Immediately on the filing of a declaration of taking
 10-6 under Section 203.066, the department shall serve a copy of the
 10-7 declaration on each person possessing an interest in the condemned
 10-8 property by a method prescribed by Section 21.016(d), Property
 10-9 Code. The department shall file evidence of the service with the
 10-10 clerk of the court. On filing of that evidence, the department may
 10-11 take possession of the property pending the litigation.

10-12 (b) If the condemned property is a homestead or a portion of
 10-13 a homestead as defined by Section 41.002, Property Code, the
 10-14 department may not take possession sooner than the 91st day after
 10-15 the date of service under Subsection (a).

10-16 (c) A property owner or tenant who refuses to vacate the
 10-17 property or yield possession is subject to forcible entry and
 10-18 detainer under Chapter 24, Property Code.

10-19 Sec. 203.068 [361.233]. RIGHT OF ENTRY FOR TOLL PROJECT.
 10-20 (a) The department and its authorized agents may enter any real
 10-21 property, water, or premises in this state to make a survey,
 10-22 sounding, drilling, or examination it determines necessary or
 10-23 appropriate for the purposes of the development of a toll project
 10-24 [this chapter].

10-25 (b) An entry under this section is not:

- 10-26 (1) a trespass; or
- 10-27 (2) an entry under a pending condemnation proceeding.

10-28 (c) The department shall make reimbursement for any actual
 10-29 damages to real property, water, or premises that result from an
 10-30 activity described by Subsection (a).

10-31 Sec. 203.069 [361.142]. COVENANTS, CONDITIONS,
 10-32 RESTRICTIONS, OR LIMITATIONS. Covenants, conditions,
 10-33 restrictions, or limitations affecting property acquired in any
 10-34 manner by the department are not binding against the department and
 10-35 do not impair the department's ability to use the property for a
 10-36 purpose authorized by this chapter. The beneficiaries of the
 10-37 covenants, conditions, restrictions, or limitations are not
 10-38 entitled to enjoin the department from using the property for a
 10-39 purpose authorized under this chapter, but this section does not
 10-40 affect the right of a person to seek damages to the person's
 10-41 property under Section 17, Article I, Texas Constitution.

10-42 SECTION 2.11. Section 203.092(a), Transportation Code, is
 10-43 amended to read as follows:

10-44 (a) A utility shall make a relocation of a utility facility
 10-45 at the expense of this state if[+]

10-46 ~~[(1)]~~ relocation of the utility facility is required
 10-47 by improvement of:

10-48 (1) a highway in this state established by appropriate
 10-49 authority as part of the National System of Interstate and Defense
 10-50 Highways and the relocation is eligible for federal participation;
 10-51 ~~[or]~~

10-52 (2) ~~[relocation of the utility facility is required by~~
 10-53 ~~improvement of]~~ any segment of the state highway system and the
 10-54 utility has a compensable property interest in the land occupied by
 10-55 the facility to be relocated; or

10-56 (3) a segment of the state highway system that was
 10-57 designated by the commission as a turnpike project or toll project
 10-58 before September 1, 2005.

10-59 SECTION 2.12. Section 221.001(1), Transportation Code, is
 10-60 amended to read as follows:

10-61 (1) "Highway" includes a tolled or nontolled public
 10-62 road or part of a tolled or nontolled public road and a bridge,
 10-63 culvert, or other necessary structure related to a public road,
 10-64 including buildings.

10-65 SECTION 2.13. Section 222.104, Transportation Code, is
 10-66 amended to read as follows:

10-67 Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section,
 10-68 "pass-through toll" means a per vehicle fee or a per vehicle mile
 10-69 fee that is determined by the number of vehicles using a highway.

11-1 (b) The department may enter into an agreement with a public
11-2 or private entity that provides for the payment of pass-through
11-3 tolls to the public or private entity as reimbursement for the
11-4 design, development, financing, construction, maintenance, or
11-5 operation of a toll or nontoll facility on the state highway system
11-6 by the public or private entity.

11-7 (c) The department may enter into an agreement with a
11-8 private entity that provides for the payment of pass-through tolls
11-9 to the department as reimbursement for the department's design,
11-10 development, financing, construction, maintenance, or operation of
11-11 a toll or nontoll facility on the state highway system that is
11-12 financed by the department.

11-13 (d) The department and a regional mobility authority, a
11-14 regional tollway authority, or a county acting under Chapter 284
11-15 may enter into an agreement [~~with a regional mobility authority, a~~
11-16 regional tollway authority, or a county acting under Chapter 284]
11-17 that provides for:

11-18 (1) the payment of pass-through tolls to the authority
11-19 or county as compensation for the payment of all or a portion of the
11-20 costs of maintaining a state highway or a portion of a state highway
11-21 transferred to the authority or county after being converted to a
11-22 toll facility [~~of the authority or county]~~ that the department
11-23 estimates it would have incurred if the highway had not been
11-24 converted; or

11-25 (2) the payment by the authority or county of
11-26 pass-through tolls to the department as reimbursement for all or a
11-27 portion of the costs incurred by the department to design, develop,
11-28 finance, construct, and maintain a state highway or a portion of a
11-29 state highway transferred to the authority or county after being
11-30 converted to a toll facility.

11-31 (e) [~~(d)~~] The department may use any available funds for the
11-32 purpose of making a pass-through toll payment under this section.

11-33 (f) A regional mobility authority, a regional tollway
11-34 authority, or a county acting under Chapter 284 is authorized to
11-35 secure and pay its obligations under an agreement under this
11-36 section from any lawfully available funds.

11-37 (g) [~~(e)~~] The commission may adopt rules necessary to
11-38 implement this section. Rules adopted under this subsection may
11-39 include [~~establish~~] criteria for:

11-40 (1) determining the amount of pass-through tolls to be
11-41 paid under this section; and

11-42 (2) allocating the risk that traffic volume will be
11-43 higher or lower than the parties to an agreement under this section
11-44 anticipated in entering the agreement.

11-45 (h) Money repaid to the department under this section shall
11-46 be deposited to the credit of the fund from which the money was
11-47 originally provided and is exempt from the application of Section
11-48 403.095, Government Code.

11-49 SECTION 2.14. Chapter 223, Transportation Code, is amended
11-50 by adding Subchapter E to read as follows:

11-51 SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

11-52 Sec. 223.201. AUTHORITY. (a) Subject to Section 223.202,
11-53 the department may enter into a comprehensive development agreement
11-54 with a private entity to design, develop, finance, construct,
11-55 maintain, repair, operate, extend, or expand a:

11-56 (1) toll project;

11-57 (2) facility or a combination of facilities on the
11-58 Trans-Texas Corridor;

11-59 (3) state highway improvement project that includes
11-60 both tolled and nontolled lanes and may include nontolled
11-61 appurtenant facilities; and

11-62 (4) state highway improvement project in which the
11-63 private entity has an interest in the project.

11-64 (b) In this subchapter, "comprehensive development
11-65 agreement" means an agreement that, at a minimum, provides for the
11-66 design and construction, rehabilitation, expansion, or improvement
11-67 of a project described in Subsection (a) and may also provide for
11-68 the financing, acquisition, maintenance, or operation of a project
11-69 described in Subsection (a).

12-1 (c) The department may negotiate provisions relating to
 12-2 professional and consulting services provided in connection with a
 12-3 comprehensive development agreement.

12-4 (d) Money disbursed by the department under a comprehensive
 12-5 development agreement is not included in the amount:

12-6 (1) required to be spent in a state fiscal biennium for
 12-7 engineering and design contracts under Section 223.041; or

12-8 (2) appropriated in Strategy A.1.1.
 12-9 Plan/Design/Manage of the General Appropriations Act for that
 12-10 biennium for the purpose of making the computation under Section
 12-11 223.041.

12-12 (e) The department may authorize the investment of public
 12-13 and private money, including debt and equity participation, to
 12-14 finance a function described by this section.

12-15 (f) The authority to enter into comprehensive development
 12-16 agreements provided by this section expires on August 31, 2011.

12-17 Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL
 12-18 PARTICIPATION. The amount of money disbursed by the department
 12-19 from the state highway fund and the Texas mobility fund during a
 12-20 federal fiscal year to pay the costs under comprehensive
 12-21 development agreements may not exceed 40 percent of the obligation
 12-22 authority under the federal-aid highway program that is distributed
 12-23 to this state for the fiscal year.

12-24 Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE
 12-25 DEVELOPMENT AGREEMENTS. (a) If the department enters into a
 12-26 comprehensive development agreement, the department shall use a
 12-27 competitive procurement process that provides the best value for
 12-28 the department. The department may accept unsolicited proposals
 12-29 for a proposed project or solicit proposals in accordance with this
 12-30 section.

12-31 (b) The department shall establish rules and procedures for
 12-32 accepting unsolicited proposals that require the private entity to
 12-33 include in the proposal:

12-34 (1) information regarding the proposed project
 12-35 location, scope, and limits;

12-36 (2) information regarding the private entity's
 12-37 qualifications, experience, technical competence, and capability
 12-38 to develop the project; and

12-39 (3) any other information the department considers
 12-40 relevant or necessary.

12-41 (c) The department shall publish a notice advertising a
 12-42 request for competing proposals and qualifications in the Texas
 12-43 Register that includes the criteria to be used to evaluate the
 12-44 proposals, the relative weight given to the criteria, and a
 12-45 deadline by which proposals must be received if:

12-46 (1) the department decides to issue a request for
 12-47 qualifications for a proposed project; or

12-48 (2) the department authorizes the further evaluation
 12-49 of an unsolicited proposal.

12-50 (d) A proposal submitted in response to a request published
 12-51 under Subsection (c) must contain, at a minimum, the information
 12-52 required by Subsections (b)(2) and (3).

12-53 (e) The department may interview a private entity
 12-54 submitting an unsolicited proposal or responding to a request under
 12-55 Subsection (c). The department shall evaluate each proposal based
 12-56 on the criteria described in the request for competing proposals
 12-57 and qualifications and may qualify or shortlist private entities to
 12-58 submit detailed proposals under Subsection (f). The department
 12-59 must qualify or shortlist at least two private entities to submit
 12-60 detailed proposals for a project under Subsection (f) unless the
 12-61 department does not receive more than one proposal or one response
 12-62 to a request under Subsection (c).

12-63 (f) The department shall issue a request for detailed
 12-64 proposals from all private entities qualified or shortlisted under
 12-65 Subsection (e) if the department proceeds with the further
 12-66 evaluation of a proposed project. A request under this subsection
 12-67 may require additional information relating to:

12-68 (1) the private entity's qualifications and
 12-69 demonstrated technical competence;

13-1 (2) the feasibility of developing the project as
 13-2 proposed;

13-3 (3) engineering or architectural designs;

13-4 (4) the private entity's ability to meet schedules;

13-5 (5) a financial plan, including costing methodology
 13-6 and cost proposals; or

13-7 (6) any other information the department considers
 13-8 relevant or necessary.

13-9 (g) In issuing a request for proposals under Subsection (f),
 13-10 the department may solicit input from entities qualified under
 13-11 Subsection (e) or any other person. The department may also solicit
 13-12 input regarding alternative technical concepts after issuing a
 13-13 request under Subsection (f).

13-14 (h) The department shall evaluate each proposal based on the
 13-15 criteria described in the request for detailed proposals and select
 13-16 the private entity whose proposal offers the apparent best value to
 13-17 the department.

13-18 (i) The department may enter into discussions with the
 13-19 private entity whose proposal offers the apparent best value. The
 13-20 discussions shall be limited to:

13-21 (1) incorporation of aspects of other proposals for
 13-22 the purpose of achieving the overall best value for the department;

13-23 (2) clarifications and minor adjustments in
 13-24 scheduling, cash flow, and similar items; and

13-25 (3) matters that have arisen since the submission of
 13-26 the proposal.

13-27 (j) If at any point in negotiations under Subsection (i) it
 13-28 appears to the department that the highest ranking proposal will
 13-29 not provide the department with the overall best value, the
 13-30 department may enter into negotiations with the private entity
 13-31 submitting the next highest ranking proposal.

13-32 (k) The department may withdraw a request for competing
 13-33 proposals and qualifications or a request for detailed proposals at
 13-34 any time. The department may then publish a new request for
 13-35 competing proposals and qualifications.

13-36 (l) The department may require that an unsolicited proposal
 13-37 be accompanied by a nonrefundable fee sufficient to cover all or
 13-38 part of its cost to review the proposal.

13-39 (m) The department shall pay an unsuccessful private entity
 13-40 that submits a responsive proposal in response to a request for
 13-41 detailed proposals under Subsection (f) a stipulated amount in
 13-42 exchange for the work product contained in that proposal. The
 13-43 stipulated amount must be stated in the request for proposals and
 13-44 may not exceed the value of any work product contained in the
 13-45 proposal that can, as determined by the department, be used by the
 13-46 department in the performance of its functions. The use by the
 13-47 department of any design element contained in an unsuccessful
 13-48 proposal is at the sole risk and discretion of the department and
 13-49 does not confer liability on the recipient of the stipulated amount
 13-50 under this section. After payment of the stipulated amount:

13-51 (1) the department owns with the unsuccessful proposer
 13-52 jointly the rights to, and may make use of any work product
 13-53 contained in, the proposal, including the technologies,
 13-54 techniques, methods, processes, ideas, and information contained
 13-55 in the project design; and

13-56 (2) the use by the unsuccessful proposer of any
 13-57 portion of the work product contained in the proposal is at the sole
 13-58 risk of the unsuccessful proposer and does not confer liability on
 13-59 the department.

13-60 (n) The department may prescribe the general form of a
 13-61 comprehensive development agreement and may include any matter the
 13-62 department considers advantageous to the department. The
 13-63 department and the private entity shall finalize the specific terms
 13-64 of a comprehensive development agreement.

13-65 (o) Subchapter A of this chapter and Chapter 2254,
 13-66 Government Code, do not apply to a comprehensive development
 13-67 agreement entered into under this subchapter.

13-68 Sec. 223.204. CONFIDENTIALITY OF INFORMATION. (a) To
 13-69 encourage private entities to submit proposals under this

14-1 subchapter, the following information is confidential, is not
 14-2 subject to disclosure, inspection, or copying under Chapter 552,
 14-3 Government Code, and is not subject to disclosure, discovery,
 14-4 subpoena, or other means of legal compulsion for its release until a
 14-5 final contract for a proposed project is entered into:

14-6 (1) all or part of a proposal that is submitted by a
 14-7 private entity for a comprehensive development agreement, except
 14-8 information provided under Sections 223.203(b)(1) and (2), unless
 14-9 the private entity consents to the disclosure of the information;

14-10 (2) supplemental information or material submitted by
 14-11 a private entity in connection with a proposal for a comprehensive
 14-12 development agreement, unless the private entity consents to the
 14-13 disclosure of the information or material; and

14-14 (3) information created or collected by the department
 14-15 or its agent during consideration of a proposal for a comprehensive
 14-16 development agreement.

14-17 (b) After the department completes its final ranking of
 14-18 proposals under Section 223.203(h), the final rankings of each
 14-19 proposal under each of the published criteria are not confidential.

14-20 Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY.

14-21 (a) Notwithstanding Section 223.006 and the requirements of
 14-22 Subchapter B, Chapter 2253, Government Code, the department shall
 14-23 require a private entity entering into a comprehensive development
 14-24 agreement under this subchapter to provide a performance and
 14-25 payment bond or an alternative form of security in an amount
 14-26 sufficient to:

14-27 (1) ensure the proper performance of the agreement;
 14-28 and

14-29 (2) protect:
 14-30 (A) the department; and
 14-31 (B) payment bond beneficiaries who have a direct
 14-32 contractual relationship with the private entity or a subcontractor
 14-33 of the private entity to supply labor or material.

14-34 (b) A performance and payment bond or alternative form of
 14-35 security shall be in an amount equal to the cost of constructing or
 14-36 maintaining the project.

14-37 (c) If the department determines that it is impracticable
 14-38 for a private entity to provide security in the amount described by
 14-39 Subsection (b), the department shall set the amount of the bonds or
 14-40 the alternative forms of security.

14-41 (d) A payment or performance bond or alternative form of
 14-42 security is not required for the portion of an agreement that
 14-43 includes only design or planning services, the performance of
 14-44 preliminary studies, or the acquisition of real property.

14-45 (e) The amount of the payment security must not be less than
 14-46 the amount of the performance security.

14-47 (f) In addition to or instead of performance and payment
 14-48 bonds, the department may require the following alternative forms
 14-49 of security:

14-50 (1) a cashier's check drawn on a financial entity
 14-51 specified by the department;

14-52 (2) a United States bond or note;

14-53 (3) an irrevocable bank letter of credit; or

14-54 (4) any other form of security determined suitable by
 14-55 the department.

14-56 (g) The department by rule shall prescribe requirements for
 14-57 alternative forms of security provided under this section.

14-58 Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) A state highway
 14-59 or another facility described in Section 223.201(a) that is the
 14-60 subject of a comprehensive development agreement with a private
 14-61 entity, including the facilities acquired or constructed on the
 14-62 project, is public property and shall be owned by the department.

14-63 (b) Notwithstanding Subsection (a), the department may
 14-64 enter into an agreement that provides for the lease of
 14-65 rights-of-way, the granting of easements, the issuance of
 14-66 franchises, licenses, or permits, or any lawful uses to enable a
 14-67 private entity to construct, operate, and maintain a project,
 14-68 including supplemental facilities. At the termination of the
 14-69 agreement, the highway or other facilities are to be in a state of

15-1 proper maintenance as determined by the department and shall be
 15-2 returned to the department in satisfactory condition at no further
 15-3 cost.

15-4 (c) For purposes of Section 11.11, Tax Code, a state highway
 15-5 or other facility that is licensed or leased to a private entity
 15-6 under a comprehensive development agreement is used for a public
 15-7 purpose if the highway or other facility is operated by the private
 15-8 entity to provide transportation services. A highway asset or toll
 15-9 project that is used or leased by a private entity under Section
 15-10 202.052 or 228.053 for a commercial purpose is not exempt from ad
 15-11 valorem taxation and is subject to local zoning regulations and
 15-12 building standards.

15-13 Sec. 223.207. LIABILITY FOR PRIVATE OBLIGATIONS. The
 15-14 department may not incur a financial obligation for a private
 15-15 entity that designs, develops, finances, constructs, maintains, or
 15-16 operates a state highway or other facility under this subchapter.
 15-17 The state or a political subdivision of the state is not liable for
 15-18 any financial or other obligations of a project solely because a
 15-19 private entity constructs, finances, or operates any part of the
 15-20 project.

15-21 Sec. 223.208. TERMS OF PRIVATE PARTICIPATION. (a) The
 15-22 department shall negotiate the terms of private participation under
 15-23 this subchapter, including:

15-24 (1) methods to determine the applicable cost, profit,
 15-25 and project distribution among the private participants and the
 15-26 department;

15-27 (2) reasonable methods to determine and classify toll
 15-28 rates and responsibility for the setting of tolls;

15-29 (3) acceptable safety and policing standards; and

15-30 (4) other applicable professional, consulting,
 15-31 construction, operation, and maintenance standards, expenses, and
 15-32 costs.

15-33 (b) A comprehensive development agreement entered into
 15-34 under this subchapter or Section 227.023(c) may include any
 15-35 provision that the department considers appropriate, including
 15-36 provisions:

15-37 (1) providing for the purchase by the department,
 15-38 under terms and conditions agreed to by the parties, of the interest
 15-39 of a private participant in the comprehensive development agreement
 15-40 and related property, including any interest in a highway or other
 15-41 facility designed, developed, financed, constructed, operated, or
 15-42 maintained under the comprehensive development agreement;

15-43 (2) establishing the purchase price for the interest
 15-44 of a private participant in the comprehensive development agreement
 15-45 and related property, which price may be determined in accordance
 15-46 with the methodology established by the parties in the
 15-47 comprehensive development agreement;

15-48 (3) providing for the payment of obligations incurred
 15-49 pursuant to the comprehensive development agreement, including any
 15-50 obligation to pay the purchase price for the interest of a private
 15-51 participant in the comprehensive development agreement, from any
 15-52 lawfully available source, including securing such obligations by a
 15-53 pledge of revenues of the commission or the department derived from
 15-54 the applicable project, which pledge shall have such priority as
 15-55 the department may establish;

15-56 (4) permitting the private participant to pledge its
 15-57 rights under the comprehensive development agreement;

15-58 (5) concerning the private participant's right to
 15-59 operate and collect revenue from the project; and

15-60 (6) restricting the right of the commission or the
 15-61 department to terminate the private participant's right to operate
 15-62 and collect revenue from the project unless and until any
 15-63 applicable termination payments have been made.

15-64 (c) The department may enter into a comprehensive
 15-65 development agreement under this subchapter or under Section
 15-66 227.023(c) with a private participant only if the project is
 15-67 identified in the department's unified transportation program or is
 15-68 located on a transportation corridor identified in the statewide
 15-69 transportation plan.

16-1 (d) Section 223.207 does not apply to the obligations of the
16-2 department under a comprehensive development agreement.

16-3 (e) Notwithstanding anything in Section 201.112 or other
16-4 law to the contrary, and subject to compliance with the dispute
16-5 resolution procedures set out in the comprehensive development
16-6 agreement, an obligation of the commission or the department under
16-7 a comprehensive development agreement entered into under this
16-8 subchapter or Section 227.023(c) to make payments to a person
16-9 because of the termination of the agreement, including the purchase
16-10 of the interest of a private participant or other investor in a
16-11 project, or to not terminate the private participant's right to
16-12 operate and collect revenue from the project unless and until any
16-13 applicable termination payments have been made, may be enforced by
16-14 mandamus against the commission, the department, and the
16-15 comptroller in a district court of Travis County, and the sovereign
16-16 immunity of the state is waived for that purpose. The district
16-17 courts of Travis County shall have exclusive jurisdiction and venue
16-18 over and to determine and adjudicate all issues necessary to
16-19 adjudicate any action brought pursuant to this subsection.

16-20 (f) A comprehensive development agreement entered into
16-21 under this subchapter or Section 227.023(c) and any obligations
16-22 incurred, issued, or owed thereunder shall not constitute a state
16-23 security under Chapter 1231, Government Code.

16-24 (g) If the department enters into a comprehensive
16-25 development agreement with a private participant that includes the
16-26 collection by the private participant of tolls for the use of a toll
16-27 project, the private participant shall submit to the department for
16-28 approval:

16-29 (1) the methodology for:

16-30 (A) the setting of tolls; and

16-31 (B) increasing the amount of the tolls;

16-32 (2) a plan outlining methods the private participant
16-33 will use to collect the tolls, including:

16-34 (A) any charge to be imposed as a penalty for late
16-35 payment of a toll; and

16-36 (B) any charge to be imposed to recover the cost
16-37 of collecting a delinquent toll; and

16-38 (3) any proposed change in an approved methodology for
16-39 the setting of a toll or a plan for collecting the toll.

16-40 (h) A comprehensive development agreement with a private
16-41 participant that includes the collection by the private participant
16-42 of tolls for the use of a toll project may not be for a term longer
16-43 than 50 years.

16-44 Sec. 223.209. RULES, PROCEDURES, AND GUIDELINES GOVERNING
16-45 SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt
16-46 rules, procedures, and guidelines governing selection of a
16-47 developer for a comprehensive development agreement and
16-48 negotiations to promote fairness, obtain private participants in
16-49 projects, and promote confidence among those participants. The
16-50 rules must contain criteria relating to the qualifications of the
16-51 participants and the award of the contracts.

16-52 (b) The department shall have up-to-date procedures for
16-53 participation in negotiations under this subchapter.

16-54 (c) The department has exclusive judgment to determine the
16-55 terms of an agreement.

16-56 SECTION 2.15. Section 224.151(9), Transportation Code, is
16-57 amended to read as follows:

16-58 (9) "Restricted lane" includes:

16-59 (A) a high occupancy vehicle lane;

16-60 (B) a toll lane under Section 228.007 [~~224.154~~];

16-61 and

16-62 (C) an exclusive lane.

16-63 SECTION 2.16. Sections 227.001(4) and (9), Transportation
16-64 Code, are amended to read as follows:

16-65 (4) "Facility" means:

16-66 (A) a state highway;

16-67 (B) a turnpike;

16-68 (C) a freight or passenger railroad, including a
16-69 commuter railroad, intercity railroad, and high-speed railroad;

17-1 (D) a public utility facility; or
17-2 (E) any structure that is reasonably necessary
17-3 for the effective operation of a method of transportation,
17-4 including an intermodal transfer or staging area, weigh station,
17-5 inspection station, rest area, service station, ~~[restaurant,~~
17-6 train or bus station, warehouse, freight interchange, switching
17-7 yard, maintenance yard, and pipeline pumping station.

17-8 (9) "Turnpike" has the meaning assigned to toll
17-9 ~~[turnpike]~~ project under Section 201.001(b) ~~[361.001]~~.

17-10 SECTION 2.17. Section 227.021, Transportation Code, is
17-11 amended by adding Subsection (f) to read as follows:

17-12 (f) The department may not pump or extract, or allow the
17-13 pumping or extracting, of groundwater from the right-of-way of the
17-14 Trans-Texas Corridor unless the groundwater is needed for the
17-15 construction, operation, or maintenance of a facility other than a
17-16 public utility facility. If a well drilled and operated on the
17-17 Trans-Texas Corridor is located inside the boundaries of a
17-18 groundwater conservation district, the well is subject to the rules
17-19 of the district.

17-20 SECTION 2.18. Section 227.023, Transportation Code, is
17-21 amended by amending Subsection (c) and adding Subsections (d), (e),
17-22 and (f) to read as follows:

17-23 (c) To the extent and in the manner that the department may
17-24 enter into comprehensive development agreements under Chapter 223
17-25 ~~[361 with regard to turnpikes]~~, the department may enter into a
17-26 comprehensive development agreement under this chapter that
17-27 provides for the financing, development, design, construction, or
17-28 operation of a facility or a combination of facilities on the
17-29 Trans-Texas Corridor. All provisions of Chapter 223 ~~[361]~~ relating
17-30 to comprehensive development agreements ~~[for turnpikes]~~ apply to
17-31 comprehensive development agreements for facilities under this
17-32 chapter, including provisions relating to the confidentiality of
17-33 information. Claims arising under a comprehensive development
17-34 agreement are subject to Section 201.112.

17-35 (d) For the purposes of Section 11.11, Tax Code, a facility
17-36 that is licensed or leased to a private entity under a comprehensive
17-37 development agreement, other than a facility described by Section
17-38 227.001(4)(E) that is used for commercial purposes, is used for a
17-39 public purpose if the facility is operated by the private entity to
17-40 provide transportation or utility services. Property that is
17-41 licensed or leased to a private entity under Section 227.082 for a
17-42 commercial purpose is not exempt from ad valorem taxation and is
17-43 subject to local zoning regulations and building standards.

17-44 (e) If a contract between the department and a private
17-45 entity includes the collection by the private entity of a fee for
17-46 the use of a facility or a combination of facilities that are part
17-47 of the Trans-Texas Corridor, the private entity shall submit to the
17-48 department for approval:

- 17-49 (1) the methodology for:
 - 17-50 (A) the setting of the amount of a fee; and
 - 17-51 (B) increasing the amount of the fee;
- 17-52 (2) a plan outlining methods the entity will use to
17-53 collect the fee, including:
 - 17-54 (A) any charge to be imposed as a penalty for late
17-55 payment of the fee; and
 - 17-56 (B) any charge to be imposed to recover the cost
17-57 of collecting a delinquent fee; and
- 17-58 (3) any proposed change in an approved methodology for
17-59 the setting of the amount of a fee or a plan for collecting the fee.

17-60 (f) A contract with a private entity that includes the
17-61 collection by the private entity of a fee for the use of a facility
17-62 may not be for a term longer than 50 years.

17-63 SECTION 2.19. Section 227.028(a), Transportation Code, is
17-64 amended to read as follows:

17-65 (a) Subject to Section 201.617(a-1), the [The] department
17-66 may acquire, maintain, hold, restore, enhance, develop, or
17-67 redevelop property for the purpose of mitigating a past, present,
17-68 or future adverse environmental effect arising from the
17-69 construction or operation of any part of the Trans-Texas Corridor

18-1 without regard to whether the need for mitigation is established
18-2 for a particular project.

18-3 SECTION 2.20. Section 227.029(b), Transportation Code, is
18-4 amended to read as follows:

18-5 (b) If the department finds it necessary to change the
18-6 location of a portion of a facility, it shall reconstruct the
18-7 facility at a ~~[the]~~ location that the department determines
18-8 restores the utility of the facility ~~[to be most favorable]~~. The
18-9 reconstructed facility must be of substantially the same type and
18-10 in as good condition as the original facility. The department shall
18-11 determine and pay the cost of the reconstruction and any damage
18-12 incurred in changing the location of a facility.

18-13 SECTION 2.21. Subchapter C, Chapter 227, Transportation
18-14 Code, is amended by adding Section 227.032 to read as follows:

18-15 Sec. 227.032. HIGHWAYS INTERSECTING TRANS-TEXAS CORRIDOR.

18-16 (a) The department shall ensure that, at each intersection of a
18-17 segment of a state highway that is designated as part of the
18-18 Trans-Texas Corridor and a segment of a highway that is designated
18-19 as an interstate highway, state highway, or United States highway,
18-20 the Trans-Texas Corridor and the interstate highway, state highway,
18-21 or United States highway are directly accessible to each other.

18-22 (b) The department shall make every reasonable effort to
18-23 connect a segment of a state highway that is designated as part of
18-24 the Trans-Texas Corridor with significant farm-to-market and
18-25 ranch-to-market roads as determined by the department, taking into
18-26 consideration:

- 18-27 (1) financial feasibility;
- 18-28 (2) advice solicited from county commissioners
18-29 courts, regional mobility authorities, and regional tollway
18-30 authorities;
- 18-31 (3) circuitry of travel for landowners;
- 18-32 (4) access for emergency vehicles; and
- 18-33 (5) traffic volume.

18-34 SECTION 2.22. Section 227.041, Transportation Code, is
18-35 amended to read as follows:

18-36 Sec. 227.041. POWERS AND PROCEDURES. (a) Except as
18-37 otherwise provided by this subchapter, the commission has the same
18-38 powers and duties relating to the condemnation and acquisition of
18-39 real property for a facility of the Trans-Texas Corridor that the
18-40 commission and the department have relating to the condemnation or
18-41 purchase of real property under Subchapter D, Chapter 203, ~~[361,~~
18-42 ~~and Section 361.233]~~ for a toll ~~[turnpike]~~ project. The commission
18-43 may purchase an option to purchase property, other than real
18-44 property, a property right, or a right-of-way used for a public
18-45 utility facility, that the commission is considering for possible
18-46 use as part of the Trans-Texas Corridor even if it has not been
18-47 finally decided that the Trans-Texas Corridor will be located on
18-48 that property. An option to purchase may be purchased along
18-49 alternative potential routes for the Trans-Texas Corridor even if
18-50 only one of those potential routes will be selected as the final
18-51 route.

18-52 (b) An interest in real property or a property right is
18-53 necessary or convenient for the construction or operation of a
18-54 facility if it is located in or contiguous to an existing or planned
18-55 segment of the Trans-Texas Corridor or is needed for mitigation of
18-56 adverse environmental effects, and if its acquisition will further
18-57 the primary purposes of the Trans-Texas Corridor. Primary purposes
18-58 include:

- 18-59 (1) providing right-of-way or a location for a
18-60 facility;
- 18-61 (2) providing land for mitigation of adverse
18-62 environmental effects;
- 18-63 (3) providing buffer zones for scenic or safety
18-64 purposes; and
- 18-65 (4) allowing for possible future expansion of any
18-66 facility~~;~~ and
- 18-67 ~~[(5) generating revenue, directly or indirectly, for~~
18-68 ~~use in constructing or operating the Trans-Texas Corridor from or~~
18-69 ~~for ancillary facilities that directly benefit users of the~~

19-1 ~~Trans-Texas Corridor].~~

19-2 (c) ~~[Unless in conflict with this chapter, all laws~~
 19-3 ~~governing the acquisition of right-of-way for a state highway apply~~
 19-4 ~~to the acquisition of right-of-way for the Trans-Texas Corridor.~~
 19-5 ~~Sections 203.056, 203.057, and 203.058 apply to an acquisition by~~
 19-6 ~~the department from a state agency.]~~ Compensation to a state agency
 19-7 under those sections shall be reasonable and may take the form of a
 19-8 single payment, a participation payment under Section 227.042, or
 19-9 both a single payment and a participation payment.

19-10 (d) If the commission acquires property not immediately
 19-11 needed for department purposes, the department is encouraged to
 19-12 acquire an option to purchase the property under Subsection (a) or
 19-13 to lease back purchased land under Section 227.043 to continue the
 19-14 agricultural or recreational use of the property.

19-15 SECTION 2.23. Section 227.062(c), Transportation Code, is
 19-16 amended to read as follows:

19-17 (c) Each fiscal year, the total amount disbursed by the
 19-18 department out of state and federal funds shall not exceed \$50 [~~\$25~~]
 19-19 million for the construction or purchase of non-highway facilities
 19-20 on the Trans-Texas Corridor. This subsection does not apply to
 19-21 funds derived from the issuance of bonds, private investments
 19-22 [~~investment~~], donations, the Federal Transit Administration, or
 19-23 the Federal Railroad Administration. This subsection also does not
 19-24 apply to:

19-25 (1) activities that are subject to the limitation in
 19-26 Subsection (a); and

19-27 (2) activities described in Subsection (b)(1).

19-28 SECTION 2.24. Sections 227.082(c) and (d), Transportation
 19-29 Code, are amended to read as follows:

19-30 (c) The department may grant an exclusive or nonexclusive
 19-31 license to access or use any portion of the Trans-Texas Corridor
 19-32 [~~for any purpose~~]. A license granted under this section may be for
 19-33 a definite or indefinite term. The department may not grant an
 19-34 exclusive license to access or use a highway on the Trans-Texas
 19-35 Corridor. The department may not grant an exclusive license for use
 19-36 of the Trans-Texas Corridor by an owner of a public utility facility
 19-37 if the exclusive use is prohibited by other law.

19-38 (d) Property may be leased or a franchise or license granted
 19-39 for any purpose reasonably necessary for the effective [
 19-40 including] use or operation of [as] a facility and to provide a
 19-41 location between the main lanes of a highway or between a highway
 19-42 and a department rail facility for a facility or a gas station,
 19-43 convenience store, or similar facility that:

19-44 (1) provides services to and directly benefits users
 19-45 of the Trans-Texas Corridor;

19-46 (2) is not within five miles of an entrance or exit
 19-47 ramp; and

19-48 (3) is not located within five miles of an existing
 19-49 privately owned establishment providing similar services [use for
 19-50 unrelated commercial, industrial, or agricultural purpose].

19-51 SECTION 2.25. Subtitle B, Title 6, Transportation Code, is
 19-52 amended by adding Chapter 228, and Sections 361.001, 361.301,
 19-53 361.307, and 361.032, Transportation Code, are transferred to
 19-54 Chapter 228, Transportation Code, designated as Subchapter A, and
 19-55 amended to read as follows:

19-56 CHAPTER 228. STATE HIGHWAY TOLL PROJECTS

19-57 SUBCHAPTER A. GENERAL PROVISIONS

19-58 Sec. 228.001 [~~361.001~~]. DEFINITIONS. In this chapter:

19-59 (1) "Air quality project" means a project or program
 19-60 of the department or another governmental entity that the
 19-61 commission determines will mitigate or prevent air pollution caused
 19-62 by the construction, maintenance, or use of public roads.
 19-63 ["Authority" means the Texas Turnpike Authority division of the
 19-64 Texas Department of Transportation.]

19-65 (2) "Bond" means bonds, notes, or other obligations
 19-66 issued under Subchapter C or another law with respect to a toll
 19-67 project or system. ["Owner" includes a person having title to or an
 19-68 interest in any property, rights, easements, and interests
 19-69 authorized to be acquired under this chapter.]

(3) "Region" means:

(A) a metropolitan statistical area and any county contiguous to that metropolitan statistical area; or
(B) two adjacent districts of the department.

(4) "System" means a toll project or any combination of toll projects designated as a system under Section 228.010.

(5) "Toll [~~Turnpike~~] project" has the meaning assigned by Section 201.001(b) [~~means a toll highway constructed, maintained, or operated under this chapter as part of the state highway system and any improvement, extension, or expansion to the highway and includes:~~

~~[(A) a facility to relieve traffic congestion and promote safety;~~

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

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

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

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

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

(6) "Transportation project" means:

(A) a tolled or nontolled state highway improvement project;

(B) a toll project eligible for department cost participation under Section 222.103;

(C) the acquisition, construction, maintenance, or operation of a rail facility or system under Chapter 91;

(D) the acquisition, construction, maintenance, or operation of a state-owned ferry under Subchapter A, Chapter 342;

(E) a public transportation project under Chapter 455 or 456;

(F) the establishment, construction, or repair of an aviation facility under Chapter 21; and

(G) a passenger rail project of another governmental entity. [(4) "Regional tollway authority" means a regional tollway authority created under Chapter 366.]

~~Sec. 228.002 [361.301]. AGREEMENTS WITH PUBLIC [OR PRIVATE] ENTITIES [TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS]. The [(a) Notwithstanding Section 361.231 and Subchapter A, Chapter 2254, Government Code, the] department may enter into an agreement with a public [or private] entity[~~including a toll road corporation,~~] to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or [and] operate a toll project [turnpike projects].~~

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

~~Sec. 228.003 [361.307]. AGREEMENTS WITH [PRIVATE ENTITIES AND] OTHER GOVERNMENTAL AGENCIES. (a) The department [~~and a private entity jointly~~] may, with the approval of the commission, enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a toll [~~turnpike~~] project, or to finance, construct, operate, and maintain a toll [~~turnpike~~] project. The department must obtain the approval of the governor to enter into an agreement with an agency of another state, the United Mexican States, or a state of the United Mexican States.~~

21-1 (b) If the department enters into an agreement with a
 21-2 private entity, including a comprehensive development agreement
 21-3 under Subchapter E, Chapter 223, the department and the private
 21-4 entity may jointly enter into an agreement under Subsection (a).
 21-5 ~~[The department may not enter into an agreement with the United~~
 21-6 ~~Mexican States or a state of the United Mexican States without the~~
 21-7 ~~approval of the governor.]~~

21-8 Sec. 228.004. PROMOTION OF TOLL PROJECT.
 21-9 ~~[361.032. GENERAL POWERS AND DUTIES. (a) The commission shall~~
 21-10 ~~adopt rules for the implementation and administration of this~~
 21-11 ~~chapter.~~

21-12 ~~[(b)]~~ The department may, [+
 21-13 ~~(1) construct, maintain, repair, and operate~~
 21-14 ~~turnpike projects in this state;~~

21-15 ~~(2) acquire, hold, and dispose of property in the~~
 21-16 ~~exercise of its powers and the performance of its duties under this~~
 21-17 ~~chapter;~~

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

21-22 ~~(4) enter into contracts or agreements necessary or~~
 21-23 ~~incidental to its duties and powers under this chapter;~~

21-24 ~~(5) employ consulting engineers, accountants,~~
 21-25 ~~construction and financial experts, superintendents, managers, and~~
 21-26 ~~other employees and agents the department considers necessary and~~
 21-27 ~~set their compensation;~~

21-28 ~~(6) receive grants for the construction of a turnpike~~
 21-29 ~~project and receive contributions of money, property, labor, or~~
 21-30 ~~other things of value from any source to be used for the purposes~~
 21-31 ~~for which the grants or contributions are made;~~

21-32 ~~[(7)]~~ notwithstanding Chapter 2113, Government Code,
 21-33 engage in marketing, advertising, and other activities to promote
 21-34 the development and use of toll [turnpike] projects and may enter
 21-35 into contracts or agreements necessary to procure marketing,
 21-36 advertising, or other promotional services from outside service
 21-37 providers[; and

21-38 ~~(8) do all things necessary or appropriate to carry~~
 21-39 ~~out the powers expressly granted by this chapter].~~

21-40 SECTION 2.26. Subchapter A, Chapter 228, Transportation
 21-41 Code, is amended by adding Section 228.005 to read as follows:

21-42 Sec. 228.005. TOLL REVENUE. Except as provided by
 21-43 Subchapter C or E, toll revenue collected or received by the
 21-44 department under this chapter:

21-45 (1) shall be deposited in the state highway fund;

21-46 (2) may be used by the department to finance the
 21-47 construction, maintenance, or operation of a transportation
 21-48 project or air quality project in the region; and

21-49 (3) is exempt from the application of Section 403.095,
 21-50 Government Code.

21-51 SECTION 2.27. Sections 361.189 and 224.154, Transportation
 21-52 Code, are transferred to Subchapter A, Chapter 228, Transportation
 21-53 Code, redesignated as Sections 228.006 and 228.007, Transportation
 21-54 Code, and amended to read as follows:

21-55 Sec. 228.006 [361.189]. USE OF SURPLUS REVENUE. (a) The
 21-56 commission shall [by order may] authorize the use of surplus
 21-57 revenue of a toll [turnpike] project or system to pay the costs of a
 21-58 transportation [another turnpike] project, highway project, or air
 21-59 quality project within a department district in which any part of
 21-60 the turnpike project is located [the region].

21-61 (b) The commission may not revise the formula as provided in
 21-62 the department's unified transportation program, or its successor
 21-63 document, in a manner that results in a decrease of a district's
 21-64 allocation because of a payment under Subsection (a).

21-65 (c) The commission [in the order prescribe terms for the use
 21-66 of the revenue, including the pledge of the revenue, but] may not
 21-67 take an action under this section that violates, impairs, or is
 21-68 inconsistent with a bond order, trust agreement, or indenture
 21-69 governing the use of the surplus revenue.

22-1 Sec. 228.007 [~~224.154~~]. TOLL LANES. (a) Subject to
22-2 Section 228.201 [~~Notwithstanding any law of this state relating to~~
22-3 ~~charging tolls on existing free public highways, and subject to~~
22-4 ~~Section 224.1541(d)~~], the commission may by order authorize the
22-5 department to charge a toll for the use of one or more lanes of a
22-6 state highway [~~facility~~], including a high occupancy vehicle lane
22-7 designated under Section 224.153 or an exclusive lane designated
22-8 under Section 224.1541[~~, for the purposes of congestion~~
22-9 ~~mitigation~~].

22-10 (b) If the commission authorizes the department to charge a
22-11 toll under Subsection (a), the department may enter into an
22-12 agreement with a regional tollway authority described in Chapter
22-13 366, a transit authority described in Chapter 451, 452, or 453, a
22-14 coordinated county transportation authority under Chapter 460,
22-15 a regional mobility authority under Chapter 370 [~~361~~], a county
22-16 acting under Chapter 284, or a transportation corporation:

22-17 (1) to design, construct, operate, or maintain a toll
22-18 lane under this section; and

22-19 (2) to charge a toll for the use of one or more lanes of
22-20 a state highway facility under this section.

22-21 (c) The commission may by order authorize the department or
22-22 the entity contracted to operate the toll lane to set the amount of
22-23 toll charges. Any toll charges shall be imposed in a reasonable and
22-24 nondiscriminatory manner.

22-25 (d) [~~Revenue generated from toll charges and collection~~
22-26 ~~fees assessed by the department in connection with a toll lane shall~~
22-27 ~~be deposited in the state highway fund and may be used only for~~
22-28 ~~projects for the improvement of the state highway system.~~] Revenue
22-29 generated from toll charges and collection fees assessed by an
22-30 entity with whom the department contracts under this section shall
22-31 be allocated as required by the terms of the agreement.

22-32 [~~(e) The powers granted by this section are subject to the~~
22-33 ~~restrictions of 23 U.S.C. Section 129.~~]

22-34 SECTION 2.28. Section 224.1541(d), Transportation Code, is
22-35 transferred to Subchapter A, Chapter 228, Transportation Code,
22-36 redesignated as Section 228.008, Transportation Code, and amended
22-37 to read as follows:

22-38 Sec. 228.008. TOLLS ON EXCLUSIVE LANE. [~~(d)~~] The
22-39 department may not charge a toll for the use of an exclusive lane
22-40 unless:

22-41 (1) the lanes or multilane facility adjacent to the
22-42 exclusive lane is tolled; or

22-43 (2) a vehicle that is authorized to use the tolled
22-44 exclusive lane is authorized to use nontolled adjacent lanes or an
22-45 adjacent nontolled multilane facility.

22-46 SECTION 2.29. Section 361.033, Transportation Code, is
22-47 transferred to Subchapter A, Chapter 228, Transportation Code,
22-48 redesignated as Section 228.009, Transportation Code, and amended
22-49 to read as follows:

22-50 Sec. 228.009 [~~361.033~~]. AUDIT. Notwithstanding any other
22-51 law to the contrary, the department shall have an independent
22-52 certified public accountant audit the department's books and
22-53 accounts for each toll project or system [~~activities under this~~
22-54 ~~chapter~~] at least annually. The audit shall be conducted in
22-55 accordance with the requirements of any trust agreement securing
22-56 bonds issued under Subchapter C [~~this chapter~~] that is in effect at
22-57 the time of the audit. The cost of the audit may be treated as part
22-58 of the cost of construction or operation of a toll project or system
22-59 [~~turnpike project~~]. This section does not affect the ability of a
22-60 state agency to audit the department's books and accounts.

22-61 SECTION 2.30. Subchapter A, Chapter 228, Transportation
22-62 Code, is amended by adding Section 228.010 to read as follows:

22-63 Sec. 228.010. ESTABLISHMENT OF TOLL SYSTEMS. (a) If the
22-64 commission determines that the mobility needs of a region of this
22-65 state could be most efficiently and economically met by jointly
22-66 operating two or more toll projects in that region as one
22-67 operational and financial enterprise, it may create a system
22-68 composed of those projects. The commission may create more than one
22-69 system in a region and may combine two or more systems in a region

23-1 into one system. The department may finance, acquire, construct,
 23-2 and operate additional toll projects in the region as additions to
 23-3 or expansions of a system if the commission determines that the toll
 23-4 project could most efficiently and economically be acquired or
 23-5 constructed if it were part of the system and that the addition will
 23-6 benefit the system.

23-7 (b) The revenue of a system shall be accounted for
 23-8 separately and may not be commingled with the revenue of a toll
 23-9 project that is not part of the system or with the revenue of
 23-10 another system.

23-11 SECTION 2.31. Chapter 228, Transportation Code, is amended
 23-12 by adding Subchapter B to read as follows:

23-13 SUBCHAPTER B. USE AND OPERATION OF TOLL PROJECTS OR SYSTEMS

23-14 Sec. 228.051. DESIGNATION. Subject to Section 228.201, the
 23-15 commission by order may designate one or more lanes of a segment of
 23-16 the state highway system as a toll project or system.

23-17 Sec. 228.052. OPERATION OF TOLL PROJECT OR SYSTEM. The
 23-18 department may enter into an agreement with one or more persons to
 23-19 provide, on terms approved by the department, personnel, equipment,
 23-20 systems, facilities, and services necessary to operate a toll
 23-21 project or system, including the operation of toll plazas and lanes
 23-22 and customer service centers and the collection of tolls.

23-23 SECTION 2.32. Sections 361.179, 361.252, 361.253, 361.254,
 23-24 361.255, and 361.256, Transportation Code, are transferred to
 23-25 Subchapter B, Chapter 228, Transportation Code, redesignated as
 23-26 Sections 228.053, 228.054, 228.055, 228.056, 228.057, and 228.058,
 23-27 Transportation Code, and amended to read as follows:

23-28 Sec. 228.053 [~~361.179~~]. REVENUE. (a) The department may:

23-29 (1) impose tolls for the use of each toll [~~turnpike~~]
 23-30 project or system and the different segments or parts of each
 23-31 [~~turnpike~~] project or system; and

23-32 (2) notwithstanding anything in Chapter 202 to the
 23-33 contrary, contract with a person for the use of part of a toll
 23-34 [~~turnpike~~] project or lease part of a toll [~~turnpike~~] project or
 23-35 system only for a gas station, convenience store, or similar
 23-36 facility that provides services to and directly benefits users of a
 23-37 toll project, provided that the facility is located between the
 23-38 main lanes of the toll project and is not within five miles of an
 23-39 entrance or exit ramp [~~garage, store, hotel, restaurant, railroad~~
 23-40 ~~tracks, utilities, and telecommunications facilities and equipment~~
 23-41 ~~and set the terms for the use or lease~~].

23-42 (a-1) A contract or lease agreement under Subsection (a)(2)
 23-43 may be entered into for the purpose of constructing and operating a
 23-44 commercial facility only if, on the effective date of the contract
 23-45 or lease agreement, a facility that provides a service described by
 23-46 that subsection is not located within five miles of the part of the
 23-47 toll project to be used or leased.

23-48 (b) The tolls shall be set so that, at a minimum, the
 23-49 aggregate of tolls from the toll [~~turnpike~~] project or system:

23-50 (1) provides a fund sufficient with other revenue and
 23-51 contributions, if any, to pay:

23-52 (A) the cost of maintaining, repairing, and
 23-53 operating the project or system; and

23-54 (B) the principal of and interest on the bonds
 23-55 issued under Subchapter C for the project or system as those bonds
 23-56 become due and payable; and

23-57 (2) creates reserves for the purposes listed under
 23-58 Subdivision (1).

23-59 (c) The tolls are not subject to supervision or regulation
 23-60 by any other state agency.

23-61 (d) The tolls and other revenue derived from the toll
 23-62 [~~turnpike~~] project or system for which bonds were issued, except
 23-63 the part necessary to pay the cost of maintenance, repair, and
 23-64 operation and to provide reserves for those costs as may be provided
 23-65 in the order authorizing the issuance of the bonds or in the trust
 23-66 agreement securing the bonds, shall be set aside at regular
 23-67 intervals as may be provided in the order or trust agreement in a
 23-68 sinking fund that is pledged to and charged with the payment of:

23-69 (1) interest on the bonds as it becomes due;

24-1 (2) principal of the bonds as it becomes due;
 24-2 (3) necessary charges of paying agents for paying
 24-3 principal and interest; and

24-4 (4) the redemption price or the purchase price of
 24-5 bonds retired by call or purchase as provided by the bonds.

24-6 (e) Use and disposition of money to the credit of the
 24-7 sinking fund are subject to the order authorizing the issuance of
 24-8 the bonds or to the trust agreement.

24-9 (f) The revenue and disbursements for each toll ~~[turnpike]~~
 24-10 project or system shall be kept separately. The revenue from one
 24-11 ~~[turnpike]~~ project may not be used to pay the cost of another
 24-12 project except as authorized by Section 228.006 ~~[361.189]~~.

24-13 (g) Money in the sinking fund, less the reserve provided by
 24-14 the order or trust agreement, if not used within a reasonable time
 24-15 to purchase bonds for cancellation, shall be applied to the
 24-16 redemption of bonds at the applicable redemption price.

24-17 Sec. 228.054 ~~[361.252]~~. FAILURE OR REFUSAL TO PAY TOLL;
 24-18 OFFENSE. (a) The operator of a vehicle, other than an authorized
 24-19 emergency vehicle, that is driven or towed through a toll
 24-20 collection facility shall pay the proper toll.

24-21 (b) The operator of a vehicle who drives or tows a vehicle
 24-22 through a toll collection facility and does not pay the proper toll
 24-23 commits an offense.

24-24 (c) An offense under this section is a misdemeanor
 24-25 punishable by a fine not to exceed \$250.

24-26 (d) In this section, "authorized emergency vehicle" has the
 24-27 meaning assigned by Section 541.201.

24-28 Sec. 228.055 ~~[361.253]~~. ADMINISTRATIVE FEE; NOTICE;
 24-29 OFFENSE. (a) In the event of nonpayment of the proper toll as
 24-30 required by Section 228.054 ~~[361.252]~~, on issuance of a written
 24-31 notice of nonpayment, the registered owner of the nonpaying vehicle
 24-32 is liable for the payment of both the proper toll and an
 24-33 administrative fee.

24-34 (b) The department may impose and collect the
 24-35 administrative fee, so as to recover the cost of collecting the
 24-36 unpaid toll, not to exceed \$100. The department shall send a
 24-37 written notice of nonpayment to the registered owner of the vehicle
 24-38 at that owner's address as shown in the vehicle registration
 24-39 records of the department by first class mail ~~[not later than the~~
 24-40 ~~30th day after the date of the alleged failure to pay]~~ and may
 24-41 require payment not sooner than the 30th day after the date the
 24-42 notice was mailed. The registered owner shall pay a separate toll
 24-43 and administrative fee for each event of nonpayment under Section
 24-44 228.054 ~~[361.252]~~.

24-45 (c) The registered owner of a vehicle for which the proper
 24-46 toll was not paid who is mailed a written notice of nonpayment under
 24-47 Subsection (b) and fails to pay the proper toll and administrative
 24-48 fee within the time specified by the notice of nonpayment commits an
 24-49 offense. Each failure to pay a toll or administrative fee under
 24-50 this subsection is a separate offense.

24-51 (d) It is an exception to the application of Subsection (a)
 24-52 or (c) if the registered owner of the vehicle is a lessor of the
 24-53 vehicle and not later than the 30th day after the date the notice of
 24-54 nonpayment is mailed provides to the department a copy of the
 24-55 rental, lease, or other contract document covering the vehicle on
 24-56 the date of the nonpayment under Section 228.054 ~~[361.252]~~, with
 24-57 the name and address of the lessee clearly legible. If the lessor
 24-58 provides the required information within the period prescribed, the
 24-59 department may send a notice of nonpayment to the lessee at the
 24-60 address shown on the contract document by first class mail before
 24-61 the 30th day after the date of receipt of the required information
 24-62 from the lessor. The lessee of the vehicle for which the proper
 24-63 toll was not paid who is mailed a written notice of nonpayment under
 24-64 this subsection and fails to pay the proper toll and administrative
 24-65 fee within the time specified by the notice of nonpayment commits an
 24-66 offense. The lessee shall pay a separate toll and administrative
 24-67 fee for each event of nonpayment. Each failure to pay a toll or
 24-68 administrative fee under this subsection is a separate offense.

24-69 (e) It is an exception to the application of Subsection (a)

25-1 or (c) if the registered owner of the vehicle transferred ownership
 25-2 of the vehicle to another person before the event of nonpayment
 25-3 under Section 228.054 [~~361.252~~] occurred, submitted written notice
 25-4 of the transfer to the department in accordance with Section
 25-5 520.023, and, before the 30th day after the date the notice of
 25-6 nonpayment is mailed, provides to the department the name and
 25-7 address of the person to whom the vehicle was transferred. If the
 25-8 former owner of the vehicle provides the required information
 25-9 within the period prescribed, the department may send a notice of
 25-10 nonpayment to the person to whom ownership of the vehicle was
 25-11 transferred at the address provided the former owner by first class
 25-12 mail before the 30th day after the date of receipt of the required
 25-13 information from the former owner. The subsequent owner of the
 25-14 vehicle for which the proper toll was not paid who is mailed a
 25-15 written notice of nonpayment under this subsection and fails to pay
 25-16 the proper toll and administrative fee within the time specified by
 25-17 the notice of nonpayment commits an offense. The subsequent owner
 25-18 shall pay a separate toll and administrative fee for each event of
 25-19 nonpayment under Section 228.054 [~~361.252~~]. Each failure to pay a
 25-20 toll or administrative fee under this subsection is a separate
 25-21 offense.

25-22 (f) An offense under this section is a misdemeanor
 25-23 punishable by a fine not to exceed \$250.

25-24 (g) The court in which a person is convicted of an offense
 25-25 under this section shall also collect the proper toll and
 25-26 administrative fee and forward the toll and fee to the department
 25-27 for deposit in the depository bank used for that purpose.

25-28 (h) In this section, "registered owner" means the owner of a
 25-29 vehicle as shown on the vehicle registration records of the
 25-30 department or the analogous department or agency of another state
 25-31 or country.

25-32 (i) The department may contract, in accordance with Section
 25-33 2107.003, Government Code, with a person to collect the unpaid toll
 25-34 and administrative fee before referring the matter to a court with
 25-35 jurisdiction over the offense.

25-36 Sec. 228.056 [~~361.254~~]. PRESUMPTIONS; PRIMA FACIE
 25-37 EVIDENCE; DEFENSES. (a) In the prosecution of an offense under
 25-38 Section 228.054 [~~361.252~~] or 228.055 [~~361.253~~], proof that the
 25-39 vehicle was driven or towed through the toll collection facility
 25-40 without payment of the proper toll may be shown by a video
 25-41 recording, photograph, electronic recording, or other appropriate
 25-42 evidence, including evidence obtained by automated enforcement
 25-43 technology.

25-44 (b) In the prosecution of an offense under Section
 25-45 228.055(c) [~~361.253(c)~~], (d), or (e):

25-46 (1) it is presumed that the notice of nonpayment was
 25-47 received on the fifth day after the date of mailing;

25-48 (2) a computer record of the department of the
 25-49 registered owner of the vehicle is prima facie evidence of its
 25-50 contents and that the defendant was the registered owner of the
 25-51 vehicle when the underlying event of nonpayment under Section
 25-52 228.054 [~~361.252~~] occurred; and

25-53 (3) a copy of the rental, lease, or other contract
 25-54 document covering the vehicle on the date of the underlying event of
 25-55 nonpayment under Section 228.054 [~~361.252~~] is prima facie evidence
 25-56 of its contents and that the defendant was the lessee of the vehicle
 25-57 when the underlying event of nonpayment under Section 228.054
 25-58 [~~361.252~~] occurred.

25-59 (c) It is a defense to prosecution under Section 228.055(c)
 25-60 [~~361.253(c)~~], (d), or (e) that the motor vehicle in question was
 25-61 stolen before the failure to pay the proper toll occurred and had
 25-62 not been recovered before the failure to pay occurred, but only if
 25-63 the theft was reported to the appropriate law enforcement authority
 25-64 before the earlier of:

25-65 (1) the occurrence of the failure to pay; or

25-66 (2) eight hours after the discovery of the theft.

25-67 Sec. 228.057 [~~361.255~~]. ELECTRONIC TOLL COLLECTION [USE
 25-68 AND RETURN OF TRANSPONDERS]. (a) For purposes of this section, a
 25-69 "transponder" means a device, placed on or within an automobile,

26-1 that is capable of transmitting information used to assess or to
26-2 collect tolls. A transponder is "insufficiently funded" when there
26-3 are no remaining funds in the account in connection with which the
26-4 transponder was issued.

26-5 (b) Any peace officer of this state may seize a stolen or
26-6 insufficiently funded transponder and return it to the department,
26-7 except that an insufficiently funded transponder may not be seized
26-8 sooner than the 30th day after the date the department has sent a
26-9 notice of delinquency to the holder of the account.

26-10 (c) The department may enter into an agreement with one or
26-11 more persons to market and sell transponders for use on department
26-12 toll roads.

26-13 (d) The department may charge reasonable fees for
26-14 administering electronic toll collection customer accounts.

26-15 (e) Electronic toll collection customer account
26-16 information, including contact and payment information and trip
26-17 data, is confidential and not subject to disclosure under Chapter
26-18 552, Government Code.

26-19 (f) A contract for the acquisition, construction,
26-20 maintenance, or operation of a toll project must ensure the
26-21 confidentiality of all electronic toll collection customer account
26-22 information under Subsection (e).

26-23 Sec. 228.058 [361.256]. AUTOMATED ENFORCEMENT TECHNOLOGY.
26-24 (a) To aid in the collection of tolls and in the enforcement of
26-25 toll violations, the department may use automated enforcement
26-26 technology that it determines is necessary, including automatic
26-27 vehicle license plate identification photography and video
26-28 surveillance, by electronic imaging or photographic copying.

26-29 (b) Automated enforcement technology approved by the
26-30 department under Subsection (a) may be used only for the purpose of
26-31 producing, depicting, photographing, or recording an image of a
26-32 license plate attached to the front or rear of a vehicle.

26-33 (c) This section does not authorize the use of automated
26-34 enforcement technology for any other purpose.

26-35 (d) Evidence obtained from technology approved by the
26-36 department under Subsection (a) may not be used in the prosecution
26-37 of an offense other than under Section 228.054 [361.252] or 228.055
26-38 or in the prosecution of a capital offense [361.253].

26-39 SECTION 2.33. Sections 361.004, 361.171, 361.172, 361.173,
26-40 361.174, 361.1751, 361.1752, 361.1753, 361.176, 361.177, 361.178,
26-41 361.183, 361.185, 361.186, 361.187, and 361.188, Transportation
26-42 Code, are transferred to Chapter 228, Transportation Code,
26-43 designated as Subchapter C, and amended to read as follows:

26-44 SUBCHAPTER C. TOLL REVENUE BONDS

26-45 Sec. 228.101 [361.004]. CONSTRUCTION COSTS. (a) The cost
26-46 of [acquisition,] construction, improvement, extension, or
26-47 expansion of a toll [turnpike] project or system under this chapter
26-48 includes the cost of:

26-49 (1) the actual acquisition, design, development,
26-50 planning, financing, construction, improvement, extension, or
26-51 expansion of the project or system;

26-52 (2) acquisition of real property, rights-of-way,
26-53 property rights, easements, and interests;

26-54 (3) the acquisition of machinery, [and] equipment,
26-55 software, and intellectual property;

26-56 (4) interest before, during, and for one year after
26-57 construction, improvement, extension, or expansion;

26-58 (5) traffic estimates, engineering, [and] legal and
26-59 other advisory services, plans, specifications, surveys,
26-60 appraisals, cost and revenue estimates, and other expenses
26-61 necessary or incident to determining the feasibility of the
26-62 construction, improvement, extension, or expansion;

26-63 (6) necessary or incidental administrative, legal,
26-64 and other expenses;

26-65 (7) financing; and

26-66 (8) placement of the project or system in operation
26-67 and expenses related to the initial operation of the [turnpike]
26-68 project or system.

26-69 (b) Costs attributable to a toll [turnpike] project or

27-1 system for which bonds are issued that are incurred before the
 27-2 issuance of the bonds may be reimbursed from the proceeds of the
 27-3 sale of the bonds.

27-4 Sec. 228.102 [~~361.171~~]. ISSUANCE OF [TURNPIKE REVENUE]
 27-5 BONDS. (a) The commission by order may authorize the issuance of
 27-6 toll [turnpike] revenue bonds to pay all or part of the cost of a
 27-7 toll [turnpike] project or system. [~~Each project shall be financed~~
 27-8 ~~and built by a separate bond issue.~~] The proceeds of a bond issue
 27-9 may be used solely for the payment of the project or system for
 27-10 which the bonds were issued and may not be divided between or among
 27-11 two or more projects. Each project is a separate undertaking, the
 27-12 cost of which shall be determined separately.

27-13 (b) As determined in the order authorizing the issuance, the
 27-14 bonds of each issue shall:

27-15 (1) be dated;
 27-16 (2) bear interest at the rate or rates provided by the
 27-17 order and beginning on the dates provided by the order and as
 27-18 authorized by law, or bear no interest;

27-19 (3) mature at the time or times provided by the order,
 27-20 not exceeding 40 years from their date or dates; and

27-21 (4) be made redeemable before maturity, at the price
 27-22 or prices and under the terms provided by the order.

27-23 (c) The commission may sell the bonds at public or private
 27-24 sale in the manner and for the price it determines to be in the best
 27-25 interest of the department.

27-26 (d) The proceeds of each bond issue shall be disbursed in
 27-27 the manner and under the restrictions, if any, the commission
 27-28 provides in the order authorizing the issuance of the bonds or in
 27-29 the trust agreement securing the bonds.

27-30 (e) If the proceeds of a bond issue are less than the toll
 27-31 [turnpike] project or system cost, additional bonds may be issued
 27-32 in the same manner to pay the costs of a [turnpike] project or
 27-33 system. Unless otherwise provided in the order authorizing the
 27-34 issuance of the bonds or in the trust agreement securing the bonds,
 27-35 the additional bonds are on a parity with and are payable, without
 27-36 preference or priority, from the same fund as the bonds first
 27-37 issued. In addition, the commission may issue bonds for a
 27-38 [turnpike] project or system secured by a lien on the revenue of the
 27-39 [turnpike] project or system subordinate to the lien on the revenue
 27-40 securing other bonds issued for the [turnpike] project or system.

27-41 (f) If the proceeds of a bond issue exceed the cost of the
 27-42 toll [turnpike] project or system for which the bonds were issued,
 27-43 the surplus shall be segregated from the other money of the
 27-44 commission and used only for the purposes specified in the order
 27-45 authorizing the issuance.

27-46 (g) In addition to other permitted uses, the proceeds of a
 27-47 bond issue may be used to pay costs incurred before the issuance of
 27-48 the bonds, including costs of environmental review, design,
 27-49 planning, acquisition of property, relocation assistance,
 27-50 construction, and operation.

27-51 (h) Bonds issued and delivered under this subchapter
 27-52 ~~[chapter]~~ and interest coupons on the bonds are a security under
 27-53 Chapter 8, Business & Commerce Code.

27-54 (i) Bonds issued under this subchapter ~~[chapter]~~ and income
 27-55 from the bonds, including any profit made on the sale or transfer of
 27-56 the bonds, are exempt from taxation in this state.

27-57 Sec. 228.103 [~~361.172~~]. APPLICABILITY OF OTHER LAW;
 27-58 CONFLICTS. All laws affecting the issuance of bonds by
 27-59 governmental entities, including Chapters 1201, 1202, 1204, 1207,
 27-60 and 1371, Government Code, apply to bonds issued under this
 27-61 subchapter ~~[chapter]~~. To the extent of a conflict between those
 27-62 laws and this subchapter ~~[chapter]~~, the provisions of this
 27-63 subchapter ~~[chapter]~~ prevail.

27-64 Sec. 228.104 [~~361.173~~]. PAYMENT OF BONDS; CREDIT OF STATE
 27-65 NOT PLEDGED. (a) The principal of, interest on, and any
 27-66 redemption premium on bonds issued by the commission under this
 27-67 subchapter ~~[chapter]~~ are payable solely from:

27-68 (1) the revenue of the toll [turnpike] project or
 27-69 system for which the bonds are issued, including tolls pledged to

28-1 pay the bonds;

28-2 (2) the proceeds of bonds issued for the ~~[turnpike]~~

28-3 project or system;

28-4 (3) the amounts deposited in a debt service reserve

28-5 fund as required by the trust agreement securing bonds issued for

28-6 the ~~[turnpike]~~ project or system; ~~and~~

28-7 (4) amounts received under a credit agreement relating

28-8 to the ~~[turnpike]~~ project or system for which the bonds are issued;

28-9 (5) surplus revenue of another project or system as

28-10 authorized by Section 228.006; and

28-11 (6) amounts received by the department:

28-12 (A) as pass-through tolls under Section 222.104;

28-13 (B) under an agreement with a local governmental

28-14 entity entered into under Section 228.254;

28-15 (C) under other agreements with a local

28-16 governmental entity relating to the project or system for which the

28-17 bonds are issued; and

28-18 (D) under a comprehensive development agreement

28-19 entered into under Section 223.201.

28-20 (b) Bonds issued under this subchapter ~~[chapter]~~ do not

28-21 constitute a debt of the state or a pledge of the faith and credit of

28-22 the state. Each bond must contain on its face a statement to the

28-23 effect that:

28-24 (1) the state, the commission, and the department are

28-25 not obligated to pay the bond or the interest on the bond from a

28-26 source other than the amount pledged to pay the bond and the

28-27 interest on the bond; and

28-28 (2) the faith and credit and the taxing power of the

28-29 state are not pledged to the payment of the principal of or interest

28-30 on the bond.

28-31 (c) The commission and the department may not incur

28-32 financial obligations that cannot be paid from tolls or revenue

28-33 derived from owning or operating toll ~~[turnpike]~~ projects or

28-34 systems or from money provided by law.

28-35 Sec. 228.105 [361.174]. SOURCES OF PAYMENT OF AND SECURITY

28-36 FOR TOLL REVENUE [TURNPIKE PROJECT] BONDS. Notwithstanding any

28-37 other provisions of this subchapter, toll revenue ~~[chapter,~~

28-38 ~~turnpike project]~~ bonds issued by the commission may:

28-39 (1) be payable from and secured by:

28-40 (A) payments made under an agreement with a local

28-41 governmental entity as provided by Section 228.254 ~~[Subchapter A,~~

28-42 ~~Chapter 362];~~

28-43 (B) the proceeds of bonds issued for the toll

28-44 ~~[turnpike]~~ project or system; ~~or~~

28-45 (C) amounts deposited in a debt service reserve

28-46 fund as required by the trust agreement securing bonds issued for

28-47 the ~~[turnpike]~~ project or system; or

28-48 (D) surplus revenue of another toll project or

28-49 system as authorized by Section 228.006; and

28-50 (2) state on their faces any pledge of revenue or taxes

28-51 and any security for the bonds under the agreement.

28-52 Sec. 228.106 [361.1751]. INTERIM BONDS. (a) The

28-53 commission may, before issuing definitive bonds, issue interim

28-54 bonds, with or without coupons, exchangeable for definitive bonds.

28-55 (b) An order authorizing interim bonds may provide that the

28-56 interim bonds recite that the bonds are issued under this

28-57 subchapter ~~[chapter]~~. The recital is conclusive evidence of the

28-58 validity and the regularity of the bonds' issuance.

28-59 Sec. 228.107 [361.1752]. EFFECT OF LIEN. (a) A lien on or

28-60 a pledge of revenue, a contract payment, or a pledge of money to the

28-61 payment of bonds issued under this subchapter is valid and

28-62 effective in accordance with Chapter 1208, Government Code, and

28-63 [from a turnpike project or on a reserve, replacement, or other fund

28-64 established in connection with a bond issued under this chapter]:

28-65 (1) is enforceable in any court at the time of payment

28-66 for and delivery of the bond;

28-67 (2) applies to each item on hand or subsequently

28-68 received;

28-69 (3) applies without physical delivery of an item or

29-1 other act; and

29-2 (4) is enforceable in any court against any person
29-3 having a claim, in tort, contract, or other remedy, against the
29-4 commission or the department without regard to whether the person
29-5 has notice of the lien or pledge.

29-6 (b) An order authorizing the issuance of bonds is not
29-7 required to be recorded except in the regular records of the
29-8 department.

29-9 Sec. 228.108 [~~361.1753~~]. APPROVAL OF BONDS BY ATTORNEY
29-10 GENERAL. (a) The commission shall submit to the attorney general
29-11 for examination the record of proceedings relating to bonds
29-12 authorized under this subchapter [~~chapter~~]. The record shall
29-13 include the bond proceedings and any contract securing or providing
29-14 revenue for the payment of the bonds.

29-15 (b) If the attorney general determines that the bonds, the
29-16 bond proceedings, and any supporting contract are authorized by
29-17 law, the attorney general shall approve the bonds and deliver to the
29-18 comptroller:

29-19 (1) a copy of the legal opinion of the attorney general
29-20 stating the approval; and

29-21 (2) the record of proceedings relating to the
29-22 authorization of the bonds.

29-23 (c) On receipt of the legal opinion of the attorney general
29-24 and the record of proceedings relating to the authorization of the
29-25 bonds, the comptroller shall register the record of proceedings.

29-26 (d) After approval by the attorney general, the bonds, the
29-27 bond proceedings, and any supporting contract are valid,
29-28 enforceable, and incontestable in any court or other forum for any
29-29 reason and are binding obligations according to their terms for all
29-30 purposes.

29-31 Sec. 228.109 [~~361.176~~]. TRUST AGREEMENT. (a) Bonds
29-32 issued under this subchapter [~~chapter~~] may be secured by a trust
29-33 agreement between the commission and a corporate trustee that is a
29-34 trust company or a bank that has the powers of a trust company.

29-35 (b) A trust agreement may pledge or assign the tolls and
29-36 other revenue to be received but may not convey or mortgage any part
29-37 of a toll [~~turnpike~~] project or system.

29-38 (c) A trust agreement may not evidence a pledge of the
29-39 revenue of a toll [~~turnpike~~] project or system except:

29-40 (1) to pay the cost of maintaining, repairing, and
29-41 operating the project or system;

29-42 (2) to pay the principal of, interest on, and any
29-43 redemption premium on the bonds as they become due and payable;

29-44 (3) to create and maintain reserves for the purposes
29-45 described by Subdivisions (1) and (2), as prescribed by Section
29-46 228.053 [~~361.179~~]; and

29-47 (4) as otherwise provided by law.

29-48 (d) Notwithstanding Subsection (c), surplus revenue may be
29-49 used for a transportation or air quality [~~another turnpike~~] project
29-50 as authorized by Section 228.006 [~~361.189~~].

29-51 (e) A trust agreement may:

29-52 (1) set forth the rights and remedies of the
29-53 bondholders and the trustee;

29-54 (2) restrict the individual right of action by
29-55 bondholders as is customary in trust agreements or trust indentures
29-56 securing corporate bonds and debentures; and

29-57 (3) contain provisions the commission determines
29-58 reasonable and proper for the security of the bondholders.

29-59 (f) The expenses incurred in carrying out a trust agreement
29-60 may be treated as part of the cost of operating the toll [~~turnpike~~]
29-61 project or system.

29-62 Sec. 228.110 [~~361.177~~]. PROVISIONS PROTECTING AND
29-63 ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS. A trust agreement or
29-64 order providing for the issuance of bonds may contain provisions to
29-65 protect and enforce the rights and remedies of the bondholders,
29-66 including:

29-67 (1) covenants establishing the commission's duties
29-68 relating to:

29-69 (A) the acquisition of property;

30-1 (B) the design, development, financing,
30-2 construction, improvement, expansion, maintenance, repair,
30-3 operation, and insurance of the toll [turnpike] project or system
30-4 in connection with which the bonds were authorized; and

30-5 (C) the custody, safeguarding, and application
30-6 of money;

30-7 (2) covenants prescribing events that constitute
30-8 default;

30-9 (3) [~~covenants prescribing terms on which any or all~~
30-10 ~~of the bonds become or may be declared due before maturity;~~

30-11 [~~4~~] covenants relating to the rights, powers,
30-12 liabilities, or duties that arise on the breach of a duty of the
30-13 commission; and

30-14 (4) [~~5~~] provisions for the employment of consulting
30-15 engineers in connection with the construction or operation of the
30-16 [~~turnpike] project or system.~~

30-17 Sec. 228.111 [~~361.178~~]. FURNISHING OF INDEMNIFYING BONDS
30-18 OR PLEDGE OF SECURITIES. A bank or trust company incorporated under
30-19 the laws of this state that acts as depository of the proceeds of
30-20 bonds or of revenue may furnish indemnifying bonds or pledge
30-21 securities that the department requires.

30-22 Sec. 228.112 [~~361.183~~]. FEASIBILITY STUDY BY MUNICIPALITY,
30-23 COUNTY, OR PRIVATE GROUP. (a) One or more municipalities, one or
30-24 more counties, a combination of municipalities and counties, or a
30-25 private group or combination of individuals in this state may pay
30-26 all or part of the expenses of studying the cost and feasibility and
30-27 any other expenses relating to:

30-28 (1) the preparation and issuance of toll [turnpike]
30-29 revenue bonds for the construction of a proposed toll [turnpike]
30-30 project or system;

30-31 (2) the improvement, extension, or expansion of an
30-32 existing project or system; or

30-33 (3) the use of private participation under Subchapter
30-34 E, Chapter 223 [~~±~~].

30-35 (b) Money spent under Subsection (a) for a proposed toll
30-36 project or system [turnpike] is reimbursable, with the consent of
30-37 the commission, to the person paying the expenses out of the
30-38 proceeds from toll [turnpike] revenue bonds issued for or other
30-39 proceeds that may be used for the financing, design, development,
30-40 construction, improvement, extension, expansion, or operation of
30-41 the project.

30-42 Sec. 228.113 [~~361.185~~]. TRUST FUND. (a) All money
30-43 received under this subchapter [~~chapter~~], whether as proceeds from
30-44 the sale of bonds or as revenue, is a trust fund to be held and
30-45 applied as provided by this subchapter [~~chapter~~]. Notwithstanding
30-46 any other law, including Section 9, Chapter 1123, Acts of the 75th
30-47 Legislature, Regular Session, 1997, and without the prior approval
30-48 of the comptroller, funds held under this subchapter [~~chapter~~]
30-49 shall be held in trust by a banking institution chosen by the
30-50 department or, at the discretion of the department, in trust in the
30-51 state treasury outside the general revenue fund.

30-52 (b) The order authorizing the issuance of bonds or the trust
30-53 agreement securing the bonds shall provide that an officer to whom
30-54 or a bank or trust company to which the money is paid shall act as
30-55 trustee of the money and shall hold and apply the money for the
30-56 purpose of the order or trust agreement, subject to this subchapter
30-57 [~~chapter~~] and the order or trust agreement.

30-58 Sec. 228.114 [~~361.186~~]. REMEDIES. Except to the extent
30-59 restricted by a trust agreement, a holder of a bond issued under
30-60 this subchapter [~~chapter~~] and a trustee under a trust agreement
30-61 may:

30-62 (1) protect and enforce by a legal proceeding in any
30-63 court a right under:

30-64 (A) this subchapter [~~chapter~~] or another law of
30-65 this state;

30-66 (B) the trust agreement; or

30-67 (C) the order authorizing the issuance of the
30-68 bond; and

30-69 (2) compel the performance of a duty this subchapter

[chapter], the trust agreement, or the order requires the commission or the department or an officer of the commission or the department to perform, including the imposing of tolls.

Sec. 228.115 [361.187]. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) The commission is exempt from taxation of or assessments on:

- (1) a toll [turnpike] project or system;
- (2) property the department acquires or uses under this subchapter [chapter]; or
- (3) income from property described by Subdivision (1) or (2).

(b) Bonds issued under this subchapter [chapter] and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Sec. 228.116 [361.188]. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC FUNDS. Bonds of the commission may secure the deposit of public funds of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

SECTION 2.34. Subchapter C, Chapter 228, Transportation Code, is amended by adding Section 228.117 to read as follows:

Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.

SECTION 2.35. Subchapter H, Chapter 361, Transportation Code, is transferred to Chapter 228, Transportation Code, redesignated as Subchapter D, and amended to read as follows:

SUBCHAPTER D [H]. TRANSFER OF TOLL [TURNPIKE] PROJECT [Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

- ~~(1) a county with a population of more than 1.5 million;~~
- ~~(2) a local government corporation serving a county with a population of more than 1.5 million;~~
- ~~(3) an adjacent county in a joint turnpike authority with a county with a population of more than 1.5 million;~~
- ~~(4) a municipality with a population of more than 170,000 that is adjacent to the United Mexican States;~~
- ~~(5) a regional tollway authority created under Chapter 366, or~~
- ~~(6) a regional mobility authority organized under Chapter 370 or Section 361.003, as that section existed before June 22, 2003.]~~

Sec. 228.151 [361.282]. LEASE, SALE, OR TRANSFER [CONVEYANCE] OF TOLL [TURNPIKE] PROJECT OR SYSTEM. (a) The department may lease, sell, or transfer [convey] in another manner a toll [turnpike] project or system, including a nontolled state highway or a segment of a nontolled state highway converted to a toll project under Subchapter E, to a governmental entity that has the authority to operate a tolled highway [county, a municipality, regional tollway authority, regional mobility authority,] or a local government corporation created under Chapter 431.

(b) The commission and the governor must approve the transfer of the toll [turnpike] project or system as being in the best interests of the state and the entity receiving the [turnpike] project or system.

Sec. 228.152 [361.283]. DISCHARGE OF OUTSTANDING BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a toll [turnpike] project or system under Section 228.151 [361.282] must provide for the discharge and final payment or redemption of the department's outstanding bonded indebtedness for the project or system.

Sec. 228.153 [361.284]. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a) Except as provided by Subsection (b), an agreement to lease, sell, or convey a toll [turnpike] project or system under Section 228.151 [361.282] must provide for the

32-1 repayment of any expenditures of the department for the financing,
32-2 design, development, construction, operation, or [and] maintenance
32-3 of the highway [project] that have not been reimbursed with the
32-4 proceeds of bonds issued for the highway [project].

32-5 (b) The commission may waive repayment of all or a portion
32-6 of the expenditures if it finds that the transfer will result in
32-7 substantial net benefits to the state, the department, and the
32-8 public that equal or exceed the amount of repayment waived.

32-9 Sec. 228.154 [361.285]. APPROVAL OF AGREEMENT BY ATTORNEY
32-10 GENERAL. (a) An agreement for the lease, sale, or conveyance of a
32-11 toll [turnpike] project or system under this subchapter shall be
32-12 submitted to the attorney general for approval as part of the
32-13 records of proceedings relating to the issuance of bonds of the
32-14 governmental entity [county, municipality, regional tollway
32-15 authority, regional mobility authority, or local government
32-16 corporation].

32-17 (b) If the attorney general determines that the agreement is
32-18 in accordance with law, the attorney general shall approve the
32-19 agreement and deliver to the commission a copy of the legal opinion
32-20 of the attorney general stating that approval.

32-21 SECTION 2.36. Chapter 228, Transportation Code, is amended
32-22 by adding Subchapter E to read as follows:

32-23 SUBCHAPTER E. LIMITATION ON TOLL FACILITY DETERMINATION;
32-24 CONVERSION OF NONTOLLED STATE HIGHWAY

32-25 Sec. 228.201. LIMITATION ON TOLL FACILITY DESIGNATION.
32-26 Except as provided by Section 228.2015, the department may not
32-27 operate a nontolled state highway or a segment of a nontolled state
32-28 highway as a toll project, and may not transfer a highway or segment
32-29 to another entity for operation as a toll project, unless:

32-30 (1) the commission by order designated the highway or
32-31 segment as a toll project before the contract to construct the
32-32 highway or segment was awarded;

32-33 (2) the highway or segment was open to traffic as a
32-34 turnpike project on or before September 1, 2005;

32-35 (3) the project was designated as a toll project in a
32-36 plan or program of a metropolitan planning organization on or
32-37 before September 1, 2005;

32-38 (4) the highway or segment is reconstructed so that
32-39 the number of nontolled lanes on the highway or segment is greater
32-40 than or equal to the number in existence before the reconstruction;

32-41 (5) a facility is constructed adjacent to the highway
32-42 or segment so that the number of nontolled lanes on the converted
32-43 highway or segment and the adjacent facility together is greater
32-44 than or equal to the number in existence on the converted highway or
32-45 segment before the conversion; or

32-46 (6) the commission converts the highway or segment to
32-47 a toll facility by:

32-48 (A) making the determination required by Section
32-49 228.202;

32-50 (B) conducting the hearing required by Section
32-51 228.203; and

32-52 (C) obtaining county and voter approval as
32-53 required by Sections 228.207 and 228.208.

32-54 Sec. 228.2015. LIMITATION TRANSITION. (a) Notwithstanding
32-55 Section 228.201, the department may operate a nontolled state
32-56 highway or a segment of a nontolled state highway as a toll project
32-57 if:

32-58 (1) a construction contract was awarded for the
32-59 highway or segment before September 1, 2005;

32-60 (2) the highway or segment had not at any time before
32-61 September 1, 2005, been open to traffic; and

32-62 (3) the commission designated the highway or segment
32-63 as a toll project before the earlier of:

32-64 (A) the date the highway or segment is opened to
32-65 traffic; or

32-66 (B) September 1, 2005.

32-67 (b) This section expires September 1, 2006.

32-68 SECTION 2.37. Section 362.0041, Transportation Code, is
32-69 transferred to Subchapter E, Chapter 228, Transportation Code,

33-1 redesignated as Sections 228.202-228.208, and amended to read as
33-2 follows:

33-3 Sec. 228.202 [362.0041]. COMMISSION DETERMINATION
33-4 [CONVERSION OF PROJECTS]. The ~~[(a) Except as provided in~~
33-5 ~~Subsections (d) and (g), the~~ commission may by order convert a
33-6 nontolled state highway or a segment of a nontolled state highway
33-7 ~~[the free state highway system]~~ to a toll project ~~[facility]~~ if it
33-8 determines that the conversion will improve overall mobility in the
33-9 region or is the most feasible and economic means to accomplish
33-10 necessary expansion, improvements, or extensions to that segment of
33-11 the state highway system.

33-12 Sec. 228.203. PUBLIC HEARING. ~~[(b)]~~ Prior to converting a
33-13 state highway or a segment of a ~~[the]~~ state highway ~~[system]~~ under
33-14 this subchapter ~~[section]~~, the commission shall conduct a public
33-15 hearing for the purpose of receiving comments from interested
33-16 persons concerning the proposed conversion ~~[transfer]~~. Notice of
33-17 the hearing shall be published in the Texas Register, one or more
33-18 newspapers of general circulation, and a newspaper, if any,
33-19 published in the county or counties in which the involved highway is
33-20 located.

33-21 Sec. 228.204. RULES. ~~[(c)]~~ The commission shall adopt
33-22 rules implementing this subchapter ~~[section]~~, including criteria
33-23 and guidelines for the approval of a conversion of a highway.

33-24 Sec. 228.205. QUEEN ISABELLA CAUSEWAY. ~~[(d)]~~ The
33-25 commission may not convert the Queen Isabella Causeway in Cameron
33-26 County to a toll project ~~[facility]~~.

33-27 Sec. 228.206. TOLL REVENUE. ~~[(e) Subchapter C, Chapter~~
33-28 ~~361, applies to a highway converted to a toll facility under this~~
33-29 ~~section.~~

33-30 ~~[(f)]~~ Toll revenue collected under this section:

- 33-31 (1) shall be deposited in the state highway fund;
- 33-32 (2) may be used by the department to finance the
- 33-33 improvement, extension, expansion, or operation of the converted
- 33-34 segment of highway and may not be collected except for those
- 33-35 purposes; and

33-36 (3) is exempt from the application of Section 403.095,

33-37 Government Code.
33-38 Sec. 228.207. COUNTY AND VOTER APPROVAL. ~~[(g)]~~ The
33-39 commission may only convert a state highway or a segment of a ~~[the]~~
33-40 state highway ~~[system]~~ under this subchapter ~~[section]~~ if the
33-41 conversion is approved by:

33-42 (1) the commissioners court of each county within

33-43 which the highway or segment is located; and

33-44 (2) the qualified voters who vote in an election under

33-45 Section 228.208 and who reside in the limits of:

33-46 (A) a county if any part of the highway or segment

33-47 to be converted is located in an unincorporated area of the county;

33-48 or

33-49 (B) a municipality in which the highway or

33-50 segment to be converted is wholly located.

33-51 Sec. 228.208. ELECTION TO APPROVE CONVERSION. (a) If
33-52 notified by the department of the proposed conversion of a highway
33-53 or segment under this subchapter, and after approval of the
33-54 conversion by the appropriate commissioners courts as required by
33-55 Section 228.207(1), the commissioners court of each county
33-56 described by Section 228.207(2)(A) or the governing body of a
33-57 municipality described by Section 228.207(2)(B), as applicable,
33-58 shall call an election for the approval or disapproval of the
33-59 conversion.

33-60 (b) If a county or municipality orders an election, the

33-61 county or municipality shall publish notice of the election in a

33-62 newspaper of general circulation published in the county or

33-63 municipality at least once each week for three consecutive weeks,

33-64 with the first publication occurring at least 21 days before the

33-65 date of the election.

33-66 (c) An order or resolution ordering an election and the

33-67 election notice required by Subsection (b) must show, in addition

33-68 to the requirements of the Election Code, the location of each

33-69 polling place and the hours that the polls will be open.

34-1 (d) The proposition submitted in the election must
 34-2 distinctly state the highway or segment proposed to be converted
 34-3 and the limits of that highway or segment.

34-4 (e) At an election ordered under this section, the ballots
 34-5 shall be printed to permit voting for or against the proposition:
 34-6 "The conversion of (highway) from (beginning location) to (ending
 34-7 location) to a toll project."

34-8 (f) A proposed conversion is approved only if it is approved
 34-9 by a majority of the votes cast.

34-10 (g) A notice of the election and a certified copy of the
 34-11 order canvassing the election results shall be sent to the
 34-12 commission.

34-13 SECTION 2.38. Sections 362.001, 362.003, 362.006, and
 34-14 362.007, Transportation Code, are transferred to Chapter 228,
 34-15 Transportation Code, designated as Subchapter F, and amended to
 34-16 read as follows:

34-17 SUBCHAPTER F. JOINT TOLL PROJECTS

34-18 Sec. 228.251 [~~362.001~~]. DEFINITIONS. In this subchapter:

34-19 (1) [~~(2)~~] "Bonds" includes certificates, notes, and
 34-20 other obligations of an issuer authorized by statute, municipal
 34-21 home-rule charter, or the Texas Constitution.

34-22 (2) [~~(3)~~] "~~Cost~~" ~~means those costs included under~~
 34-23 ~~Section 361.004.~~

34-24 [~~(4)~~] "Local governmental entity" means a political
 34-25 subdivision of the state, including a municipality or a county, a
 34-26 political subdivision of a county, a group of adjoining counties, a
 34-27 defined district, or a nonprofit corporation, including a
 34-28 transportation corporation created under Chapter 431.

34-29 [~~(5)~~] "~~Turnpike project~~" ~~has the meaning assigned by~~
 34-30 ~~Section 361.001.~~

34-31 Sec. 228.252 [~~362.003~~]. APPLICABILITY OF OTHER LAW;
 34-32 CONFLICTS. (a) This subchapter [~~chapter~~] is cumulative of all
 34-33 laws affecting the issuance of bonds by local governmental
 34-34 entities, particularly, but not by way of limitation, provisions of
 34-35 Chapters 1201 and 1371, Government Code, and Subchapters A-C,
 34-36 Chapter 1207, Government Code, are applicable to and apply to all
 34-37 bonds issued under this subchapter [~~chapter~~], regardless of any
 34-38 classification of any such local governmental entities thereunder;
 34-39 provided, however, in the event of any conflict between such laws
 34-40 and this subchapter [~~chapter~~], the provisions of this subchapter
 34-41 [~~chapter~~] prevail.

34-42 (b) This subchapter [~~chapter~~] is cumulative of all laws
 34-43 affecting the commission, the department, and the local
 34-44 governmental entities, except that in the event any other law
 34-45 conflicts with this subchapter [~~chapter~~], the provisions of this
 34-46 subchapter [~~chapter~~] prevail. Chapters 1201 and 1371, Government
 34-47 Code, and Subchapters A, B, and C, Chapter 1207, Government Code,
 34-48 apply to bonds issued by the commission under this subchapter
 34-49 [~~chapter~~].

34-50 (c) The department may enter into all agreements necessary
 34-51 or convenient to effectuate the purposes of this subchapter
 34-52 [~~chapter~~].

34-53 Sec. 228.253 [~~362.006~~]. USE OF FEDERAL FUNDS. The
 34-54 department may use federal funds for any purpose described by this
 34-55 subchapter.

34-56 Sec. 228.254 [~~362.007~~]. AGREEMENTS BETWEEN AUTHORITY AND
 34-57 LOCAL GOVERNMENTAL ENTITIES. (a) Under authority of Section 52,
 34-58 Article III, Texas Constitution, a local governmental entity other
 34-59 than a nonprofit corporation may, upon the required vote of the
 34-60 qualified voters, in addition to all other debts, issue bonds or
 34-61 enter into and make payments under agreements with the department,
 34-62 not to exceed 40 years in term, in any amount not to exceed
 34-63 one-fourth of the assessed valuation of real property within the
 34-64 local governmental entity, except that the total indebtedness of
 34-65 any municipality shall never exceed the limits imposed by other
 34-66 provisions of the constitution, and levy and collect taxes to pay
 34-67 the interest thereon and provide a sinking fund for the redemption
 34-68 thereof, for the purposes of construction, maintenance, and
 34-69 operation of toll [~~turnpike~~] projects or systems of the department,

35-1 or in aid thereof.

35-2 (b) In addition to Subsection (a), a local governmental
35-3 entity may, within any applicable constitutional limitations,
35-4 agree with the department to issue bonds or enter into and make
35-5 payments under an agreement to construct, maintain, or operate any
35-6 portion of a toll [~~turnpike~~] project or system of the department.

35-7 (c) To make payments under an agreement under Subsection (b)
35-8 or pay the interest on bonds issued under Subsection (b) and to
35-9 provide a sinking fund for the bonds or the contract, a local
35-10 governmental entity may:

35-11 (1) pledge revenue from any available source,
35-12 including annual appropriations;

35-13 (2) levy and collect taxes; or

35-14 (3) provide for a combination of Subdivisions (1) and
35-15 (2).

35-16 (d) The term of an agreement under this section may not
35-17 exceed 40 years.

35-18 (e) Any election required to permit action under this
35-19 subchapter must be held in conformance with Chapter 1251,
35-20 Government Code, or other law applicable to the local governmental
35-21 entity.

35-22 SECTION 2.39. Section 284.001(3), Transportation Code, is
35-23 amended to read as follows:

35-24 (3) "Project" means a causeway, bridge, tunnel,
35-25 turnpike, highway, or any combination of those facilities,
35-26 including:

35-27 (A) a necessary overpass, underpass,
35-28 interchange, entrance plaza, toll house, service station,
35-29 approach, fixture, and accessory and necessary equipment that has
35-30 been designated as part of the project by order of a county;

35-31 (B) necessary administration, storage, and other
35-32 buildings that have been designated as part of the project by order
35-33 of a county; and

35-34 (C) all property rights, easements, and related
35-35 interests acquired.

35-36 SECTION 2.40. Section 284.008, Transportation Code, is
35-37 amended by amending Subsection (c) and adding Subsection (d) to
35-38 read as follows:

35-39 (c) Except as provided by Subsection (d), a [A] project
35-40 becomes a part of the state highway system and the commission shall
35-41 maintain the project without tolls when:

35-42 (1) all of the bonds and interest on the bonds that are
35-43 payable from or secured by revenues of the project have been paid;
35-44 or

35-45 (2) a sufficient amount for the payment of all bonds
35-46 and the interest on the bonds to maturity has been set aside in a
35-47 trust fund held for the benefit of the bondholders.

35-48 (d) Before construction on a project under this chapter
35-49 begins, a county may request that the commission adopt an order
35-50 stating that the project will not become part of the state highway
35-51 system under Subsection (c). If the commission adopts the order:

35-52 (1) Section 362.051 does not apply to the project;

35-53 (2) the project must be maintained by the county; and

35-54 (3) the project will not become part of the state
35-55 highway system unless the county transfers the project under
35-56 Section 284.011.

35-57 SECTION 2.41. Subchapter A, Chapter 284, Transportation
35-58 Code, is amended by adding Section 284.011 to read as follows:

35-59 Sec. 284.011. TRANSFER OF PROJECT TO DEPARTMENT. (a) A
35-60 county may transfer to the department a project under this chapter
35-61 that has outstanding bonded indebtedness if the commission:

35-62 (1) agrees to the transfer; and

35-63 (2) agrees to assume the outstanding bonded
35-64 indebtedness.

35-65 (b) The commission may assume the outstanding bonded
35-66 indebtedness only if the assumption:

35-67 (1) is not prohibited under the terms of an existing
35-68 trust agreement or indenture securing bonds or other obligations
35-69 issued by the commission for another project;

36-1 (2) does not prevent the commission from complying
 36-2 with covenants of the commission under an existing trust agreement
 36-3 or indenture; and

36-4 (3) does not cause a rating agency maintaining a
 36-5 rating on outstanding obligations of the commission to lower the
 36-6 existing rating.

36-7 (c) If the commission agrees to the transfer under
 36-8 Subsection (a), the county shall convey the project and any real
 36-9 property acquired to construct or operate the project to the
 36-10 department.

36-11 (d) At the time of a conveyance under this section, the
 36-12 commission shall designate the project as part of the state highway
 36-13 system. After the designation, the county has no liability,
 36-14 responsibility, or duty to maintain or operate the project.

36-15 SECTION 2.42. Subchapter A, Chapter 284, Transportation
 36-16 Code, is amended by adding Section 284.012 to read as follows:

36-17 Sec. 284.012. TRANSFER OF ASSETS. (a) A county, acting
 36-18 through the commissioners court of the county, may submit a request
 36-19 to the commission for authorization to create a regional mobility
 36-20 authority under Chapter 370 and to transfer all projects under this
 36-21 chapter to the regional mobility authority if:

36-22 (1) the creation of the regional mobility authority
 36-23 and transfer of projects is not prohibited under the bond
 36-24 proceedings applicable to the projects;

36-25 (2) adequate provision has been made for the
 36-26 assumption by the regional mobility authority of all debts,
 36-27 obligations, and liabilities of the county arising out of the
 36-28 transferred projects; and

36-29 (3) the commissioners courts of any additional
 36-30 counties to be part of the regional mobility authority have
 36-31 approved the request.

36-32 (b) The county may submit to the commission a proposed
 36-33 structure for the initial board of directors of the regional
 36-34 mobility authority and a method for appointment to the board of
 36-35 directors at the creation of the regional mobility authority.
 36-36 Subsequent appointments to the board of directors are subject to
 36-37 the requirements of Subchapter F, Chapter 370.

36-38 (c) After commission authorization, the county may transfer
 36-39 each of its projects under this chapter to the regional mobility
 36-40 authority to the extent authorized by the Texas Constitution if
 36-41 property and contract rights in the projects and bonds issued for
 36-42 the projects are not affected unfavorably.

36-43 (d) The commission shall adopt rules governing the creation
 36-44 of a regional mobility authority and the transfer of projects under
 36-45 this section.

36-46 SECTION 2.43. Section 284.061(c), Transportation Code, is
 36-47 amended to read as follows:

36-48 (c) Except as provided by Section 284.0615 [~~361.1375~~], if
 36-49 applicable, the county is entitled to immediate possession of
 36-50 property subject to a condemnation proceeding brought by the county
 36-51 after:

36-52 (1) a tender of a bond or other security in an amount
 36-53 sufficient to secure the owner for damages; and

36-54 (2) the approval of the bond or security by the court.

36-55 SECTION 2.44. Subchapter C, Chapter 284, Transportation
 36-56 Code, is amended by adding Section 284.0615 to read as follows:

36-57 Sec. 284.0615. DECLARATION OF TAKING BY CERTAIN COUNTIES.
 36-58 (a) This section applies only to a county with a population of 3.3
 36-59 million or more.

36-60 (b) If, in connection with a project under this chapter, the
 36-61 commissioners court of the county authorizes the county to proceed
 36-62 in the manner provided by Section 203.066:

36-63 (1) the county may file a declaration of taking and
 36-64 proceed in the manner provided by that section on the project; and

36-65 (2) a reference to the department in that section
 36-66 means the county.

36-67 SECTION 2.45. Section 284.064, Transportation Code, is
 36-68 amended by adding Subsections (d) and (e) to read as follows:

36-69 (d) If a county enters into an agreement with a person that

37-1 includes the collection by the person of tolls for the use of a
 37-2 project, the person shall submit to the county for approval:

- 37-3 (1) the methodology for:
- 37-4 (A) the setting of tolls; and
- 37-5 (B) increasing the amount of the tolls;
- 37-6 (2) a plan outlining methods the person will use to
 37-7 collect the tolls, including:
- 37-8 (A) any charge to be imposed as a penalty for late
 37-9 payment of a toll; and
- 37-10 (B) any charge to be imposed to recover the cost
 37-11 of collecting a delinquent toll; and
- 37-12 (3) any proposed change in an approved methodology for
 37-13 the setting of a toll or a plan for collecting the toll.

37-14 (e) An agreement with a person that includes the collection
 37-15 by the person of tolls for the use of a project may not be for a term
 37-16 longer than 50 years.

37-17 SECTION 2.46. Subchapter C, Chapter 284, Transportation
 37-18 Code, is amended by adding Section 284.0665 to read as follows:

37-19 Sec. 284.0665. COMPENSATION OF OPERATING BOARD MEMBERS.

37-20 (a) In this section, "performing the duties of the operating board"
 37-21 means substantive performance of the management or business of a
 37-22 project:

- 37-23 (1) including participation in:
- 37-24 (A) board and committee meetings;
- 37-25 (B) other activities involving the substantive
 37-26 deliberation of business; and
- 37-27 (C) pertinent educational programs related to a
 37-28 project; and
- 37-29 (2) not including routine or ministerial activities
 37-30 such as the execution of documents, self-preparation for meetings,
 37-31 or other activities requiring a minimal amount of time.

37-32 (b) This section applies only to an operating board:

- 37-33 (1) appointed by a local government corporation; or
- 37-34 (2) that is a local government corporation.

37-35 (c) A member of an operating board is entitled to receive as
 37-36 compensation not more than \$150 a day for each day the member
 37-37 actually spends performing the duties of the operating board.

37-38 (d) The operating board shall set a limit on the amount of
 37-39 compensation a member of the operating board may receive in a year
 37-40 under this section not to exceed \$7,200.

37-41 (e) In addition to Subsection (c), a member of the operating
 37-42 board is entitled to reimbursement of actual and necessary expenses
 37-43 incurred in performing duties of the operating board.

37-44 (f) To receive compensation or reimbursement under this
 37-45 section, a member of the operating board must file a verified
 37-46 statement with the local government corporation:

- 37-47 (1) showing the number of days the member actually
 37-48 spent performing duties of the operating board; and
- 37-49 (2) including a general description of the duties
 37-50 performed for each day of service.

37-51 SECTION 2.47. Section 284.067(c), Transportation Code, is
 37-52 amended to read as follows:

37-53 (c) Any [Each] county into which the project extends, by
 37-54 condemnation or another method under general law, may acquire the
 37-55 property necessary for the project, except that a county may not
 37-56 condemn property in another county until after the resolution
 37-57 required by Subsection (a) is adopted. The county issuing the bonds
 37-58 may use the bond proceeds to acquire property necessary for the
 37-59 project in any county into which the project extends.

37-60 SECTION 2.48. Section 366.004(a), Transportation Code, is
 37-61 amended to read as follows:

37-62 (a) The cost of acquisition, construction, improvement,
 37-63 extension, or expansion of a turnpike project or system under this
 37-64 chapter includes the cost of:

- 37-65 (1) the actual acquisition, construction,
 37-66 improvement, extension, or expansion of the turnpike project or
 37-67 system;
- 37-68 (2) the acquisition of real property, rights-of-way,
 37-69 property rights, easements, and other interests in real property;

- 38-1 (3) machinery and equipment;
- 38-2 (4) interest payable before, during, and after
- 38-3 acquisition, construction, improvement, extension, or expansion as
- 38-4 provided in the bond proceedings;
- 38-5 (5) traffic estimates, revenue estimates, engineering
- 38-6 and legal services, plans, specifications, surveys, appraisals,
- 38-7 construction cost estimates, and other expenses necessary or
- 38-8 incidental to determining the feasibility of the construction,
- 38-9 improvement, extension, or expansion;
- 38-10 (6) necessary or incidental administrative, legal,
- 38-11 and other expenses;
- 38-12 (7) compliance with laws, regulations, and
- 38-13 administrative rulings;
- 38-14 (8) financing; ~~and~~
- 38-15 (9) the assumption of debts, obligations, and
- 38-16 liabilities of an entity relating to a turnpike project or system
- 38-17 transferred to an authority by that entity; and
- 38-18 (10) ~~[(9)]~~ expenses related to the initial operation
- 38-19 of the turnpike project or system.

38-20 SECTION 2.49. Section 366.033, Transportation Code, is

38-21 amended by adding Subsection (k) to read as follows:

38-22 (k) An authority, acting through its board, may agree with

38-23 another entity to acquire a turnpike project or system from that

38-24 entity and to assume any debts, obligations, and liabilities of the

38-25 entity relating to a turnpike project or system transferred to the

38-26 authority.

38-27 SECTION 2.50. Subchapter B, Chapter 366, Transportation

38-28 Code, is amended by adding Section 366.036 to read as follows:

38-29 Sec. 366.036. TRANSFER OF TURNPIKE PROJECT OR SYSTEM. (a)

38-30 An authority may transfer any of its turnpike projects or systems to

38-31 one or more local governmental entities if:

38-32 (1) the authority has commitments from the governing

38-33 bodies of the local governmental entities to assume jurisdiction

38-34 over the transferred projects or systems;

38-35 (2) property and contract rights in the transferred

38-36 projects or systems and bonds issued for the projects or systems are

38-37 not affected unfavorably;

38-38 (3) the transfer is not prohibited under the bond

38-39 proceedings applicable to the transferred projects or systems;

38-40 (4) adequate provision has been made for the

38-41 assumption of all debts, obligations, and liabilities of the

38-42 authority relating to the transferred projects or systems by the

38-43 local governmental entities assuming jurisdiction over the

38-44 transferred projects or systems;

38-45 (5) the local governmental entities are authorized to

38-46 assume jurisdiction over the transferred projects or systems and to

38-47 assume the debts, obligations, and liabilities of the authority

38-48 relating to the transferred projects or systems; and

38-49 (6) the transfer has been approved by the

38-50 commissioners court of each county that is part of the authority.

38-51 (b) An authority may transfer to one or more local

38-52 governmental entities any traffic estimates, revenue estimates,

38-53 plans, specifications, surveys, appraisals, and other work product

38-54 developed by the authority in determining the feasibility of the

38-55 construction, improvement, extension, or expansion of a turnpike

38-56 project or system, and the authority's rights and obligations under

38-57 any related agreements, if the requirements of Subsections (a)(1)

38-58 and (6) are met.

38-59 (c) A local governmental entity shall, using any lawfully

38-60 available funds, reimburse any expenditures made by an authority

38-61 from its feasibility study fund or otherwise to pay the costs of

38-62 work product transferred to the local governmental entity under

38-63 Subsection (b) and any other amounts expended under related

38-64 agreements transferred to the local governmental entity. The

38-65 reimbursement may be made over time, as determined by the local

38-66 governmental entity and the authority.

38-67 SECTION 2.51. Section 366.169(c), Transportation Code, is

38-68 amended to read as follows:

38-69 (c) Except as provided by Section 228.201 [~~366.035~~], the

39-1 state or a local governmental entity may convey, grant, or lease to
39-2 an authority real property, including highways and other real
39-3 property already devoted to public use and rights or easements in
39-4 real property, that may be necessary or convenient to accomplish
39-5 the authority's purposes, including the construction or operation
39-6 of a turnpike project. A conveyance, grant, or lease under this
39-7 section may be made without advertising, court order, or other
39-8 action other than the normal action of the state or local
39-9 governmental entity necessary for a conveyance, grant, or lease.

39-10 SECTION 2.52. Section 370.003, Transportation Code, is
39-11 amended by amending Subdivision (14) and adding Subdivisions
39-12 (16)-(19) to read as follows:

39-13 (14) "Transportation project" means:

- 39-14 (A) a turnpike project;
- 39-15 (B) a system;
- 39-16 (C) a passenger or freight rail facility,

39-17 including:

- 39-18 (i) tracks;
- 39-19 (ii) a rail line;
- 39-20 (iii) switching, signaling, or other

39-21 operating equipment;

- 39-22 (iv) a depot;
- 39-23 (v) a locomotive;
- 39-24 (vi) rolling stock;
- 39-25 (vii) a maintenance facility; and
- 39-26 (viii) other real and personal property

39-27 associated with a rail operation;

39-28 (D) a roadway with a functional classification
39-29 greater than a local road or rural minor collector;

- 39-30 (E) a ferry;
- 39-31 (F) an airport;
- 39-32 (G) a pedestrian or bicycle facility;
- 39-33 (H) an intermodal hub;
- 39-34 (I) an automated conveyor belt for the movement

39-35 of freight;

- 39-36 (J) a border crossing inspection station;
- 39-37 (K) an air quality improvement initiative;
- 39-38 (L) a public utility facility; ~~and~~
- 39-39 (M) a transit system; and
- 39-40 (N) if applicable, projects and programs listed

39-41 in the most recently approved state implementation plan for the
39-42 area covered by the authority, including an early action compact.

39-43 (16) "Mass transit" means the transportation of
39-44 passengers and hand-carried packages or baggage of a passenger by
39-45 any means of surface, overhead, or underground transportation,
39-46 other than an aircraft or taxicab.

39-47 (17) "Service area" means the county or counties in
39-48 which an authority or transit provider has established a transit
39-49 system.

39-50 (18) "Transit provider" means an entity that provides
39-51 mass transit for the public and that was created under Chapter 451,
39-52 452, 453, 454, 457, 458, or 460.

39-53 (19) "Transit system" means:

39-54 (A) property owned or held by an authority for
39-55 mass transit purposes; and

39-56 (B) facilities necessary, convenient, or useful
39-57 for:

39-58 (i) the use of or access to mass transit by
39-59 persons or vehicles; or

39-60 (ii) the protection or environmental
39-61 enhancement of mass transit.

39-62 SECTION 2.53. Section 370.004(a), Transportation Code, is
39-63 amended to read as follows:

39-64 (a) The cost of acquisition, construction, improvement,
39-65 extension, or expansion of a transportation project under this
39-66 chapter includes the cost of:

39-67 (1) the actual acquisition, construction,
39-68 improvement, extension, or expansion of the transportation
39-69 project;

40-1 (2) the acquisition of real property, rights-of-way,
40-2 property rights, easements, and other interests in real property;

40-3 (3) machinery and equipment;

40-4 (4) interest payable before, during, and for not more
40-5 than three years after acquisition, construction, improvement,
40-6 extension, or expansion as provided in the bond proceedings;

40-7 (5) traffic estimates, revenue estimates, engineering
40-8 and legal services, plans, specifications, surveys, appraisals,
40-9 construction cost estimates, and other expenses necessary or
40-10 incidental to determining the feasibility of the acquisition,
40-11 construction, improvement, extension, or expansion;

40-12 (6) necessary or incidental administrative, legal,
40-13 and other expenses;

40-14 (7) compliance with laws, regulations, and
40-15 administrative rulings, including any costs associated with
40-16 necessary environmental mitigation measures;

40-17 (8) financing; ~~and~~

40-18 (9) the assumption of debts, obligations, and
40-19 liabilities of an entity relating to a transportation project
40-20 transferred to an authority by that entity; and

40-21 (10) expenses related to the initial operation of the
40-22 transportation project.

40-23 SECTION 2.54. Section 370.031, Transportation Code, is
40-24 amended by adding Subsection (c) to read as follows:

40-25 (c) A municipality that borders the United Mexican States
40-26 and has a population of 500,000 or more has the same authority as a
40-27 county to create and participate in an authority. A municipality
40-28 creating or participating in an authority has the same powers and
40-29 duties as a county participating in an authority, the governing
40-30 body of the municipality has the same powers and duties as the
40-31 commissioners court of a county participating in an authority, and
40-32 an elected member of the municipality's governing body has the same
40-33 powers and duties as a commissioner of a county that is
40-34 participating in an authority.

40-35 SECTION 2.55. Section 370.033, Transportation Code, is
40-36 amended by amending Subsection (m) and adding Subsections (o) and
40-37 (p) to read as follows:

40-38 (m) If an authority receives money from the general revenue
40-39 fund, the Texas Mobility Fund, or the state highway fund it may use
40-40 the money only to acquire, design, finance, construct, operate, or
40-41 maintain a turnpike project under Section 370.003(14)(A) or (D) or
40-42 a transit system under Section 370.351.

40-43 (o) Except as provided in Subchapter J, an authority may not
40-44 provide mass transit services in the service area of another
40-45 transit provider that has taxing authority and has implemented it
40-46 anywhere in the service area unless the service is provided under a
40-47 written agreement with the transit provider or under Section
40-48 370.186.

40-49 (p) An authority, acting through its board, may agree with
40-50 another entity to acquire a transportation project or system from
40-51 that entity and to assume any debts, obligations, and liabilities
40-52 of the entity relating to a transportation project or system
40-53 transferred to the authority.

40-54 SECTION 2.56. Subchapter B, Chapter 370, Transportation
40-55 Code, is amended by adding Section 370.039 to read as follows:

40-56 Sec. 370.039. TRANSFER OF TRANSPORTATION PROJECT OR SYSTEM.

40-57 (a) An authority may transfer any of its transportation projects or
40-58 systems to one or more governmental entities if:

40-59 (1) the authority has commitments from the governing
40-60 bodies of the governmental entities to assume jurisdiction over the
40-61 transferred projects or systems;

40-62 (2) property and contract rights in the transferred
40-63 projects or systems and bonds issued for the projects or systems are
40-64 not affected unfavorably;

40-65 (3) the transfer is not prohibited under the bond
40-66 proceedings applicable to the transferred projects or systems;

40-67 (4) adequate provision has been made for the
40-68 assumption of all debts, obligations, and liabilities of the
40-69 authority relating to the transferred projects or systems by the

41-1 governmental entities assuming jurisdiction over the transferred
41-2 projects or systems;

41-3 (5) the governmental entities are authorized to assume
41-4 jurisdiction over the transferred projects or systems and to assume
41-5 the debts, obligations, and liabilities of the authority relating
41-6 to the transferred projects or systems; and

41-7 (6) the transfer has been approved by the
41-8 commissioners court of each county that is part of the authority.

41-9 (b) An authority may transfer to one or more governmental
41-10 entities any traffic estimates, revenue estimates, plans,
41-11 specifications, surveys, appraisals, and other work product
41-12 developed by the authority in determining the feasibility of the
41-13 construction, improvement, extension, or expansion of a
41-14 transportation project or system, and the authority's rights and
41-15 obligations under any related agreements, if the requirements of
41-16 Subsections (a)(1) and (6) are met.

41-17 (c) A governmental entity shall, using any lawfully
41-18 available funds, reimburse any expenditures made by an authority
41-19 from its feasibility study fund or otherwise to pay the costs of
41-20 work product transferred to the governmental entity under
41-21 Subsection (b) and any other amounts expended under related
41-22 agreements transferred to the governmental entity. The
41-23 reimbursement may be made over time, as determined by the
41-24 governmental entity and the authority.

41-25 SECTION 2.57. Section 366.302, Transportation Code, is
41-26 amended by adding Subsections (f) and (g) to read as follows:

41-27 (f) If an authority enters into an agreement with a private
41-28 entity that includes the collection by the private entity of tolls
41-29 for the use of a turnpike project or system, the private entity
41-30 shall submit to the authority for approval:

41-31 (1) the methodology for:

41-32 (A) the setting of tolls; and

41-33 (B) increasing the amount of the tolls;

41-34 (2) a plan outlining methods the entity will use to
41-35 collect the tolls, including:

41-36 (A) any charge to be imposed as a penalty for late
41-37 payment of a toll; and

41-38 (B) any charge to be imposed to recover the cost
41-39 of collecting a delinquent toll; and

41-40 (3) any proposed change in an approved methodology for
41-41 the setting of a toll or a plan for collecting the toll.

41-42 (g) An agreement with a private entity that includes the
41-43 collection by the private entity of tolls for the use of a turnpike
41-44 project or system may not be for a term longer than 50 years.

41-45 SECTION 2.58. Section 370.163(a), Transportation Code, is
41-46 amended to read as follows:

41-47 (a) Except as otherwise provided by this subchapter, the
41-48 governing body of an authority has the same powers and duties
41-49 relating to the condemnation and acquisition of real property for a
41-50 transportation project that the commission and the department have
41-51 under Subchapter D, Chapter 203, [~~361, and Section 361.233~~]
41-52 relating to the condemnation or purchase of real property for a toll
41-53 [~~turnpike~~] project. [~~Notwithstanding Section 361.135(a), the~~
41-54 ~~concurrence of the commission is not a prerequisite to the exercise~~
41-55 ~~of the power of condemnation by the governing body of the~~
41-56 ~~authority.]~~

41-57 SECTION 2.59. Section 370.168(c), Transportation Code, is
41-58 amended to read as follows:

41-59 (c) Except as provided by Section 228.201 [~~370.035~~], this
41-60 state or a local government may convey, grant, or lease to an
41-61 authority real property, including highways and other real property
41-62 devoted to public use and rights or easements in real property, that
41-63 may be necessary or convenient to accomplish a purpose of the
41-64 authority, including the construction or operation of a
41-65 transportation project. A conveyance, grant, or lease under this
41-66 section may be made without advertising, court order, or other
41-67 action other than the normal action of this state or local
41-68 government necessary for a conveyance, grant, or lease.

41-69 SECTION 2.60. Section 370.186, Transportation Code, is

42-1 amended by amending Subsection (a) and adding Subsections (c) and
42-2 (d) to read as follows:

42-3 (a) Except as provided by Subsection (c), an [An] authority
42-4 may not construct, maintain, or operate a turnpike or toll project
42-5 in an area having a governmental entity established under Chapter
42-6 284 or 366 unless the governmental entity and the authority enter
42-7 into a written agreement specifying the terms and conditions under
42-8 which the project shall be undertaken. An authority may not
42-9 construct, maintain, or operate a transportation project that
42-10 another governmental entity has determined to be a project under
42-11 Chapter 451, 452, or 460 unless the governmental entity and the
42-12 authority enter into a written agreement specifying the terms and
42-13 conditions under which the project shall be undertaken.

42-14 (c) Subsection (a) does not apply to a turnpike or toll
42-15 project located in a county in which a regional tollway authority
42-16 has transferred under Section 366.036 or 366.172:

42-17 (1) all turnpike projects of the regional tollway
42-18 authority that are located in the county; and

42-19 (2) all work product developed by the regional tollway
42-20 authority in determining the feasibility of the construction,
42-21 improvement, extension, or expansion of a turnpike project to be
42-22 located in the county.

42-23 (d) An authority may not construct, maintain, or operate a
42-24 passenger rail facility within the boundaries of an intermunicipal
42-25 commuter rail district created under Article 6550c-1, Vernon's
42-26 Texas Civil Statutes, as those boundaries existed on September 1,
42-27 2005, unless the district and the authority enter into a written
42-28 agreement specifying the terms and conditions under which the
42-29 project will be undertaken.

42-30 SECTION 2.61. Chapter 370, Transportation Code, is amended
42-31 by adding Subchapters I and J to read as follows:

42-32 SUBCHAPTER I. TRANSIT SYSTEMS

42-33 Sec. 370.351. TRANSIT SYSTEMS. (a) An authority may
42-34 construct, own, operate, and maintain a transit system.

42-35 (b) An authority shall determine each transit route,
42-36 including transit route changes.

42-37 (c) This chapter does not prohibit an authority,
42-38 municipality, or transit provider from providing any service that
42-39 complements a transit system, including providing parking garages,
42-40 special transportation for persons who are disabled or elderly, or
42-41 medical transportation services.

42-42 Sec. 370.352. PUBLIC HEARING ON FARE AND SERVICE CHANGES.

42-43 (a) In this section:

42-44 (1) "Service change" means any addition or deletion
42-45 resulting in the physical realignment of a transit route or a change
42-46 in the type or frequency of service provided in a specific,
42-47 regularly scheduled transit route.

42-48 (2) "Transit revenue vehicle mile" means one mile
42-49 traveled by a transit vehicle while the vehicle is available to
42-50 public passengers.

42-51 (3) "Transit route" means a route over which a transit
42-52 vehicle travels that is specifically labeled or numbered for the
42-53 purpose of picking up or discharging passengers at regularly
42-54 scheduled stops and intervals.

42-55 (4) "Transit route mile" means one mile along a
42-56 transit route regularly traveled by transit vehicles while
42-57 available to public passengers.

42-58 (b) Except as provided by Section 370.353, an authority
42-59 shall hold a public hearing on:

42-60 (1) a fare change;

42-61 (2) a service change involving:

42-62 (A) 25 percent or more of the number of transit
42-63 route miles of a transit route; or

42-64 (B) 25 percent or more of the number of transit
42-65 revenue vehicle miles of a transit route, computed daily, for the
42-66 day of the week for which the change is made; or

42-67 (3) the establishment of a new transit route.

42-68 (c) An authority shall hold the public hearing required by
42-69 Subsection (b) before the cumulative amount of service changes in a

43-1 fiscal year equals a percentage amount described in Subsection
 43-2 (b)(2)(A) or (B).

43-3 Sec. 370.353. PUBLIC HEARING ON FARE AND SERVICE CHANGES:
 43-4 EXCEPTIONS. (a) In this section, "experimental service change"
 43-5 means an addition of service to an existing transit route or the
 43-6 establishment of a new transit route.

43-7 (b) A public hearing under Section 370.352 is not required
 43-8 for:

43-9 (1) a reduced or free promotional fare that is
 43-10 instituted daily or periodically over a period of not more than 180
 43-11 days;

43-12 (2) a headway adjustment of not more than five minutes
 43-13 during peak-hour service and not more than 15 minutes during
 43-14 nonpeak-hour service;

43-15 (3) a standard seasonal variation unless the number,
 43-16 timing, or type of the standard seasonal variation changes; or

43-17 (4) an emergency or experimental service change in
 43-18 effect for 180 days or less.

43-19 (c) A hearing on an experimental service change in effect
 43-20 for more than 180 days may be held before or while the experimental
 43-21 service change is in effect and satisfies the requirement for a
 43-22 public hearing if the hearing notice required by Section 370.354
 43-23 states that the change may become permanent at the end of the
 43-24 effective period. If a hearing is not held before or while the
 43-25 experimental service change is in effect, the service that existed
 43-26 before the change must be reinstated at the end of the 180th day
 43-27 after the change became effective and a public hearing must be held
 43-28 in accordance with Section 370.352 before the experimental service
 43-29 change may be continued.

43-30 Sec. 370.354. NOTICE OF HEARING ON FARE OR SERVICE CHANGE.

43-31 (a) After calling a public hearing required by Section 370.352, the
 43-32 authority shall:

43-33 (1) at least 30 days before the date of the hearing,
 43-34 publish notice of the hearing at least once in a newspaper of
 43-35 general circulation in the territory of the authority; and

43-36 (2) post notice in each transit vehicle in service on
 43-37 any transit route affected by the proposed change for at least two
 43-38 weeks within 30 days before the date of the hearing.

43-39 (b) The notice must contain:

43-40 (1) a description of each proposed fare or service
 43-41 change, as appropriate;

43-42 (2) the time and place of the hearing; and

43-43 (3) if the hearing is required under Section
 43-44 370.352(c), a description of the latest proposed change and the
 43-45 previous changes.

43-46 (c) The requirement for a public hearing under Section
 43-47 370.352 is satisfied at a public hearing required by federal law if:

43-48 (1) the notice requirements of this section are met;
 43-49 and

43-50 (2) the proposed fare or service change is addressed
 43-51 at the meeting.

43-52 Sec. 370.355. CRIMINAL PENALTIES. (a) An authority by
 43-53 resolution may prohibit the use of the transit system by a person
 43-54 who fails to possess evidence showing that the appropriate fare for
 43-55 the use of the system has been paid and may establish reasonable and
 43-56 appropriate methods, including using peace officers under Section
 43-57 370.181(c), to ensure that persons using the transit system pay the
 43-58 appropriate fare for that use.

43-59 (b) An authority by resolution may provide that a fare for
 43-60 or charge for the use of the transit system that is not paid incurs a
 43-61 penalty, not to exceed \$100.

43-62 (c) The authority shall post signs designating each area in
 43-63 which a person is prohibited from using the transit system without
 43-64 possession of evidence showing that the appropriate fare has been
 43-65 paid.

43-66 (d) A person commits an offense if:

43-67 (1) the person or another for whom the person is
 43-68 criminally responsible under Section 7.02, Penal Code, uses the
 43-69 transit system and does not possess evidence showing that the

44-1 appropriate fare has been paid; and

44-2 (2) the person fails to pay the appropriate fare or
 44-3 other charge for the use of the transit system and any penalty on
 44-4 the fare on or before the 30th day after the date the authority
 44-5 notifies the person that the person is required to pay the amount of
 44-6 the fare or charge and the penalty.

44-7 (e) The notice required by Subsection (d)(2) may be included
 44-8 in a citation issued to the person by a peace officer under Article
 44-9 14.06, Code of Criminal Procedure, in connection with an offense
 44-10 relating to the nonpayment of the appropriate fare or charge for the
 44-11 use of the transit system.

44-12 (f) An offense under Subsection (d) is a Class C
 44-13 misdemeanor.

44-14 (g) An offense under Subsection (d) is not a crime of moral
 44-15 turpitude.

44-16 SUBCHAPTER J. ACQUIRING TRANSIT SYSTEMS

44-17 Sec. 370.361. TRANSFER OF TRANSIT SYSTEMS. (a) In this
 44-18 section, "unit of election" means a political subdivision that
 44-19 previously voted to join the service area of a transit provider.

44-20 (b) An authority may request in writing a transit provider
 44-21 to transfer the provider's transit system and taxing authority to
 44-22 the authority if the board determines that the traffic needs of the
 44-23 counties in which the authority operates could be most efficiently
 44-24 and economically met by the transfer.

44-25 (c) On receipt of a written request under Subsection (b),
 44-26 the governing body of the transit provider may authorize the
 44-27 authority to solicit public comment and conduct at least one public
 44-28 hearing on the proposed transfer in each unit of election in the
 44-29 transit provider's service area. Notice of a hearing must be
 44-30 published in the Texas Register, one or more newspapers of general
 44-31 circulation in the transit provider's service area, and a
 44-32 newspaper, if any, published in the counties of the requesting
 44-33 authority. The notice shall also solicit written comments on the
 44-34 proposed transfer. The transit provider may participate fully with
 44-35 the authority in conducting a public hearing.

44-36 (d) A board may approve the acquisition of the transit
 44-37 provider if the governing body of the transit provider approves
 44-38 transfer of its operations to the authority and dissolution of the
 44-39 transit provider is approved in an election ordered under
 44-40 Subsection (e). Before approving the acquisition, the board shall
 44-41 consider public comments received under Subsection (c).

44-42 (e) After considering public comments received under
 44-43 Subsection (c), the governing body of the transit provider may
 44-44 order an election to dissolve the transit provider and transfer all
 44-45 services, property, funds, assets, employees, debts, and
 44-46 obligations to the authority. The governing body of the transit
 44-47 provider shall submit to the qualified voters in the units of
 44-48 election in the transit provider's service area a proposition that
 44-49 reads substantially as follows: "Shall (name of transit provider)
 44-50 be dissolved and its services, property, funds, assets, employees,
 44-51 debts, and obligations be transferred to (name of regional mobility
 44-52 authority)?"

44-53 (f) An election under Subsection (e) shall be conducted so
 44-54 that votes are separately tabulated and canvassed in each
 44-55 participating unit of election in the transit provider's service
 44-56 area.

44-57 (g) The governing body of the transit provider shall canvass
 44-58 the returns and declare the results of the election separately with
 44-59 respect to each unit of election. If a majority of the votes
 44-60 received in a unit of election are in favor of the proposition, the
 44-61 proposition is approved in that unit of election. The transit
 44-62 provider is dissolved and its services, property, funds, assets,
 44-63 employees, debts, and obligations are transferred to the authority
 44-64 only if the proposition is approved in every unit of election. If
 44-65 the proposition is not approved in every unit of election, the
 44-66 proposition does not pass and the transit provider is not
 44-67 dissolved.

44-68 (h) A certified copy of the order or resolution recording
 44-69 the results of the election shall be filed with the department, the

45-1 comptroller, and the governing body of each unit of election in the
 45-2 transit provider's service area.

45-3 (i) The authority shall assume all debts or other
 45-4 obligations of the transferred transit provider in connection with
 45-5 the acquisition of property under Subsection (g). The authority
 45-6 may not use revenue from sales and use tax collected under this
 45-7 subchapter or other revenue of the transit system in a manner
 45-8 inconsistent with any pledge of that revenue for the payment of any
 45-9 outstanding bonds, unless provisions have been made for a full
 45-10 discharge of the bonds.

45-11 Sec. 370.362. SALES AND USE TAX. (a) If an authority
 45-12 acquires a transit provider with taxing authority, the authority
 45-13 may impose a sales and use tax at a permissible rate that does not
 45-14 exceed the rate approved by the voters who reside in the service
 45-15 area of the transit provider's transit system at an election under
 45-16 this subchapter.

45-17 (b) The authority by resolution may:
 45-18 (1) decrease the rate of the sales and use tax to a
 45-19 permissible rate; or

45-20 (2) call an election for the increase or decrease of
 45-21 the sales and use tax to a permissible rate.

45-22 (c) If an authority orders an election, the authority shall
 45-23 publish notice of the election in a newspaper of general
 45-24 circulation in the territory of the authority at least once each
 45-25 week for three consecutive weeks, with the first publication
 45-26 occurring at least 21 days before the date of the election.

45-27 (d) A resolution ordering an election and the election
 45-28 notice required by Subsection (c) must show, in addition to the
 45-29 requirements of the Election Code, the hours of the election and
 45-30 polling places in election precincts.

45-31 (e) A copy of the election notice required by Subsection (c)
 45-32 shall be furnished to the commission and the comptroller.

45-33 (f) The permissible rates for a sales and use tax imposed
 45-34 under this subchapter are:

45-35 (1) one-quarter of one percent;

45-36 (2) one-half of one percent;

45-37 (3) three-quarters of one percent; or

45-38 (4) one percent.

45-39 (g) Chapter 322, Tax Code, applies to a sales and use tax
 45-40 imposed under this subchapter.

45-41 Sec. 370.363. MAXIMUM TAX RATE. (a) An authority may not
 45-42 adopt a sales and use tax rate, including a rate increase, that when
 45-43 combined with the rates of all sales and use taxes imposed by all
 45-44 political subdivisions of this state having territory in the
 45-45 service area of the transferred transit system exceeds two percent
 45-46 in any location in the service area.

45-47 (b) An election to approve a sales and use tax or increase
 45-48 the rate of an authority's sales and use tax has no effect if:

45-49 (1) the voters in the service area approve the
 45-50 authority's sales and use tax rate or rate increase at an election
 45-51 held on the same day on which a municipality or county having
 45-52 territory in the jurisdiction of the service area adopts a sales and
 45-53 use tax or an additional sales and use tax; and

45-54 (2) the combined rates of all sales and use taxes
 45-55 imposed by the authority and all political subdivisions of this
 45-56 state would exceed two percent in any part of the territory in the
 45-57 service area.

45-58 Sec. 370.364. ELECTION TO CHANGE TAX RATE. (a) At an
 45-59 election ordered under Section 370.362(b)(2), the ballots shall be
 45-60 printed to permit voting for or against the proposition: "The
 45-61 increase (decrease) of the local sales and use tax rate for mass
 45-62 transit to (percentage)."

45-63 (b) The increase or decrease in the tax rate becomes
 45-64 effective only if it is approved by a majority of the votes cast.

45-65 (c) A notice of the election and a certified copy of the
 45-66 order canvassing the election results shall be:

45-67 (1) sent to the commission and the comptroller; and

45-68 (2) filed in the deed records of the county.

45-69 Sec. 370.365. SALES TAX: EFFECTIVE DATES. (a) A sales and

46-1 use tax implemented under this subchapter takes effect on the first
46-2 day of the second calendar quarter that begins after the date the
46-3 comptroller receives a copy of the order required to be sent under
46-4 Section 370.364(c).

46-5 (b) An increase or decrease in the rate of a sales and use
46-6 tax implemented under this subchapter takes effect on:

46-7 (1) the first day of the first calendar quarter that
46-8 begins after the date the comptroller receives the notice provided
46-9 under Section 370.364(c); or

46-10 (2) the first day of the second calendar quarter that
46-11 begins after the date the comptroller receives the notice, if
46-12 within 10 days after the date of receipt of the notice the
46-13 comptroller gives written notice to the board that the comptroller
46-14 requires more time to implement tax collection and reporting
46-15 procedures.

46-16 SECTION 2.62. Section 370.302, Transportation Code, is
46-17 amended by adding Subsections (h) and (i) to read as follows:

46-18 (h) If an authority enters into an agreement with a private
46-19 entity that includes the collection by the private entity of tolls
46-20 for the use of a transportation project, the private entity shall
46-21 submit to the authority for approval:

46-22 (1) the methodology for:

46-23 (A) the setting of tolls; and

46-24 (B) increasing the amount of the tolls;

46-25 (2) a plan outlining methods the entity will use to
46-26 collect the tolls, including:

46-27 (A) any charge to be imposed as a penalty for late
46-28 payment of a toll; and

46-29 (B) any charge to be imposed to recover the cost
46-30 of collecting a delinquent toll; and

46-31 (3) any proposed change in an approved methodology for
46-32 the setting of a toll or a plan for collecting the toll.

46-33 (i) An agreement with a private entity that includes the
46-34 collection by the private entity of tolls for the use of a
46-35 transportation project may not be for a term longer than 50 years.

46-36 SECTION 2.63. Section 395.001(a), Transportation Code, is
46-37 amended to read as follows:

46-38 (a) This subchapter applies only to:

46-39 (1) the governing body of a toll road authority:

46-40 (A) in which a county with a population of 3.3
46-41 [2.4] million or more is located; or

46-42 (B) that is adjacent to a county with a
46-43 population of 3.3 million or more and in which a municipality with a
46-44 population of more than 60,000 is located; and

46-45 (2) an outdoor sign.

46-46 SECTION 2.64. Section 395.051(a), Transportation Code, is
46-47 amended to read as follows:

46-48 (a) This subchapter applies only to a county with a
46-49 population of more than 3.3 million or a county adjacent to a county
46-50 with a population of more than 3.3 million in which a municipality
46-51 with a population of more than 60,000 is located.

46-52 SECTION 2.65. Section 451.554, Transportation Code, is
46-53 amended to read as follows:

46-54 Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE DATE.

46-55 (a) The addition of territory annexed under Section 451.551, or
46-56 approved under Section 451.552 or 451.553, does not take effect if,
46-57 before the effective date of the addition under Subsection (b), the
46-58 board of the authority gives written notice to the governing body of
46-59 the municipality that added new territory to the authority by
46-60 virtue of annexation, or to the governing body of the municipality
46-61 or the commissioners court of the county that held the election,
46-62 that the addition would create a financial hardship on the
46-63 authority because:

46-64 (1) the territory to be added is not contiguous to the
46-65 territory of the existing authority; or

46-66 (2) the addition of the territory would impair the
46-67 imposition of the sales and use tax authorized by this chapter.

46-68 (b) In the absence of a notice under Subsection (a), the
46-69 addition of territory takes effect on the 31st day after the date of

47-1 the:

47-2 (1) municipal ordinance, if annexed by a municipality
 47-3 under Section 451.551; or

47-4 (2) election, if approved under Section 451.552 or
 47-5 451.553 [~~approved under Section 451.552 or 451.553 takes effect on~~
 47-6 ~~the 31st day after the date of the election]~~.

47-7 SECTION 2.66. Section 472.031, Transportation Code, is
 47-8 amended by adding Subsection (c) to read as follows:

47-9 (c) A legislative member of a policy board may not be
 47-10 counted as absent at a meeting of the policy board during a
 47-11 legislative session.

47-12 SECTION 2.67. Section 451.071, Transportation Code, is
 47-13 amended by adding Subsection (f) to read as follows:

47-14 (f) A referendum on a proposal to expand a system approved
 47-15 under this section may be held on any date specified in Section
 47-16 41.001, Election Code, or a date chosen by order of the board of the
 47-17 authority, provided that:

47-18 (1) the referendum is held no earlier than the 62nd day
 47-19 after the date of the order; and

47-20 (2) the proposed expansion involves the addition of no
 47-21 more than 12 miles of track to the system.

47-22 SECTION 2.68. Section 101.022, Civil Practice and Remedies
 47-23 Code, is amended to read as follows:

47-24 Sec. 101.022. DUTY OWED: PREMISE AND SPECIAL DEFECTS.

47-25 (a) Except as provided in Subsection (c), if [~~if~~] a claim arises
 47-26 from a premise defect, the governmental unit owes to the claimant
 47-27 only the duty that a private person owes to a licensee on private
 47-28 property, unless the claimant pays for the use of the premises.

47-29 (b) The limitation of duty in this section does not apply to
 47-30 the duty to warn of special defects such as excavations or
 47-31 obstructions on highways, roads, or streets or to the duty to warn
 47-32 of the absence, condition, or malfunction of traffic signs,
 47-33 signals, or warning devices as is required by Section 101.060.

47-34 (c) If a claim arises from a premise defect on a toll
 47-35 highway, road, or street, the governmental unit owes to the
 47-36 claimant only the duty that a private person owes to a licensee on
 47-37 private property.

47-38 SECTION 2.69. Section 21.042, Property Code, is amended by
 47-39 adding Subsection (g) to read as follows:

47-40 (g) If a portion of a tract or parcel of real property is
 47-41 condemned for state highway system purposes, the special
 47-42 commissioners shall consider the decreased access to or from the
 47-43 remaining property in determining the damage to the property owner.

47-44 SECTION 2.70. Section 11.11, Tax Code, is amended by adding
 47-45 Subsection (j) to read as follows:

47-46 (j) For purposes of this section, a facility owned by the
 47-47 Texas Department of Transportation that is part of the Trans-Texas
 47-48 Corridor, is a rail facility or system, or is a highway in the state
 47-49 highway system, and that is licensed or leased to a private entity
 47-50 by that department under Chapter 91, 223, or 227, Transportation
 47-51 Code, is public property used for a public purpose if the rail
 47-52 facility or system, highway, or facility is operated by the private
 47-53 entity to provide transportation or utility services. Any part of a
 47-54 facility, rail facility or system, or state highway that is
 47-55 licensed or leased to a private entity for a commercial purpose is
 47-56 not exempt from taxation.

47-57 SECTION 2.71. The following provisions of the
 47-58 Transportation Code are repealed:

- 47-59 (1) Section 201.6061;
- 47-60 (2) Sections 222.102 and 222.103(h);
- 47-61 (3) Sections 224.155-224.158 and 224.160;
- 47-62 (4) Section 284.009, as added by Chapter 953, Acts of
 47-63 the 78th Legislature, Regular Session, 2003;
- 47-64 (5) Section 284.009, as added by Chapter 1325, Acts of
 47-65 the 78th Legislature, Regular Session, 2003;
- 47-66 (6) Section 361.002;
- 47-67 (7) Sections 361.031 and 361.050;
- 47-68 (8) Subchapter C, Chapter 361;
- 47-69 (9) Sections 361.131-361.136, 361.1375, and

- 48-1 361.140-361.142;
- 48-2 (10) Sections 361.175, 361.180, and 361.191;
- 48-3 (11) Sections 361.231, 361.232, and 361.234-361.238;
- 48-4 (12) Section 361.251;
- 48-5 (13) Sections 361.302-361.306;
- 48-6 (14) Subchapter J, Chapter 361;
- 48-7 (15) Sections 362.002 and 362.008;
- 48-8 (16) Sections 366.035 and 366.165(d); and
- 48-9 (17) Sections 370.035 and 370.163(b).

48-10 SECTION 2.72. Section 370.161(b), Transportation Code, is
48-11 repealed.

48-12 SECTION 2.73. The changes in law made by this Act to Chapter
48-13 370, Transportation Code, apply to a regional mobility authority
48-14 created or participated in by a municipality described by Section
48-15 370.031(c), Transportation Code, as added by this Act, or Section
48-16 370.161(b), Transportation Code, as it existed before the effective
48-17 date of this Act, in the same manner as they apply to any other
48-18 entity that creates or participates in a regional mobility
48-19 authority.

48-20 ARTICLE 3. AVIATION

48-21 SECTION 3.01. The heading to Subchapter A, Chapter 2205,
48-22 Government Code, is amended to read as follows:

48-23 SUBCHAPTER A. STATE AIRCRAFT POOLING [~~BOARD~~]; GENERAL PROVISIONS

48-24 SECTION 3.02. Section 2205.002, Government Code, is amended
48-25 by amending Subdivision (1) and adding Subdivision (1-a) to read as
48-26 follows:

48-27 (1) "Commission [~~Board~~]" means the Texas
48-28 Transportation Commission [~~State Aircraft Pooling Board~~].

48-29 (1-a) "Department" means the Texas Department of
48-30 Transportation.

48-31 SECTION 3.03. Section 2205.032, Government Code, is amended
48-32 to read as follows:

48-33 Sec. 2205.032. CUSTODY, CONTROL, OPERATION, AND
48-34 MAINTENANCE. (a) The department [~~board~~] shall operate a pool for
48-35 the custody, control, operation, and maintenance of all aircraft
48-36 owned or leased by the state.

48-37 (b) The department [~~board~~] may purchase aircraft with funds
48-38 appropriated for that purpose.

48-39 (c) ~~The department [As part of the strategic plan that the~~
48-40 ~~board develops and submits under Chapter 2056, the board] shall~~
48-41 ~~develop a long-range plan for its pool of aircraft. [The board~~
48-42 ~~shall include appropriate portions of the long-range plan in its~~
48-43 ~~legislative appropriations request.]~~ The long-range plan must
48-44 include estimates of future aircraft replacement needs and other
48-45 fleet management needs, including any projected need to increase or
48-46 decrease the number of aircraft in the pool. In developing the
48-47 long-range plan, the department [~~board~~] shall consider at a minimum
48-48 for each aircraft in the pool:

48-49 (1) how much the aircraft is used and the purposes for
48-50 which it is used;

48-51 (2) the cost of operating the aircraft and the revenue
48-52 generated by the aircraft; and

48-53 (3) the demand for the aircraft or for that type of
48-54 aircraft.

48-55 (d) This section does not apply to aircraft owned or
48-56 operated by the Department of Public Safety or the Parks and
48-57 Wildlife Department that are used for law enforcement purposes.

48-58 SECTION 3.04. Section 2205.034, Government Code, is amended
48-59 to read as follows:

48-60 Sec. 2205.034. FACILITIES. (a) The department [~~board~~] may
48-61 acquire appropriate facilities for the accommodation of all
48-62 aircraft owned or leased by the state. The facilities may be
48-63 purchased or leased as determined by the department [~~board~~] to be
48-64 most economical for the state and as provided by legislative
48-65 appropriations. The facilities may include adequate hangar space,
48-66 an indoor passenger waiting area, a flight-planning area,
48-67 communications facilities, and other related and necessary
48-68 facilities.

48-69 (b) A state agency that operates an aircraft may not use a

49-1 facility in Austin other than a facility operated by the department
 49-2 [~~board~~] for the storage, parking, fueling, or maintenance of the
 49-3 aircraft, whether or not the aircraft is based in Austin. In a
 49-4 situation the department [~~board~~] determines to be an emergency, the
 49-5 department [~~board~~] may authorize a state agency to use a facility in
 49-6 Austin other than a department [~~board~~] facility for the storage,
 49-7 parking, fueling, or maintenance of an aircraft.

49-8 SECTION 3.05. Section 2205.035, Government Code, is amended
 49-9 to read as follows:

49-10 Sec. 2205.035. AIRCRAFT LEASES. (a) The department [~~board~~
 49-11 ~~by interagency contract~~] may lease state-owned aircraft to a state
 49-12 agency.

49-13 (b) [~~A state agency that is the prior owner or lessee of an~~
 49-14 ~~aircraft has the first option to lease that aircraft from the board.~~

49-15 [~~(c)~~] The lease may provide for operation or maintenance by
 49-16 the department [~~board~~] or the state agency.

49-17 (c) [~~(d)~~] A state agency may not expend appropriated funds
 49-18 for the lease of an aircraft unless the department [~~board~~] executes
 49-19 the lease or approves the lease [~~by board order~~].

49-20 (d) [~~(e)~~] A state agency may not use money appropriated by
 49-21 the legislature to rent or lease aircraft except from the
 49-22 department [~~board~~] or as provided by Subsection (e) [~~(f)~~]. For
 49-23 purposes of this subsection and Subsection (e) [~~(f)~~], payments of
 49-24 mileage reimbursements provided for by the General Appropriations
 49-25 Act are not rentals or leases of aircraft.

49-26 (e) [~~(f)~~] If the department [~~board~~] determines that no
 49-27 state-owned aircraft is available to meet a transportation need
 49-28 that has arisen or that a rental or lease of aircraft would reduce
 49-29 the state's transportation costs, the department [~~board~~] shall
 49-30 authorize a state agency to expend funds for the rental or lease of
 49-31 aircraft, which may include a helicopter.

49-32 SECTION 3.06. Section 2205.036, Government Code, is amended
 49-33 to read as follows:

49-34 Sec. 2205.036. PASSENGER TRANSPORTATION. (a) The
 49-35 department [~~board~~] shall provide aircraft transportation, to the
 49-36 extent that its aircraft are available, to:

49-37 (1) state officers and employees who are traveling on
 49-38 official business according to the coordinated passenger
 49-39 scheduling system and the priority scheduling system developed as
 49-40 part of the aircraft operations manual under Section 2205.038;

49-41 (2) persons in the care or custody of state officers or
 49-42 employees described by Subdivision (1); and

49-43 (3) persons whose transportation furthers official
 49-44 state business.

49-45 (b) The department [~~board~~] may not provide aircraft
 49-46 transportation to a passenger if the passenger is to be transported
 49-47 to or from a place where the passenger:

49-48 (1) will make or has made a speech not related to
 49-49 official state business;

49-50 (2) will attend or has attended an event sponsored by a
 49-51 political party;

49-52 (3) will perform a service or has performed a service
 49-53 for which the passenger is to receive an honorarium, unless the
 49-54 passenger reimburses the department [~~board~~] for the cost of
 49-55 transportation;

49-56 (4) will attend or has attended an event at which money
 49-57 is raised for private or political purposes; or

49-58 (5) will attend or has attended an event at which an
 49-59 audience was charged an admission fee to see or hear the passenger.

49-60 (c) The department [~~board~~] may not provide aircraft
 49-61 transportation to a destination unless:

49-62 (1) the destination is not served by a commercial
 49-63 carrier;

49-64 (2) the time required to use a commercial carrier
 49-65 interferes with passenger obligations; or

49-66 (3) the number of passengers traveling makes the use
 49-67 of state aircraft cost-effective.

49-68 (d) The department may monitor and ensure compliance with
 49-69 the requirements of this section.

50-1 SECTION 3.07. Section 2205.038, Government Code, is amended
50-2 to read as follows:

50-3 Sec. 2205.038. AIRCRAFT OPERATIONS MANUAL. (a) The
50-4 department [board] shall:

50-5 (1) prepare a manual that establishes minimum
50-6 standards for the operation of passenger aircraft by state
50-7 agencies; and

50-8 (2) adopt procedures for the distribution of the
50-9 manual to state agencies.

50-10 (b) The manual must include provisions for:

50-11 (1) pilot certification standards, including medical
50-12 requirements for pilots;

50-13 (2) recurring training programs for pilots;

50-14 (3) general operating and flight rules;

50-15 (4) coordinated passenger scheduling; and

50-16 (5) other issues the department [board] determines are
50-17 necessary to ensure the efficient and safe operation of aircraft by
50-18 a state agency.

50-19 (c) The department [board] shall confer with and solicit the
50-20 written advice of state agencies the department [board] determines
50-21 are principal users of aircraft operated by the department [board]
50-22 and, to the extent practicable, incorporate that advice in the
50-23 development of the manual and subsequent changes to the manual.

50-24 (d) The department [board] shall give an officer normally
50-25 elected by statewide election priority in the scheduling of
50-26 aircraft. The department [board] by rule may require a 12-hour
50-27 notice by the officer to obtain the priority in scheduling.

50-28 SECTION 3.08. Section 2205.039, Government Code, is amended
50-29 to read as follows:

50-30 Sec. 2205.039. TRAVEL LOG. (a) The Legislative Budget
50-31 Board, in cooperation with the department [board], shall prescribe:

50-32 (1) a travel log form for gathering information about
50-33 the use of state-operated aircraft;

50-34 (2) procedures to ensure that individuals who travel
50-35 as passengers on or operate state-operated aircraft provide in a
50-36 legible manner the information requested of them by the form; and

50-37 (3) procedures for each state agency that operates an
50-38 aircraft for sending the form to the department [board] and the
50-39 Legislative Budget Board.

50-40 (b) The travel log form must request the following
50-41 information about a state-operated aircraft each time the aircraft
50-42 is flown:

50-43 (1) a mission statement, which may appear as a
50-44 selection to be identified from general categories appearing on the
50-45 form;

50-46 (2) the name, state agency represented, destination,
50-47 and signature of each person who is a passenger or crew member of
50-48 the aircraft;

50-49 (3) the date of each flight;

50-50 (4) a detailed and specific description of the
50-51 official business purpose of each flight; and

50-52 (5) other information determined by the Legislative
50-53 Budget Board and the department [board] to be necessary to monitor
50-54 the proper use of the aircraft.

50-55 (c) A state agency other than the department [board] shall
50-56 send travel logs to the department [board] each month in which the
50-57 agency operates an aircraft.

50-58 (d) The department may monitor and ensure compliance by
50-59 state agencies with the requirements of this section.

50-60 SECTION 3.09. Section 2205.040, Government Code, is amended
50-61 to read as follows:

50-62 Sec. 2205.040. RATES AND BILLING PROCEDURES. (a) The
50-63 department [board] shall adopt rates for interagency aircraft
50-64 services that are sufficient to recover, in the aggregate and to the
50-65 extent possible, all direct costs for the services provided,
50-66 including a state agency's pro rata share of major maintenance,
50-67 overhauls of equipment and facilities, and pilots' salaries.

50-68 (b) The department shall deposit all revenue received under
50-69 this chapter to the credit of the state highway fund. Money

51-1 deposited to the credit of the state highway fund under this chapter
 51-2 is exempt from the application of Section 403.095 [Legislative
 51-3 Budget Board, in cooperation with the board and the state auditor,
 51-4 shall prescribe a billing procedure for passenger travel on
 51-5 state-operated aircraft].

51-6 (c) The department may spend money from the state highway
 51-7 fund for expenses incurred under this chapter.

51-8 (d) It is the intent of the legislature that receipts and
 51-9 expenditures that relate to the state highway fund under this
 51-10 chapter be balanced over time so that, to the extent practicable,
 51-11 the receipts and expenditures do not result in a net gain or net
 51-12 loss to the fund.

51-13 SECTION 3.10. Subsection (a), Section 2205.041, Government
 51-14 Code, is amended to read as follows:

51-15 (a) The Legislative Budget Board, in cooperation with the
 51-16 department [board], shall prescribe:

51-17 (1) an annual aircraft use form for gathering
 51-18 information about the use of state-operated aircraft, including the
 51-19 extent to which and the methods by which the goal provided by
 51-20 Section 2205.031(b) is being met; and

51-21 (2) procedures for each state agency that operates an
 51-22 aircraft for sending the form to the department [board] and the
 51-23 Legislative Budget Board.

51-24 SECTION 3.11. Subsection (b), Section 2205.043, Government
 51-25 Code, is amended to read as follows:

51-26 (b) The commission [board] shall adopt rules, consistent
 51-27 with federal regulations and Subtitle A, Title 11 [~~Article 6139F,~~
 51-28 ~~Revised Statutes~~], governing the color, size, and location of marks
 51-29 of identification required by this section.

51-30 SECTION 3.12. Section 2205.044, Government Code, is amended
 51-31 to read as follows:

51-32 Sec. 2205.044. FUEL AND MAINTENANCE [~~CONTRACTS~~]. The
 51-33 department [board] may provide aircraft fuel or aircraft
 51-34 maintenance services to [contract with] a state or federal
 51-35 governmental agency or a political subdivision if the agency or
 51-36 political subdivision reimburses the department at the current
 51-37 rates for the fuel or [to provide aircraft fuel or to provide
 51-38 aircraft maintenance] services.

51-39 SECTION 3.13. Subsection (a), Section 2205.045, Government
 51-40 Code, is amended to read as follows:

51-41 (a) The department [board] may purchase insurance to
 51-42 protect the department [board] from loss caused by damage, loss,
 51-43 theft, or destruction of aircraft owned or leased by the state and
 51-44 may [shall] purchase liability insurance to protect the officers
 51-45 and employees of each state agency from loss arising from the
 51-46 operation of state-owned aircraft.

51-47 SECTION 3.14. Section 2205.046, Government Code, is amended
 51-48 to read as follows:

51-49 Sec. 2205.046. AIRCRAFT FOR FLIGHT TRAINING PROGRAMS.

51-50 (a) The department [board] may transfer aircraft to a public
 51-51 technical institute or other public postsecondary educational
 51-52 institution for use in the institution's flight training program.
 51-53 Except as provided by this section, the department [board] has no
 51-54 responsibility for continued maintenance of aircraft transferred
 51-55 under this section.

51-56 (b) As a condition to the transfer of the aircraft, the
 51-57 institution must certify in writing to the department [board] that
 51-58 the institution will accept full responsibility for maintenance of
 51-59 the aircraft and that it will be properly maintained while in the
 51-60 custody and control of the institution. The department [board] is
 51-61 entitled to inspect the aircraft without notice for the purpose of
 51-62 insuring that the aircraft are properly maintained.

51-63 (c) The department [board] may immediately reassume custody
 51-64 and control of a transferred aircraft on a finding by the department
 51-65 [board] that:

- 51-66 (1) the aircraft is not being properly maintained;
 51-67 (2) the aircraft is being used for a purpose other than
 51-68 flight training; or
 51-69 (3) the institution has discontinued its flight

52-1 training program.

52-2 SECTION 3.15. Section 2205.047, Government Code, is amended
52-3 to read as follows:

52-4 Sec. 2205.047. INFORMATION POSTED ON THE INTERNET. The
52-5 department [board] shall post information related to travel and
52-6 other services provided by the department under this chapter
52-7 [board] on an Internet site maintained by or for the department
52-8 [board]. The site must be generally accessible to state agencies,
52-9 persons who use the department's [board's] services, and, to the
52-10 extent appropriate, the general public.

52-11 SECTION 3.16. Subsection (c), Section 2175.134, Government
52-12 Code, is amended to read as follows:

52-13 (c) Proceeds from the sale of surplus and salvage property
52-14 formerly belonging to [of] the State Aircraft Pooling Board shall
52-15 be deposited to the credit of the state highway fund to be used for
52-16 the purpose of administering Chapter 2205 [board].

52-17 SECTION 3.17. Subsection (c), Section 2175.191, Government
52-18 Code, is amended to read as follows:

52-19 (c) Proceeds from the sale of surplus and salvage property
52-20 formerly belonging to [of] the State Aircraft Pooling Board shall
52-21 be deposited to the credit of the state highway fund to be used for
52-22 the purpose of administering Chapter 2205 [board].

52-23 SECTION 3.18. The following laws are repealed:

52-24 (1) Sections 2205.003-2205.019 and 2205.042,
52-25 Government Code; and

52-26 (2) Section 31.01, Chapter 3, Acts of the 78th
52-27 Legislature, 3rd Called Session, 2003.

52-28 ARTICLE 4. TRANSITION PROVISIONS; EFFECTIVE DATE

52-29 SECTION 4.01. Section 101.022, Civil Practice and Remedies
52-30 Code, as amended by this Act, applies only to a cause of action that
52-31 accrues on or after the effective date of this Act. A cause of
52-32 action that accrued before the effective date of this Act is
52-33 governed by the law in effect at the time the cause of action
52-34 accrued, and that law is continued in effect for that purpose.

52-35 SECTION 4.02. On the effective date of this Act:

52-36 (1) the State Aircraft Pooling Board is abolished, and
52-37 all powers, duties, obligations, rights, contracts, bonds,
52-38 appropriations, records, and real or personal property of the State
52-39 Aircraft Pooling Board are transferred to the Texas Department of
52-40 Transportation;

52-41 (2) a rule, policy, procedure, or decision of the
52-42 State Aircraft Pooling Board continues in effect as a rule, policy,
52-43 procedure, or decision of the Texas Department of Transportation
52-44 until superseded by an act of the Texas Department of
52-45 Transportation;

52-46 (3) a reference in law to the State Aircraft Pooling
52-47 Board means the Texas Department of Transportation;

52-48 (4) all temporary employees of the Texas Department of
52-49 Transportation who were previously employed by the State Aircraft
52-50 Pooling Board on August 31, 2003, become regular full-time
52-51 employees of the Texas Department of Transportation; and

52-52 (5) notwithstanding Section 31.01, Chapter 3, Acts of
52-53 the 78th Legislature, 3rd Called Session, 2003, any memorandum of
52-54 understanding or interagency contract entered into between the
52-55 Texas Department of Transportation and the State Aircraft Pooling
52-56 Board for the operation of state aircraft expires.

52-57 SECTION 4.03. This Act takes effect immediately if it
52-58 receives a vote of two-thirds of all the members elected to each
52-59 house, as provided by Section 39, Article III, Texas Constitution.
52-60 If this Act does not receive the vote necessary for immediate
52-61 effect, this Act takes effect September 1, 2005.

52-62 * * * * *