

By: Carona

S.B. No. 459

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the provision of benefits to members or senior  
3 employees of the Texas Transportation Commission; providing  
4 criminal penalties.

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

6 SECTION 1. Subsection (a), Section 201.001, Transportation  
7 Code, is amended by adding Subdivision (4) to read as follows:

8 (4) "Senior employee" means a department employee who  
9 is an area engineer, a district engineer, a division director, a  
10 special office director, an assistant executive director or the  
11 equivalent, a deputy executive director or the equivalent, or the  
12 executive director.

13 SECTION 2. Subchapter B, Chapter 201, Transportation Code,  
14 is amended by adding Sections 201.060 and 201.061 to read as  
15 follows:

16 Sec. 201.060. GIFT TO COMMISSIONER OR SENIOR EMPLOYEE;  
17 OFFENSE. (a) In this section, "benefit" means anything reasonably  
18 regarded as pecuniary gain or pecuniary advantage, including  
19 benefit to any other person in whose welfare the beneficiary has a  
20 direct and substantial interest.

21 (b) A commissioner or senior employee commits an offense if  
22 the commissioner or senior employee solicits, accepts, or agrees to  
23 accept any benefit from:

24 (1) a person the commissioner or senior employee knows

1 to be subject to regulation, inspection, or investigation by the  
2 commission; or

3 (2) a person the commissioner or senior employee knows  
4 is interested in or likely to become interested in any contract,  
5 purchase, payment, claim, transaction, or matter involving the  
6 exercise of the commissioner's or senior employee's discretion.

7 (c) A commissioner or senior employee who receives an  
8 unsolicited benefit that the commissioner or senior employee is  
9 prohibited from accepting under this section may donate the benefit  
10 to a governmental entity that has the authority to accept the gift  
11 or may donate the benefit to a recognized tax-exempt charitable  
12 organization formed for educational, religious, or scientific  
13 purposes.

14 (d) This section does not apply to:

15 (1) a fee prescribed by law to be received by a  
16 commissioner or senior employee;

17 (2) a benefit to which the commissioner or senior  
18 employee is lawfully entitled; or

19 (3) a benefit for which the commissioner or senior  
20 employee gives legitimate consideration in a capacity other than as  
21 a commissioner or senior employee.

22 (e) An offense under this section is a Class A misdemeanor.

23 (f) If conduct that constitutes an offense under this  
24 section also constitutes an offense under Section 36.08, Penal  
25 Code, the actor may be prosecuted under this section or Section  
26 36.08.

27 Sec. 201.061. OFFERING GIFT TO COMMISSIONER OR SENIOR

1 EMPLOYEE; OFFENSE. (a) A person commits an offense if the person  
2 offers, confers, or agrees to confer any benefit on a commissioner  
3 or senior employee that the person knows the commissioner or senior  
4 employee is prohibited from accepting under Section 201.060.

5 (b) An offense under this section is a Class A misdemeanor.

6 (c) If conduct that constitutes an offense under this  
7 section also constitutes an offense under Section 36.09, Penal  
8 Code, the actor may be prosecuted under this section or Section  
9 36.09.

10 SECTION 3. The change in law made by this Act applies only  
11 to an offense committed on or after September 1, 2007. An offense  
12 committed before September 1, 2007, is covered by the law in effect  
13 when the offense was committed, and the former law is continued in  
14 effect for that purpose. For the purposes of this section, an  
15 offense was committed before September 1, 2007, if any element of  
16 the offense occurred before that date.

17 SECTION 4. This Act takes effect September 1, 2007.