

1-1 By: Carona S.B. No. 1929
1-2 (In the Senate - Filed March 9, 2007; March 22, 2007, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; May 1, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 1;
1-6 May 1, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1929 By: Carona

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

1-10 relating to transportation infrastructure in this state; providing
1-11 penalties; authorizing the issuance of bonds; making an
1-12 appropriation.

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

1-14 ARTICLE 1. SHORT TITLE

1-15 SECTION 1.01. This Act shall be known as The Transportation
1-16 Reformation Act.

1-17 ARTICLE 2. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE
1-18 DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS

1-19 SECTION 2.01. Subchapter E, Chapter 223, Transportation
1-20 Code, is amended by adding Section 223.210 to read as follows:

1-21 Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE
1-22 DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this
1-23 section:

1-24 (1) "Toll project" means a toll project described by
1-25 Section 201.001(b), regardless of whether the toll project:

1-26 (A) is a part of the state highway system; or

1-27 (B) is subject to the jurisdiction of the
1-28 department.

1-29 (2) "Toll project entity" means a public entity
1-30 authorized by law to acquire, design, construct, finance, operate,
1-31 or maintain a toll project, including:

1-32 (A) the department;

1-33 (B) a regional tollway authority;

1-34 (C) a regional mobility authority; or

1-35 (D) a county.

1-36 (b) A comprehensive development agreement entered into with
1-37 a private participant by a toll project entity on or after the
1-38 effective date of this section for the acquisition, design,
1-39 construction, financing, operation, or maintenance of a toll
1-40 project may not contain a provision permitting the private
1-41 participant to operate the toll project or collect revenue from the
1-42 toll project, regardless of whether the private participant
1-43 operates the toll project or collects the revenue itself or engages
1-44 a subcontractor or other entity to operate the toll project or
1-45 collect the revenue.

1-46 (c) Subsection (b) does not apply to a comprehensive
1-47 development agreement in connection with:

1-48 (1) a project associated with the highway designated
1-49 as the Trinity Parkway in the City of Dallas; or

1-50 (2) a project:

1-51 (A) that includes one or more managed lane
1-52 facilities to be added to an existing controlled-access highway;

1-53 (B) the major portion of which is located in a
1-54 nonattainment or near nonattainment air quality area as designated
1-55 by the United States Environmental Protection Agency; and

1-56 (C) for which the department has issued a request
1-57 for qualifications before the effective date of this section.

1-58 (c-1) Subsection (b) does not apply to a comprehensive
1-59 development agreement in connection with a project associated with
1-60 any portion of the Loop 9 project that is located in a nonattainment
1-61 air quality area as designated by the United States Environmental
1-62 Protection Agency that includes two adjacent counties that each
1-63 have a population of one million or more.

1-64 (c-2) Notwithstanding the TxDOT/NTTA Regional Protocol

2-1 entered into between the department and the North Texas Tollway
2-2 Authority and approved on August 10, 2006, by the tollway authority
2-3 and on August 24, 2006, by the department, Subsection (b) does not
2-4 apply to a comprehensive development agreement:

2-5 (1) entered into in connection with State Highway 121
2-6 if, before the commission or the department enters into a contract
2-7 for the financing, construction, or operation of the project with a
2-8 private participant, an authority under Chapter 366 was granted the
2-9 ability to finance, construct, or operate, as applicable, the
2-10 portion of the toll project located within the boundaries of the
2-11 authority, and the authority was granted a period of 60 days from
2-12 March 26, 2007, to submit a commitment to the metropolitan planning
2-13 organization that is determined to be equal to or greater than any
2-14 other commitment submitted before March 26, 2007; if the financial
2-15 value of the commitment is determined to be equal to or greater
2-16 value than any other commitment submitted before March 26, 2007,
2-17 the commission shall allow the authority to develop the project; or

2-18 (2) entered into in connection with State Highway 161
2-19 if, before the commission or the department enters into a contract
2-20 with a private participant for the financing, construction, or
2-21 operation, an authority under Chapter 366 was granted the ability
2-22 to finance, construct, or operate, as applicable, the portion of
2-23 the toll project located within the boundaries of the authority,
2-24 and the authority was granted a period of 90 days to submit a
2-25 commitment to the metropolitan planning organization; if the
2-26 authority makes a commitment to proceed, the department shall allow
2-27 the authority to proceed and the authority must enter into
2-28 contracts to finance, construct, or operate the project within 180
2-29 days.

2-30 (c-3) Subsection (c) does not apply to any toll project or
2-31 managed lane facility project located on any portion of U.S.
2-32 Highway 281 that is located in a county with a population of more
2-33 than one million in which more than 80 percent of the population
2-34 lives in a single municipality.

2-35 (d) For purposes of this section, "managed lane facility"
2-36 means a facility that increases the efficiency of a
2-37 controlled-access highway through various operational and design
2-38 actions and that allows lane management operations to be adjusted
2-39 at any time. The term includes high-occupancy vehicle lanes,
2-40 single-occupant vehicle express lanes, tolled lanes, priced lanes,
2-41 truck lanes, bypass lanes, dual use facilities, or any combination
2-42 of those facilities.

2-43 (e) The department may not enter into a comprehensive
2-44 development agreement in connection with a project described by
2-45 Subsection (c)(2) unless the commissioners court of the county in
2-46 which the majority of the project is located passes a resolution in
2-47 support of the agreement that states that the commissioners court:

2-48 (1) acknowledges that the comprehensive development
2-49 agreement may contain penalties for the construction of future
2-50 competing transportation projects that are acquired or constructed
2-51 during the term of the comprehensive development agreement; and

2-52 (2) knowing of those potential penalties, agrees that
2-53 the department should execute the comprehensive development
2-54 agreement.

2-55 (f) On or after the effective date of this section, a toll
2-56 project entity may not sell or enter into a contract to sell a toll
2-57 project of the entity to a private entity.

2-58 (g) A legislative study committee is created. The committee
2-59 is composed of nine members, appointed as follows:

2-60 (1) three members appointed by the lieutenant
2-61 governor;

2-62 (2) three members appointed by the speaker of the
2-63 house of representatives; and

2-64 (3) three members appointed by the governor.

2-65 (h) The legislative study committee shall select a
2-66 presiding officer from among its members and conduct public
2-67 hearings and study the public policy implications of including in a
2-68 comprehensive development agreement entered into by a toll project
2-69 entity with a private participant in connection with a toll project

3-1 a provision that permits the private participant to operate and
3-2 collect revenue from the toll project. In addition, the committee
3-3 shall examine the public policy implications of selling an existing
3-4 and operating toll project to a private entity. The House
3-5 Transportation Committee and the Senate Committee on
3-6 Transportation and Homeland Security shall provide staff and
3-7 support for the legislative study committee.

3-8 (i) Not later than December 1, 2008, the legislative study
3-9 committee shall:

- 3-10 (1) prepare a written report summarizing:
 - 3-11 (A) any hearings conducted by the committee;
 - 3-12 (B) any legislation proposed by the committee;
 - 3-13 (C) the committee's recommendations for
 - 3-14 safeguards and protections of the public's interest when a contract
 - 3-15 for the sale of a toll project to a private entity is entered into;
 - 3-16 and
 - 3-17 (D) any other findings or recommendations of the
 - 3-18 committee; and

3-19 (2) deliver a copy of the report to the governor, the
3-20 lieutenant governor, and the speaker of the house of
3-21 representatives.

3-22 (j) On December 31, 2008, the legislative study committee
3-23 created under this section is abolished.

3-24 (k) This section expires September 1, 2009.

3-25 (l) Subsections (b), (c), (d), and (e) do not apply to a
3-26 project that is located in a county with a population of 575,000 or
3-27 more and is adjacent to an international border.

3-28 SECTION 2.02. This article takes effect immediately if this
3-29 Act receives a vote of two-thirds of all the members elected to each
3-30 house, as provided by Section 39, Article III, Texas Constitution.
3-31 If this Act does not receive the vote necessary for immediate
3-32 effect, this article takes effect September 1, 2007.

3-33 ARTICLE 3. COMPREHENSIVE DEVELOPMENT AGREEMENT SUNSET DATE

3-34 SECTION 3.01. Subsection (f), Section 223.201,
3-35 Transportation Code, is amended to read as follows:

3-36 (f) The authority to enter into comprehensive development
3-37 agreements provided by this section expires on August 31, 2009
3-38 [~~2011~~].

3-39 SECTION 3.02. Subsection (d), Section 370.305,
3-40 Transportation Code, is amended to read as follows:

3-41 (d) This section expires on August 31, 2009 [~~2011~~].

3-42 ARTICLE 4. GENERAL COMPREHENSIVE DEVELOPMENT AGREEMENT
3-43 PROVISIONS

3-44 SECTION 4.01. Subtitle G, Title 6, Transportation Code, is
3-45 amended by adding Chapter 371 to read as follows:

3-46 CHAPTER 371. COMPREHENSIVE DEVELOPMENT AGREEMENTS FOR HIGHWAY
3-47 TOLL PROJECTS

3-48 SUBCHAPTER A. GENERAL PROVISIONS

3-49 Sec. 371.001. DEFINITIONS. In this chapter:

3-50 (1) "Toll project" means a toll project described by
3-51 Section 201.001(b), regardless of whether the toll project is:
3-52 (A) a part of the state highway system; or
3-53 (B) subject to the jurisdiction of the
3-54 department.

3-55 (2) "Toll project entity" means an entity authorized
3-56 by law to acquire, design, construct, operate, and maintain a toll
3-57 project, including:

- 3-58 (A) the department, including under Chapter 227;
- 3-59 (B) a regional tollway authority under Chapter
3-60 366;
- 3-61 (C) a regional mobility authority under Chapter
3-62 370; or
- 3-63 (D) a county under Chapter 284.

3-64 [Sections 371.002-371.050 reserved for expansion]

3-65 SUBCHAPTER B. OVERSIGHT

3-66 Sec. 371.051. ATTORNEY GENERAL REVIEW. A toll project
3-67 entity may not enter into a comprehensive development agreement
3-68 unless the attorney general reviews the proposed agreement and
3-69 determines that it is legally sufficient.

4-1 Sec. 371.052. NOTIFICATION TO LEGISLATIVE BUDGET BOARD AND
 4-2 STATE AUDITOR. (a) Not later than the 10th day after the date of
 4-3 qualifying or shortlisting private entities to submit detailed
 4-4 proposals for a toll project, a toll project entity shall provide
 4-5 the Legislative Budget Board with the names of qualifying or
 4-6 shortlisted proposers and their team members.

4-7 (b) At least 30 days before entering into a comprehensive
 4-8 development agreement, a toll project entity shall provide the
 4-9 Legislative Budget Board with:

4-10 (1) a copy of the version of the proposed
 4-11 comprehensive development agreement to be executed;

4-12 (2) a copy of the proposal submitted by the apparent
 4-13 best value proposer; and

4-14 (3) a financial forecast prepared by the toll project
 4-15 entity that includes:

4-16 (A) toll revenue the entity projects will be
 4-17 derived from the project during the planned term of the agreement;

4-18 (B) estimated construction costs and operating
 4-19 expenses; and

4-20 (C) the amount of income the entity projects the
 4-21 private participant in the agreement will realize during the
 4-22 planned term of the agreement.

4-23 (c) Before entering into a comprehensive development
 4-24 agreement, a toll project entity shall provide the state auditor
 4-25 with the traffic and revenue report prepared by the toll project
 4-26 entity or its consultant for the project. The entity may not enter
 4-27 into the comprehensive development agreement before the 30th day
 4-28 after the date that the state auditor receives the report so that
 4-29 the state auditor may review and comment on the report and the
 4-30 methodology used to develop the report.

4-31 (d) Before the comprehensive development agreement is
 4-32 entered into, financial forecasts and traffic and revenue reports
 4-33 prepared by or for a toll project entity for the project are
 4-34 confidential and are not subject to disclosure, inspection, or
 4-35 copying under Chapter 552, Government Code.

4-36 [Sections 371.053-371.100 reserved for expansion]

4-37 SUBCHAPTER C. CONTRACT PROVISIONS

4-38 Sec. 371.101. TERMINATION FOR CONVENIENCE. (a) A toll
 4-39 project entity having rulemaking authority by rule and a toll
 4-40 project entity without rulemaking authority by official action
 4-41 shall develop a formula for making termination payments to
 4-42 terminate a comprehensive development agreement under which a
 4-43 private participant has paid a concession payment for the right to
 4-44 operate and collect revenue from a toll project. A formula must
 4-45 calculate an estimated amount of loss to the private participant as
 4-46 a result of the termination for convenience that is based on
 4-47 investments, expenditures, and rate of return associated with the
 4-48 project.

4-49 (b) A formula under Subsection (a) may not be based on an
 4-50 estimate of future revenue from the project.

4-51 Sec. 371.102. TERMINATION OF CERTAIN COMPREHENSIVE
 4-52 DEVELOPMENT AGREEMENTS. If a toll project entity elects to
 4-53 terminate a comprehensive development agreement under which a
 4-54 private participant has paid a concession fee for the right to
 4-55 operate and collect revenue from a project, the entity may:

4-56 (1) if authorized to issue bonds for that purpose,
 4-57 issue bonds to:

4-58 (A) make any applicable termination payments to
 4-59 the private participant; or

4-60 (B) purchase the interest of the private
 4-61 participant in the comprehensive development agreement or related
 4-62 property; or

4-63 (2) provide for the payment of obligations of the
 4-64 private participant incurred pursuant to the comprehensive
 4-65 development agreement.

4-66 Sec. 371.103. PROHIBITION AGAINST LIMITING OR PROHIBITING
 4-67 CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive
 4-68 development agreement may not contain a provision that limits or
 4-69 prohibits the construction, reconstruction, expansion,

5-1 rehabilitation, operation, or maintenance of a highway or other
5-2 transportation project, as that term is defined by Section 370.003,
5-3 by the toll project entity or other governmental entity, or by a
5-4 private entity under a contract with the toll project entity or
5-5 other governmental entity.

5-6 (b) Except as provided by Subsection (c), a comprehensive
5-7 development agreement may contain a provision authorizing the toll
5-8 project entity to compensate the private participant in the
5-9 agreement for the loss of toll revenues attributable to the
5-10 construction by the entity of a limited access highway project
5-11 located within an area that extends up to four miles from either
5-12 side of the centerline of the project developed under the
5-13 agreement, less the private participant's decreased operating and
5-14 maintenance costs attributable to the highway project, if any.

5-15 (c) A comprehensive development agreement may not require
5-16 the toll project entity to provide compensation for the
5-17 construction of:

5-18 (1) a highway project contained in the state
5-19 transportation plan or a transportation plan of a metropolitan
5-20 planning organization in effect on the effective date of the
5-21 agreement;

5-22 (2) work on or improvements to a highway project
5-23 necessary for improved safety, or for maintenance or operational
5-24 purposes;

5-25 (3) a high occupancy vehicle exclusive lane addition
5-26 or other work on any highway project that is required by an
5-27 environmental regulatory agency; or

5-28 (4) a transportation project that provides a mode of
5-29 transportation that is not included in the project that is the
5-30 subject of the comprehensive development agreement.

5-31 (d) The private participant has the burden of proving any
5-32 loss of toll revenue resulting from the construction of a highway
5-33 project described by Subsection (b).

5-34 (e) A comprehensive development agreement that contains a
5-35 provision described by Subsection (b) must require the private
5-36 participant to provide compensation to the toll project entity in
5-37 the amount of any increase in toll revenues received by the private
5-38 participant that is attributable to the construction of a highway
5-39 project described by Subsection (b), less the private participant's
5-40 increased operation and maintenance costs attributable to the
5-41 highway project, if any.

5-42 [Sections 371.104-371.150 reserved for expansion]

5-43 SUBCHAPTER D. DISCLOSURE OF INFORMATION

5-44 Sec. 371.151. DISCLOSURE OF FINANCIAL INFORMATION.

5-45 (a) Before a toll project entity enters into a contract for the
5-46 construction of a toll project, the entity shall publish in the
5-47 manner provided by Section 371.152 information regarding:

5-48 (1) project financing, including:

5-49 (A) the total amount of debt that has been and
5-50 will be assumed to acquire, design, construct, operate, and
5-51 maintain the toll project;

5-52 (B) a description of how the debt will be repaid,
5-53 including a projected timeline for repaying the debt; and

5-54 (C) the projected amount of interest that will be
5-55 paid on the debt;

5-56 (2) whether the toll project will continue to be
5-57 tolled after the debt has been repaid;

5-58 (3) a description of the method that will be used to
5-59 set toll rates;

5-60 (4) a description of any terms in the contract
5-61 relating to competing facilities, including any penalties
5-62 associated with the construction of a competing facility;

5-63 (5) a description of any terms in the contract
5-64 relating to a termination for convenience provision, including any
5-65 information regarding how the value of the project will be
5-66 calculated for the purposes of making termination payments;

5-67 (6) the initial toll rates, the methodology for
5-68 increasing toll rates, and the projected toll rates at the end of
5-69 the term of the contract; and

6-1 (7) the projected total amount of concession payments.
6-2 (b) A toll project entity may not enter into a contract for
6-3 the construction of a toll project before the 30th day after the
6-4 date the information is first published under Section 371.152.

6-5 Sec. 371.152. DISCLOSURE BY PUBLICATION. (a) Information
6-6 under Section 371.151 must be published in a newspaper published in
6-7 the county in which the toll project is to be constructed once a
6-8 week for at least two weeks before the time set for entering into
6-9 the contract and in two other newspapers that the toll project
6-10 entity may designate.

6-11 (b) Instead of the notice required by Subsection (a), if the
6-12 toll project entity estimates that the contract involves an amount
6-13 less than \$300,000, the information may be published in two
6-14 successive issues of a newspaper published in the county in which
6-15 the project is to be constructed.

6-16 (c) If a newspaper is not published in the county in which
6-17 the toll project is to be constructed, notice shall be published in
6-18 a newspaper published in the county:

6-19 (1) nearest the county seat of the county in which the
6-20 improvement is to be made; and

6-21 (2) in which a newspaper is published.

6-22 Sec. 371.153. HEARING. (a) A toll project entity shall
6-23 hold a public hearing on the information published under Section
6-24 371.152 not later than the 10th day after the date the information
6-25 is first published and not less than 10 days before the entity
6-26 enters into the contract.

6-27 (b) A hearing under this section must be held in the county
6-28 seat of the county in which the toll project is located.

6-29 (c) A hearing under this section must include a formal
6-30 presentation and a mechanism for responding to comments and
6-31 questions.

6-32 ARTICLE 5. LENGTH OF CERTAIN TOLL OR FEE COLLECTION CONTRACTS WITH
6-33 PRIVATE ENTITIES

6-34 SECTION 5.01. Section 223.203, Transportation Code, is
6-35 amended by adding Subsection (f-1) to read as follows:

6-36 (f-1) A private entity responding to a request for detailed
6-37 proposals issued under Subsection (f) may submit alternative
6-38 proposals based on comprehensive development agreements having
6-39 different terms, with the alternative terms in multiples of 10
6-40 years, ranging from 10 years to 40 years or any lesser term provided
6-41 in a comprehensive development agreement.

6-42 SECTION 5.02. Subsection (h), Section 223.208,
6-43 Transportation Code, is amended to read as follows:

6-44 (h) A ~~[Except as provided by this section, a]~~ comprehensive
6-45 development agreement with a private participant that includes the
6-46 collection by the private participant of tolls for the use of a toll
6-47 project may be for a term not longer than 40 ~~[50]~~ years. The
6-48 comprehensive development agreement must contain ~~[may be for a term~~
6-49 ~~not longer than 70 years if the agreement.~~

6-50 ~~[(1) contains]~~ an explicit mechanism for setting the
6-51 price for the purchase by the department of the interest of the
6-52 private participant in the comprehensive development agreement and
6-53 related property, including any interest in a highway or other
6-54 facility designed, developed, financed, constructed, operated, or
6-55 maintained under the agreement ~~[, and~~

6-56 ~~[(2) outlines the benefit the state will derive from~~
6-57 ~~having a term longer than 50 years].~~

6-58 SECTION 5.03. Subsection (f), Section 227.023,
6-59 Transportation Code, is amended to read as follows:

6-60 (f) A contract with a private entity that includes the
6-61 collection by the private entity of a fee for the use of a facility
6-62 may not be for a term longer than 40 ~~[50]~~ years. The contract must
6-63 contain an explicit mechanism for setting the price for the
6-64 purchase by the department of the interest of the private
6-65 participant in the contract and related property, including any
6-66 interest in a highway or other facility designed, developed,
6-67 financed, constructed, operated, or maintained under the contract.

6-68 SECTION 5.04. Subsection (i), Section 370.302,
6-69 Transportation Code, is amended to read as follows:

(i) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project may not be for a term longer than 40 [~~50~~] years. The agreement must contain an explicit mechanism for setting the price for the purchase by the authority of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

SECTION 5.05. The changes in law made by this article apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

ARTICLE 6. BILL OF RIGHTS FOR OWNERS OF PROPERTY THAT MAY BE ACQUIRED FOR TRANSPORTATION PURPOSES

SECTION 6.01. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.031 to read as follows:

Sec. 402.031. PREPARATION OF LANDOWNER'S BILL OF RIGHTS STATEMENT. (a) The attorney general shall prepare a written statement that includes a bill of rights for a property owner whose real property may be acquired by a governmental or private entity through the use of the entity's eminent domain authority under Chapter 21, Property Code, for transportation purposes.

(b) The landowner's bill of rights must notify each property owner that the property owner has the right to:

(1) notice of the proposed acquisition of the owner's property;

(2) a bona fide good faith effort to negotiate by the entity proposing to acquire the property;

(3) an assessment of damages to the owner that will result from the taking of the property;

(4) a hearing under Chapter 21, Property Code, including a hearing on the assessment of damages; and

(5) an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages.

(c) The statement must include:

(1) the title, "Landowner's Bill of Rights"; and

(2) a description of:

(A) the condemnation procedure provided by Chapter 21, Property Code;

(B) the condemning entity's obligations to the property owner; and

(C) the property owner's options during a condemnation, including the property owner's right to object to and appeal an amount of damages awarded.

(d) The office of the attorney general shall:

(1) write the statement in plain language designed to be easily understood by the average property owner; and

(2) make the statement available on the attorney general's Internet website.

SECTION 6.02. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.0112 to read as follows:

Sec. 21.0112. PROVISION OF LANDOWNER'S BILL OF RIGHTS STATEMENT REQUIRED. (a) Before a governmental or private entity with eminent domain authority begins negotiating with a property owner to acquire real property for transportation purposes, the entity must send or provide a landowner's bill of rights statement provided by Section 402.031, Government Code, to the person in whose name the property is listed on the most recent tax roll of any appropriate taxing unit authorized by law to levy property taxes against the property.

(b) The statement must be:

(1) printed in an easily readable font and type size; and

(2) if the entity is a governmental entity, made available on the Internet website of the entity if technologically feasible.

SECTION 6.03. Subsection (b), Section 21.012, Property

Code, is amended to read as follows:

(b) The petition must:

- (1) describe the property to be condemned;
- (2) state the purpose for which the entity intends to use the property;
- (3) state the name of the owner of the property if the owner is known; ~~and~~
- (4) state that the entity and the property owner are unable to agree on the damages; and
- (5) if applicable, state that the entity provided the property owner with the landowner's bill of rights statement in accordance with Section 21.0112.

SECTION 6.04. The office of the attorney general shall prepare the landowner's bill of rights statement required by Section 402.031, Government Code, as added by this article, not later than August 31, 2007.

SECTION 6.05. The changes in law made by this article apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding are governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 7. ROUTE SELECTION FOR TRANS-TEXAS CORRIDOR

SECTION 7.01. Section 227.012, Transportation Code, is amended to read as follows:

Sec. 227.012. ROUTE SELECTION. (a) The commission shall consider the following criteria when selecting a route for a segment of the Trans-Texas Corridor:

- (1) current and projected traffic patterns;
- (2) the safety of motorists;
- (3) potential risks to persons from spills or accidents of any kind;
- (4) environmental effects, including the effect on air quality;
- (5) current and projected economic development;
- (6) the current and projected need for additional transportation options; and
- (7) system connectivity.

(b) To the extent possible, the commission shall select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System.

(c) Before the 11th day after making a determination under Subsection (b) that it is not possible to select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System, the commission shall file a written report of that determination and the reasons supporting the determination with each member of the legislature.

SECTION 7.02. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 8. GIFTS TO CERTAIN TEXAS TRANSPORTATION COMMISSION EMPLOYEES PROHIBITED

SECTION 8.01. Subsection (a), Section 201.001, Transportation Code, is amended by adding Subdivision (4) to read as follows:

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

SECTION 8.02. Subchapter B, Chapter 201, Transportation Code, is amended by adding Sections 201.060 and 201.061 to read as follows:

Sec. 201.060. GIFT TO COMMISSIONER OR SENIOR EMPLOYEE; OFFENSE. (a) In this section, "benefit" means anything reasonably

9-1 regarded as pecuniary gain or pecuniary advantage, including
 9-2 benefit to any other person in whose welfare the beneficiary has a
 9-3 direct and substantial interest.

9-4 (b) A commissioner or senior employee commits an offense if
 9-5 the commissioner or senior employee solicits, accepts, or agrees to
 9-6 accept any benefit from:

9-7 (1) a person the commissioner or senior employee knows
 9-8 to be subject to regulation, inspection, or investigation by the
 9-9 commission; or

9-10 (2) a person the commissioner or senior employee knows
 9-11 is interested in or likely to become interested in any contract,
 9-12 purchase, payment, claim, transaction, or matter involving the
 9-13 exercise of the commissioner's or senior employee's discretion.

9-14 (c) A commissioner or senior employee who receives an
 9-15 unsolicited benefit that the commissioner or senior employee is
 9-16 prohibited from accepting under this section may donate the benefit
 9-17 to a governmental entity that has the authority to accept the gift
 9-18 or may donate the benefit to a recognized tax-exempt charitable
 9-19 organization formed for educational, religious, or scientific
 9-20 purposes.

9-21 (d) This section does not apply to:

9-22 (1) a fee prescribed by law to be received by a
 9-23 commissioner or senior employee;

9-24 (2) a benefit to which the commissioner or senior
 9-25 employee is lawfully entitled; or

9-26 (3) a benefit for which the commissioner or senior
 9-27 employee gives legitimate consideration in a capacity other than as
 9-28 a commissioner or senior employee.

9-29 (e) An offense under this section is a Class A misdemeanor.

9-30 (f) If conduct that constitutes an offense under this
 9-31 section also constitutes an offense under Section 36.08, Penal
 9-32 Code, the actor may be prosecuted under this section or Section
 9-33 36.08.

9-34 Sec. 201.061. OFFERING GIFT TO COMMISSIONER OR SENIOR
 9-35 EMPLOYEE; OFFENSE. (a) A person commits an offense if the person
 9-36 offers, confers, or agrees to confer any benefit on a commissioner
 9-37 or senior employee that the person knows the commissioner or senior
 9-38 employee is prohibited from accepting under Section 201.060.

9-39 (b) An offense under this section is a Class A misdemeanor.

9-40 (c) If conduct that constitutes an offense under this
 9-41 section also constitutes an offense under Section 36.09, Penal
 9-42 Code, the actor may be prosecuted under this section or Section
 9-43 36.09.

9-44 SECTION 8.03. The change in law made by this article applies
 9-45 only to an offense committed on or after September 1, 2007. An
 9-46 offense committed before September 1, 2007, is covered by the law in
 9-47 effect when the offense was committed, and the former law is
 9-48 continued in effect for that purpose. For the purposes of this
 9-49 section, an offense was committed before September 1, 2007, if any
 9-50 element of the offense occurred before that date.

9-51 ARTICLE 9. DESIGNATION OF EXCLUSIVE HIGHWAY LANES

9-52 SECTION 9.01. Subsection (b), Section 224.1541,
 9-53 Transportation Code, is amended to read as follows:

9-54 (b) The commission may designate a lane as an exclusive lane
 9-55 under Subsection (a) only if the commission determines that the use
 9-56 or operation of the exclusive lane is likely to enhance safety,
 9-57 mobility, or air quality and:

9-58 (1) ~~there~~
 9-59 ~~[(A) are]~~ two or more lanes adjacent to the
 9-60 proposed exclusive lane are available for the use of vehicles other
 9-61 than vehicles for which the lane is restricted; ~~or~~

9-62 (2) ~~[(B) is]~~ a multilane facility adjacent to the
 9-63 proposed exclusive lane is available for the use of vehicles other
 9-64 than vehicles for which the lane is restricted; or

9-65 (3) the proposed exclusive lane is to be used only by
 9-66 commercial motor vehicles as defined by commission order ~~and~~

9-67 ~~[(2) the use or operation of the exclusive lane is~~
 9-68 ~~likely to enhance safety, mobility, or air quality].~~

9-69 SECTION 9.02. This article takes effect immediately if this

Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE 10. ENVIRONMENTAL REVIEW

SECTION 10.01. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.605 to read as follows:

Sec. 201.605. STATEMENT OF PURPOSE AND NEED. The department shall publish the proposed Statement of Purpose and Need of a draft environmental impact statement in the Texas Register and receive comment for at least 30 days after the date of first publication.

ARTICLE 11. REPORTS AND INFORMATION BY TEXAS DEPARTMENT OF TRANSPORTATION

SECTION 11.01. Subchapter J, Chapter 201, Transportation Code, is amended by adding Section 201.805 to read as follows:

Sec. 201.805. REPORTS AND INFORMATION. (a) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database a statistical comparison of department districts and the following information, calculated on a per capita basis considering the most recent census data and listed for each county and for the state for each fiscal year:

- (1) the number of square miles;
- (2) the number of vehicles registered;
- (3) the population;
- (4) daily vehicle miles;
- (5) the number of centerline miles and lane miles;
- (6) construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (7) combined construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (8) the number of district and division office construction and maintenance employees;
- (9) information regarding grant programs, including:
 - (A) Automobile Theft Prevention Authority grants;
 - (B) Routine Airport Maintenance Program grants;
 - (C) Public Transportation Grant Program grants;
 - (D) Medical Transportation Program grants; and
 - (E) aviation grants or aviation capital improvement grants;
- (10) approved State Infrastructure Bank loans; and
- (11) Texas Traffic Safety Program grants and expenditures.

(b) The department shall include information from all department contracts in the statistical comparison and information reports required under Subsection (a).

ARTICLE 12. TOLL COLLECTION

SECTION 12.01. Subsection (a), Section 228.054, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (e) or Section 228.0545, the operator of a vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility shall pay the proper toll.

SECTION 12.02. Subchapter B, Chapter 228, Transportation Code, is amended by adding Section 228.0545 to read as follows:

Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, the department may use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll at a later date. The toll charged for video billing or other tolling methods may be different from the toll paid at the time the vehicle is driven or towed through a toll collection facility.

(b) The department may use automated enforcement technology authorized under Section 228.058 to identify the registered owner of the vehicle for purposes of billing, collection, and enforcement

11-1 activities.

11-2 (c) The department shall send by first class mail to the
 11-3 registered owner of the vehicle a written notice of the total amount
 11-4 due. The notice must specify the date, which may not be earlier
 11-5 than the 15th day after the date the notice is mailed, by which the
 11-6 amount due must be paid. The registered owner shall pay the amount
 11-7 due on or before the date specified in the notice.

11-8 (d) The department shall send the notice required under
 11-9 Subsection (c) and subsequent notices to:

11-10 (1) the registered owner's address as shown in the
 11-11 vehicle registration records of the department; or

11-12 (2) if the department determines that the owner's
 11-13 address shown in those records is inaccurate, an alternate address
 11-14 provided by the owner or derived through other reliable means.

11-15 (e) The commissioners court of a county operating under
 11-16 Chapter 284 or an operating board appointed by the commissioners
 11-17 court of the county, the board of directors of a regional tollway
 11-18 authority under Chapter 366, or the board of directors of a regional
 11-19 mobility authority under Chapter 370, by official action may adopt
 11-20 the alternative tolling methods authorized by this section. If the
 11-21 alternative tolling methods authorized by this section are adopted
 11-22 by the commissioners court or operating board of a county or by the
 11-23 board of directors of an authority:

11-24 (1) a reference in this section to the department,
 11-25 other than in Subsection (d)(1), means the county or the authority,
 11-26 as applicable; and

11-27 (2) each provision of Sections 228.055 and 228.056
 11-28 that is necessary or convenient for the implementation or
 11-29 enforcement of the alternative tolling methods also applies to the
 11-30 county or the authority, as applicable.

11-31 SECTION 12.03. Subsections (a), (b), (d), (e), and (h),
 11-32 Section 228.055, Transportation Code, are amended to read as
 11-33 follows:

11-34 (a) In the event of nonpayment of the [~~proper~~] toll as
 11-35 required by Section 228.054 or Section 228.0545, on issuance of a
 11-36 written notice of nonpayment, the registered owner of the nonpaying
 11-37 vehicle is liable for the payment of both the proper toll and an
 11-38 administrative fee.

11-39 (b) The department may impose and collect the
 11-40 administrative fee, so as to recover the cost of collecting the
 11-41 unpaid toll, not to exceed \$100. The department shall send a
 11-42 written notice of nonpayment to the registered owner of the vehicle
 11-43 at that owner's address as shown in the vehicle registration
 11-44 records of the department by first class mail and may require
 11-45 payment not sooner than the 30th day after the date the notice was
 11-46 mailed. If the department determines that the owner's address as
 11-47 shown in the vehicle registration records is inaccurate, the
 11-48 department may send the notice of nonpayment to an alternate
 11-49 address provided by the owner or derived through other reliable
 11-50 means. The department may use the alternate address in lieu of the
 11-51 address of record on all subsequent notices of nonpayment. The
 11-52 registered owner shall pay a separate toll and administrative fee
 11-53 for each event of nonpayment under Section 228.054 or Section
 11-54 228.0545.

11-55 (d) It is an exception to the application of Subsection (a)
 11-56 or (c) if the registered owner of the vehicle is a lessor of the
 11-57 vehicle and not later than the 30th day after the date the notice of
 11-58 nonpayment is mailed provides to the department a copy of the
 11-59 rental, lease, or other contract document covering the vehicle on
 11-60 the date of the nonpayment under Section 228.054 or the date the
 11-61 vehicle was driven or towed through a toll collection facility that
 11-62 results in a notice issued under Section 228.0545, with the name and
 11-63 address of the lessee clearly legible. If the lessor provides the
 11-64 required information within the period prescribed, the department
 11-65 may send a notice of nonpayment to the lessee at the address shown
 11-66 on the contract document by first class mail before the 30th day
 11-67 after the date of receipt of the required information from the
 11-68 lessor. The lessee of the vehicle for which the proper toll was not
 11-69 paid who is mailed a written notice of nonpayment under this

12-1 subsection and fails to pay the proper toll and administrative fee
 12-2 within the time specified by the notice of nonpayment commits an
 12-3 offense. The lessee shall pay a separate toll and administrative
 12-4 fee for each event of nonpayment. Each failure to pay a toll or
 12-5 administrative fee under this subsection is a separate offense.

12-6 (e) It is an exception to the application of Subsection (a)
 12-7 or (c) if the registered owner of the vehicle transferred ownership
 12-8 of the vehicle to another person before the event of nonpayment
 12-9 under Section 228.054 occurred or before the date the vehicle was
 12-10 driven or towed through a toll collection facility that results in a
 12-11 notice issued under Section 228.0545, submitted written notice of
 12-12 the transfer to the department in accordance with Section 520.023,
 12-13 and, before the 30th day after the date the notice of nonpayment is
 12-14 mailed, provides to the department the name and address of the
 12-15 person to whom the vehicle was transferred. If the former owner of
 12-16 the vehicle provides the required information within the period
 12-17 prescribed, the department may send a notice of nonpayment to the
 12-18 person to whom ownership of the vehicle was transferred at the
 12-19 address provided by the former owner by first class mail before the
 12-20 30th day after the date of receipt of the required information from
 12-21 the former owner. The department may send all subsequent notices of
 12-22 nonpayment associated with the vehicle to the person to whom
 12-23 ownership of the vehicle was transferred at the address provided by
 12-24 the former owner or an alternate address provided by the subsequent
 12-25 owner or derived through other reliable means. The subsequent
 12-26 owner of the vehicle for which the proper toll was not paid who is
 12-27 mailed a written notice of nonpayment under this subsection and
 12-28 fails to pay the proper toll and administrative fee within the time
 12-29 specified by the notice of nonpayment commits an offense. The
 12-30 subsequent owner shall pay a separate toll and administrative fee
 12-31 for each event of nonpayment under Section 228.054 or Section
 12-32 228.0545. Each failure to pay a toll or administrative fee under
 12-33 this subsection is a separate offense.

12-34 (h) In this section and in Section 228.0545, "registered
 12-35 owner" means the owner of a vehicle as shown on the vehicle
 12-36 registration records of the department or the analogous department
 12-37 or agency of another state or country.

12-38 SECTION 12.04. Subsection (b), Section 228.056,
 12-39 Transportation Code, is amended to read as follows:

12-40 (b) In the prosecution of an offense under Section
 12-41 228.055(c), (d), or (e):

12-42 (1) it is presumed that the notice of nonpayment was
 12-43 received on the fifth day after the date of mailing;

12-44 (2) a computer record of the department of the
 12-45 registered owner of the vehicle is prima facie evidence of its
 12-46 contents and that the defendant was the registered owner of the
 12-47 vehicle when the underlying event of nonpayment under Section
 12-48 228.054 occurred or on the date the vehicle was driven or towed
 12-49 through a toll collection facility that results in a notice issued
 12-50 under Section 228.0545; and

12-51 (3) a copy of the rental, lease, or other contract
 12-52 document covering the vehicle on the date of the underlying event of
 12-53 nonpayment under Section 228.054 or on the date the vehicle was
 12-54 driven or towed through a toll collection facility that results in a
 12-55 notice issued under Section 228.0545 is prima facie evidence of its
 12-56 contents and that the defendant was the lessee of the vehicle when
 12-57 the underlying event of nonpayment under Section 228.054 occurred
 12-58 or when the vehicle was driven or towed through a toll collection
 12-59 facility that results in a notice issued under Section 228.0545.

12-60 ARTICLE 13. CONVERSION OF NONTOLLED STATE HIGHWAY OR SEGMENT OF
 12-61 STATE HIGHWAY SYSTEM TO TOLL PROJECT

12-62 SECTION 13.01. Subsection (a), Section 228.201,
 12-63 Transportation Code, is amended to read as follows:

12-64 (a) ~~The [Except as provided by Section 228.2015, the]~~
 12-65 department may not operate a nontolled state highway or a segment of
 12-66 a nontolled state highway as a toll project, and may not transfer a
 12-67 highway or segment to another entity for operation as a toll
 12-68 project, unless:

12-69 (1) the commission by order designated the highway or

13-1 segment as a toll project before the contract to construct the
13-2 highway or segment was awarded;

13-3 (2) the highway or segment was open to traffic as a
13-4 turnpike project on or before September 1, 2005;

13-5 (3) the project was designated as a toll project in a
13-6 plan or program of a metropolitan planning organization on or
13-7 before September 1, 2005;

13-8 (4) the highway or segment is reconstructed so that
13-9 the number of nontolled lanes on the highway or segment is greater
13-10 than or equal to the number in existence before the reconstruction;

13-11 (5) a facility is constructed adjacent to the highway
13-12 or segment so that the number of nontolled lanes on the converted
13-13 highway or segment and the adjacent facility together is greater
13-14 than or equal to the number in existence on the converted highway or
13-15 segment before the conversion; or

13-16 (6) subject to Subsection (b), the highway or segment
13-17 was open to traffic as a high-occupancy vehicle lane on May 1,
13-18 2005[~~, or~~

13-19 [~~(7) the commission converts the highway or segment to~~
13-20 ~~a toll facility by:~~

13-21 [~~(A) making the determination required by~~
13-22 ~~Section 228.202,~~

13-23 [~~(B) conducting the hearing required by Section~~
13-24 ~~228.203, and~~

13-25 [~~(C) obtaining county and voter approval as~~
13-26 ~~required by Sections 228.207 and 228.208].~~

13-27 SECTION 13.02. Sections 228.207 and 228.208,
13-28 Transportation Code, are repealed.

13-29 SECTION 13.03. This article takes effect immediately if
13-30 this Act receives a vote of two-thirds of all the members elected to
13-31 each house, as provided by Section 39, Article III, Texas
13-32 Constitution. If this Act does not receive the vote necessary for
13-33 immediate effect, this article takes effect September 1, 2007.

13-34 ARTICLE 14. PUBLIC ACCESS TO TRANS-TEXAS CORRIDOR INFORMATION
13-35 SECTION 14.01. Subchapter A, Chapter 227, Transportation
13-36 Code, is amended by adding Sections 227.005 through 227.008 to read
13-37 as follows:

13-38 Sec. 227.005. PUBLIC ACCESS TO INFORMATION. (a) The
13-39 department shall:

13-40 (1) seek to achieve transparency in the department's
13-41 functions related to the Trans-Texas Corridor by providing, to the
13-42 greatest extent possible under the public information law (Chapter
13-43 552, Government Code) and other statutes governing the access to
13-44 records, public access to information collected, assembled, or
13-45 maintained by the department relating to the Trans-Texas Corridor;

13-46 (2) make public in a timely manner all documents,
13-47 plans, and contracts related to the Trans-Texas Corridor; and

13-48 (3) make public in a timely manner all updates to the
13-49 master development plan for the Trans-Texas Corridor, including
13-50 financial plans.

13-51 (b) The department shall send electronic versions of all
13-52 updates to the master development plan for the Trans-Texas Corridor
13-53 to the Governor's Office of Budget and Planning, the Senate
13-54 Committee on Transportation and Homeland Security, the House
13-55 Transportation Committee, the Senate Committee on Finance, the
13-56 House Appropriations Committee, the Legislative Budget Board, the
13-57 state auditor's office, the comptroller, and a depository library
13-58 of this state in a timely manner.

13-59 Sec. 227.006. POSTING INFORMATION RELATING TO TRANS-TEXAS
13-60 CORRIDOR ON DEPARTMENT'S WEBSITE. (a) The department shall post
13-61 on the department's Internet website, in a timely manner, the costs
13-62 incurred by the department in connection with the financing,
13-63 design, construction, maintenance, or operation of the Trans-Texas
13-64 Corridor.

13-65 (b) Not later than the 10th day after the date the
13-66 department enters into a contract relating to the Trans-Texas
13-67 Corridor, the department shall post a copy of the contract on the
13-68 department's Internet website.

13-69 (c) The department shall post each financial forecast

14-1 prepared in connection with a segment of the Trans-Texas Corridor
 14-2 on the department's Internet website and update that forecast at
 14-3 least quarterly.

14-4 (d) The department shall require each person with whom the
 14-5 department has entered into a construction contract under this
 14-6 chapter to provide semiannual percentage of construction
 14-7 completion reports to the department and post each report received
 14-8 on the department's Internet website.

14-9 (e) Before the 10th day of each month, for each segment of
 14-10 the Trans-Texas Corridor, the department shall post a report of the
 14-11 department's expenditures in connection with that segment during
 14-12 the preceding month that sets out the object of each expenditure.

14-13 Sec. 227.007. REVENUE PROJECTIONS. The department may not
 14-14 use department personnel to make projections of the revenue to be
 14-15 generated by a tolled segment of the Trans-Texas Corridor and shall
 14-16 enter into an interagency contract with the comptroller under which
 14-17 the comptroller:

14-18 (1) makes the projections for the department; and
 14-19 (2) projects the toll revenue for each geographic
 14-20 region of a tolled segment before the department enters into an
 14-21 agreement for the financing, design, construction, or operation of
 14-22 that segment.

14-23 Sec. 227.008. AUDITS BY STATE AUDITOR. The state auditor
 14-24 shall audit each annual financial statement prepared for a tolled
 14-25 segment of the Trans-Texas Corridor or a combination of segments of
 14-26 the Trans-Texas Corridor.

14-27 SECTION 14.02. Section 227.023, Transportation Code, is
 14-28 amended by adding Subsection (c-1) to read as follows:

14-29 (c-1) The department may not enter a comprehensive
 14-30 development agreement with a term of more than four years or
 14-31 requiring a total expenditure of more than \$250 million unless the
 14-32 department submits the proposed agreement to the attorney general
 14-33 and obtains the attorney general's approval of the contract.

14-34 ARTICLE 15. DISPOSITION OF REVENUE FROM
 14-35 TRANS-TEXAS CORRIDOR

14-36 SECTION 15.01. Section 227.083, Transportation Code, is
 14-37 amended to read as follows:

14-38 Sec. 227.083. DISPOSITION OF FEES. (a) To the extent that
 14-39 it is not dedicated to another purpose by the constitution, by
 14-40 statute, or by contract, or deposited to a separate account under
 14-41 this chapter, or subject to Subsection (b), revenue received by the
 14-42 department under this chapter shall be deposited to the credit of
 14-43 the state highway fund and may be used for any purpose authorized by
 14-44 this chapter. Subchapter D, Chapter 316, Government Code, and
 14-45 Section 403.095, Government Code, do not apply to revenue received
 14-46 under this chapter.

14-47 (b) For purposes of this subsection, "surplus toll revenue"
 14-48 includes any amount set aside as a reserve for the cost of
 14-49 maintaining or operating a tolled segment or a combined segment of
 14-50 the Trans-Texas Corridor or the cost of paying the principal of and
 14-51 interest on the toll revenue bonds for the segment or combination.
 14-52 Notwithstanding any other provision of this title, including
 14-53 Section 228.053(b), the department shall deposit any surplus toll
 14-54 revenue held or received by the department to the credit of the
 14-55 state highway fund.

14-56 SECTION 15.02. This article takes effect immediately if
 14-57 this Act receives a vote of two-thirds of all the members elected to
 14-58 each house, as provided by Section 39, Article III, Texas
 14-59 Constitution. If this Act does not receive the vote necessary for
 14-60 immediate effect, this article takes effect September 1, 2007.

14-61 ARTICLE 16. INVOLVEMENT OF METROPOLITAN PLANNING ORGANIZATIONS
 14-62 AND LOCAL ENTITIES IN CERTAIN TOLL PROJECTS

14-63 SECTION 16.01. Chapter 228, Transportation Code, is amended
 14-64 by adding Subchapter G to read as follows:

14-65 SUBCHAPTER G. METROPOLITAN PLANNING ORGANIZATION
 14-66 AND LOCAL ENTITY INVOLVEMENT

14-67 Sec. 228.301. FINANCIAL REPORT. (a) The department and a
 14-68 metropolitan planning organization that serves the area in which a
 14-69 department toll project is located shall appoint a committee to

15-1 review the financial data on planned and existing toll projects
 15-2 located within the planning area of the metropolitan planning
 15-3 organization. The metropolitan planning organization shall
 15-4 appoint to the committee as representatives of the organization the
 15-5 chair, the vice chair, and no more than three other members serving
 15-6 on the policy board of the organization. If possible, the appointed
 15-7 members shall be elected officials. The department shall appoint
 15-8 to the committee as representatives of the department no more than
 15-9 five members of the commission or their designees. The chair of the
 15-10 metropolitan planning organization shall chair the committee.

15-11 (b) Not later than March 31 of each year, the department
 15-12 shall file with the commissioners court of each county in which the
 15-13 department operates a toll project a written report on the findings
 15-14 of the committee established under Subsection (a). At the
 15-15 invitation of a commissioners court of a county in which the
 15-16 department operates a toll project, representatives of the board
 15-17 and the administrative head of the department shall appear before
 15-18 the commissioners court to present the report and receive questions
 15-19 and comments.

15-20 Sec. 228.302. METROPOLITAN PLANNING ORGANIZATION APPROVAL
 15-21 REQUIRED. (a) For each toll project of the department that is
 15-22 located within an area served by a metropolitan planning
 15-23 organization, the department must obtain approval of the policy
 15-24 board of the metropolitan planning organization before the
 15-25 department may:

15-26 (1) lease, sell, or convey in another manner the
 15-27 project;

15-28 (2) contract with a person for the person to operate
 15-29 all or part of the project;

15-30 (3) refinance the project for the purpose of extending
 15-31 the time before the discharge of bonded indebtedness on the
 15-32 project;

15-33 (4) continue to impose tolls after the discharge of
 15-34 bonded indebtedness on the project, unless the tolls are imposed to
 15-35 pay for the maintenance and operation of the project; or

15-36 (5) spend surplus revenue from the project on other
 15-37 transportation projects.

15-38 (b) The department may not conduct preliminary engineering
 15-39 or environmental studies for a toll project located in an area
 15-40 served by a metropolitan planning organization unless the policy
 15-41 board of the organization specifically authorizes the department to
 15-42 conduct the preliminary engineering or environmental studies.

15-43 Sec. 228.303. TOLL PROJECTS IN CERTAIN COUNTIES. (a) This
 15-44 section applies only to a county acting under Chapter 284.

15-45 (b) The county is the entity that has primary responsibility
 15-46 for the financing, construction, and operation of a toll project
 15-47 located in the county.

15-48 (c) To the extent authorized by federal law or authorized or
 15-49 required by this title, the commission and the department shall
 15-50 assist the county in the financing, construction, and operation of
 15-51 a toll project in the county by allowing the county to use highway
 15-52 right-of-way owned by the department and to access the state
 15-53 highway system.

15-54 (d) Subsections (b) and (c) do not limit the authority of
 15-55 the commission or the department to participate in the cost of
 15-56 acquiring, constructing, maintaining, or operating a turnpike
 15-57 project of the county under Chapter 284.

15-58 (e) Before the commission or the department may enter into a
 15-59 contract for the financing, construction, or operation of a
 15-60 proposed or existing toll project any part of which is located in
 15-61 the county, the commission or department shall provide the county
 15-62 the first option to finance, construct, or operate, as applicable,
 15-63 the portion of the toll project located in the county:

15-64 (1) on terms agreeable to the county, without the
 15-65 requirement of any payment to the commission or the department
 15-66 except as provided by Section 284.004(a); and

15-67 (2) in a manner determined by the county to be
 15-68 consistent with the practices and procedures by which the county
 15-69 finances, constructs, or operates a project.

16-1 (f) A county's right to exercise the first option under
 16-2 Subsection (e) is effective for six months following the date of
 16-3 receipt by the county of written notification from the commission
 16-4 or the department meeting the requirements of Subsection (e) and
 16-5 describing in reasonable detail the location of the toll project, a
 16-6 projected cost estimate, sources and uses of funds, and a
 16-7 construction schedule. If a county exercises the first option with
 16-8 respect to a toll project, the county must enter into one or more
 16-9 contracts for the financing, construction, or operation of the toll
 16-10 project within 18 months of the date of exercising the option. A
 16-11 contract may include agreements for design of the project,
 16-12 acquisition of right-of-way, and utility relocation. If the county
 16-13 does not enter into a contract within the 18-month period, the
 16-14 commission or the department may enter into a contract for the
 16-15 financing, construction, or operation of the toll project with a
 16-16 different entity.

16-17 (g) Except as provided by Section 284.004(a), an agreement
 16-18 entered into by the county and the commission or the department in
 16-19 connection with a project under Chapter 284 that is financed,
 16-20 constructed, or operated by the county and that is on or directly
 16-21 connected to the state highway system may not require the county to
 16-22 make any payments to the commission or the department.

16-23 (h) An agreement entered into by the county and the
 16-24 commission or department in connection with a project under Chapter
 16-25 284 that is financed, constructed, or operated by the county and
 16-26 that is on or directly connected to a highway in the state highway
 16-27 system does not create a joint enterprise for liability purposes.

16-28 Sec. 228.304. TOLL PROJECTS IN TERRITORY OF LOCAL OR
 16-29 REGIONAL TOLL PROJECT ENTITY. (a) In this section, "local toll
 16-30 project entity" means:

16-31 (1) a regional tollway authority under Chapter 366; or

16-32 (2) a regional mobility authority under Chapter 370.

16-33 (b) For each toll project located within the boundaries of a
 16-34 local toll project entity, the policy board of the metropolitan
 16-35 planning organization shall notify the local toll project entity by
 16-36 mail that the entity has the first option to develop, finance,
 16-37 construct, and operate the project. The local toll project entity
 16-38 must decide whether to exercise the option before the 90th day after
 16-39 the date the notice sent under this subsection is received by the
 16-40 local toll project entity.

16-41 (c) If the local toll project entity does not exercise the
 16-42 option to develop, finance, construct, and operate a toll project
 16-43 under Subsection (b), the metropolitan planning organization shall
 16-44 allow the department to develop, finance, construct, and operate
 16-45 the project.

16-46 (d) If the department determines that a toll project offered
 16-47 to the department under Subsection (c) should be developed,
 16-48 financed, constructed, and operated under a comprehensive
 16-49 development agreement, a request for proposal shall include the
 16-50 terms and conditions approved by the policy board of the
 16-51 metropolitan planning organization.

16-52 (e) A local toll project entity that exercises the option
 16-53 under Subsection (b) must begin the environmental phase of the
 16-54 project within 18 months of the action taken by the entity under
 16-55 Subsection (b).

16-56 (f) If a local toll project entity does not exercise the
 16-57 right to first option under Subsection (b) and after five years
 16-58 after the date of the notice under Subsection (b) the commission or
 16-59 the department has not issued a request for proposal or taken any
 16-60 other action to begin the toll project, before taking such an action
 16-61 the commission or the department shall provide the toll project
 16-62 entity the right to first option under Subsection (b).

16-63 (g) A local toll project entity shall provide customer
 16-64 service and other toll collection and enforcement services for a
 16-65 toll project, regardless of whether the toll project is developed,
 16-66 financed, constructed, and operated under a comprehensive
 16-67 development agreement or an agreement with the toll project entity.

16-68 (h) For the purposes of this section, a notice is considered
 16-69 received on the third business day after the date that the notice is

17-1 mailed.

17-2 Sec. 228.305. DETERMINATION OF APPLICABLE METROPOLITAN
 17-3 PLANNING ORGANIZATION. If a toll project is located within the
 17-4 boundaries of more than one metropolitan planning organization, the
 17-5 metropolitan planning organization within whose boundaries a
 17-6 majority of the project is located shall, with respect to that
 17-7 project, exercise the powers granted to a metropolitan planning
 17-8 organization under this subchapter.

17-9 Sec. 228.306. LOCAL GOVERNMENT APPROVAL OF COMPREHENSIVE
 17-10 DEVELOPMENT AGREEMENT. Before the commission or department may
 17-11 finally execute a contract for a project involving a comprehensive
 17-12 development agreement, the commissioners court for the county in
 17-13 which the largest portion of the project is located must pass a
 17-14 supporting resolution.

17-15 SECTION 16.02. Chapter 370, Transportation Code, is amended
 17-16 by adding Subchapter K to read as follows:

17-17 SUBCHAPTER K. METROPOLITAN PLANNING ORGANIZATION PARTICIPATION

17-18 Sec. 370.401. FINANCIAL REPORT. (a) An authority and the
 17-19 metropolitan planning organization that serves the area within the
 17-20 boundaries of the authority shall appoint a committee to review the
 17-21 financial data on planned and existing turnpike projects located
 17-22 within the planning area of the metropolitan planning organization.
 17-23 The metropolitan planning organization shall appoint to the
 17-24 committee as representatives of the organization the chair, the
 17-25 vice chair, and no more than three other members serving on the
 17-26 policy board of the organization. If possible, the appointed
 17-27 members shall be elected officials. The authority shall appoint to
 17-28 the committee as representatives of the authority no more than five
 17-29 members of the governing board of the authority, including any or
 17-30 all of the elected officials serving on the governing board of the
 17-31 authority. The chair of the metropolitan planning organization
 17-32 shall chair the committee.

17-33 (b) Not later than March 31 of each year, an authority shall
 17-34 file with the commissioners court of each county in which the
 17-35 authority operates a turnpike project a written report on the
 17-36 findings of the committee established under Subsection (a). At the
 17-37 invitation of a commissioners court of a county in which the
 17-38 authority operates a turnpike project, representatives of the board
 17-39 and the administrative head of an authority shall appear before the
 17-40 commissioners court to present the report and receive questions and
 17-41 comments.

17-42 (c) The report required by this section may be given in
 17-43 conjunction with the report required by Section 370.261.

17-44 Sec. 370.402. METROPOLITAN PLANNING ORGANIZATION APPROVAL
 17-45 REQUIRED. (a) For each turnpike project of an authority that is
 17-46 located within an area served by a metropolitan planning
 17-47 organization, the authority must obtain approval of the policy
 17-48 board of the metropolitan planning organization before the
 17-49 authority may:

17-50 (1) lease, sell, or convey in another manner the
 17-51 project;

17-52 (2) contract with a person for the person to operate
 17-53 all or part of the project;

17-54 (3) refinance the project for the purpose of extending
 17-55 the time before the discharge of bonded indebtedness on the
 17-56 project;

17-57 (4) continue to impose tolls after the discharge of
 17-58 bonded indebtedness on the project, unless the tolls are imposed to
 17-59 pay for the maintenance and operation of the project; or

17-60 (5) spend surplus revenue from the project on other
 17-61 transportation projects.

17-62 (b) An authority may not conduct preliminary engineering or
 17-63 environmental studies for a turnpike project located in an area
 17-64 served by a metropolitan planning organization unless the policy
 17-65 board of the organization specifically authorizes the authority to
 17-66 conduct the preliminary engineering or environmental studies.

17-67 (c) An authority that is located within an area served by
 17-68 two metropolitan planning organizations is not subject to
 17-69 Subsections (a)(3), (4), and (5) or Subsection (b).

ARTICLE 17. COUNTY AUTHORITY IN CONNECTION WITH CAUSEWAYS,
BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS

SECTION 17.01. Subdivision (3), Section 284.001,
Transportation Code, is amended to read as follows:

(3) "Project" means:

(A) a causeway, bridge, tunnel, turnpike,
highway, ferry, or any combination of those facilities, including:

(i) [~~(A)~~] a necessary overpass, underpass,
interchange, entrance plaza, toll house, service station,
approach, fixture, and accessory and necessary equipment that has
been designated as part of the project by order of a county;

(ii) [~~(B)~~] necessary administration,
storage, and other buildings that have been designated as part of
the project by order of a county; and

(iii) [~~(C)~~] all property rights,
easements, and related interests acquired; or

(B) a turnpike project or system as those terms
are defined by Section 370.003.

SECTION 17.02. Section 284.003, Transportation Code, is
amended to read as follows:

Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION,
AND COST. (a) A county, acting through the commissioners court of
the county, or a local government corporation, without state
approval, supervision, or regulation, may:

(1) construct, acquire, improve, operate, maintain,
or pool a project located:

(A) exclusively in the county;

(B) in the county and outside the county; or

(C) in one or more counties adjacent to the
county;

(2) issue tax bonds, revenue bonds, or combination tax
and revenue bonds to pay the cost of the construction, acquisition,
or improvement of a project;

(3) impose tolls or charges as otherwise authorized by
this chapter;

(4) construct a bridge over a deepwater [~~deep water~~]
navigation channel, if the bridge does not hinder maritime
transportation; [~~or~~]

(5) construct, acquire, or operate a ferry across a
deepwater navigation channel;

(6) in connection with a project, on adoption of an
order, exercise the powers of a regional mobility authority
operating under Chapter 370; or

(7) enter into a comprehensive development agreement
with a private entity to design, develop, finance, construct,
maintain, repair, operate, extend, or expand a proposed or existing
project in the county to the extent and in the manner applicable to
the department under Chapter 223 or to a regional tollway authority
under Chapter 366.

(b) The county or a local government corporation may
exercise a power provided by Subsection (a)(6) only in a manner
consistent with the other powers provided by this chapter. To the
extent of a conflict between this chapter and Chapter 370, this
chapter prevails.

(c) A project or any portion of a project that is owned by
the county and licensed or leased to a private entity or operated by
a private entity under this chapter to provide transportation
services to the general public is public property used for a public
purpose and exempt from taxation by this state or a political
subdivision of this state.

(d) If the county constructs, acquires, improves, operates,
maintains, or pools a project under this chapter, before December
31 of each even-numbered year the county shall submit to the
department a plan for the project that includes the time schedule
for the project and describes the use of project funds. The plan
may provide for and permit the use of project funds and other money,
including state or federal funds, available to the county for
roads, streets, highways, and other related facilities in the
county that are not part of a project under this chapter. A plan is

19-1 not subject to approval, supervision, or regulation by the
19-2 commission or the department.

19-3 (e) Except as provided by federal law, an action of a county
19-4 taken under this chapter is not subject to approval, supervision,
19-5 or regulation by a metropolitan planning organization.

19-6 (f) The county may enter into a protocol or other agreement
19-7 with the commission or the department to implement this section
19-8 through the cooperation of the parties to the agreement.

19-9 SECTION 17.03. Subchapter A, Chapter 284, Transportation
19-10 Code, is amended by adding Sections 284.0031 and 284.0032 and
19-11 amending Section 284.004 to read as follows:

19-12 Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS.

19-13 (a) The commissioners court of a county or a local government
19-14 corporation, without state approval, supervision, or regulation
19-15 may:

19-16 (1) authorize the use of surplus revenue of a project
19-17 for the study, design, construction, maintenance, repair, or
19-18 operation of roads, streets, highways, or other related facilities
19-19 that are not part of a project under this chapter; and

19-20 (2) prescribe terms for the use of the surplus
19-21 revenue, including the manner in which the roads, streets,
19-22 highways, or other related facilities are to be studied, designed,
19-23 constructed, maintained, repaired, or operated.

19-24 (b) To implement this section, a county may enter into an
19-25 agreement with the commission, the department, a local governmental
19-26 entity, or another political subdivision of this state.

19-27 (c) A county may not take an action under this section that
19-28 violates or impairs a bond resolution, trust agreement, or
19-29 indenture that governs the use of the revenue of a project.

19-30 (d) Except as provided by this section, a county has the
19-31 same powers and may use the same procedures with respect to the
19-32 study, financing, design, construction, maintenance, repair, or
19-33 operation of a road, street, highway, or other related facility
19-34 under this section as are available to the county with respect to a
19-35 project under this chapter.

19-36 (e) Notwithstanding any other law, an authority created
19-37 pursuant to Chapter 451 that is located primarily in a county with a
19-38 population of more than 3.3 million to which this chapter applies
19-39 and in which the voters have authorized the dedication of a portion
19-40 of its sales and use tax revenue for street improvements and
19-41 mobility projects within the authority's service area must account
19-42 for the entire amount of that liability on its financial statements
19-43 in accordance with generally accepted accounting principles.

19-44 Sec. 284.0032. TRANS-TEXAS CORRIDOR PROJECTS. If a county
19-45 requests or is requested by the commission to participate in the
19-46 development of a project under this chapter that has been
19-47 designated as part of the Trans-Texas Corridor, in connection with
19-48 the project and in addition to the other powers granted by this
19-49 chapter, the county has all the powers of the department related to
19-50 the development of a project that has been designated as part of the
19-51 Trans-Texas Corridor.

19-52 Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY
19-53 ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any
19-54 other law, under this chapter a county may use any county property,
19-55 state highway right-of-way, or access to the state highway system
19-56 [for a project under this chapter], regardless of when or how the
19-57 property, right-of-way, or access is acquired. The department or
19-58 the commission may require the county to comply with any covenant,
19-59 condition, restriction, or limitation that affects state highway
19-60 right-of-way, but may not:

19-61 (1) adopt rules or establish policies that have the
19-62 effect of denying the county the use of the right-of-way or access
19-63 that the county has determined to be necessary or convenient for the
19-64 construction, acquisition, improvement, operation, maintenance, or
19-65 pooling of a project under this chapter or the implementation of a
19-66 plan under Section 284.003(d); or

19-67 (2) require the county to pay for the use of the
19-68 right-of-way or access, except to reimburse the commission or
19-69 department for actual costs incurred or to be incurred by a third

20-1 party, including the federal government, as a result of that use by
 20-2 the county.

20-3 (b) If a project of the county under this chapter includes
 20-4 the proposed use of improved state highway right-of-way, the county
 20-5 and the commission or the department must enter into an agreement
 20-6 that includes reasonable terms to accommodate that use of the
 20-7 right-of-way by the county and to protect the interests of the
 20-8 commission and the department in the use of the right-of-way for
 20-9 operations of the department.

20-10 (c) Notwithstanding any other law, the commission and the
 20-11 department are not liable for any damages that result from a
 20-12 county's use of state highway right-of-way or access to the state
 20-13 highway system under this chapter, regardless of the legal theory,
 20-14 statute, or cause of action under which liability is asserted.

20-15 SECTION 17.04. Subsections (c) and (d), Section 284.008,
 20-16 Transportation Code, are amended to read as follows:

20-17 (c) Except as provided by Subsection (d), a project becomes
 20-18 a part of the state highway system and the commission shall maintain
 20-19 the project without tolls when:

20-20 (1) all of the bonds and interest on the bonds that are
 20-21 payable from or secured by revenues of the project have been paid by
 20-22 the issuer of the bonds or another person with the consent or
 20-23 approval of the issuer; or

20-24 (2) a sufficient amount for the payment of all bonds
 20-25 and the interest on the bonds to maturity has been set aside by the
 20-26 issuer of the bonds or another person with the consent or approval
 20-27 of the issuer in a trust fund held for the benefit of the
 20-28 bondholders.

20-29 (d) ~~A [Before construction on a project under this chapter~~
 20-30 ~~begins, a]~~ county may request that the commission adopt an order
 20-31 stating that a ~~a [the]~~ project will not become part of the state
 20-32 highway system under Subsection (c). If the commission adopts the
 20-33 order:

20-34 (1) Section 362.051 does not apply to the project;
 20-35 (2) the project must be maintained by the county; and
 20-36 (3) the project will not become part of the state
 20-37 highway system unless the county transfers the project under
 20-38 Section 284.011.

20-39 SECTION 17.05. Subchapter A, Chapter 284, Transportation
 20-40 Code, is amended by adding Section 284.0092 to read as follows:

20-41 Sec. 284.0092. AUDIT BY FEDERAL HIGHWAY ADMINISTRATION.
 20-42 The accounts and records of a county relating to a project under
 20-43 this chapter located in a county that has a population of more than
 20-44 3.4 million and is within 100 miles of the Gulf of Mexico are
 20-45 subject to audit by the Federal Highway Administration as deemed
 20-46 necessary by that agency.

20-47 SECTION 17.06. Subchapter A, Chapter 284, Transportation
 20-48 Code, is amended by adding Section 284.010 to read as follows:

20-49 Sec. 284.010. CONTRACTOR CONTRIBUTIONS PROHIBITED. A
 20-50 person who enters into a contract with a county under this chapter
 20-51 may not make a political contribution to a person who is a
 20-52 commissioner or county judge of the county or who is a candidate for
 20-53 the office of commissioner or county judge of the county.

20-54 SECTION 17.07. Subsections (b) and (c), Section 284.065,
 20-55 Transportation Code, are amended to read as follows:

20-56 (b) An existing project may be pooled in whole or in part
 20-57 with a new project or another existing project.

20-58 (c) A project may ~~not~~ be pooled more than once.

20-59 ARTICLE 18. OPERATION OF REGIONAL TOLLWAY AUTHORITIES

20-60 SECTION 18.01. Section 366.003, Transportation Code, is
 20-61 amended by adding Subdivision (9-a) to read as follows:

20-62 (9-a) "Surplus revenue" means the revenue of a
 20-63 turnpike project or system remaining at the end of any fiscal year
 20-64 after all required payments and deposits have been made in
 20-65 accordance with all bond resolutions, trust agreements,
 20-66 indentures, credit agreements, or other instruments and
 20-67 contractual obligations of the authority payable from the revenue
 20-68 of the turnpike project or system.

20-69 SECTION 18.02. Chapter 366, Transportation Code, is amended

21-1 by adding Subchapter H to read as follows:

21-2 SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

21-3 Sec. 366.401. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

21-4 (a) An authority may use a comprehensive development agreement
 21-5 with a private entity to design, develop, finance, construct,
 21-6 maintain, repair, operate, extend, or expand a turnpike project.

21-7 (b) A comprehensive development agreement is an agreement
 21-8 with a private entity that, at a minimum, provides for the design,
 21-9 construction, rehabilitation, expansion, or improvement of a
 21-10 turnpike project and may also provide for the financing,
 21-11 acquisition, maintenance, or operation of a turnpike project.

21-12 (c) An authority may negotiate provisions relating to
 21-13 professional and consulting services provided in connection with a
 21-14 comprehensive development agreement.

21-15 (d) An authority may authorize the investment of public and
 21-16 private money, including debt and equity participation, to finance
 21-17 a function described by this section.

21-18 Sec. 366.402. PROCESS FOR ENTERING INTO COMPREHENSIVE

21-19 DEVELOPMENT AGREEMENTS. (a) If an authority enters into a
 21-20 comprehensive development agreement, the authority shall use a
 21-21 competitive procurement process that provides the best value for
 21-22 the authority. An authority may accept unsolicited proposals for a
 21-23 proposed turnpike project or solicit proposals in accordance with
 21-24 this section.

21-25 (b) An authority shall establish rules and procedures for
 21-26 accepting unsolicited proposals that require the private entity to
 21-27 include in the proposal:

21-28 (1) information regarding the proposed project
 21-29 location, scope, and limits;

21-30 (2) information regarding the private entity's
 21-31 qualifications, experience, technical competence, and capability
 21-32 to develop the project; and

21-33 (3) any other information the authority considers
 21-34 relevant or necessary.

21-35 (c) An authority shall publish a notice advertising a
 21-36 request for competing proposals and qualifications in the Texas
 21-37 Register that includes the criteria to be used to evaluate the
 21-38 proposals, the relative weight given to the criteria, and a
 21-39 deadline by which proposals must be received if:

21-40 (1) the authority decides to issue a request for
 21-41 qualifications for a proposed project; or

21-42 (2) the authority authorizes the further evaluation of
 21-43 an unsolicited proposal.

21-44 (d) A proposal submitted in response to a request published
 21-45 under Subsection (c) must contain, at a minimum, the information
 21-46 required by Subsections (b)(2) and (3).

21-47 (e) An authority may interview a private entity submitting
 21-48 an unsolicited proposal or responding to a request under Subsection
 21-49 (c). The authority shall evaluate each proposal based on the
 21-50 criteria described in the request for competing proposals and
 21-51 qualifications and may qualify or shortlist private entities to
 21-52 submit detailed proposals under Subsection (f). The authority must
 21-53 qualify or shortlist at least two private entities to submit
 21-54 detailed proposals for a project under Subsection (f) unless the
 21-55 authority does not receive more than one proposal or one response to
 21-56 a request under Subsection (c).

21-57 (f) An authority shall issue a request for detailed
 21-58 proposals from all private entities qualified or shortlisted under
 21-59 Subsection (e) if the authority proceeds with the further
 21-60 evaluation of a proposed project. A request under this subsection
 21-61 may require additional information the authority considers
 21-62 relevant or necessary, including information relating to:

21-63 (1) the private entity's qualifications and
 21-64 demonstrated technical competence;

21-65 (2) the feasibility of developing the project as
 21-66 proposed;

21-67 (3) engineering or architectural designs;

21-68 (4) the private entity's ability to meet schedules; or

21-69 (5) a financial plan, including costing methodology

22-1 and cost proposals.

22-2 (g) In issuing a request for proposals under Subsection (f),
 22-3 an authority may solicit input from entities qualified under
 22-4 Subsection (e) or any other person. An authority may also solicit
 22-5 input regarding alternative technical concepts after issuing a
 22-6 request under Subsection (f).

22-7 (h) An authority shall evaluate each proposal based on the
 22-8 criteria described in the request for detailed proposals and select
 22-9 the private entity whose proposal offers the apparent best value to
 22-10 the authority.

22-11 (i) An authority may enter into negotiations with the
 22-12 private entity whose proposal offers the apparent best value.

22-13 (j) If at any point in negotiations under Subsection (i), it
 22-14 appears to the authority that the highest ranking proposal will not
 22-15 provide the authority with the overall best value, the authority
 22-16 may enter into negotiations with the private entity submitting the
 22-17 next-highest-ranking proposal.

22-18 (k) An authority may withdraw a request for competing
 22-19 proposals and qualifications or a request for detailed proposals at
 22-20 any time. The authority may then publish a new request for
 22-21 competing proposals and qualifications.

22-22 (l) An authority may require that an unsolicited proposal be
 22-23 accompanied by a nonrefundable fee sufficient to cover all or part
 22-24 of its cost to review the proposal.

22-25 (m) An authority may pay an unsuccessful private entity that
 22-26 submits a responsive proposal in response to a request for detailed
 22-27 proposals under Subsection (f) a stipulated amount in exchange for
 22-28 the work product contained in that proposal. A stipulated amount
 22-29 must be stated in the request for proposals and may not exceed the
 22-30 value of any work product contained in the proposal that can, as
 22-31 determined by the authority, be used by the authority in the
 22-32 performance of its functions. The use by the authority of any
 22-33 design element contained in an unsuccessful proposal is at the sole
 22-34 risk and discretion of the authority and does not confer liability
 22-35 on the recipient of the stipulated amount under this subsection.
 22-36 After payment of the stipulated amount:

22-37 (1) the authority, with the unsuccessful private
 22-38 entity, jointly owns the rights to, and may make use of any work
 22-39 product contained in, the proposal, including the technologies,
 22-40 techniques, methods, processes, ideas, and information contained
 22-41 in the project design; and

22-42 (2) the use by the unsuccessful private entity of any
 22-43 portion of the work product contained in the proposal is at the sole
 22-44 risk of the unsuccessful private entity and does not confer
 22-45 liability on the authority.

22-46 (n) An authority may prescribe the general form of a
 22-47 comprehensive development agreement and may include any matter the
 22-48 authority considers advantageous to the authority. The authority
 22-49 and the private entity shall finalize the specific terms of a
 22-50 comprehensive development agreement.

22-51 (o) Section 366.185 and Subchapter A, Chapter 223, of this
 22-52 code and Chapter 2254, Government Code, do not apply to a
 22-53 comprehensive development agreement entered into under this
 22-54 subchapter.

22-55 Sec. 366.403. CONFIDENTIALITY OF INFORMATION. (a) To
 22-56 encourage private entities to submit proposals under this
 22-57 subchapter, the following information is confidential, is not
 22-58 subject to disclosure, inspection, or copying under Chapter 552,
 22-59 Government Code, and is not subject to disclosure, discovery,
 22-60 subpoena, or other means of legal compulsion for its release until a
 22-61 final contract for a proposed project is entered into:

22-62 (1) all or part of a proposal that is submitted by a
 22-63 private entity for a comprehensive development agreement, except
 22-64 information provided under Sections 366.402(b)(1) and (2), unless
 22-65 the private entity consents to the disclosure of the information;

22-66 (2) supplemental information or material submitted by
 22-67 a private entity in connection with a proposal for a comprehensive
 22-68 development agreement unless the private entity consents to the
 22-69 disclosure of the information or material; and

23-1 (3) information created or collected by an authority
 23-2 or its agent during consideration of a proposal for a comprehensive
 23-3 development agreement or during the authority's preparation of a
 23-4 proposal to the department relating to a comprehensive development
 23-5 agreement.

23-6 (b) After an authority completes its final ranking of
 23-7 proposals under Section 366.402(h), the final rankings of each
 23-8 proposal under each of the published criteria are not confidential.

23-9 Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY.

23-10 (a) Notwithstanding the requirements of Subchapter B, Chapter
 23-11 2253, Government Code, an authority shall require a private entity
 23-12 entering into a comprehensive development agreement under this
 23-13 subchapter to provide a performance and payment bond or an
 23-14 alternative form of security in an amount sufficient to:

23-15 (1) ensure the proper performance of the agreement;
 23-16 and

23-17 (2) protect:

23-18 (A) the authority; and

23-19 (B) payment bond beneficiaries who have a direct
 23-20 contractual relationship with the private entity or a subcontractor
 23-21 of the private entity to supply labor or material.

23-22 (b) A performance and payment bond or alternative form of
 23-23 security shall be in an amount equal to the cost of constructing or
 23-24 maintaining the project.

23-25 (c) If an authority determines that it is impracticable for
 23-26 a private entity to provide security in the amount described by
 23-27 Subsection (b), the authority shall set the amount of the bonds or
 23-28 the alternative forms of security.

23-29 (d) A payment or performance bond or alternative form of
 23-30 security is not required for the portion of an agreement that
 23-31 includes only design or planning services, the performance of
 23-32 preliminary studies, or the acquisition of real property.

23-33 (e) The amount of the payment security must not be less than
 23-34 the amount of the performance security.

23-35 (f) In addition to, or instead of, performance and payment
 23-36 bonds, an authority may require the following alternative forms of
 23-37 security:

23-38 (1) a cashier's check drawn on a financial entity
 23-39 specified by the authority;

23-40 (2) a United States bond or note;

23-41 (3) an irrevocable bank letter of credit; or

23-42 (4) any other form of security determined suitable by
 23-43 the authority.

23-44 (g) An authority by rule shall prescribe requirements for
 23-45 alternative forms of security provided under this section.

23-46 Sec. 366.405. OWNERSHIP OF TURNPIKE PROJECTS. (a) A
 23-47 turnpike project that is the subject of a comprehensive development
 23-48 agreement with a private entity, including the facilities acquired
 23-49 or constructed on the project, is public property and is owned by
 23-50 the authority.

23-51 (b) Notwithstanding Subsection (a), an authority may enter
 23-52 into an agreement that provides for the lease of rights-of-way, the
 23-53 granting of easements, the issuance of franchises, licenses, or
 23-54 permits, or any lawful uses to enable a private entity to construct,
 23-55 operate, and maintain a turnpike project, including supplemental
 23-56 facilities. At the termination of the agreement, the turnpike
 23-57 project, including the facilities, are to be in a state of proper
 23-58 maintenance as determined by the authority and shall be returned to
 23-59 the authority in satisfactory condition at no further cost.

23-60 Sec. 366.406. LIABILITY FOR PRIVATE OBLIGATIONS. An
 23-61 authority may not incur a financial obligation for a private entity
 23-62 that designs, develops, finances, constructs, operates, or
 23-63 maintains a turnpike project. The authority or a political
 23-64 subdivision of the state is not liable for any financial or other
 23-65 obligation of a turnpike project solely because a private entity
 23-66 constructs, finances, or operates any part of the project.

23-67 Sec. 366.407. TERMS OF PRIVATE PARTICIPATION. (a) An
 23-68 authority shall negotiate the terms of private participation in a
 23-69 turnpike project under this subchapter, including:

24-1 (1) methods to determine the applicable cost, profit,
24-2 and project distribution among the private participants and the
24-3 authority;

24-4 (2) reasonable methods to determine and classify toll
24-5 rates and the responsibility for setting toll rates;

24-6 (3) acceptable safety and policing standards; and

24-7 (4) other applicable professional, consulting,
24-8 construction, operation, and maintenance standards, expenses, and
24-9 costs.

24-10 (b) A comprehensive development agreement entered into
24-11 under this subchapter may include any provision the authority
24-12 considers appropriate, including a provision:

24-13 (1) providing for the purchase by the authority, under
24-14 terms and conditions agreed to by the parties, of the interest of a
24-15 private participant in the comprehensive development agreement and
24-16 related property, including any interest in a turnpike project
24-17 designed, developed, financed, constructed, operated, or
24-18 maintained under the comprehensive development agreement;

24-19 (2) establishing the purchase price, as determined in
24-20 accordance with the methodology established by the parties in the
24-21 comprehensive development agreement, for the interest of a private
24-22 participant in the comprehensive development agreement and related
24-23 property;

24-24 (3) providing for the payment of an obligation
24-25 incurred under the comprehensive development agreement, including
24-26 an obligation to pay the purchase price for the interest of a
24-27 private participant in the comprehensive development agreement,
24-28 from any available source, including securing the obligation by a
24-29 pledge of revenues of the authority derived from the applicable
24-30 project, which pledge shall have priority as established by the
24-31 authority;

24-32 (4) permitting the private participant to pledge its
24-33 rights under the comprehensive development agreement;

24-34 (5) concerning the private participant's right to
24-35 operate and collect revenue from the turnpike project; and

24-36 (6) restricting the right of the authority to
24-37 terminate the private participant's right to operate and collect
24-38 revenue from the turnpike project unless and until any applicable
24-39 termination payments have been made.

24-40 (c) An authority may enter into a comprehensive development
24-41 agreement under this subchapter with a private participant only if
24-42 the project is identified in the department's unified
24-43 transportation program or is located on a transportation corridor
24-44 identified in the statewide transportation plan.

24-45 (d) Section 366.406 does not apply to an obligation of an
24-46 authority under a comprehensive development agreement, nor is an
24-47 authority otherwise constrained from issuing bonds or other
24-48 financial obligations for a turnpike project payable solely from
24-49 revenues of that turnpike project or from amounts received under a
24-50 comprehensive development agreement.

24-51 (e) Notwithstanding any other law, and subject to
24-52 compliance with the dispute resolution procedures set out in the
24-53 comprehensive development agreement, an obligation of an authority
24-54 under a comprehensive development agreement entered into under this
24-55 subchapter to make or secure payments to a person because of the
24-56 termination of the agreement, including the purchase of the
24-57 interest of a private participant or other investor in a project,
24-58 may be enforced by mandamus against the authority in a district
24-59 court of any county of the authority, and the sovereign immunity of
24-60 the authority is waived for that purpose. The district courts of
24-61 any county of the authority shall have exclusive jurisdiction and
24-62 venue over and to determine and adjudicate all issues necessary to
24-63 adjudicate any action brought under this subsection. The remedy
24-64 provided by this subsection is in addition to any legal and
24-65 equitable remedies that may be available to a party to a
24-66 comprehensive development agreement.

24-67 (f) If an authority enters into a comprehensive development
24-68 agreement with a private participant that includes the collection
24-69 by the private participant of tolls for the use of a toll project,

the private participant shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

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

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

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

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

(g) Except as provided by this section, a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 30 years.

Sec. 366.408. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) To promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants, an authority shall adopt rules, procedures, and other guidelines governing selection of private participants for comprehensive development agreements and negotiations of comprehensive development agreements. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) An authority shall have up-to-date procedures for participation in negotiations under this subchapter.

(c) An authority has exclusive judgment to determine the terms of an agreement.

Sec. 366.409. USE OF CONTRACT PAYMENTS. (a) Payments received by an authority under a comprehensive development agreement shall be used by the authority to finance the construction, maintenance, or operation of a turnpike project or a highway.

(b) The authority shall allocate the distribution of funds received under Subsection (a) to the counties of the authority based on the percentage of toll revenue from users, from each county, of the project that is the subject of the comprehensive development agreement. To assist the authority in determining the allocation, each entity responsible for collecting tolls for a project shall calculate on an annual basis the percentage of toll revenue from users of the project from each county within the authority based on the number of recorded electronic toll collections.

SECTION 18.03. Subsection (f), Section 366.033, Transportation Code, is amended to read as follows:

(f) An authority may rent, lease, franchise, license, or otherwise make portions of any property of the authority, including tangible or intangible property, ~~[its properties]~~ available for use by others in furtherance of its powers under this chapter by increasing:

(1) the feasibility or efficient operation ~~[the revenue]~~ of a turnpike project or system; or

(2) the revenue of the authority.

SECTION 18.04. Subchapter B, Chapter 366, Transportation Code, is amended by adding Sections 366.037 and 366.038 to read as follows:

Sec. 366.037. OTHER HIGHWAY PROJECTS. (a) In addition to the powers granted under this chapter and without supervision or regulation by any state agency or local governmental entity, but subject to an agreement entered into under Subsection (c), the board of an authority may by resolution, and on making the findings set forth in this subsection, authorize the use of surplus revenue of a turnpike project or system for the study, design, construction, maintenance, repair, and operation of a highway or similar facility that is not a turnpike project if the highway or similar facility is:

(1) situated in a county in which the authority is authorized to design, construct, and operate a turnpike project;

26-1 (2) anticipated to either:

26-2 (A) enhance the operation or revenue of an
26-3 existing, or the feasibility of a proposed, turnpike project by
26-4 bringing traffic to that turnpike project or enhancing the flow of
26-5 traffic either on that turnpike project or to or from that turnpike
26-6 project to another facility; or

26-7 (B) ameliorate the impact of an existing or
26-8 proposed turnpike project by enhancing the capability of another
26-9 facility to handle traffic traveling, or anticipated to travel, to
26-10 or from that turnpike project; and

26-11 (3) not anticipated to result in an overall reduction
26-12 of revenue of any turnpike project or system.

26-13 (b) The board in the resolution may prescribe terms for the
26-14 use of the surplus revenue, including the manner in which the
26-15 highway or related facility shall be studied, designed,
26-16 constructed, maintained, repaired, or operated.

26-17 (c) An authority shall enter into an agreement to implement
26-18 this section with the department, the commission, a local
26-19 governmental entity, or another political subdivision that owns a
26-20 street, road, alley, or highway that is directly affected by the
26-21 authority's turnpike project or related facility.

26-22 (d) An authority may not:

26-23 (1) take an action under this section that violates,
26-24 impairs, or is inconsistent with a bond resolution, trust
26-25 agreement, or indenture governing the use of the revenue of a
26-26 turnpike project or system; or

26-27 (2) commit in any fiscal year expenditures under this
26-28 section exceeding 10 percent of its surplus revenue from the
26-29 preceding fiscal year.

26-30 (e) In authorizing expenditures under this section, the
26-31 board shall consider:

26-32 (1) balancing throughout the counties of the authority
26-33 the application of funds generated by its turnpike projects and
26-34 systems, taking into account where those amounts are already
26-35 committed or programmed as a result of this section or otherwise;
26-36 and

26-37 (2) connectivity to an existing or proposed turnpike
26-38 project or system.

26-39 (f) Except as provided by this section, an authority has the
26-40 same powers and may use the same procedures with respect to the
26-41 study, financing, design, construction, maintenance, repair, and
26-42 operation of a highway or similar facility under this section as are
26-43 available to the authority with respect to a turnpike project or
26-44 system.

26-45 Sec. 366.038. USE OF STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY,
26-46 AND ACCESS. (a) Notwithstanding any other law, an authority may
26-47 use any authority property, state highway right-of-way, or access
26-48 to the state highway system, regardless of when or how the property,
26-49 right-of-way, or access is acquired. The department or the
26-50 commission may require the authority to comply with any covenant,
26-51 condition, restriction, or limitation that affects state highway
26-52 right-of-way, but may not:

26-53 (1) adopt rules or establish policies that have the
26-54 effect of denying the authority the use of the right-of-way or
26-55 access that the authority has determined to be necessary or
26-56 convenient for the construction, acquisition, improvement,
26-57 operation, maintenance, or pooling of a project under this chapter;
26-58 or

26-59 (2) require the authority to pay for the use of the
26-60 right-of-way or access, except to reimburse the commission or
26-61 department for actual costs incurred or to be incurred by a third
26-62 party, including the federal government, as a result of that use by
26-63 the authority.

26-64 (b) If a project of an authority under this chapter includes
26-65 the proposed use of improved state highway right-of-way, the
26-66 authority and the commission or the department must enter into an
26-67 agreement that includes reasonable terms to accommodate that use of
26-68 the right-of-way by the authority and to protect the interests of
26-69 the commission and the department in the use of the right-of-way for

27-1 operations of the department, including public safety and
 27-2 congestion mitigation on the improved right-of-way.

27-3 (c) Notwithstanding any other law, the commission and the
 27-4 department are not liable for any damages that result from an
 27-5 authority's use of state highway right-of-way or access to the
 27-6 state highway system under this chapter, regardless of the legal
 27-7 theory, statute, or cause of action under which liability is
 27-8 asserted.

27-9 SECTION 18.05. The heading to Section 366.185,
 27-10 Transportation Code, is amended to read as follows:

27-11 Sec. 366.185. ENGINEERING, DESIGN, AND CONSTRUCTION
 27-12 SERVICES [~~COMPETITIVE BIDDING~~].

27-13 SECTION 18.06. Section 366.185, Transportation Code, is
 27-14 amended by amending Subsection (a) and adding Subsections (c)
 27-15 through (f) to read as follows:

27-16 (a) A contract made by an authority that requires the
 27-17 expenditures of public funds for the construction or maintenance of
 27-18 a turnpike project may [~~must~~] be let by a competitive bidding
 27-19 procedure in which the contract is awarded to the lowest
 27-20 responsible bidder that complies with the authority's criteria.

27-21 (c) An authority may procure a combination of engineering,
 27-22 design, and construction services in a single procurement for a
 27-23 turnpike project, provided that any contract awarded results in the
 27-24 best value to the authority.

27-25 (d) The authority shall adopt rules governing the award of
 27-26 contracts for engineering, design, construction, and maintenance
 27-27 services in a single procurement.

27-28 (e) Notwithstanding any other provision of state law, an
 27-29 authority may let a contract for the design and construction of a
 27-30 turnpike project by a construction manager-at-risk procedure under
 27-31 which the construction manager-at-risk provides consultation to
 27-32 the authority during the design of the turnpike project and is
 27-33 responsible for construction of the turnpike project in accordance
 27-34 with the authority's specifications. A construction
 27-35 manager-at-risk shall be selected on the basis of criteria
 27-36 established by the authority, which may include the construction
 27-37 manager-at-risk's experience, past performance, safety record,
 27-38 proposed personnel and methodology, proposed fees, and other
 27-39 appropriate factors that demonstrate the construction
 27-40 manager-at-risk's ability to provide the best value to the
 27-41 authority and to deliver the required services in accordance with
 27-42 the authority's specifications.

27-43 (f) The authority shall adopt rules governing the award of
 27-44 contracts using construction manager-at-risk procedures under this
 27-45 section.

27-46 SECTION 18.07. Subchapter F, Chapter 366, Transportation
 27-47 Code, is amended by adding Sections 366.2521 and 366.2522 to read as
 27-48 follows:

27-49 Sec. 366.2521. GIFTS AND CONTRIBUTIONS; OFFENSE. (a) In
 27-50 this section, "benefit" means anything reasonably regarded as
 27-51 pecuniary gain or pecuniary advantage, including benefit to any
 27-52 other person in whose welfare the beneficiary has a direct and
 27-53 substantial interest.

27-54 (b) A director commits an offense if the person solicits,
 27-55 accepts, or agrees to accept any benefit from:

27-56 (1) a person the director knows to be subject to
 27-57 regulation, inspection, or investigation by the authority; or

27-58 (2) a person the director knows is interested in or
 27-59 likely to become interested in any contract, purchase, payment,
 27-60 claim, transaction, or matter involving the exercise of the
 27-61 director's discretion.

27-62 (c) A director who receives an unsolicited benefit that the
 27-63 director is prohibited from accepting under this section may donate
 27-64 the benefit to a governmental entity that has the authority to
 27-65 accept the gift or may donate the benefit to a recognized tax-exempt
 27-66 charitable organization formed for educational, religious, or
 27-67 scientific purposes.

27-68 (d) This section does not apply to:

27-69 (1) a fee prescribed by law to be received by a

28-1 director;
 28-2 (2) a benefit to which the director is lawfully
 28-3 entitled; or

28-4 (3) a benefit for which the director gives legitimate
 28-5 consideration in a capacity other than as a director.

28-6 (e) An offense under this section is a Class A misdemeanor.

28-7 (f) If conduct that constitutes an offense under this
 28-8 section also constitutes an offense under Section 36.08, Penal
 28-9 Code, the actor may be prosecuted under this section or Section
 28-10 36.08.

28-11 Sec. 366.2522. OFFERING GIFT TO A DIRECTOR; OFFENSE.

28-12 (a) A person commits an offense if the person offers, confers, or
 28-13 agrees to confer any benefit on a director that the person knows the
 28-14 director is prohibited from accepting under Section 366.2521.

28-15 (b) An offense under this section is a Class A misdemeanor.

28-16 (c) If conduct that constitutes an offense under this
 28-17 section also constitutes an offense under Section 36.09, Penal
 28-18 Code, the actor may be prosecuted under this section or Section
 28-19 36.09.

28-20 SECTION 18.08. Subchapter F, Chapter 366, Transportation
 28-21 Code, is amended by adding Section 366.2575 to read as follows:

28-22 Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. The
 28-23 commissioners court of a county of an authority may request the
 28-24 board of the authority to vote on whether to build a project that
 28-25 the county requests.

28-26 SECTION 18.09. Subchapter G, Chapter 366, Transportation
 28-27 Code, is amended by adding Section 366.305 to read as follows:

28-28 Sec. 366.305. TRANS-TEXAS CORRIDOR PROJECTS. If an
 28-29 authority is requested by the commission to participate in the
 28-30 development of a turnpike project that has been designated as part
 28-31 of the Trans-Texas Corridor, the authority shall have, in addition
 28-32 to all powers granted in this chapter, all powers of the department
 28-33 related to the development of Trans-Texas Corridor projects.

28-34 ARTICLE 19. REGIONAL TOLLWAY AUTHORITY BOARD OF DIRECTORS

28-35 SECTION 19.01. Section 366.251, Transportation Code, is
 28-36 amended by amending Subsection (c) and adding Subsection (d-1) to
 28-37 read as follows:

28-38 (c) In addition to directors appointed by a commissioners
 28-39 court under Subsection (b), the commissioners courts of each county
 28-40 [those counties] of the authority [in which all or part of a
 28-41 turnpike project is located and open for use by the traveling
 28-42 public] shall appoint one [two] additional director if the county
 28-43 is [directors as follows]:

28-44 (1) a [if the open turnpike project is located
 28-45 entirely in one] county[, the commissioners court of] that created
 28-46 the authority under Section 366.031 [county shall appoint the two
 28-47 additional directors]; or

28-48 (2) a county in which all or part of a [if the open]
 28-49 turnpike project of not less than 10 centerline miles in length is
 28-50 located that has been open for use by the traveling public for at
 28-51 least three years [in two counties of the authority, the
 28-52 commissioners court of each county shall appoint one of the
 28-53 additional directors; or

28-54 [3] if the open turnpike project is located in more
 28-55 than two counties, the commissioners court of each county in which
 28-56 the project is located shall appoint one additional director on a
 28-57 rotating basis and in accordance with a schedule agreed to and
 28-58 approved by concurrent resolutions adopted by the commissioners
 28-59 courts of at least three-fourths of the counties of the authority].

28-60 (d-1) If one or more directors are subsequently appointed to
 28-61 the board, the directors other than the subsequent appointees shall
 28-62 determine the length of the appointees' terms, to comply with
 28-63 Subsection (d).

28-64 SECTION 19.02. The change in law made by this article in
 28-65 amending Section 366.251, Transportation Code, does not affect the
 28-66 term of a member of the board of directors serving on the effective
 28-67 date of this Act. Members appointed to fill vacancies occurring on
 28-68 or after the effective date of this Act must be appointed in
 28-69 accordance with Section 366.251, Transportation Code, as amended by

29-1 this article.

29-2 SECTION 19.03. The change in law made by this article in
 29-3 amending Section 366.251, Transportation Code, does not prohibit a
 29-4 person who is a member of a regional tollway authority board of
 29-5 directors before the effective date of this Act from being
 29-6 appointed as a member of the board under the new composition of the
 29-7 board of a regional tollway authority if the person has the
 29-8 qualifications required for the position under Section 366.251,
 29-9 Transportation Code, as amended by this article, and otherwise
 29-10 under Chapter 366, Transportation Code.

29-11 ARTICLE 20. REGIONAL MOBILITY AUTHORITY BOARD OF DIRECTORS

29-12 SECTION 20.01. Section 370.251, Transportation Code, is
 29-13 amended by adding Subsection (b-1) and amending Subsections (c) and
 29-14 (g) to read as follows:

29-15 (b-1) At least one of the directors must be an elected
 29-16 official, which may include a member of the commissioners court or
 29-17 another locally elected body.

29-18 (c) Directors [~~If permitted under the constitution of this~~
 29-19 ~~state, directors serve staggered six-year terms, with the terms of~~
 29-20 ~~no more than one-third of the directors expiring on February 1 of~~
 29-21 ~~each odd-numbered year. If six-year terms are not permitted under~~
 29-22 ~~the constitution, directors~~] serve two-year terms, with as near as
 29-23 possible to [the terms of not more than] one-half of the directors'
 29-24 terms [~~directors~~] expiring on February 1 of each year.

29-25 (g) The following individuals are ineligible to serve as a
 29-26 director:

29-27 (1) [~~an elected official,~~
 29-28 [~~2~~] a person who is not a resident of a county within
 29-29 the geographic area of the authority;

29-30 (2) [~~3~~] a department employee;

29-31 (3) [~~4~~] an employee of a governmental entity any
 29-32 part of which is located within the geographic boundaries of the
 29-33 authority; and

29-34 (4) [~~5~~] a person owning an interest in real property
 29-35 that will be acquired for an authority project, if it is known at
 29-36 the time of the person's proposed appointment that the property
 29-37 will be acquired for the authority project.

29-38 SECTION 20.02. (a) The change in law made by Subsection
 29-39 (b-1), Section 370.251, Transportation Code, as added by this
 29-40 article, regarding the composition of the board of directors of a
 29-41 regional mobility authority, does not affect the entitlement of a
 29-42 director serving on the board immediately before the effective date
 29-43 of this Act to continue to serve and function as a director for the
 29-44 remainder of the director's term.

29-45 (b) The change in law made by Subsection (b-1), Section
 29-46 370.251, Transportation Code, as added by this article, applies
 29-47 only to a director appointed to the board of directors of a regional
 29-48 mobility authority on or after the effective date of this Act, and
 29-49 the first director appointed on or after the effective date of this
 29-50 Act must be an elected official if the board does not meet the
 29-51 requirements of Subsection (b-1), Section 370.251, Transportation
 29-52 Code, as added by this article.

29-53 ARTICLE 21. REGIONAL MOBILITY AUTHORITIES

29-54 SECTION 21.01. Subchapter B, Chapter 370, Transportation
 29-55 Code, is amended by adding Sections 370.040 and 370.041 to read as
 29-56 follows:

29-57 Sec. 370.040. USE OF STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY,
 29-58 AND ACCESS. (a) Notwithstanding any other law, an authority may
 29-59 use any authority property, state highway right-of-way, or access
 29-60 to the state highway system, regardless of when or how the property,
 29-61 right-of-way, or access is acquired. The department or the
 29-62 commission may require the authority to comply with any covenant,
 29-63 condition, restriction, or limitation that affects state highway
 29-64 right-of-way, but may not:

29-65 (1) adopt rules or establish policies that have the
 29-66 effect of denying the authority the use of the right-of-way or
 29-67 access that the authority has determined to be necessary or
 29-68 convenient for the construction, acquisition, improvement,
 29-69 operation, maintenance, or pooling of a project under this chapter;

30-1 or

30-2 (2) require the authority to pay for the use of the
 30-3 right-of-way or access, except to reimburse the commission or
 30-4 department for actual costs incurred or to be incurred by a third
 30-5 party, including the federal government, as a result of that use by
 30-6 the authority.

30-7 (b) If a project of an authority under this chapter includes
 30-8 the proposed use of improved state highway right-of-way, the
 30-9 authority and the commission or the department must enter into an
 30-10 agreement that includes reasonable terms to accommodate that use of
 30-11 the right-of-way by the authority and to protect the interests of
 30-12 the commission and the department in the use of the right-of-way for
 30-13 operations of the department, including public safety and
 30-14 congestion mitigation on the improved right-of-way.

30-15 (c) Notwithstanding any other law, the commission and the
 30-16 department are not liable for any damages that result from an
 30-17 authority's use of state highway right-of-way or access to the
 30-18 state highway system under this chapter, regardless of the legal
 30-19 theory, statute, or cause of action under which liability is
 30-20 asserted.

30-21 Sec. 370.041. CERTAIN POWERS. An authority created under
 30-22 Section 370.031(c) has the same powers as an authority originally
 30-23 created under Chapter 97, Acts of the 40th Legislature, 1st Called
 30-24 Session, 1927.

30-25 SECTION 21.02. Subchapter E, Chapter 370, Transportation
 30-26 Code, is amended by adding Section 370.194 to read as follows:

30-27 Sec. 370.194. MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.
 30-28 If authorized by an applicable regulatory authority and approved by
 30-29 the board of the metropolitan planning organization that serves the
 30-30 region of the authority, an authority may offer to purchase a
 30-31 conservation easement from the owner of real property to mitigate
 30-32 an adverse environmental impact that is a direct result of a
 30-33 transportation project.

30-34 SECTION 21.03. Subsection (i), Section 370.302,
 30-35 Transportation Code, is amended to read as follows:

30-36 (i) An agreement with a private entity that includes the
 30-37 collection by the private entity of tolls for the use of a
 30-38 transportation project may not be for a term longer than 40 [50]
 30-39 years.

30-40 SECTION 21.04. Subchapter G, Chapter 370, Transportation
 30-41 Code, is amended by adding Section 370.318 to read as follows:

30-42 Sec. 370.318. CONTRACT FOR ENFORCEMENT. A private entity
 30-43 that contracts with an authority to operate a turnpike project may
 30-44 contract with an agency of this state or a local governmental entity
 30-45 for the services of peace officers employed by the agency or entity
 30-46 to enforce laws related to:

30-47 (1) the regulation and control of vehicular traffic on
 30-48 a state highway; and

30-49 (2) the payment of the proper toll on a turnpike
 30-50 project.

30-51 SECTION 21.05. Section 11.11, Tax Code, is amended by
 30-52 adding Subsection (k) to read as follows:

30-53 (k) For purposes of this section, any portion of a facility
 30-54 leased to a private entity by a regional mobility authority under
 30-55 Chapter 370, Transportation Code, is public property used for a
 30-56 public purpose if the facility is operated by the private entity to
 30-57 provide transportation or utility services. Any part of a facility
 30-58 leased to a private entity for a commercial purpose under Chapter
 30-59 370, Transportation Code, is not exempt from taxation.

30-60 SECTION 21.06. Subsection (c), Section 25.07, Tax Code, is
 30-61 amended to read as follows:

30-62 (c) Subsection (a) does not apply to:

30-63 (1) any portion of a facility owned by the Texas
 30-64 Department of Transportation that is part of the Trans-Texas
 30-65 Corridor, is a rail facility or system, or is a highway in the state
 30-66 highway system and that is licensed or leased to a private entity by
 30-67 that department under Chapter 91, 227, or 361, Transportation Code;
 30-68 [or]

30-69 (2) a leasehold or other possessory interest granted

31-1 by the Texas Department of Transportation in a facility owned by
31-2 that department that is part of the Trans-Texas Corridor, is a rail
31-3 facility or system, or is a highway in the state highway system; or
31-4 (3) a leasehold or other possessory interest in a
31-5 facility granted by a regional mobility authority under Chapter
31-6 370, Transportation Code.

31-7 ARTICLE 22. TOLL COLLECTION TRANSACTION PROCESSING BY CERTAIN TOLL
31-8 PROJECT ENTITIES

31-9 SECTION 22.01. Subchapter C, Chapter 284, Transportation
31-10 Code, is amended by adding Section 284.075 to read as follows:

31-11 Sec. 284.075. TRANSACTION PROCESSING. A county may enter
31-12 into an agreement with a bank or other financial institution, as
31-13 those terms are defined by Section 31.002, Finance Code, or a
31-14 clearinghouse association providing services to a bank or other
31-15 financial institution, to provide, on terms and conditions approved
31-16 by the county, toll transaction processing and other related
31-17 services. A county may enter into an agreement under this section
31-18 jointly with other toll entities.

31-19 SECTION 22.02. Subchapter E, Chapter 366, Transportation
31-20 Code, is amended by adding Section 366.186 to read as follows:

31-21 Sec. 366.186. TRANSACTION PROCESSING. An authority may
31-22 enter into an agreement with a bank or other financial institution,
31-23 as those terms are defined by Section 31.002, Finance Code, or a
31-24 clearinghouse association providing services to a bank or other
31-25 financial institution, to provide, on terms and conditions approved
31-26 by the authority, toll transaction processing and other related
31-27 services. An authority may enter into an agreement under this
31-28 section jointly with other toll entities.

31-29 SECTION 22.03. Subchapter E, Chapter 370, Transportation
31-30 Code, is amended by adding Section 370.195 to read as follows:

31-31 Sec. 370.195. TRANSACTION PROCESSING. An authority may
31-32 enter into an agreement with a bank or other financial institution,
31-33 as those terms are defined by Section 31.002, Finance Code, or a
31-34 clearinghouse association providing services to a bank or other
31-35 financial institution, to provide, on terms and conditions approved
31-36 by the authority, toll transaction processing and other related
31-37 services. An authority may enter into an agreement under this
31-38 section jointly with other toll entities.

31-39 ARTICLE 23. PROTOCOL AGREEMENT BETWEEN TEXAS DEPARTMENT OF
31-40 TRANSPORTATION AND REGIONAL TOLLWAY AUTHORITY

31-41 SECTION 23.01. (a) The Proposed TxDOT/NTTA Regional
31-42 Protocol entered into between the Texas Department of
31-43 Transportation and the North Texas Tollway Authority and approved
31-44 on August 10, 2006, by the tollway authority and on August 24, 2006,
31-45 by the department is void.

31-46 (b) On dissolution of the protocol under Subsection (a) of
31-47 this section, the North Texas Tollway Authority will remain the
31-48 operator for all turnpike projects within the service area of the
31-49 authority.

31-50 (c) This section does not apply to a comprehensive
31-51 development agreement for a managed lane facility toll project the
31-52 major portion of which is located inside the boundaries of a county
31-53 in which two or more municipalities each with a population of more
31-54 than 300,000 are located and for which the department has issued a
31-55 request for qualifications before the effective date of this
31-56 section.

31-57 ARTICLE 24. PAYMENTS TO UNSUCCESSFUL PROPOSERS FOR COMPREHENSIVE
31-58 DEVELOPMENT AGREEMENT CONTRACTS

31-59 SECTION 24.01. Subsection (m), Section 223.203,
31-60 Transportation Code, is amended to read as follows:

31-61 (m) The department may ~~shall~~ pay an unsuccessful private
31-62 entity that submits a responsive proposal in response to a request
31-63 for detailed proposals under Subsection (f) a stipulated amount in
31-64 exchange for the work product contained in that proposal. A ~~The~~
31-65 stipulated amount must be stated in the request for proposals and
31-66 may not exceed the value of any work product contained in the
31-67 proposal that can, as determined by the department, be used by the
31-68 department in the performance of its functions. The use by the
31-69 department of any design element contained in an unsuccessful

32-1 proposal is at the sole risk and discretion of the department and
32-2 does not confer liability on the recipient of the stipulated amount
32-3 under this section. After payment of the stipulated amount:

32-4 (1) the department owns with the unsuccessful proposer
32-5 jointly the rights to, and may make use of any work product
32-6 contained in, the proposal, including the technologies,
32-7 techniques, methods, processes, ideas, and information contained
32-8 in the project design; and

32-9 (2) the use by the unsuccessful proposer of any
32-10 portion of the work product contained in the proposal is at the sole
32-11 risk of the unsuccessful proposer and does not confer liability on
32-12 the department.

32-13 SECTION 24.02. Subsection (m), Section 370.306,
32-14 Transportation Code, is amended to read as follows:

32-15 (m) An authority may [~~shall~~] pay an unsuccessful private
32-16 entity that submits a response to a request for detailed proposals
32-17 under Subsection (f) a stipulated amount of the final contract
32-18 price for any costs incurred in preparing that proposal. A [~~The~~]
32-19 stipulated amount must be stated in the request for proposals and
32-20 may not exceed the value of any work product contained in the
32-21 proposal that can, as determined by the authority, be used by the
32-22 authority in the performance of its functions. The use by the
32-23 authority of any design element contained in an unsuccessful
32-24 proposal is at the sole risk and discretion of the authority and
32-25 does not confer liability on the recipient of the stipulated amount
32-26 under this subsection. After payment of the stipulated amount:

32-27 (1) the authority owns the exclusive rights to, and
32-28 may make use of any work product contained in, the proposal,
32-29 including the technologies, techniques, methods, processes, and
32-30 information contained in the project design; and

32-31 (2) the work product contained in the proposal becomes
32-32 the property of the authority.

32-33 ARTICLE 25. METROPOLITAN PLANNING ORGANIZATIONS, RURAL PLANNING
32-34 ORGANIZATIONS, AND CORRIDOR PLANNING ORGANIZATIONS

32-35 SECTION 25.01. The heading to Subchapter D, Chapter 472,
32-36 Transportation Code, is amended to read as follows:

32-37 SUBCHAPTER D. METROPOLITAN PLANNING ORGANIZATIONS
32-38 AND RURAL PLANNING ORGANIZATIONS

32-39 SECTION 25.02. Subdivision (1), Section 472.031,
32-40 Transportation Code, is amended to read as follows:

32-41 (1) "Metropolitan planning organization" means a
32-42 governmental body that is [metropolitan planning organization]
32-43 designated or redesignated under 23 U.S.C. Section 134 to perform
32-44 the transportation planning process required by that section and
32-45 other duties that are assigned by law.

32-46 SECTION 25.03. Subchapter D, Chapter 472, Transportation
32-47 Code, is amended by adding Sections 472.0315 and 472.034 through
32-48 472.040 to read as follows:

32-49 Sec. 472.0315. DESIGNATION BY GOVERNOR. The governor shall
32-50 designate a metropolitan planning organization for each urbanized
32-51 area of the state with a population greater than 50,000 in
32-52 accordance with 23 U.S.C. Section 134.

32-53 Sec. 472.034. APPOINTMENTS TO POLICY BOARD. Appointments
32-54 to a policy board shall be made without regard to the race, color,
32-55 disability, sex, religion, age, or national origin of the
32-56 appointees.

32-57 Sec. 472.035. SEPARATION OF RESPONSIBILITIES. A policy
32-58 board shall develop and implement policies that clearly separate
32-59 the policymaking responsibilities of the policy board and the
32-60 management responsibilities of the director and the staff of the
32-61 metropolitan planning organization.

32-62 Sec. 472.036. PUBLIC TESTIMONY. A policy board shall
32-63 develop and implement policies that provide the public with a
32-64 reasonable opportunity to appear before the policy board and to
32-65 speak on any issue under the jurisdiction of the metropolitan
32-66 planning organization.

32-67 Sec. 472.037. COMPLAINTS. (a) A metropolitan planning
32-68 organization shall maintain a system to promptly and efficiently
32-69 act on complaints filed with the metropolitan planning

33-1 organization. The organization shall maintain information about
 33-2 parties to the complaint, the subject matter of the complaint, a
 33-3 summary of the results of the review or investigation of the
 33-4 complaint, and its disposition.

33-5 (b) The organization shall make information available
 33-6 describing its procedures for complaint investigation and
 33-7 resolution.

33-8 (c) The organization shall periodically notify the
 33-9 complaint parties of the status of the complaint until final
 33-10 disposition.

33-11 Sec. 472.038. TECHNOLOGY REQUIREMENTS. A policy board
 33-12 shall implement a policy requiring the metropolitan planning
 33-13 organization to use appropriate technological solutions to improve
 33-14 the organization's ability to perform its functions. The policy
 33-15 must ensure that the public is able to interact with the
 33-16 organization on the Internet.

33-17 Sec. 472.039. RURAL PLANNING ORGANIZATIONS. (a) In this
 33-18 section:

33-19 (1) "Local government" means a county or municipality.

33-20 (2) "Regional planning commission" means a regional
 33-21 planning commission, council of governments, or other entity
 33-22 created under Chapter 391, Local Government Code.

33-23 (3) "Rural planning organization" means a planning
 33-24 organization created in accordance with this section.

33-25 (b) To perform the transportation planning process required
 33-26 by this section, local governments that represent at least 75
 33-27 percent of the affected population may create a rural planning
 33-28 organization that includes an area that is located within the
 33-29 boundaries of a regional planning commission and outside the
 33-30 boundaries of a metropolitan planning organization. If a rural
 33-31 planning organization is created, the regional planning commission
 33-32 shall administer the rural planning organization on behalf of the
 33-33 units of local government.

33-34 (c) A rural planning organization is governed by a board of
 33-35 directors composed of local elected officials and the district
 33-36 engineer of each department district any part of which is located
 33-37 within the boundaries of the rural planning organization.

33-38 (d) The rural planning organization shall send notice of its
 33-39 creation to the commission as soon as practicable following
 33-40 creation.

33-41 (e) The department may use money in the state highway fund
 33-42 to fund the operations of a rural planning organization.

33-43 (f) A rural planning organization may enter into an
 33-44 agreement with the department to develop transportation plans and
 33-45 programs for the area served by the rural planning organization.
 33-46 The process for developing the transportation plans and programs
 33-47 must provide for consideration of all modes of transportation and
 33-48 must be continuing, cooperative, and comprehensive to the degree
 33-49 appropriate, based on the complexity of the transportation problems
 33-50 to be addressed.

33-51 (g) A rural planning organization may enter into an
 33-52 agreement with the department to prepare and update periodically a
 33-53 long-range transportation plan for the area served by the rural
 33-54 planning organization. Before approving a long-range
 33-55 transportation plan, a rural planning organization shall provide to
 33-56 residents living within its boundaries, affected public agencies,
 33-57 and other interested parties a reasonable opportunity to comment on
 33-58 the long-range transportation plan. A rural planning organization
 33-59 shall make each long-range transportation plan available for public
 33-60 review and shall deliver each plan to the commission at the time and
 33-61 in the manner established by the commission.

33-62 (h) A rural planning organization may provide to the
 33-63 commission recommendations for the selection of transportation
 33-64 projects, systems, or programs to be undertaken within the
 33-65 boundaries of the rural planning organization.

33-66 (i) The commission may delegate the selection of a project,
 33-67 system, or program under Subsection (h) to the rural planning
 33-68 organization but the commission must agree with the organization's
 33-69 selection before the selection becomes effective.

34-1 (j) A rural planning organization is subject to the open
34-2 meetings law, Chapter 551, Government Code.

34-3 Sec. 472.040. POSTING OF INFORMATION ON INTERNET. A
34-4 metropolitan planning organization shall provide the following
34-5 information on the organization's Internet website about each
34-6 transportation project located within the area served by the
34-7 organization:

- 34-8 (1) the year the project began;
- 34-9 (2) the current stage of the project;
- 34-10 (3) the estimated and actual cost of the project; and
- 34-11 (4) other relevant data regarding the project as
34-12 determined by the organization.

34-13 SECTION 25.04. Subchapter B, Chapter 227, Transportation
34-14 Code, is amended by adding Section 227.0135 to read as follows:

34-15 Sec. 227.0135. CORRIDOR PLANNING ORGANIZATION.

34-16 (a) Before the commission designates a route for a segment of the
34-17 Trans-Texas Corridor, the commission shall create a corridor
34-18 planning organization that is composed of representatives of
34-19 metropolitan planning organizations and rural planning
34-20 organizations that may be affected by the segment.

34-21 (b) The corridor planning organization consists of:

34-22 (1) two members appointed by each metropolitan
34-23 planning organization with jurisdiction over an area in which the
34-24 proposed segment of the corridor is located;

34-25 (2) two members appointed by each rural planning
34-26 organization with jurisdiction over an area in which the proposed
34-27 segment of the corridor is located;

34-28 (3) one additional member appointed by the
34-29 metropolitan planning organization with jurisdiction over the
34-30 longest portion of the proposed segment of the corridor;

34-31 (4) one additional member appointed by the rural
34-32 planning organization with jurisdiction over the longest portion of
34-33 the proposed segment of the corridor; and

34-34 (5) if necessary to create an odd number of members,
34-35 one additional member appointed by the members of the corridor
34-36 planning organization appointed in Subdivisions (1)-(4).

34-37 (c) The corridor planning organization shall assist the
34-38 commission in the planning of the segment of the corridor for which
34-39 the corridor planning organization was created. The commission
34-40 shall consider the corridor planning organization's
34-41 recommendations when selecting a route for the segment. The
34-42 corridor planning organization must approve any facility proposed
34-43 to be constructed as part of the segment of the corridor and must
34-44 approve the method of contracting for the construction or operation
34-45 of a facility, including whether the facility will be constructed
34-46 or operated under a comprehensive development agreement.

34-47 (d) A corridor planning organization is subject to the open
34-48 meetings law, Chapter 551, Government Code.

34-49 ARTICLE 26. PERMISSIBLE USES OF STATE HIGHWAY FUND

34-50 SECTION 26.01. Subsection (d), Section 201.115,
34-51 Transportation Code, is amended to read as follows:

34-52 (d) Notwithstanding Section 222.001, money in the state
34-53 highway fund may be used to repay a loan under this section, if
34-54 permissible under the Texas Constitution and appropriated by the
34-55 legislature for that purpose.

34-56 SECTION 26.02. Section 222.001, Transportation Code, is
34-57 amended to read as follows:

34-58 Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Money that is
34-59 required to be used for public roadways by the Texas Constitution or
34-60 federal law and that is deposited in the state treasury to the
34-61 credit of the state highway fund, including money deposited to the
34-62 credit of the state highway fund under Title 23, United States Code,
34-63 may be used only:

34-64 (1) to improve the state highway system; ~~or~~

34-65 (2) to mitigate adverse environmental effects that
34-66 result directly from construction or maintenance of a state highway
34-67 by the department [~~, or~~

34-68 [~~(3) by the Department of Public Safety to police the~~
34-69 ~~state highway system and to administer state laws relating to~~

35-1 ~~traffic and safety on public roads].~~

35-2 (b) Except as otherwise provided by this code, money in the
 35-3 state highway fund that is not described by Subsection (a) may be
 35-4 used only to improve the state highway system.

35-5 SECTION 26.03. Section 222.073, Transportation Code, is
 35-6 amended to read as follows:

35-7 Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. To the
 35-8 extent permissible under [Notwithstanding] Section 222.001, the
 35-9 commission shall use money deposited in the bank to:

35-10 (1) encourage public and private investment in
 35-11 transportation facilities both within and outside of the state
 35-12 highway system, including facilities that contribute to the
 35-13 multimodal and intermodal transportation capabilities of the
 35-14 state; and

35-15 (2) develop financing techniques designed to:
 35-16 (A) expand the availability of funding for
 35-17 transportation projects and to reduce direct state costs;

35-18 (B) maximize private and local participation in
 35-19 financing projects; and

35-20 (C) improve the efficiency of the state
 35-21 transportation system.

35-22 SECTION 26.04. Section 222.002, Transportation Code, is
 35-23 repealed.

35-24 SECTION 26.05. This article takes effect only if the
 35-25 constitutional amendment proposed by the 80th Legislature, Regular
 35-26 Session, 2007, to limit the purposes for which revenues from motor
 35-27 vehicle registration fees, taxes on motor fuels and lubricants, and
 35-28 certain revenues received from the federal government may be used
 35-29 is approved by the voters. If that amendment is not approved by the
 35-30 voters, this article has no effect.

35-31 ARTICLE 27. REVENUE FOR TEXAS MOBILITY FUND OTHER THAN TAXES

35-32 SECTION 27.01. Subchapter B, Chapter 2302, Occupations
 35-33 Code, is amended by adding Section 2302.054 to read as follows:

35-34 Sec. 2302.054. DISPOSITION OF FEES. Each fee collected by
 35-35 the department under this chapter shall be deposited to the credit
 35-36 of the Texas mobility fund.

35-37 SECTION 27.02. Subchapter B, Chapter 2303, Occupations
 35-38 Code, is amended by adding Section 2303.055 to read as follows:

35-39 Sec. 2303.055. DISPOSITION OF FUNDS. Each fee and penalty
 35-40 collected by the department under this chapter shall be deposited
 35-41 to the credit of the Texas mobility fund.

35-42 SECTION 27.03. Subsections (b), (c), (f), and (j), Section
 35-43 201.943, Transportation Code, are amended to read as follows:

35-44 (b) Obligations must be secured by and payable from a pledge
 35-45 of and lien on all or part of the money in the fund, including the
 35-46 revenues of the state dedicated or appropriated for deposit to the
 35-47 fund. Obligations may be additionally secured by and payable from
 35-48 credit agreements. The commission may pay amounts due on the
 35-49 obligations from discretionary money available to it that is not
 35-50 dedicated to or appropriated for other specific purposes.

35-51 (c) The commission may create within the fund accounts,
 35-52 reserves, and subfunds for purposes the commission finds
 35-53 appropriate and necessary ~~[in connection with the issuance of~~
 35-54 ~~obligations].~~

35-55 (f) Short-term obligations in the amount proposed by the
 35-56 commission may not be issued unless the comptroller, in a
 35-57 comptroller's certification:

35-58 (1) assumes that the short-term obligations will be
 35-59 refunded and refinanced to mature over a 20-year period with level
 35-60 debt service [principal] requirements and bearing interest at then
 35-61 current market rates, as determined by the comptroller; and

35-62 (2) projects that the amount of money dedicated to the
 35-63 fund pursuant to Section 49-k(e), Article III, Texas Constitution,
 35-64 and required to be on deposit in the fund pursuant to Section
 35-65 49-k(f), Article III, Texas Constitution, and the investment
 35-66 earnings on that money, during each year of the assumed 20-year
 35-67 period will be equal to at least 110 percent of the requirements to
 35-68 pay the principal of and interest on the proposed refunding
 35-69 obligations during that year.

36-1 (j) A comptroller's certification under this section must
 36-2 be based on economic data, forecasting methods, and projections
 36-3 that the comptroller determines are reliable. In determining the
 36-4 principal and interest requirements on outstanding and proposed
 36-5 obligations, and subject to the express limitations of this
 36-6 subchapter and Section 49-k, Article III, Texas Constitution, the
 36-7 comptroller shall rely on the assumptions included in the
 36-8 resolution authorizing the obligations for the calculation of debt
 36-9 service.

36-10 SECTION 27.04. Subsection (c), Section 501.138,
 36-11 Transportation Code, is amended to read as follows:

36-12 (c) Of the amount received under Subsection (b)(2), the
 36-13 department shall deposit:

36-14 (1) \$5 in the Texas mobility fund [~~general revenue~~
 36-15 ~~fund~~]; and

36-16 (2) \$3 to the credit of the state highway fund to
 36-17 recover the expenses necessary to administer this chapter.

36-18 SECTION 27.05. Subsection (e), Section 504.101,
 36-19 Transportation Code, is amended to read as follows:

36-20 (e) Of each fee collected by the department under this
 36-21 section:

36-22 (1) \$1.25 shall be used to defray the cost of
 36-23 administering this section; and

36-24 (2) the remainder shall be deposited to the credit of
 36-25 the Texas mobility fund [~~general revenue fund~~].

36-26 SECTION 27.06. Section 542.402, Transportation Code, is
 36-27 amended by adding Subsection (f) to read as follows:

36-28 (f) The comptroller shall deposit money received under
 36-29 Subsection (b) to the credit of the Texas mobility fund.

36-30 SECTION 27.07. Subsection (g), Section 542.4031,
 36-31 Transportation Code, is amended to read as follows:

36-32 (g) Of the money received by the comptroller under this
 36-33 section, the comptroller shall deposit:

36-34 (1) 67 percent to the credit of the Texas mobility fund
 36-35 [~~undesignated portion of the general revenue fund~~]; and

36-36 (2) 33 percent to the credit of the designated trauma
 36-37 facility and emergency medical services account under Section
 36-38 780.003, Health and Safety Code.

36-39 SECTION 27.08. Subsection (b), Section 623.011,
 36-40 Transportation Code, is amended to read as follows:

36-41 (b) To qualify for a permit under this section:

36-42 (1) the vehicle must be registered under Chapter 502
 36-43 for the maximum gross weight applicable to the vehicle under
 36-44 Section 621.101, not to exceed 80,000 pounds;

36-45 (2) the security requirement of Section 623.012 must
 36-46 be satisfied; and

36-47 (3) a base permit fee of \$200 [~~\$75~~], any additional fee
 36-48 required by Section 623.0111, and any additional fee set by the
 36-49 department under Section 623.0112 must be paid.

36-50 SECTION 27.09. Subchapter B, Chapter 623, Transportation
 36-51 Code, is amended by adding Section 623.020 to read as follows:

36-52 Sec. 623.020. DISPOSITION OF FEES. Except as provided by
 36-53 Section 621.353, each fee collected by the department for a permit
 36-54 issued under this subchapter shall be deposited to the credit of the
 36-55 Texas mobility fund.

36-56 SECTION 27.10. Section 623.076, Transportation Code, is
 36-57 amended by amending Subsection (c) and adding Subsection (d) to
 36-58 read as follows:

36-59 (c) An application for a permit under Section 623.071(c)(3)
 36-60 or (d) must be accompanied by the permit fee established by the
 36-61 commission for the permit, not to exceed \$3,500. Of each fee
 36-62 collected under this subsection, the department shall send:

36-63 (1) the first \$1,000 to the comptroller for deposit to
 36-64 the credit of the Texas mobility fund [~~general revenue fund~~]; and

36-65 (2) any amount in excess of \$1,000 to the comptroller
 36-66 for deposit to the credit of the state highway fund.

36-67 (d) Except as provided in Subsection (c)(2), each fee
 36-68 collected under this section shall be deposited to the credit of the
 36-69 Texas mobility fund.

SECTION 27.11. Subchapter A, Chapter 643, Transportation Code, is amended by adding Section 643.005 to read as follows:

Sec. 643.005. DEPOSIT OF FUNDS. Except as provided by Section 643.004(b), all fees and penalties collected by the department under this chapter shall be deposited to the credit of the Texas mobility fund.

SECTION 27.12. Chapter 645, Transportation Code, is amended by adding Section 645.005 to read as follows:

Sec. 645.005. DEPOSIT OF FUNDS. Except as provided by Section 645.002(c), all fees and penalties collected under this chapter shall be deposited to the credit of the Texas mobility fund.

SECTION 27.13. Subsection (h), Section 542.4031, Transportation Code, is repealed.

SECTION 27.14. This article applies only to the distribution of revenue collected on or after the effective date of this article. The distribution of revenue collected before the effective date of this article is governed by the law in effect at the time the revenue was collected, and that law is continued in effect for the purpose of the distribution of that revenue.

SECTION 27.15. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 2007.

(b) Section 27.03 of this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 27.03 takes effect September 1, 2007.

ARTICLE 28. TOLL PROJECT EQUITY FUND

SECTION 28.01. Section 1232.003, Government Code, is amended by adding Subdivision (10) to read as follows:

(10) "Toll project entity" means an entity, other than the Texas Department of Transportation, that is authorized by law to acquire, design, construct, operate, and maintain a toll project or turnpike project, including:

(A) a regional tollway authority operating under Chapter 366, Transportation Code;

(B) a regional mobility authority operating under Chapter 370, Transportation Code; or

(C) a county or local government corporation operating under Chapter 284, Transportation Code.

SECTION 28.02. Chapter 1232, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. TOLL FACILITIES

Sec. 1232.251. TOLL PROJECT EQUITY FUND. (a) The toll project equity fund is a special account in the general revenue fund. Except as otherwise provided by this subchapter, the toll project equity fund may be used only for loans made under Section 1232.252. The toll project equity fund is exempt from the application of Section 403.095.

(b) The authority shall deposit to the credit of the toll project equity fund all loan payments made by a toll project entity for a loan under Section 1232.252. The loan payments shall be used:

(1) to provide for the payment of the principal of, interest on, and any premium on any general obligation bonds and notes issued under this subchapter, including any amounts under a related credit agreement; or

(2) to the extent necessary, to reimburse the general revenue fund for money appropriated to pay those obligations.

(c) At the time and in the manner prescribed by the comptroller, the authority shall transfer the amount necessary to reimburse the general revenue fund, if any, to the comptroller for deposit to the credit of the undedicated portion of the general revenue fund.

(d) The toll project equity fund consists of the proceeds of bonds and notes issued by the authority under this subchapter and deposited to the credit of the toll project equity fund, loan payments deposited under Subsection (b), investment income, and interest earned on money in the toll project equity fund.

Sec. 1232.252. LOANS FOR TOLL OR TURNPIKE PROJECTS.

(a) The authority may provide a loan to a toll project entity for a

38-1 toll or turnpike project. The loan shall be made from the toll
38-2 project equity fund established under Section 1232.251.

38-3 (b) A toll project entity may submit an application to the
38-4 authority for a loan under this section if the toll or turnpike
38-5 project for which financial assistance is sought is the subject of
38-6 an active procurement conducted by the Texas Department of
38-7 Transportation under Subchapter E, Chapter 223, Transportation
38-8 Code.

38-9 (c) An application submitted under this section may include
38-10 a request for a reservation of a portion of the amount of any
38-11 general obligation bonds and notes the authority may issue each
38-12 year under this subchapter.

38-13 (d) On receiving an application for a loan under this
38-14 section, the authority shall confirm that the project is the
38-15 subject of an active procurement. If the authority determines that
38-16 a project is the subject of an active procurement, the authority
38-17 shall, in accordance with the criteria adopted by the board under
38-18 Section 1232.253:

38-19 (1) analyze the creditworthiness of the project,
38-20 including determining whether any financing for the project has
38-21 appropriate security features, such as a rate covenant, to ensure
38-22 repayment; and

38-23 (2) confirm, through a preliminary rating opinion
38-24 letter provided by the toll project entity, whether the project's
38-25 senior debt obligations, if any, have the potential to attain an
38-26 investment grade rating.

38-27 (e) If the authority determines that the financial
38-28 assistance will be used for a project that is the subject of an
38-29 active procurement and that the project is financially feasible
38-30 including, if applicable, that the senior debt obligations to be
38-31 issued for the project have the potential to attain an investment
38-32 grade rating, the authority may approve a reservation and
38-33 conditionally award a loan to the toll project entity for the
38-34 project. The toll project entity shall enter into a written loan
38-35 commitment obligating the toll project entity to accept a loan from
38-36 the authority within certain financial parameters established by
38-37 the authority. The loan commitment is binding on the toll project
38-38 entity and must require the toll project entity to accept a loan
38-39 from the authority that satisfies the financial parameters set
38-40 forth in the commitment.

38-41 (f) After execution of a loan commitment, the authority may
38-42 issue general obligation bonds or notes under this subchapter, if
38-43 constitutionally authorized, or revenue bonds under Section
38-44 1232.257 in an amount necessary to fund the loan. The authority
38-45 shall determine the amount and time of a bond issue to best provide
38-46 funds for one or multiple loans. Before the funding of a loan, the
38-47 toll project entity shall enter into a written loan agreement with
38-48 the authority containing the terms and conditions of the loan,
38-49 including the loan repayment requirements.

38-50 (g) The authority shall administer the loans to ensure full
38-51 repayment of the amount of the loan.

38-52 Sec. 1232.253. LOAN PROCESS. (a) The board shall adopt
38-53 rules providing the criteria for evaluating the creditworthiness
38-54 and financial feasibility of a project and approving a loan. The
38-55 authority shall adopt a loan application form. The application
38-56 form may include:

38-57 (1) the name of the toll project entity and its
38-58 principal officers;

38-59 (2) a description of the project and its significance;

38-60 (3) the total cost of the project;

38-61 (4) the amount of financial assistance requested;

38-62 (5) the plan for repaying the loan; and

38-63 (6) any other information the authority requires to
38-64 perform its duties and to protect the public interest.

38-65 (b) Until an agreement to develop, finance, refinance,
38-66 construct, and operate the project is entered into, a loan
38-67 application submitted by a toll project entity is confidential and
38-68 is not subject to disclosure, inspection, or copying under Chapter
38-69 552, Government Code.

Sec. 1232.254. INCURRENCE OF DEBT BY TOLL PROJECT ENTITY.

39-1 (a) A toll project entity may borrow money from the authority,
 39-2 including by direct loan.

39-3 (b) A toll project entity may enter into a loan commitment
 39-4 and a loan agreement with the authority to provide financing for an
 39-5 eligible project. The toll project entity shall secure its
 39-6 repayment obligations by a pledge of revenue of the toll project
 39-7 entity derived from the toll or turnpike project.

39-8 (c) Money borrowed must be segregated from other funds under
 39-9 the control of the toll project entity and may be used only for
 39-10 purposes related to a specific toll or turnpike project.

39-11 (d) The authority granted by this section does not affect
 39-12 the ability of a toll project entity to incur debt using other
 39-13 statutorily authorized methods.

Sec. 1232.255. ISSUANCE OF GENERAL OBLIGATION BONDS AND NOTES.

39-14 (a) The authority may issue and sell general obligation
 39-15 bonds and notes of the state as authorized by Section 49-p, Article
 39-16 III, Texas Constitution, for the purpose of providing money to make
 39-17 loans to toll project entities under Section 1232.252. The
 39-18 aggregate principal amount of bonds and notes that are issued each
 39-19 year by the authority may not exceed \$3 billion, not including
 39-20 refunding bonds. The authority may determine the structure of the
 39-21 bonds to be issued so as to best provide funds for loans, including
 39-22 the issuance of interest only bonds and capital appreciation bonds.

39-23 (b) The proceeds of the bonds and notes shall be deposited
 39-24 into the toll project equity fund or into other separate funds as
 39-25 may be required to provide for payment of issuance costs of the
 39-26 bonds and notes and the loans and administrative costs of the loan
 39-27 program and may be used as authorized by Section 49-p, Article III,
 39-28 Texas Constitution, including:

39-29 (1) to fund loans approved by the authority under
 39-30 Section 1232.252;

39-31 (2) to pay the costs of issuing and selling the bonds
 39-32 and notes; and

39-33 (3) to pay the costs of administering the bonds and
 39-34 notes and the loan program, including the payment of fees and
 39-35 expenses of advisors.

39-36 (c) In connection with bonds or notes issued under this
 39-37 section, the authority may enter into one or more credit
 39-38 agreements, including interest rate lock agreements, at any time
 39-39 for a period and on conditions the authority approves.

39-40 Sec. 1232.256. APPROPRIATION REQUIRED. If the authority
 39-41 determines that there will not be sufficient money in the
 39-42 applicable interest and sinking accounts during the following
 39-43 biennium that is available to pay the principal of and interest on
 39-44 any outstanding bonds or notes issued under Section 1232.255 that
 39-45 mature or become due during that biennium, including an amount
 39-46 sufficient to make payments under a related credit agreement, in
 39-47 accordance with Section 49-p, Article III, Texas Constitution,
 39-48 general revenue shall be appropriated to the authority and the
 39-49 comptroller shall transfer to the applicable interest and sinking
 39-50 accounts money from the general revenue fund in amounts sufficient
 39-51 to pay the obligations.

39-52 Sec. 1232.257. ISSUANCE OF REVENUE BONDS. (a) The
 39-53 authority may issue and sell revenue bonds to provide money to make
 39-54 loans to toll project entities under Section 1232.252. The
 39-55 authority may issue bonds for a toll or turnpike project secured by
 39-56 a lien on the revenue of the project subordinate to the lien on the
 39-57 revenue securing other bonds issued for the project.

39-58 (b) The principal of, interest on, and any redemption
 39-59 premium on bonds issued by the authority under this section are
 39-60 payable solely from:

39-61 (1) the revenue of the toll or turnpike project for
 39-62 which the bonds are issued;

39-63 (2) the proceeds of bonds issued for the project;

39-64 (3) the amounts deposited in a debt service reserve
 39-65 fund as required by the trust agreement securing bonds issued for
 39-66 the project; and

39-67 (4) amounts received under a credit agreement relating
 39-68
 39-69

40-1 to the project for which the bonds are issued.

40-2 (c) Bonds issued under this section do not constitute a debt
40-3 of the state or a pledge of the faith and credit of the state. Each
40-4 bond must contain on its face a statement to the effect that:

40-5 (1) the state, the board, the authority, and the toll
40-6 project entity and its governing board are not obligated to pay the
40-7 principal of or interest on the bond from a source other than the
40-8 amount pledged to pay the principal of and interest on the bond; and

40-9 (2) the faith and credit and the taxing power of the
40-10 state are not pledged to the payment of the principal of or interest
40-11 on the bond.

40-12 (d) A lien on or a pledge of revenue, a contract payment, or
40-13 a pledge of money to the payment of bonds issued under this section:

40-14 (1) is valid and effective in accordance with Chapter
40-15 1208, Government Code;

40-16 (2) is enforceable in any court at the time of payment
40-17 for and delivery of the bond;

40-18 (3) applies to each item on hand or subsequently
40-19 received;

40-20 (4) applies without physical delivery of an item or
40-21 other act; and

40-22 (5) is enforceable in any court against any person
40-23 having a claim, in tort, contract, or other remedy, against the
40-24 board or the authority without regard to whether the person has
40-25 notice of the lien or pledge.

40-26 Sec. 1232.258. TRUST AGREEMENT. (a) Bonds issued under
40-27 Section 1232.257 may be secured by a trust agreement between the
40-28 authority and a corporate trustee that is a trust company or a bank
40-29 that has the powers of a trust company.

40-30 (b) A trust agreement may pledge or assign the tolls and
40-31 other revenue to be received but may not convey or mortgage any part
40-32 of a toll or turnpike project.

40-33 (c) A trust agreement may not evidence a pledge of the
40-34 revenue of a toll project except:

40-35 (1) to pay the principal of, interest on, and any
40-36 redemption premium on the bonds as they become due and payable;

40-37 (2) to create and maintain reserves for the purposes
40-38 described by Subdivision (1); and

40-39 (3) as otherwise provided by law.

40-40 (d) A trust agreement may:

40-41 (1) set forth the rights and remedies of the
40-42 bondholders and the trustee;

40-43 (2) restrict the individual right of action by
40-44 bondholders as is customary in trust agreements or trust indentures
40-45 securing corporate bonds and debentures; and

40-46 (3) contain provisions the authority determines
40-47 reasonable and proper for the security of the bondholders.

40-48 Sec. 1232.259. PROVISIONS PROTECTING AND ENFORCING RIGHTS
40-49 AND REMEDIES OF BONDHOLDERS. A trust agreement or resolution
40-50 providing for the issuance of bonds under Section 1232.257 may
40-51 contain provisions to protect and enforce the rights and remedies
40-52 of the bondholders, including covenants:

40-53 (1) establishing the authority's duties relating to:

40-54 (A) the design, development, financing,
40-55 construction, improvement, expansion, maintenance, repair,
40-56 operation, and insurance of the toll project in connection with
40-57 which the bonds were authorized; and

40-58 (B) the custody, safeguarding, and application
40-59 of money;

40-60 (2) prescribing events that constitute default; and

40-61 (3) relating to the rights, powers, liabilities, or
40-62 duties that arise on the breach of a duty of the authority,
40-63 including the right of the trustee to bring actions against the
40-64 authority in any state court to enforce the covenants in the
40-65 agreement, and the sovereign immunity of the state is waived for
40-66 that purpose.

40-67 Sec. 1232.260. TRUST FUND. (a) All money received from
40-68 the proceeds from the sale of bonds issued under Section 1232.257 or
40-69 as revenue pledged to the payment of those bonds is a trust fund to

41-1 be held and applied as provided by this section. Notwithstanding
 41-2 any other law and without the prior approval of the comptroller,
 41-3 funds described by this section shall be held in trust by a banking
 41-4 institution chosen by the authority or, at the discretion of the
 41-5 authority, in trust in the state treasury outside the general
 41-6 revenue fund.

41-7 (b) The resolution authorizing the issuance of bonds or the
 41-8 trust agreement securing the bonds shall provide that an officer to
 41-9 whom or a bank or trust company to which the money is paid shall act
 41-10 as trustee of the money and shall hold and apply the money for the
 41-11 purpose of the resolution or trust agreement, subject to this
 41-12 subchapter and the resolution or trust agreement.

41-13 Sec. 1232.261. REMEDIES. Except to the extent restricted
 41-14 by a trust agreement, a holder of a bond issued under Section
 41-15 1232.257 and a trustee under a trust agreement may:

41-16 (1) protect and enforce by a legal proceeding in any
 41-17 court a right under:

- 41-18 (A) this subchapter or another law of this state;
- 41-19 (B) the trust agreement; or
- 41-20 (C) the resolution authorizing the issuance of

41-21 the bond; and
 41-22 (2) compel the performance of a duty under this
 41-23 subchapter, the trust agreement, or the resolution that the board
 41-24 or the authority or an officer of the board or the authority is
 41-25 required to perform.

41-26 Sec. 1232.262. EXEMPTION FROM TAXATION OR ASSESSMENT.
 41-27 Bonds issued under this subchapter and income from the bonds,
 41-28 including any profit made on the sale or transfer of the bonds, are
 41-29 exempt from taxation in this state.

41-30 SECTION 28.03. Sections 1232.255 and 1232.256, Government
 41-31 Code, as added by this article, take effect January 1, 2008, but
 41-32 only if the constitutional amendment proposed by S.J.R. No. 46,
 41-33 80th Legislature, Regular Session, 2007, takes effect. If that
 41-34 amendment is not approved by the voters, those sections do not take
 41-35 effect.

41-36 ARTICLE 29. TRANSPORTATION REINVESTMENT ZONES

41-37 SECTION 29.01. Subchapter E, Chapter 222, Transportation
 41-38 Code, is amended by adding Section 222.108 to read as follows:

41-39 Sec. 222.108. AGREEMENTS FOR ADMINISTRATION OF
 41-40 PASS-THROUGH AGREEMENTS. (a) This section applies only to a
 41-41 municipality that has designated a transportation reinvestment
 41-42 zone under Section 222.106 or a county that has established a
 41-43 transportation reinvestment zone under Section 222.107.

41-44 (b) The municipality or county may enter into an agreement
 41-45 with a regional mobility authority operating under Chapter 370 or a
 41-46 regional tollway authority operating under Chapter 366 that allows
 41-47 the authority to administer, as the agent of the municipality or
 41-48 county, the pass-through agreement entered into with the department
 41-49 under Section 222.104 by the municipality or the county.

41-50 SECTION 29.02. (a) Except as provided by Subsection (b) of
 41-51 this section, this article takes effect immediately if this Act
 41-52 receives a vote of two-thirds of all the members elected to each
 41-53 house, as provided by Section 39, Article III, Texas Constitution.
 41-54 If this Act does not receive the vote necessary for immediate
 41-55 effect, this article takes effect September 1, 2007.

41-56 (b) This article takes effect only if S.B. No. 1266, Acts of
 41-57 the 80th Legislature, Regular Session, 2007, becomes law. If that
 41-58 Act does not become law, this article has no effect.

41-59 ARTICLE 30. USE OF HIGH OCCUPANCY VEHICLE LANES BY HYBRID VEHICLES

41-60 SECTION 30.01. Section 224.153, Transportation Code, is
 41-61 amended by adding Subsection (e) to read as follows:

41-62 (e) A motor vehicle displaying the "hybrid vehicle"
 41-63 insignia authorized by Section 502.1861 in an easily readable
 41-64 location on the back of the vehicle may use a high occupancy vehicle
 41-65 lane regardless of the number of occupants in the vehicle unless:

41-66 (1) the use would impair the receipt of federal funds;
 41-67 or

41-68 (2) the department determines that the high occupancy
 41-69 vehicle lane has reached 80 percent of its vehicle capacity.

SECTION 30.02. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1861 to read as follows:

Sec. 502.1861. "HYBRID VEHICLE" INSIGNIA FOR CERTAIN MOTOR VEHICLES. (a) At the time of registration or reregistration of the motor vehicle, the department shall issue a specially designed "hybrid vehicle" insignia for a motor vehicle that draws propulsion energy from both gasoline or conventional diesel fuel and from a rechargeable energy storage system.

(b) The department shall issue a "hybrid vehicle" insignia under this section without the payment of any additional fee to a person who:

(1) applies to the department on a form provided by the department; and

(2) submits proof that the motor vehicle being registered is a vehicle described by Subsection (a).

ARTICLE 31. DEPARTMENT RAIL FACILITY DUTIES

SECTION 31.01. Subsection (a), Section 91.004, Transportation Code, is amended to read as follows:

(a) The department may:

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

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

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

(A) department or agency of the United States;

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

(C) public or private person;

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

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

SECTION 31.02. Section 91.005, Transportation Code, is amended to read as follows:

Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. The department shall contract with a private entity to operate a railroad under this chapter [using facilities owned by the department] and may not use department employees to operate a railroad. The department may maintain a railroad facility directly or through a private entity. The department may not own rolling stock.

SECTION 31.03. Subchapter B, Chapter 91, Transportation Code, is amended by adding Section 91.038 to read as follows:

Sec. 91.038. PRIVATELY OWNED RAIL FACILITIES. (a) The department may relocate, construct, reconstruct, maintain, or operate a privately owned rail facility only if the commission first determines that the acquisition or other action will be in the best interests of this state in improving the mobility of the residents of this state and will:

(1) relieve congestion on public highways;

(2) enhance public safety;

(3) improve air quality; or

(4) expand economic opportunity.

(b) An agreement entered into by the department with a private owner for the transfer of a rail facility must contain provisions necessary to ensure compliance with each requirement of Subsection (a).

SECTION 31.04. Section 91.071, Transportation Code, is amended to read as follows:

Sec. 91.071. FUNDING. (a) Except as provided in Subsection (b), the department may use any available funds to implement this chapter, including:

(1) funds from the state infrastructure bank; or

(2) surplus revenue of a toll project, as defined in Section 201.001.

(b) The department may not spend money from the general revenue fund to implement this chapter except:

- (1) pursuant to a line-item appropriation;
- (2) money awarded from the Texas Enterprise Fund under Section 481.078, Government Code; or
- (3) money appropriated to the Texas rail relocation and improvement fund.

SECTION 31.05. Subsections (a) and (c), Section 91.072, Transportation Code, are amended to read as follows:

(a) The commission and the department have the same powers and duties relating to the financing of a rail facility or a system established under Section 91.031 as the commission and the department have under Subchapter C [E], Chapter 228 [361], relating to the financing of a toll [turnpike] project, including the ability to deposit the proceeds of bonds or other obligations and to pledge, encumber, and expend such proceeds and revenues as provided in Chapter 228 [361].

(c) For purposes of this section, a reference in Subchapter C [E], Chapter 228 [361] to:

- (1) a toll [turnpike] project means a rail facility or system; and
- (2) revenue includes a fee, rent, or other usage charge established under this chapter or other money received under Sections 91.073 and 91.074.

SECTION 31.06. Subsection (a), Section 91.091, Transportation Code, is amended to read as follows:

(a) Subject to Section 91.096, the [The] commission may authorize the department to acquire [~~in the name of the state~~] a right-of-way, a property right, or other interest in real property determined to be necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities. An interest in property acquired for a rail facility owned or to be owned by the department shall be acquired in the name of the state.

SECTION 31.07. Section 91.095, Transportation Code, is amended to read as follows:

Sec. 91.095. DISPOSAL OF PROPERTY. The department may sell, convey, or otherwise dispose of any rights or other interests in real property acquired in the name of the state under this subchapter that the commission determines are no longer needed for department purposes.

SECTION 31.08. Subchapter E, Chapter 91, Transportation Code, is amended by adding Section 91.096 to read as follows:

Sec. 91.096. ACQUISITION OF PROPERTY FOR PRIVATELY OWNED RAIL FACILITIES. The department may only acquire an interest in real property for a privately owned rail facility if the commission makes the determination required by Section 91.038.

SECTION 31.09. Subsection (d), Section 201.973, Transportation Code, is amended to read as follows:

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding rail facilities owned or to be owned by the department, including any necessary design, in the manner and locations determined by the commission that according to conclusive findings of the commission have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the financing or payment of all or part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding publicly or privately owned rail facilities, including any necessary design, if the commission determines that the project will be in the best interests of the state in its major goal of improving the mobility of the residents of the state and will:

- (A) relieve congestion on public highways;
- (B) enhance public safety;
- (C) improve air quality; or

- 44-1 (D) expand economic opportunity;
- 44-2 (3) to provide loans under Section 201.9731;
- 44-3 (4) to create debt service reserve accounts;
- 44-4 (5) ~~[(4)]~~ to pay interest on obligations for a period
- 44-5 of not longer than two years;
- 44-6 (6) ~~[(5)]~~ to refund or cancel outstanding
- 44-7 obligations; and
- 44-8 (7) ~~[(6)]~~ to pay the commission's costs of issuance.

44-9 SECTION 31.10. Subchapter O, Chapter 201, Transportation

44-10 Code, is amended by adding Section 201.9731 to read as follows:
44-11 Sec. 201.9731. LOAN PROGRAM. (a) In addition to any other
44-12 purpose authorized by this chapter, money in the fund may be used to
44-13 provide loans to eligible applicants for the purposes described by
44-14 Section 201.973(d) if the applicant's project meets the
44-15 requirements of that section.

44-16 (b) The department shall administer the loan program and has
44-17 all powers necessary and convenient to implement this section and
44-18 may:

- 44-19 (1) establish standards and schedules for railroad
- 44-20 infrastructure improvement projects;
- 44-21 (2) establish the specifications and provisions of a
- 44-22 loan that is made to an eligible applicant;
- 44-23 (3) establish in any loan agreement the level and
- 44-24 period of rail service to be provided by the railroad;
- 44-25 (4) negotiate and establish in any loan agreement the
- 44-26 financial participation required of an eligible applicant; and
- 44-27 (5) provide technical assistance to an eligible
- 44-28 applicant.

44-29 (c) The department shall allocate loans made under this
44-30 section on bases that protect the public interest. A loan may cover
44-31 all of a project's cost. Costs eligible for a loan do not include
44-32 overhead costs or other indirect costs.

44-33 (d) The department shall adopt rules to implement the loan
44-34 program.

44-35 SECTION 31.11. Subdivision (6), Section 228.001,

44-36 Transportation Code, is amended to read as follows:
44-37 (6) "Transportation project" means:

- 44-38 (A) a tolled or nontolled state highway
- 44-39 improvement project;
- 44-40 (B) a toll project eligible for department cost
- 44-41 participation under Section 222.103;
- 44-42 (C) the acquisition, construction,
- 44-43 reconstruction, relocation, maintenance, or operation of a rail
- 44-44 facility or system under Chapter 91;
- 44-45 (D) the acquisition, construction, maintenance,
- 44-46 or operation of a state-owned ferry under Subchapter A, Chapter
- 44-47 342;
- 44-48 (E) a public transportation project under
- 44-49 Chapter 455 or 456;
- 44-50 (F) the establishment, construction, or repair
- 44-51 of an aviation facility under Chapter 21; and
- 44-52 (G) a passenger rail project of another
- 44-53 governmental entity.

44-54 SECTION 31.12. Section 455.005, Transportation Code, is

44-55 amended to read as follows:
44-56 Sec. 455.005. RAIL FIXED GUIDEWAY ~~[MASS TRANSPORTATION]~~

44-57 SYSTEM SAFETY OVERSIGHT. (a) The department shall:
44-58 (1) oversee safety and security practices of rail
44-59 fixed guideway ~~[mass transportation]~~ systems in compliance with 49
44-60 U.S.C. Section 5330; and

44-61 (2) establish a ~~[safety]~~ program standard to be used
44-62 to provide rail transit agency safety and security oversight ~~[for~~
44-63 each entity operating a rail fixed guideway mass transportation
44-64 system within the state that provides.

44-65 ~~[(A) safety requirements that:~~
44-66 ~~[(i) at a minimum comply with the American~~
44-67 ~~Public Transit Association's guidelines published in the "Manual~~
44-68 ~~for the Development of Rail Transit System Safety Program Plans";~~
44-69 ~~and~~

45-1 ~~[(ii) include standards for the personal~~
 45-2 ~~security of passengers and employees of rail fixed guideway~~
 45-3 ~~systems;~~

45-4 ~~[(B) lines of authority;~~
 45-5 ~~[(C) levels of responsibility and~~
 45-6 ~~accountability; and~~

45-7 ~~[(D) methods of documentation for the system;~~
 45-8 ~~[(3) at least every three years conduct an on-site~~
 45-9 ~~safety review of each entity's system safety program plan and~~
 45-10 ~~prepare and issue a report containing findings and recommendations~~
 45-11 ~~resulting from that review that, at a minimum, include an analysis~~
 45-12 ~~of the efficacy of the system safety program plan and a~~
 45-13 ~~determination of whether it should be updated;~~

45-14 ~~[(4) review and approve the annual internal safety~~
 45-15 ~~audit conducted by an entity that operates a system;~~

45-16 ~~[(5) establish procedures for the investigation of~~
 45-17 ~~accidents and unacceptable hazardous conditions;~~

45-18 ~~[(6) investigate accidents and unacceptable hazardous~~
 45-19 ~~conditions at entities operating systems unless the National~~
 45-20 ~~Transportation Safety Board has investigated or will investigate an~~
 45-21 ~~accident;~~

45-22 ~~[(7) require, review, and approve any plan of an~~
 45-23 ~~entity operating a system to minimize, control, correct, or~~
 45-24 ~~eliminate any investigated accident or hazard; and~~

45-25 ~~[(8) submit reports or other information required by~~
 45-26 ~~the United States Department of Transportation].~~

45-27 (b) The department may use a contractor to act on its behalf
 45-28 in carrying out the duties of the department under this section.

45-29 (c) The data collected under this section and the report of
 45-30 any investigation conducted by the department or a contractor
 45-31 acting on behalf of the department under this section:

45-32 (1) are ~~[is]~~ confidential and not subject to
 45-33 disclosure, inspection, or copying under Chapter 552, Government
 45-34 Code; and ~~[but]~~

45-35 (2) may not be admitted in evidence or used for any
 45-36 purpose in any action or proceeding arising out of any matter
 45-37 referred to in an investigation except in an action or a proceeding
 45-38 instituted by the state.

45-39 (d) Each rail transit agency ~~[entity operating a system]~~
 45-40 shall:

45-41 (1) develop and implement a system safety program plan
 45-42 and a security plan that comply ~~[complies]~~ with the department's
 45-43 ~~[safety]~~ program plan standards and federal requirements;

45-44 (2) conduct an annual review of its system ~~[internal]~~
 45-45 safety program plan and security plan ~~[audit]~~ and submit the audit
 45-46 report to the department;

45-47 (3) report accidents, hazards, and hazard resolution
 45-48 activities ~~[unacceptable hazardous conditions]~~ to the department
 45-49 in accordance with the department's requirements ~~[writing or by~~
 45-50 ~~electronic means acceptable to the department]; and~~

45-51 (4) ~~[minimize, control, correct, or eliminate any~~
 45-52 ~~investigated unacceptable hazardous condition as required by the~~
 45-53 ~~department; and~~

45-54 ~~[(5)]~~ provide all necessary assistance to allow the
 45-55 department to conduct appropriate on-site investigations of
 45-56 accidents and hazards ~~[unacceptable hazardous conditions]~~.

45-57 (e) A ~~[Any part of a]~~ system security ~~[safety program]~~ plan
 45-58 ~~[that concerns security for the system]~~:

45-59 (1) is confidential and not subject to disclosure,
 45-60 inspection, or copying under Chapter 552, Government Code; and

45-61 (2) may not be admitted in evidence or used for any
 45-62 purpose in any action or proceeding arising out of any matter
 45-63 referred to in an investigation except in an action or a proceeding
 45-64 instituted by the state.

45-65 (f) The commission shall adopt rules to implement this
 45-66 section.

45-67 (g) Notwithstanding any other provision of law to the
 45-68 contrary, the commission, the department, or an officer, employee,
 45-69 or agent of the commission or department is not liable for any act

46-1 or omission in the implementation of this section.

46-2 (h) In this section:

46-3 (1) "Hazard" means any real or potential condition, as
 46-4 defined in a rail transit agency's hazard management plan, that can
 46-5 cause:

46-6 (A) injury, illness, or death;

46-7 (B) damage to or loss of a system, equipment, or
 46-8 property; or

46-9 (C) damage to the environment.

46-10 (2) "Rail fixed guideway system" means any light,
 46-11 heavy, or rapid rail system, monorail, inclined plane, funicular,
 46-12 trolley, or automated guideway that is subject to 49 U.S.C. Section
 46-13 5330.

46-14 (3) "Rail transit agency" means an entity that
 46-15 operates a rail fixed guideway system

46-16 [~~(1) "Accident" means:~~

46-17 [~~(A) any event involving the revenue service~~
 46-18 ~~operation of a rail fixed guideway system as a result of which an~~
 46-19 ~~individual:~~

46-20 [~~(i) dies, or~~

46-21 [~~(ii) suffers bodily injury and immediately~~
 46-22 ~~receives medical treatment away from the scene of the event, or~~

46-23 [~~(B) a collision, derailment, or fire that causes~~
 46-24 ~~property damage in excess of \$100,000.~~

46-25 [~~(2) "Commission" means the Texas Transportation~~
 46-26 ~~Commission.~~

46-27 [~~(3) "Department" means the Texas Department of~~
 46-28 ~~Transportation.~~

46-29 [~~(4) "Hazardous condition" means a condition that may~~
 46-30 ~~endanger human life or property, including an unacceptable~~
 46-31 ~~hazardous condition.~~

46-32 [~~(5) "Investigation" means a process to determine the~~
 46-33 ~~probable cause of an accident or an unacceptable hazardous~~
 46-34 ~~condition. The term includes a review and approval of the transit~~
 46-35 ~~agency's determination of the probable cause of an accident or~~
 46-36 ~~unacceptable hazardous condition.~~

46-37 [~~(6) "Rail fixed guideway mass transportation system"~~
 46-38 ~~or "system" means any light, heavy, or rapid rail system, monorail,~~
 46-39 ~~inclined plane, funicular, trolley, or automated guideway used for~~
 46-40 ~~mass transportation that is included in the United States~~
 46-41 ~~government's computation of fixed guideway route miles or receives~~
 46-42 ~~funding for urbanized areas under 49 U.S.C. Section 5336 and is not~~
 46-43 ~~regulated by the United States government.~~

46-44 [~~(7) "Safety" means freedom from danger.~~

46-45 [~~(8) "Security" means freedom from intentional~~
 46-46 ~~danger.~~

46-47 [~~(9) "Unacceptable hazardous condition" means a~~
 46-48 ~~hazardous condition determined to be unacceptable using the~~
 46-49 ~~American Public Transit Association's guidelines' hazard~~
 46-50 ~~resolution matrix].~~

46-51 SECTION 31.13. This article takes effect immediately if
 46-52 this Act receives a vote of two-thirds of all the members elected to
 46-53 each house, as provided by Section 39, Article III, Texas
 46-54 Constitution. If this Act does not receive the vote necessary for
 46-55 immediate effect, this article takes effect September 1, 2007.

46-56 ARTICLE 32. RAIL PROJECTS ELIGIBLE FOR TEXAS EMISSIONS REDUCTION
 46-57 PLAN GRANTS

46-58 SECTION 32.01. Section 386.109, Health and Safety Code, is
 46-59 amended to read as follows:

46-60 Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. The
 46-61 commission may consider for funding under Section 386.108:

46-62 (1) the purchase and installation at a site of
 46-63 equipment that is designed primarily to dispense qualifying fuel,
 46-64 other than standard gasoline or diesel, or the purchase of on-site
 46-65 mobile fueling equipment;

46-66 (2) infrastructure projects, including auxiliary
 46-67 power units, designed to dispense electricity to motor vehicles and
 46-68 on-road and non-road diesels; ~~and~~

46-69 (3) a project that involves a technology that allows a

47-1 vehicle to replace with electric power, while the vehicle is
47-2 parked, the power normally supplied by the vehicle's internal
47-3 combustion engine; and

47-4 (4) a project to reduce air pollution and engine
47-5 idling by relieving congestion at a rail intersection that:

47-6 (A) is located in a nonattainment area at an
47-7 intersection of two interstate highways;

47-8 (B) is an intersection of two mainline tracks;
47-9 and

47-10 (C) handles more than 100 daily train movements,
47-11 including passenger, freight, and military cars and hazardous waste
47-12 shipments.

47-13 SECTION 32.02. For the state fiscal biennium beginning
47-14 September 1, 2007, \$25,000,000 in the Texas emissions reduction
47-15 plan fund account is appropriated to the Texas Commission on
47-16 Environmental Quality for the purposes described by Subdivision
47-17 (4), Section 386.109, Health and Safety Code, as added by this Act.

47-18 ARTICLE 33. INTERIM STUDY ON FUNDING FOR CERTAIN COUNTIES

47-19 SECTION 33.01. (a) The Senate Committee on Transportation
47-20 and Homeland Security shall conduct an interim study to determine
47-21 methods for addressing the shortfall in transportation funding for
47-22 Collin County, Dallas County, Denton County, Ellis County, Johnson
47-23 County, Kaufman County, Parker County, Rockwall County, Tarrant
47-24 County, and Wise County.

47-25 (b) In conducting the study under Subsection (a) of this
47-26 section, the committee shall investigate the methods proposed for
47-27 addressing the shortfall in Senate Bill No. 1435, Senate Bill No.
47-28 1480, and Senate Bill No. 1808, 80th Legislature, Regular Session,
47-29 2007.

47-30 (c) Not later than December 1, 2008, the Senate Committee on
47-31 Transportation and Homeland Security shall submit the results of
47-32 the study, including any legislation proposed by the committee, to
47-33 the lieutenant governor, the speaker of the house of
47-34 representatives, and the members of the legislature.

47-35 (d) This section expires January 1, 2009.

47-36 ARTICLE 34. EFFECTIVE DATE

47-37 SECTION 34.01. Except as otherwise provided by this Act,
47-38 this Act takes effect September 1, 2007.

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