

By: Krusee

H.B. No. 3783

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the construction, acquisition, financing, maintenance,
3 management, operation, ownership, and control of transportation
4 facilities and the progress, improvement, policing, and safety of
5 transportation in the state; modifying existing taxes.

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

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

9 (a) The department may:

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

13 (2) acquire, finance, construct, reconstruct,
14 relocate, maintain, and subject to Section 91.005, operate publicly
15 or privately owned [~~a~~] passenger or freight rail facilities
16 [~~facility~~], individually or as one or more systems;

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

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

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

22 (C) public or private person;

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

1 chapter; or

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

4 SECTION 2. Section 201.204, Transportation Code, is amended
5 to read as follows:

6 Sec. 201.204. SUNSET PROVISION. The Texas Department of
7 Transportation is subject to Chapter 325, Government Code (Texas
8 Sunset Act). Unless continued in existence as provided by that
9 chapter, the department is abolished September 2 [~~1~~], 2009.

10 SECTION 3. Subchapter H, Chapter 201, Transportation Code,
11 is amended by adding Section 201.619 to read as follows:

12 Sec. 201.619. COOPERATIVE PLANNING WITH COUNTIES. (a) The
13 department and a county jointly may enter into an agreement that
14 identifies future transportation corridors within the county in
15 accordance with this subsection. Such a corridor must be derived
16 from existing transportation plans adopted by the department or
17 commission, the county, or a metropolitan planning organization.

18 (b) Notwithstanding any other law, if all or part of a
19 subdivision for which a plat is required is located in any county
20 within a future transportation corridor identified in an agreement
21 under this section:

22 (1) the commissioners court of the county in which the
23 land is located:

24 (A) shall refuse to approve the plat for
25 recordation unless the plat states that the subdivision is located
26 within the future transportation corridor; and

27 (B) may refuse to approve the plat for

1 recordation if an environmental review of a transportation project
2 in the future transportation corridor has begun.

3 SECTION 4. Sections 203.092(a-1), (a-2), and (a-3),
4 Transportation Code, are amended to read as follows:

5 (a-1) Notwithstanding Subsection (a), the department and
6 the utility shall share equally the cost of the relocation of a
7 utility facility that is made before September 1, 2013 [~~2007~~], and
8 required by the improvement of a nontolled highway to add one or
9 more tolled lanes. This subsection expires September 1, 2013
10 [~~2007~~].

11 (a-2) Notwithstanding Subsection (a), the department and
12 the utility shall share equally the cost of the relocation of a
13 utility facility that is made before September 1, 2013 [~~2007~~], and
14 required by [~~for~~] the improvement of a nontolled highway that has
15 been converted to a turnpike project or toll project. This
16 subsection expires September 1, 2013 [~~2007~~].

17 (a-3) Notwithstanding Subsection (a), the department and
18 the utility shall share equally the cost of the relocation of a
19 utility facility that is made before September 1, 2013 [~~2007~~], and
20 required by [~~for~~] the construction on a new location of a turnpike
21 project or toll project or the expansion of such a turnpike project
22 or toll project. This subsection expires September 1, 2013 [~~2007~~].

23 SECTION 5. Subchapter A, Transportation Code, is amended by
24 adding Section 222.0011 to read as follows:

25 Sec. 222.0011. RESTRICTIONS ON USE OF STATE HIGHWAY FUND.
26 Notwithstanding any other provision of law, money in the state
27 highway fund may not be transferred to or appropriated for use by:

1 (1) the Department of Public Safety;

2 (2) the Health And Human Services Commission or any
3 other health and human services agency or entity; or

4 (3) the Texas Workforce Commission.

5 SECTION 6. Subchapter A, Chapter 222, Transportation Code,
6 is amended by adding Section 222.004 to read as follows:

7 Sec. 222.004. ISSUANCE OF GENERAL OBLIGATION BONDS FOR
8 HIGHWAY IMPROVEMENT PROJECTS. (a) The commission may issue
9 general obligation bonds to fund state highway improvement
10 projects.

11 (b) The aggregate principal amount of the bonds that are
12 issued may not exceed \$5 billion.

13 (c) The proceeds of bonds issued under this section may not
14 be used for any purpose other than the payment of any costs related
15 to the bonds and the purposes for which revenues are dedicated under
16 Section 7-a, Article VIII, Texas Constitution.

17 (d) The commission may enter into credit agreements, as
18 defined by Chapter 1371, Government Code, relating to the bonds
19 authorized by this section. The agreements may be secured by and
20 payable from the same sources as the bonds.

21 (e) All laws affecting the issuance of bonds and other
22 public securities by governmental entities, including Chapters
23 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to
24 the issuing of bonds and the entering into of credit agreements
25 under this section.

26 (f) The proceeds of bonds issued under this section may be
27 used to:

1 (1) finance other funds relating to the bonds,
2 including debt service reserve and contingency; and

3 (2) pay the cost or expense of the issuance of the
4 bonds.

5 (g) Bonds issued under this section may be sold in such
6 manner and subject to such terms and provisions as set forth in the
7 order authorizing their issuance, and such bonds must mature not
8 later than 30 years after their dates of issuance, subject to any
9 refundings or renewals.

10 (h) The comptroller shall pay the principal of the bonds as
11 they mature and the interest as it becomes payable, and shall pay
12 any cost related to the bonds that become due, including payments
13 under credit agreements.

14 SECTION 7. Section 223.201(f), Transportation Code, is
15 amended to read as follows:

16 (f) The authority to enter into comprehensive development
17 agreements provided by this section expires on August 30 [~~31~~],
18 2011.

19 SECTION 8. Section 223.205(a), Transportation Code, is
20 amended to read as follows:

21 (a) Notwithstanding Section 223.006 and the requirements of
22 Subchapter B, Chapter 2253, Government Code, the department shall
23 require a private entity entering into a comprehensive development
24 agreement under this subchapter to provide a performance bond and a
25 payment bond or [an] alternative forms [form] of security, or a
26 combination of bonds and alternative forms of security, in an
27 amount, as determined by the department, that is sufficient to:

1 (1) ensure the proper performance of the agreement;
2 and

3 (2) protect:

4 (A) the department; and

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

8 SECTION 9. Subchapter E, Chapter 223, Transportation Code,
9 is amended by adding Section 223.210 to read as follows:

10 Sec. 223.210. NOTIFICATION OF TERMINATION FOR CONVENIENCE.
11 If the department decides to purchase an interest of a private
12 participant in a comprehensive development agreement and related
13 property before the termination date of the agreement, the
14 department shall notify the governor, lieutenant governor, and
15 speaker of the house of representatives not later than the 120th day
16 preceding the date of the proposed purchase.

17 SECTION 10. Section 224.1541(b), Transportation Code, is
18 amended to read as follows:

19 (b) The commission may designate a lane as an exclusive lane
20 under Subsection (a) only if the commission determines that the use
21 or operation of the exclusive lane is likely to enhance safety,
22 mobility, or air quality and:

23 (1) [~~there.~~]

24 [~~(A) are~~] two or more lanes adjacent to the
25 proposed exclusive lane are available for the use of vehicles other
26 than vehicles for which the lane is restricted; [~~or~~]

27 (2) [~~B is~~] a multilane facility adjacent to the

1 proposed exclusive lane is available for the use of vehicles other
2 than vehicles for which the lane is restricted; or

3 (3) the proposed exclusive lane is to be used only by
4 commercial motor vehicles, as defined by commission order ~~[and]~~

5 ~~[(2) the use or operation of the exclusive lane is likely to~~
6 ~~enhance safety, mobility, or air quality].~~

7 SECTION 11. Subchapter A, Chapter 228, Transportation Code,
8 is amended by adding Sections 228.0091, 228.011, 228.012, and
9 228.013 to read as follows:

10 Sec. 228.0091. AUDIT BY STATE AUDITOR. The state auditor
11 shall perform an audit of each annual financial statement for a toll
12 road segment or combination of segments.

13 Sec. 228.011. REVIEW AND APPROVAL BY ATTORNEY GENERAL OF
14 CERTAIN AGREEMENTS. The department may not enter into
15 comprehensive development agreement until the agreement is
16 reviewed for legal sufficiency by the attorney general.

17 Sec. 228.012. TOLL REVENUE PROJECTIONS. (a) The
18 department may not enter into an agreement with a developer to
19 operate, lease, or finance a segment of a toll road until the
20 comptroller has projected the toll revenue for each geographic
21 region of the toll road segment.

22 Sec. 228.013. ACQUISITION OF TOLL PROJECTS. (a) The
23 commission may authorize the department to enter into an agreement
24 with a governmental entity to acquire a toll project or system from
25 that entity if the governing body of the entity approves the
26 acquisition, and to issue bonds to acquire such toll project or
27 system as provided in Subsection (b), assume any debts,

1 obligations, and liabilities of the entity relating to the toll
2 project or system transferred to the department, or carry out any
3 combination of the issuance of bonds or assumption of debts,
4 obligations, and liabilities. Such agreements may include any terms
5 the department determines to be in the best interest of the state.

6 (b) The commission may issue toll revenue bonds under
7 Subchapter C or use any other legally available funds for the
8 purpose of acquiring a toll project or system.

9 SECTION 12. Subchapter A, Chapter 284, Transportation Code,
10 is amended by adding Section 284.0021 to read as follows:

11 Sec. 284.0021. JOINT USE OF POWERS. Two or more counties
12 jointly may exercise the powers granted under this chapter.

13 SECTION 13. Subchapter A, Chapter 284, Transportation Code,
14 is amended by adding Section 284.0031 to read as follows:

15 Sec. 284.0031. ADDITIONAL POWERS. A county, acting through
16 the commissioners court of the county, or a local government
17 corporation, may exercise any power granted to a regional mobility
18 authority under Chapter 370 to the extent that such a power does not
19 conflict with the powers or duties provided under this chapter. In
20 the exercise of a power granted under Chapter 370, a county is
21 subject to regulation by the commission as if it were a regional
22 mobility authority. The exercise of a power under Chapter 370 does
23 not subject a county to involuntary dissolution under Section
24 370.332.

25 SECTION 14. Section 284.011(a), Transportation Code, as
26 added by Chapter 281, Acts of the 79th Legislature, Regular
27 Session, 2005, is amended to read as follows:

1 (a) A county may transfer to the department a project under
2 this chapter [~~that has outstanding bonded indebtedness~~] if the
3 commission:

4 (1) agrees to the transfer; and

5 (2) agrees to assume any [~~the~~] outstanding bonded
6 indebtedness.

7 SECTION 15. Subchapter C, Chapter 284, Transportation Code,
8 is amended by adding Section 284.075 to read as follows:

9 Sec. 284.075. TRANSACTION PROCESSING. A county may enter
10 into an agreement with a bank or other financial institution, as
11 defined by Section 31.002, Finance Code, or a clearinghouse
12 providing services to a bank or other financial institution to
13 provide, on terms and conditions approved by the county, toll
14 transaction processing and other related services.

15 SECTION 16. Subchapter B, Chapter 366, Transportation Code,
16 is amended by adding Section 366.037 to read as follows:

17 Sec. 366.037. ADDITIONAL POWERS. An authority may exercise
18 any power granted to a regional mobility authority under Chapter
19 370 to the extent that such a power does not conflict with the
20 powers or duties of an authority provided under this chapter. In
21 the exercise of a power granted under Chapter 370, an authority is
22 subject to regulation by the commission as if it were a regional
23 mobility authority. The exercise of a power under Chapter 370 does
24 not subject an authority to involuntary dissolution under Section
25 370.332.

26 SECTION 17. Section 366.172, Transportation Code, is
27 amended to read as follows:

1 Sec. 366.172. LEASE, SALE, OR CONVEYANCE OF TURNPIKE
2 PROJECT. (a) An authority may lease, sell, or convey in another
3 manner a turnpike project or system to the department, a county, or
4 a local government corporation created under Chapter 431 only with
5 the approval of the governing body of the entity to which the
6 project is transferred.

7 (b) An agreement to lease, sell, or convey a turnpike
8 project or system under this section must provide for the discharge
9 and final payment or redemption of the authority's outstanding
10 bonded indebtedness for the turnpike project and must not be
11 prohibited under the bond proceedings applicable to the system, if
12 any, of which the turnpike project is a part.

13 SECTION 18. Subchapter E, Chapter 366, Transportation Code,
14 is amended by adding Section 366.186 to read as follows:

15 Sec. 366.186. TRANSACTION PROCESSING. An authority may
16 enter into an agreement with a bank or other financial institution,
17 as defined by Section 31.002. Finance Code, or a clearinghouse
18 providing services to a bank or other financial institution, to
19 provide, on terms and conditions approved by the authority, toll
20 transaction processing and other related services.

21 SECTION 19. Sections 366.251(b), (c), (d) and (e),
22 Transportation Code, are amended to read as follows:

23 (b) The commissioners court of each county of the authority
24 shall appoint [~~one director~~] to [~~serve on~~] the board a number of
25 directors determined by the ratio of the population of the county to
26 the total population of the area covered by the authority. The
27 governor shall appoint one director to serve on the board and shall

1 appoint an additional director if necessary to maintain an odd
2 number of directors on the board, but no more than two appointees of
3 the governor may serve at any time.

4 (c) [~~In addition to directors appointed by a commissioners~~
5 ~~court under Subsection (b), the commissioners courts of those~~
6 ~~counties of the authority in which all or part of a turnpike project~~
7 ~~is located and open for use by the traveling public shall appoint~~
8 ~~two additional directors as follows:~~

9 (1) ~~if the open turnpike project is located entirely~~
10 ~~in one county, the commissioners court of that county shall appoint~~
11 ~~the two additional directors;~~

12 (2) ~~if the open turnpike project is located in two~~
13 ~~counties of the authority, the commissioners court of each county~~
14 ~~shall appoint one of the additional directors; or~~

15 (3) ~~if the open turnpike project is located in more~~
16 ~~than two counties, the commissioners court of each county in which~~
17 ~~the project is located shall appoint one additional director on a~~
18 ~~rotating basis and in accordance with a schedule agreed to and~~
19 ~~approved by concurrent resolutions adopted by the commissioners~~
20 ~~courts of at least three-fourths of the counties of the authority.~~

21 [(d)] Directors shall be divided into two groups. To the
22 greatest degree possible, each group shall contain an equal number
23 of directors. Directors shall serve terms of two years, except that
24 one group of directors of the initial board of an authority shall
25 serve for a term of one year.

26 (d) [(e)] The director appointed by the governor must have
27 resided in a county outside the authority that is adjacent to a

1 county of the authority for at least one year before the person's
2 appointment. Each director appointed by a commissioners court
3 ~~[under Subsection (b)]~~ must have resided in that county for at least
4 one year before the person's appointment. ~~[Each director appointed~~
5 ~~by a commissioners court under Subsection (c) must have resided in a~~
6 ~~county of the authority for at least one year before the person's~~
7 ~~appointment.]~~

8 SECTION 20. Subchapter E, Chapter 370, Transportation Code,
9 is amended by adding Section 370.194 to read as follows:

10 Sec. 370.194. TRANSACTION PROCESSING. An authority may
11 enter into an agreement with a bank or other financial institution,
12 as defined by Section 31.002, Finance Code, or a clearinghouse
13 providing services to a bank or other financial institution, to
14 provide, on terms and conditions approved by the authority, toll
15 transaction processing and other related services.

16 SECTION 21. Section 370.251(c), Transportation Code, is
17 amended to read as follows:

18 (c) Directors ~~[If permitted under the constitution of this~~
19 ~~state, directors serve staggered six-year terms, with the terms of~~
20 ~~no more than one-third of the directors expiring on February 1 of~~
21 ~~each odd-numbered year. If six-year terms are not permitted under~~
22 ~~the constitution, directors]~~ serve two-year terms, with as near as
23 possible to ~~[the terms of not more than]~~ one-half of the directors'
24 terms ~~[directors]~~ expiring on February 1 of each year.

25 SECTION 22. Title 6, Subtitle I, Transportation Code, is
26 amended by adding a new Chapter 432 to read as follows:

1 CHAPTER 432. TEXAS TRANSPORTATION COMPANY ACT

2 Sec. 432.001. ORGANIZATION OF THE TEXAS TRANSPORTATION
3 COMPANY. The commission may form the Texas Transportation Company
4 as a for profit corporation, a limited liability company, or a
5 limited partnership.

6 Sec. 432.002. PURPOSE OF THE COMPANY. The purpose of the
7 company is for the acquisition, development, and operation of
8 existing and new toll projects and the conduct of all activities
9 ancillary thereto. The company may conduct any lawful activity
10 that is consistent with its purpose and not prohibited by the
11 Business Organizations Code or this chapter.

12 Sec. 432.003. GENERAL POWERS. (a) The company shall have
13 all of the powers and privileges accorded to it under the law
14 governing its formation.

15 (b) The company may enter into any contract, expend any
16 funds, incur any indebtedness and procure goods and services
17 necessary or convenient to develop any toll project on such terms as
18 the governing body deems appropriate.

19 (c) The company shall, subject to the approval of the
20 commission, have any other powers that are reasonably necessary to
21 develop a toll project.

22 Sec. 432.004. ISSUANCE OF SECURITIES. (a) The company may
23 issue securities and encumber its assets to the same extent and in
24 the same manner as any similar business entity organized under the
25 Business Organizations Code would be empowered to do.

26 (b) To the maximum extent permitted by applicable law and to
27 the extent consistent with conventional industry practices

1 regarding the distribution of securities, securities of the company
2 offered to investors shall be offered in a manner that optimizes
3 valuation and securities liquidity while giving a preference to
4 pension, retirement and investment funds and other investors
5 headquartered in this state.

6 Sec. 432.005. LIABILITIES OF THE STATE. Neither the state
7 nor a toll authority shall be liable for the debts, breaches of
8 duty, or other liabilities or obligations of the company.

9 Sec. 432.006. PRIVATE ENTITY. The company is a private,
10 non-governmental entity.

11 SECTION 23. Section 501.138(c), Transportation Code, is
12 amended to read as follows:

13 (c) Of the amount received under Subsection (b)(2), the
14 department shall deposit:

15 (1) \$5 in the Texas mobility fund [~~general revenue~~
16 ~~fund~~]; and

17 (2) \$3 to the credit of the state highway fund to
18 recover the expenses necessary to administer this chapter.

19 SECTION 24. Section 504.101(e), Transportation Code, is
20 amended to read as follows:

21 (e) Of each fee collected by the department under this
22 section:

23 (1) \$1.25 shall be used to defray the cost of
24 administering this section; and

25 (2) the remainder shall be deposited to the credit of
26 the Texas mobility fund [~~general revenue fund~~].

27 SECTION 25. Section 542.402, Transportation Code, is

1 amended by adding Subsection (f) to read as follows:

2 (f) The comptroller shall deposit money received under
3 Subsection (b) to the credit of the Texas mobility fund.

4 SECTION 26. Section 162.102, Tax Code, is amended to read as
5 follows:

6 Sec. 162.102. TAX RATE. Except as provided by Section
7 162.1025, the [The] gasoline tax rate is 20 cents for each net
8 gallon or fractional part on which the tax is imposed under Section
9 162.101.

10 SECTION 27. Subchapter B, Chapter 162, Tax Code, is amended
11 by adding Section 162.1025 to read as follows:

12 Sec. 162.1025. ANNUAL RATE CHANGE ACCORDING TO CONSUMER
13 PRICE INDEX. On October 1 of each year, the rate of the gasoline tax
14 imposed under this subchapter is increased or decreased by a
15 percentage that is equal to the consumer price index percentage
16 change for the preceding fiscal year.

17 SECTION 28. Section 162.202, Tax Code, is amended to read as
18 follows:

19 Sec. 162.202. TAX RATE. Except as provided by Section
20 162.2025, the [The] diesel fuel tax rate is 20 cents for each net
21 gallon or fractional part on which the tax is imposed under Section
22 162.201.

23 SECTION 29. Subchapter C, Chapter 162, Tax Code, is amended
24 by adding Section 162.2025 to read as follows:

25 Sec. 162.2025. ANNUAL RATE CHANGE ACCORDING TO CONSUMER
26 PRICE INDEX. On October 1 of each year, the rate of the diesel fuel
27 tax imposed under this subchapter is increased or decreased by a

1 percentage that is equal to the consumer price index percentage
2 change for the preceding fiscal year.

3 SECTION 30. Subtitle C, Title 3, Tax Code, is amended by
4 adding Chapter 329 to read as follows:

5 CHAPTER 329. SALES AND USE TAXES BY CERTAIN MUNICIPALITIES

6 Sec. 329.001. DEFINITION. In this chapter, "transit sales
7 and use tax" means a sales and use tax imposed for the support of
8 transportation services authorized under the Transportation Code.

9 Sec. 329.002. TRANSIT SALES AND USE TAX NOT COUNTED IN
10 COMBINED LOCAL TAX RATE. Notwithstanding any other law, the rate of
11 a transit sales and use tax imposed within the territory of a
12 municipality may not be considered in determining the combined or
13 overlapping rate of local sales and use taxes in the municipality.

14 SECTION 31. The following provisions of the Transportation
15 Code are repealed:

16 (1) Section 223.203(m).

17 SECTION 32. (a) Except as provided by Subsection (b), this
18 Act takes effect September 1, 2007.

19 (b) Section 222.004, Transportation Code, as added by this
20 Act, takes effect on the date on which the constitutional amendment
21 proposed by __.J.R. No. __, 80th Legislature, Regular Session, 2007,
22 takes effect. If that amendment is not approved by the voters, that
23 section does not take effect.