

1-1 By: Nichols, et al. S.B. No. 1267  
1-2 (In the Senate - Filed March 6, 2007; March 14, 2007, read  
1-3 first time and referred to Committee on Transportation and Homeland  
1-4 Security; April 16, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 April 16, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1267 By: Nichols

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

1-10 relating to a moratorium on the inclusion of certain provisions in a  
1-11 comprehensive development agreement or the sale of a toll project  
1-12 and to the creation and duties of a study committee.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter E, Chapter 223, Transportation Code,  
1-15 is amended by adding Section 223.210 to read as follows:

1-16 Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE  
1-17 DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this  
1-18 section:

1-19 (1) "Toll project" means a toll project described by  
1-20 Section 201.001(b), regardless of whether the toll project:

1-21 (A) is a part of the state highway system; or

1-22 (B) is subject to the jurisdiction of the  
1-23 department.

1-24 (2) "Toll project entity" means a public entity  
1-25 authorized by law to acquire, design, construct, finance, operate,  
1-26 or maintain a toll project, including:

1-27 (A) the department;

1-28 (B) a regional tollway authority;

1-29 (C) a regional mobility authority; or

1-30 (D) a county.

1-31 (b) A comprehensive development agreement entered into with  
1-32 a private participant by a toll project entity on or after the  
1-33 effective date of this section for the acquisition, design,  
1-34 construction, financing, operation, or maintenance of a toll  
1-35 project may not contain a provision permitting the private  
1-36 participant to operate and collect revenue from the toll project.

1-37 (c) Subsection (b) does not apply to a comprehensive  
1-38 development agreement in connection with a project:

1-39 (1) that includes one or more managed lane facilities  
1-40 to be added to an existing controlled-access highway;

1-41 (2) the major portion of which is located in a  
1-42 nonattainment or near-nonattainment air quality area as designated  
1-43 by the United States Environmental Protection Agency; and

1-44 (3) for which the department has issued a request for  
1-45 qualifications before the effective date of this section.

1-46 (c-1) Subsection (b) does not apply to a comprehensive  
1-47 development agreement in connection with a project associated with  
1-48 the highway designated as the Trinity Parkway in the city of Dallas.

1-49 (d) For purposes of Subsection (c), "managed lane facility"  
1-50 means a facility that increases the efficiency of a  
1-51 controlled-access highway through various operational and design  
1-52 actions and that allows lane management operations to be adjusted  
1-53 at any time. The term includes high-occupancy vehicle lanes,  
1-54 single-occupant vehicle express lanes, tolled lanes, priced lanes,  
1-55 truck lanes, bypass lanes, dual use facilities, or any combination  
1-56 of those facilities.

1-57 (e) The department may not enter into a comprehensive  
1-58 development agreement in connection with a project described by  
1-59 Subsection (c) unless the commissioners court of the county in  
1-60 which the majority of the project is located passes a resolution in  
1-61 support of the agreement that states that the commissioners court:

1-62 (1) acknowledges that the comprehensive development  
1-63 agreement may contain penalties for the construction of future

2-1 competing transportation projects that are acquired or constructed  
2-2 during the term of the comprehensive development agreement; and  
2-3 (2) knowing of those potential penalties, agrees that  
2-4 the department should execute the comprehensive development  
2-5 agreement.

2-6 (f) On or after the effective date of this section, a toll  
2-7 project entity may not sell or enter into a contract to sell a toll  
2-8 project of the entity to a private entity.

2-9 (g) A legislative study committee is created. The committee  
2-10 is composed of nine members, appointed as follows:

2-11 (1) three members appointed by the lieutenant  
2-12 governor;

2-13 (2) three members appointed by the speaker of the  
2-14 house of representatives; and

2-15 (3) three members appointed by the governor.

2-16 (h) The legislative study committee shall select a  
2-17 presiding officer from among its members and conduct public  
2-18 hearings and study the public policy implications of including in a  
2-19 comprehensive development agreement entered into by a toll project  
2-20 entity with a private participant in connection with a toll project  
2-21 a provision that permits the private participant to operate and  
2-22 collect revenue from the toll project. In addition, the committee  
2-23 shall examine the public policy implications of selling an existing  
2-24 and operating toll project to a private entity.

2-25 (i) Not later than December 1, 2008, the legislative study  
2-26 committee shall:

2-27 (1) prepare a written report summarizing:

2-28 (A) any hearings conducted by the committee;

2-29 (B) any legislation proposed by the committee;

2-30 (C) the committee's recommendations for  
2-31 safeguards and protections of the public's interest when a contract  
2-32 for the sale of a toll project to a private entity is entered into;  
2-33 and

2-34 (D) any other findings or recommendations of the  
2-35 committee; and

2-36 (2) deliver a copy of the report to the governor, the  
2-37 lieutenant governor, and the speaker of the house of  
2-38 representatives.

2-39 (j) On December 31, 2008, the legislative study committee  
2-40 created under this section is abolished.

2-41 (k) This section expires September 1, 2009.

2-42 (l) Subsections (b), (c), (d), and (e) do not apply to a  
2-43 project that is located in a county with a population of 575,000 or  
2-44 more and is adjacent to an international border.

2-45 SECTION 2. This Act takes effect immediately if it receives  
2-46 a vote of two-thirds of all the members elected to each house, as  
2-47 provided by Section 39, Article III, Texas Constitution. If this  
2-48 Act does not receive the vote necessary for immediate effect, this  
2-49 Act takes effect September 1, 2007.

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