

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of  
2 Texas, 79th Legislature, Regular Session, 2005, That House Rule 13,  
3 Section 9(a), be suspended in part as provided by House Rule 13,  
4 Section 9(f), to enable the conference committee appointed to  
5 resolve the differences on House Bill 2702 (construction,  
6 acquisition, financing, maintenance, management, operation,  
7 ownership, and control of transportation facilities and the  
8 progress, improvement, and safety of transportation in this state)  
9 to consider and take action on the following matters:

10 (1) House Rule 13, Section 9(a)(4), is suspended to permit  
11 the committee to add the following to Section 91.054,  
12 Transportation Code:

13 (c) The department may not enter into a comprehensive  
14 development agreement with a private entity under this chapter that  
15 provides for the lease or use of rights-of-way or related property  
16 by the private entity to construct, operate, or maintain a facility  
17 that is unrelated to the operation of the rail facility or system.

18 Explanation: The addition is necessary to address the  
19 differences between the conferees on the issue of comprehensive  
20 development agreements for facilities that are unrelated to the  
21 operation of a rail facility or system by the Texas Department of  
22 Transportation.

23 (2) House Rule 13, Section 9(a)(4), is suspended to permit  
24 the committee to add the following to Section 203.092,

1 Transportation Code:

2 (a-1) Notwithstanding Subsection (a), the department and  
3 the utility shall share equally the cost of the relocation of a  
4 utility facility that is made before September 1, 2007, and  
5 required by the improvement of a nontolled highway to add one or  
6 more tolled lanes. This subsection expires September 1, 2007.

7 (a-2) Notwithstanding Subsection (a), the department and  
8 the utility shall share equally the cost of the relocation of a  
9 utility facility that is made before September 1, 2007, and  
10 required for the improvement of a nontolled highway that has been  
11 converted to a turnpike project or toll project. This subsection  
12 expires September 1, 2007.

13 (a-3) Notwithstanding Subsection (a), the department and  
14 the utility shall share equally the cost of the relocation of a  
15 utility facility that is made before September 1, 2007, and  
16 required for the construction of a new location of a turnpike  
17 project or toll project or the expansion of a new location of a  
18 turnpike project or toll project. This subsection expires  
19 September 1, 2007.

20 Explanation: The addition is necessary to address the  
21 differences between the conferees on the issue of the payment of  
22 utility relocation costs when the relocation is required because of  
23 construction related to toll lanes, turnpike projects, or toll  
24 projects.

25 (3) House Rule 13, Section 9(a)(4), is suspended to permit  
26 the committee to add the following to Section 223.201(a),  
27 Transportation Code:

1           (5) state highway improvement project financed wholly  
2 or partly with the proceeds of private activity bonds, as defined by  
3 Section 141(a), Internal Revenue Code of 1986.

4           Explanation: The addition is necessary to allow the Texas  
5 Department of Transportation to enter into a comprehensive  
6 development agreement to design, develop, finance, construct,  
7 maintain, repair, operate, extend, or expand a state highway  
8 improvement project financed wholly or partly with the proceeds of  
9 private activity bonds, as defined by Section 141(a), Internal  
10 Revenue Code of 1986.

11           (4) House Rule 13, Section 9(a)(4), is suspended to permit  
12 the committee to add the following to Section 223.201,  
13 Transportation Code:

14           (g) The department may combine in a comprehensive  
15 development agreement under this subchapter a toll project and a  
16 rail facility as defined by Section 91.001.

17           Explanation: The addition is necessary to allow the Texas  
18 Department of Transportation to combine in a comprehensive  
19 development agreement a toll project and a rail facility.

20           (5) House Rule 13, Section 9(a)(4), is suspended to permit  
21 the committee to add the following to Section 223.203,  
22 Transportation Code:

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

1 contract based solely on an evaluation of detailed proposals  
2 submitted in response to a request under Subsection (f) by  
3 prequalified private entities. The commission shall adopt rules  
4 establishing criteria for the prequalification of a private entity  
5 that include the precertification requirements applicable to  
6 providers of engineering services and the qualification  
7 requirements for bidders on highway construction contracts. Rules  
8 for design-build projects adopted pursuant to this subsection shall  
9 also provide for an expedited selection process that includes  
10 design innovation as a selection criterion.

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

16 Explanation: The addition is necessary to address the  
17 differences between the conferees on the issue of the  
18 prequalification of private entities for design-build contracts  
19 for certain highway projects.

20 (6) House Rule 13, Section 9(a)(4), is suspended to permit  
21 the committee to add the following to Section 223.206,  
22 Transportation Code:

23 (d) The department may not enter into a comprehensive  
24 development agreement with a private entity under this subchapter  
25 or Section 227.023 that provides for the lease, license, or other  
26 use of rights-of-way or related property by the private entity for  
27 the purpose of constructing, operating, or maintaining an ancillary

1 facility that is used for commercial purposes.

2 Explanation: The addition is necessary to address the  
3 differences between the conferees on the issue of comprehensive  
4 development agreements by the Texas Department of Transportation  
5 relating to the use of highway rights-of-way for certain ancillary  
6 facilities.

7 (7) House Rule 13, Section 9(a)(4), is suspended to permit  
8 the committee to add the following SECTION to the bill:

9 SECTION 2.100. Notwithstanding any law to the contrary,  
10 neither the Texas Department of Transportation nor a regional  
11 mobility authority may acquire property, enter into a contract,  
12 grant a franchise, or lease or license property for the purpose of  
13 constructing or operating an ancillary facility to be used for a  
14 commercial purpose under Chapter 228 or 370, Transportation Code.  
15 This section does not apply to a segment of highway under the  
16 jurisdiction of a regional mobility authority if the regional  
17 mobility authority awarded a comprehensive development agreement  
18 for the improvement of that segment before September 1, 2005. This  
19 segment does not apply to a segment of the state highway system in  
20 Travis or Williamson County if the Texas Department of  
21 Transportation awarded an exclusive development agreement for the  
22 improvement of that section before September 1, 2005. This section  
23 expires September 1, 2007.

24 Explanation: The addition is necessary to address the  
25 differences between the conferees on the issue of the acquisition  
26 of property, granting a franchise, or leasing or licensing property  
27 for the purpose of constructing or operating an ancillary facility

1 by certain entities.

2 (8) House Rule 13, Section 9(a)(4), is suspended to permit  
3 the committee to add the following to SECTION 8.02 of the bill:

4 (b) Before the executive director of the Texas Department of  
5 Transportation or the director's designee may authorize a person to  
6 use a state-operated aircraft, the person must sign an affidavit  
7 stating that the person is traveling on official state business. On  
8 filing of the affidavit, the person may be authorized to use  
9 state-operated aircraft for official state business for a period of  
10 one year. A member of the legislature is not required to receive  
11 any other additional authorization to use a state-operated  
12 aircraft.

13 Explanation: The addition is necessary to address the  
14 differences between the conferees on issues relating to the State  
15 Aircraft Pooling Board.

Krusee

H.R. No. 2270

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Speaker of the House

I certify that H.R. No. 2270 was adopted by the House on May 29, 2005, by a non-record vote.

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Chief Clerk of the House