

By: Isett

H.B. No. 14

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation of the Texas Department of
3 Transportation and the functions of that department and of the
4 Texas Department of Motor Vehicles; providing penalties.

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

6 ARTICLE 1. GENERAL TRANSPORTATION COMMISSION AND TRANSPORTATION
7 DEPARTMENT PROVISIONS

8 SECTION 1.01. Sections 201.051(f), (g), and (j),
9 Transportation Code, are amended to read as follows:

10 (f) An officer, employee, or paid consultant of a Texas
11 trade association in the field of road construction or maintenance,
12 aviation, or outdoor advertising is not eligible for appointment as
13 ~~[or a Texas trade association of automobile dealers may not be]~~
14 member of the commission.

15 (g) The spouse of an officer, manager, or paid consultant of
16 a Texas trade association in the field of road construction or
17 maintenance, aviation, or outdoor advertising is not eligible for
18 appointment as ~~[or a Texas association of automobile dealers may~~
19 ~~not be]~~ a member of the commission.

20 (j) In this section, "Texas trade association" means a
21 ~~[nonprofit]~~ cooperative~~[7]~~ and voluntarily joined statewide
22 association of business or professional competitors in this state
23 designed to assist its members and its industry or profession in
24 dealing with mutual business or professional problems and in

1 promoting their common interest.

2 SECTION 1.02. (a) Section 201.052, Transportation Code, is
3 amended to read as follows:

4 Sec. 201.052. TERMS. Members of the commission serve
5 two-year [~~staggered six-year~~] terms [~~, with the terms of either one~~
6 ~~or two members~~] expiring February 1 of each odd-numbered year.

7 (b) The terms of the members of the Texas Transportation
8 Commission serving on January 31, 2010, expire February 1, 2011.

9 (c) Not later than January 31, 2011, the governor shall
10 appoint the members of the Texas Transportation Commission in
11 accordance with Section 201.052, Transportation Code, as amended by
12 this section, to serve terms beginning February 1, 2011.

13 SECTION 1.03. Section 201.054, Transportation Code, is
14 amended to read as follows:

15 Sec. 201.054. COMMISSION MEETINGS. (a) The commission
16 shall hold regular meetings at least once a month and special
17 meetings at the call of the chair. Commissioners shall attend the
18 meetings of the commission. The chair shall oversee the
19 preparation of an agenda for each meeting and ensure that a copy is
20 provided to each commissioner at least seven days before the
21 meeting.

22 (b) The commission shall make a sound and video recording of
23 each regular and called meeting of the commission and of any
24 workshop conducted by the commission. Not later than 24 hours after
25 a meeting or workshop of the commission is adjourned, the
26 department shall post the sound and video recording of the meeting
27 or workshop on the department's Internet website.

1 SECTION 1.04. Subchapter C, Chapter 201, Transportation
2 Code, is amended by adding Sections 201.118 and 201.119 to read as
3 follows:

4 Sec. 201.118. TECHNOLOGICAL SOLUTIONS. The commission
5 shall implement a policy requiring the department to use
6 appropriate technological solutions to improve the department's
7 ability to perform its functions. The policy must ensure that the
8 public is able to interact with the department on the Internet.

9 Sec. 201.119. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
10 RESOLUTION PROCEDURES. (a) The commission shall develop and
11 implement a policy to encourage the use of:

12 (1) negotiated rulemaking procedures under Chapter
13 2008, Government Code, for the adoption of department rules; and

14 (2) appropriate alternative dispute resolution
15 procedures under Chapter 2009, Government Code, to assist in the
16 resolution of internal and external disputes under the department's
17 jurisdiction.

18 (b) The department's procedures relating to alternative
19 dispute resolution must conform, to the extent possible, to any
20 model guidelines issued by the State Office of Administrative
21 Hearings for the use of alternative dispute resolution by state
22 agencies.

23 (c) The commission shall designate a trained person to:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

2 (3) collect data concerning the effectiveness of those
3 procedures, as implemented by the department.

4 SECTION 1.05. Section 201.202, Transportation Code, is
5 amended by amending Subsection (a) and adding Subsection (c) to
6 read as follows:

7 (a) The commission shall organize the department into
8 divisions to accomplish the department's functions and the duties
9 assigned to it, including divisions for:

- 10 (1) aviation;
- 11 (2) highways and roads; ~~and~~
- 12 (3) public transportation; and
- 13 (4) rail transportation.

14 (c) A person designated by the commission as the
15 department's chief financial officer must report directly to the
16 director.

17 SECTION 1.06. Section 201.204, Transportation Code, is
18 amended to read as follows:

19 Sec. 201.204. SUNSET PROVISION. The Texas Department of
20 Transportation is subject to Chapter 325, Government Code (Texas
21 Sunset Act). Unless continued in existence as provided by that
22 chapter, the department is abolished September 1, 2013 [~~2009~~].

23 SECTION 1.07. Subchapter D, Chapter 201, Transportation
24 Code, is amended by adding Sections 201.210, 201.211, 201.212, and
25 201.213 to read as follows:

26 Sec. 201.210. COMPLIANCE CERTIFICATION. (a) Not later
27 than September 1 of each year, the director and the department's

1 chief financial officer shall each certify in writing that the
2 director or the officer, as applicable:

3 (1) is responsible for establishing and maintaining
4 the department's internal controls;

5 (2) has evaluated the effectiveness of the
6 department's internal controls;

7 (3) has presented conclusions about the effectiveness
8 of the department's internal controls and applicable reporting
9 requirements; and

10 (4) has effectively complied with all applicable
11 legislative mandates.

12 (b) The director and the department's chief financial
13 officer shall submit the certifications required by Subsection (a)
14 to the governor, the lieutenant governor, the speaker of the house
15 of representatives, the chair of the standing committee of each
16 house of the legislature with primary jurisdiction over
17 transportation matters, and the Transportation Legislative
18 Oversight Committee created under Section 201.625.

19 (c) The Transportation Legislative Oversight Committee
20 shall recommend to the 82nd Legislature appropriate penalties for
21 failure to submit the certifications required by Subsection (a).

22 Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) Each
23 department employee shall annually affirm the employee's
24 commitment to adhere to the ethics policy adopted under Section
25 572.051(c), Government Code.

26 (b) The department shall establish and operate a telephone
27 line to be known as the Ethics Hotline that enables a person to call

1 the hotline number, anonymously or not anonymously, to report an
2 alleged violation of the ethics policy adopted under Section
3 572.051(c), Government Code.

4 Sec. 201.212. LEGISLATIVE APPROPRIATIONS REQUEST.
5 Department staff shall deliver the department's legislative
6 appropriations request to the commission in an open meeting not
7 later than the 30th day before the commission adopts the
8 legislative appropriations request for submission to the
9 Legislative Budget Board.

10 Sec. 201.213. LEGISLATIVE LOBBYING. (a) In addition to
11 Section 556.006, Government Code, a member of the commission, the
12 director, or a department employee may not use money under the
13 department's control or state resources to engage in an activity to
14 influence the passage or defeat of legislation, except as provided
15 by Subsection (c).

16 (b) Violation of Subsection (a) is grounds for dismissal of
17 an employee who directs or carries out the violation.

18 (c) This section does not prohibit a member of the
19 commission, the director, or a department employee from using state
20 resources to:

21 (1) provide public information or information
22 responsive to a request;

23 (2) communicate with officers and employees of the
24 federal government in pursuit of federal appropriations; or

25 (3) influence the passage or defeat of federal
26 legislation or regulation on an issue that the commission by order
27 specifies and in accordance with any directions given in such an

1 order.

2 SECTION 1.08. Section 201.404(b), Transportation Code, is
3 amended to read as follows:

4 (b) The director or the director's designee shall develop a
5 system of annual performance evaluations that are based on
6 documented employee performance. All merit pay for department
7 employees must be based on the system established under this
8 subsection. If an annual performance evaluation indicates that an
9 employee's performance is unsatisfactory, the director or the
10 person designated by the director shall consider whether the
11 employee should be terminated. The annual performance evaluations
12 developed under this subsection must include the evaluation of an
13 employee's:

- 14 (1) professionalism;
15 (2) diligence; and
16 (3) responsiveness to directives and requests from the
17 commission and the legislature.

18 SECTION 1.09. Subchapter H, Chapter 201, Transportation
19 Code, is amended by adding Section 201.625 to read as follows:

20 Sec. 201.625. TRANSPORTATION LEGISLATIVE OVERSIGHT
21 COMMITTEE. (a) In this section, "committee" means the
22 Transportation Legislative Oversight Committee.

23 (b) The committee is composed of the following members:

24 (1) the chair of the Senate Committee on
25 Transportation and Homeland Security and two members of that
26 committee appointed by the lieutenant governor;

27 (2) the chair of the House Committee on Transportation

1 and two members of that committee appointed by the speaker of the
2 house of representatives;

3 (3) the chair of the Senate Committee on Finance; and

4 (4) the chair of the House Committee on
5 Appropriations.

6 (c) The chair of the Senate Committee on Transportation and
7 Homeland Security and the chair of the House Committee on
8 Transportation serve as the presiding officer of the committee on
9 an alternating basis, with the chair of the Senate Committee on
10 Transportation and Homeland Security serving as the first chair of
11 the committee. The presiding officer of the committee serves a
12 two-year term that expires February 1 of each odd-numbered year.

13 (d) The committee has all other powers and duties provided
14 to a special committee by:

15 (1) Subchapter B, Chapter 301, Government Code;

16 (2) the rules of the senate and the house of
17 representatives; and

18 (3) policies of the senate and house committees on
19 administration.

20 (e) The committee shall meet at least quarterly and at the
21 call of the presiding officer.

22 (f) The committee shall monitor the following:

23 (1) implementation of the changes in law made as a
24 result of the sunset review process;

25 (2) the progress made in transference of powers,
26 duties, and property from the Texas Department of Transportation to
27 the Texas Department of Motor Vehicles;

1 (3) any proposed changes in the organization or
2 structure of the department;

3 (4) significant transportation policy initiatives at
4 both the state and federal levels;

5 (5) major projects of the department;

6 (6) the financial issues facing the department,
7 including the amounts and usage of dedicated and non-dedicated
8 state highway funds, the impacts of various bond programs, the
9 short-term and long-term cash forecast of the department, possible
10 revenue sources for the rail relocation and improvement fund, and
11 additional revenue sources for the Texas Mobility Fund; and

12 (7) reports on any subject requested by the committee
13 or determined by the department to be beneficial to the committee.

14 (g) The committee shall require the department to provide
15 reports to the committee as necessary to effectively perform the
16 committee's duties under Subsection (f).

17 (h) When the department files a quarterly financial
18 statement required by Section 201.107(a) with the governor, the
19 department shall provide a copy of that statement to the committee.

20 (i) Notwithstanding any other provision of this chapter,
21 the committee may not recommend specific projects or recommend
22 funding for specific projects at the department.

23 (j) The department shall enter into an interagency
24 agreement with the legislature, a chamber of the legislature, or a
25 legislative agency to provide funding to support the operation of
26 the committee from available amounts appropriated to the
27 department. The amount provided by the department for a state

1 fiscal biennium may not exceed \$1 million.

2 (k) The department shall consult with the committee on any
3 outside management and organizational review of the department.

4 (l) This section expires August 31, 2013.

5 SECTION 1.10. Subchapter A, Chapter 222, Transportation
6 Code, is amended by adding Section 222.004 to read as follows:

7 Sec. 222.004. AUTHORIZATION TO PROVIDE ASSISTANCE TO
8 EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a
9 regional tollway authority operating under Chapter 366, or a
10 regional mobility authority operating under Chapter 370 may enter
11 into an agreement to provide funds to a state or federal agency to
12 expedite the agency's performance of its duties related to the
13 environmental review process for transportation projects:

14 (1) of the department;

15 (2) listed in a metropolitan planning organization's
16 long-range transportation plan under 23 U.S.C. Section 134; or

17 (3) of a county, a regional tollway authority
18 operating under Chapter 366, or a regional mobility authority
19 operating under Chapter 370.

20 (b) Except as provided by Subsection (c), an agreement
21 entered into under this section:

22 (1) may specify transportation projects the
23 applicable entity considers to be priorities for review; and

24 (2) must require the agency receiving money to
25 complete the environmental review in less time than is customary
26 for the completion of environmental review by that agency.

27 (c) The department may enter into a separate agreement for a

1 transportation project that the department determines has regional
2 importance.

3 (d) An agreement entered into under this section does not
4 diminish or modify the rights of the public regarding review and
5 comment on transportation projects.

6 (e) An entity entering into an agreement under this section
7 shall make the agreement available on the entity's Internet
8 website.

9 SECTION 1.11. (a) Section 228.004, Transportation Code, is
10 amended to read as follows:

11 Sec. 228.004. [~~PROMOTION OF~~] TOLL PROJECT INFORMATION.

12 (a) The department may, notwithstanding Chapter 2113, Government
13 Code, engage in marketing, advertising, and other activities to
14 provide information relating to the status of pending or ongoing
15 [~~promote the development and use of~~] toll projects, including
16 information concerning the methods of paying and collecting tolls,
17 and may enter into contracts or agreements necessary to procure
18 marketing, advertising, or informational [~~other promotional~~]
19 services from outside service providers.

20 (b) This section does not authorize the department to engage
21 in marketing, advertising, or other activities for the purpose of
22 influencing public opinion about the use of toll roads or the use of
23 tolls as a financial mechanism.

24 (b) The change in law made by Subsection (a) of this section
25 applies only to a contract or agreement entered into or renewed
26 under Section 228.004, Transportation Code, on or after the
27 effective date of this Act. A contract or agreement entered into or

1 renewed under Section 228.004, Transportation Code, before the
2 effective date of this Act is governed by the law in effect
3 immediately before the effective date of this Act, and that law is
4 continued in effect for that purpose.

5 ARTICLE 2. TRANSPORTATION PLANNING

6 SECTION 2.01. Section 201.001(a), Transportation Code, is
7 amended by adding Subdivision (4) to read as follows:

8 (4) "Metropolitan planning organization" has the
9 meaning assigned by Section 472.031.

10 SECTION 2.02. Section 201.601, Transportation Code, is
11 amended to read as follows:

12 Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The
13 department shall develop a statewide transportation plan covering a
14 period of not less than 25 years that contains all modes of
15 transportation, including:

- 16 (1) highways and turnpikes;
- 17 (2) aviation;
- 18 (3) mass transportation;
- 19 (4) railroads and high-speed railroads; and
- 20 (5) water traffic.

21 (a-1) The plan must:

22 (1) contain specific, long-term transportation goals
23 for the state and measurable targets for each goal, including
24 reducing congestion throughout the state;

25 (2) identify priority corridors, projects, or areas of
26 the state that are of particular concern to the department in
27 meeting the goals established under Subdivision (1); and

1 (3) contain a participation plan for obtaining input
2 on the goals and priorities identified under this subsection from:

3 (A) other state agencies;

4 (B) political subdivisions;

5 (C) planning organizations as defined in Section
6 201.981(2); and

7 (D) members of the general public.

8 (b) [~~In developing the plan, the department shall seek~~
9 ~~opinions and assistance from other state agencies and political~~
10 ~~subdivisions that have responsibility for the modes of~~
11 ~~transportation listed by Subsection (a).~~] As appropriate, the
12 department and one or more of the entities listed in Subsection
13 (a-1)(3) [such an agency or political subdivision] shall enter into
14 a memorandum of understanding relating to the planning of
15 transportation services.

16 (c) The plan must include a component that is not
17 financially constrained and identifies transportation improvements
18 designed to relieve congestion. In developing this component of
19 the plan, the department shall seek opinions and assistance from
20 officials who have local responsibility for modes of transportation
21 listed in Subsection (a).

22 (d) If there is a conflict between obligations and
23 requirements imposed in federal law governing the transportation
24 planning, project development, and programming process for the
25 department and planning organizations as defined in Section
26 201.981(2), and those imposed in this title, federal law controls
27 and the commission may take any action that is necessary in its

1 reasonable judgment to comply with any federal law to enable this
2 state to receive federal aid funds.

3 (e) The department shall update the plan every five years or
4 more frequently as necessary. [The plan shall include a component,
5 published annually, that describes the evaluation of
6 transportation improvements based on performance measures, such as
7 indices measuring delay reductions or travel time improvements.
8 The department shall consider the performance measures in selecting
9 transportation improvements.]

10 SECTION 2.03. Subchapter H, Chapter 201, Transportation
11 Code, is amended by adding Sections 201.6014, 201.6015, 201.622,
12 201.623, and 201.624 to read as follows:

13 Sec. 201.6014. INTEGRATION OF PLANS AND POLICY EFFORTS. In
14 developing each of its transportation plans and policy efforts, the
15 department must clearly reference the plan developed under Section
16 201.601 and specify how the plan or policy effort supports or
17 otherwise relates to the specific goals contained in that plan.

18 Sec. 201.6015. DELEGATION OF DUTIES OR POWERS TO
19 METROPOLITAN PLANNING ORGANIZATION. A metropolitan planning
20 organization may agree to accept additional responsibilities
21 delegated by the commission concerning transportation planning and
22 project selection.

23 Sec. 201.622. METROPOLITAN TRANSPORTATION PLAN. (a) A
24 metropolitan planning organization shall prepare and periodically
25 update a long-range transportation plan for its service area as
26 required by federal law. The long-range transportation plan must:

27 (1) address at least a 20-year period;

1 (2) include both long-range and short-range
2 strategies; and

3 (3) comply with all other state and federal
4 requirements.

5 (b) The first 10 years of the long-range plan must be
6 identical to the plan developed under Section 201.985.

7 (c) Before approving a long-range transportation plan, a
8 metropolitan planning organization shall provide to residents in
9 its boundaries, affected public agencies, and other interested
10 parties a reasonable opportunity to comment on the long-range
11 transportation plan.

12 (d) A metropolitan planning organization shall make each of
13 its long-range transportation plans readily available for public
14 review and shall deliver each plan to the commission at the times
15 and in the manner and format established by the commission. The
16 format of the plan must be in plain English and easily reviewable
17 and understandable. The metropolitan planning organization shall
18 update the plan every year or more frequently as necessary.

19 Sec. 201.623. COOPERATION WITH METROPOLITAN PLANNING
20 ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The
21 department and metropolitan planning organizations shall cooperate
22 to develop mutually acceptable assumptions for the purposes of
23 long-range federal and state funding forecasts that are consistent
24 with the criteria established by the commission under Section
25 201.994 and use those criteria to guide long-range planning.

26 Sec. 201.624. RECOMMENDATIONS FROM RURAL PLANNING
27 ORGANIZATION. A rural planning organization may make

1 recommendations to the commission concerning the selection of
2 transportation projects, systems, or programs to be undertaken in
3 the boundaries of the rural planning organization.

4 SECTION 2.04. (a) Subchapter J, Chapter 201,
5 Transportation Code, is amended by adding Sections 201.8005,
6 201.807, 201.808, 201.809, 201.810, and 201.811 to read as follows:

7 Sec. 201.8005. DEFINITION. In this subchapter,
8 "transportation project" has the meaning assigned by Section
9 201.981.

10 Sec. 201.807. TRANSPORTATION PROJECT AND PERFORMANCE
11 REPORTING SYSTEM. (a) The department shall establish a project and
12 performance reporting system that makes available in a central
13 location on the department's Internet website information
14 regarding all of the department's transportation projects
15 contained in the unified transportation program required by Section
16 201.983 or under construction. The information must be easily
17 accessible, understandable, and searchable. The project and
18 performance reporting system must contain:

19 (1) information about each of the department's
20 transportation projects included in the unified transportation
21 program, including:

22 (A) the status of the project;

23 (B) each source of funding for the project;

24 (C) benchmarks for evaluating the progress of the
25 project;

26 (D) timelines for completing the project;

27 (E) a list of the department employees

1 responsible for the project, including information as to how each
2 person on that list may be contacted; and

3 (F) the results of the annual review required by
4 Subsection (d);

5 (2) a representational color-coded map showing the
6 location of the transportation projects and containing the
7 information described by Subdivision (1);

8 (3) each construction work zone for a transportation
9 project under construction that has a total construction timeline
10 that exceeds six months or the cost of which exceeds \$5 million,
11 including information about:

12 (A) the number of lanes that will remain open
13 during the project's construction phase;

14 (B) the location and duration of each lane
15 closure; and

16 (C) the expected traffic delay resulting from
17 each lane closure;

18 (4) road maintenance transportation projects that are
19 planned or under construction, including the condition of each road
20 before the road maintenance transportation project; and

21 (5) each fund source for the department's funds and all
22 expenditures made by the department, for each of the department's
23 transportation projects, reported by:

24 (A) department district;

25 (B) program funding category as required by
26 Section 201.983(b)(2); and

27 (C) type of revenue, including revenue from a

1 comprehensive development agreement or a toll project.

2 (b) In developing the transportation project and
3 performance reporting system, the department shall collaborate
4 with:

5 (1) the Transportation Legislative Oversight
6 Committee;

7 (2) local transportation entities as defined by
8 Section 201.981; and

9 (3) members of the general public.

10 (c) The department shall make the statistical information
11 provided under this section available on the department's Internet
12 website in more than one downloadable electronic format.

13 (d) As a component of the transportation project and
14 performance reporting system required by this section, the
15 department shall conduct an annual review of the benchmarks and
16 timelines of each transportation project included in the
17 department's project development program, to determine the
18 completion rates of the projects and whether the projects were
19 completed on time.

20 (e) The department shall update the information contained
21 in the transportation project and performance reporting system at
22 least quarterly and the representational map at least annually.

23 Sec. 201.808. TRANSPORTATION PROJECT AND PERFORMANCE
24 REPORTS. (a) The department shall develop a process to identify
25 and distinguish between the transportation projects that are
26 required to maintain the state infrastructure and the
27 transportation projects that would improve the state

1 infrastructure in a manner consistent with the statewide
2 transportation plan required by Section 201.601.

3 (b) The department shall include in the transportation
4 project and performance reporting system:

5 (1) a list of the most significant transportation
6 problems in each department district as described by the statewide
7 transportation plan developed under Section 201.601, including the
8 component required by Section 201.601(c);

9 (2) reports prepared by the department or an
10 institution of higher education that evaluate the effectiveness of
11 the department's expenditures on transportation projects to
12 achieve the transportation goals;

13 (3) information about the condition of the pavement
14 for each segment of the state highway system, including:

15 (A) the international roughness index issued by
16 the United States Department of Transportation Federal Highway
17 Administration; and

18 (B) the percentage of pavement that the
19 department determines to be in good or better condition;

20 (4) the condition of bridges, including information
21 about:

22 (A) the number of on-system and off-system
23 bridges that are structurally deficient or functionally obsolete;
24 and

25 (B) the percentage of bridges that the department
26 determines to be in good or better condition;

27 (5) information about traffic congestion and traffic

1 delays, including:

2 (A) the locations of the worst metropolitan
3 traffic delays;

4 (B) the variable travel time for major freeways
5 and highways in the metropolitan areas of this state; and

6 (C) the effect of traffic congestion on motor
7 vehicle travel and motor carriers; and

8 (6) information about the number of traffic accidents,
9 injuries, and fatalities, including the geographic locations in
10 each department district for the highest number of traffic
11 accidents, injuries, or fatalities.

12 (c) The department shall provide the information made
13 available under Subsection (b) in a format that allows a person to
14 conduct electronic searches for information about a specific
15 county, a highway under the jurisdiction of the department, or a
16 type of road.

17 (d) Each department district shall enter information into
18 the transportation project and performance reporting system,
19 including information about each district transportation project.

20 (e) The transportation project and performance reporting
21 system established under this section must include:

22 (1) information relating to each source of the
23 department's funds, including the identification of revenue from
24 each comprehensive development agreement or toll project; and

25 (2) information relating to all expenditures of the
26 department by type of expenditure, as described in the
27 comptroller's statewide accounting system, and reported for all

1 applicable organizational groups and categories, including:

2 (A) the entire department;

3 (B) each department division;

4 (C) each department district; and

5 (D) each program funding category for project
6 expenses.

7 Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The
8 department annually shall evaluate and publish a report about the
9 status of each transportation goal for this state. The report must
10 include:

11 (1) information about the progress of each long-term
12 transportation goal that is identified by the statewide
13 transportation plan;

14 (2) the status of each project;

15 (3) a summary of the number of statewide project
16 implementation benchmarks that have been completed; and

17 (4) information about the accuracy of previous
18 department financial forecasts.

19 (b) The department shall disaggregate the project
20 information in the report by department district.

21 (c) The department shall make available a copy of the
22 reports for department districts in a legislative district to each
23 member of the legislature, and at the request of a member, a senior
24 management employee shall meet with the member to explain the
25 report.

26 (d) The department shall provide a copy of each district
27 report to the political subdivisions located in the department

1 district that is the subject of the report, including:

2 (1) a municipality;

3 (2) a county; and

4 (3) a local transportation entity as defined by
5 Section 201.981.

6 (e) The department shall provide a copy of the complete
7 report to the lieutenant governor, the speaker of the house of
8 representatives, and the chair of the standing committee of each
9 house of the legislature with primary jurisdiction over
10 transportation issues.

11 Sec. 201.810. SEPARATE SUBACCOUNT REPORTING. (a) The
12 department shall develop an account information reporting system
13 that makes available on the department's Internet website for
14 viewing and downloading by interested persons the tracking of each
15 separate subaccount in the state highway fund required by law,
16 including Chapter 228. The account information must include:

17 (1) the source and amount of the deposited funds and
18 the date of deposit;

19 (2) identification by location and highway
20 designation of the projects or systems to which the funds are
21 allocated; and

22 (3) the amount, general type or purpose, and date of
23 expenditures from the account.

24 (b) The department shall update the account information
25 reporting system at least quarterly.

26 Sec. 201.811. DEPARTMENT INFORMATION CONSOLIDATION. (a)
27 To the extent practicable and to avoid duplication of reporting

1 requirements, the department may combine the reports required under
2 this subchapter with reports required under other provisions of
3 this code.

4 (b) The department shall develop a central location on the
5 department's Internet website that provides easily accessible and
6 searchable information to the public contained in the reports
7 required under this subchapter and other provisions of this code.

8 (b) Not later than December 1, 2009, the Texas Department of
9 Transportation shall establish the central location on the
10 department's Internet website required by Section 201.807,
11 Transportation Code, as added by this section.

12 SECTION 2.05. Chapter 201, Transportation Code, is amended
13 by adding Subchapter P to read as follows:

14 SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

15 Sec. 201.981. DEFINITIONS. In this subchapter:

16 (1) "Local transportation entity" means an entity that
17 participates in the transportation planning process. The term
18 includes:

19 (A) a metropolitan planning organization;

20 (B) a rural planning organization;

21 (C) a regional tollway authority organized under
22 Chapter 366;

23 (D) a regional transportation authority
24 operating under Chapter 452;

25 (E) a rural transit district as defined by
26 Section 458.001;

27 (F) a coordinated county transportation

1 authority operating under Chapter 460;

2 (G) a regional mobility authority operating
3 under Chapter 370; and

4 (H) a county, including a county operating under
5 Chapter 284.

6 (2) "Planning organization" means:

7 (A) a metropolitan planning organization;

8 (B) a rural planning organization; or

9 (C) for an area that is not in the boundaries of a
10 metropolitan planning organization or a rural planning
11 organization, the department district.

12 (3) "Transportation official" means an official in a
13 state agency or political subdivision who has responsibility for
14 any of the following modes of transportation:

15 (A) aviation;

16 (B) high-speed rail;

17 (C) highways;

18 (D) toll roads;

19 (E) mass transportation;

20 (F) railroads; and

21 (G) water traffic.

22 (4) "Transportation project" means the planning,
23 right-of-way acquisition, expansion, improvement, addition, or
24 contract maintenance, other than the routine or contracted routine
25 maintenance, of:

26 (A) a bridge;

27 (B) a highway;

1 (C) a toll road or toll road system;

2 (D) a railroad;

3 (E) an enhancement of a roadway that increases
4 the safety of the traveling public;

5 (F) an air quality improvement initiative; or

6 (G) a transportation enhancement activity under
7 23 U.S.C. Section 133.

8 Sec. 201.982. PURPOSE. It is in the interest of this state
9 to:

10 (1) encourage and promote the safe and efficient
11 management, operation, and development of surface transportation
12 systems that will serve the mobility needs of people and freight and
13 foster economic growth and development in rural and urbanized areas
14 of this state, while minimizing transportation-related fuel
15 consumption and air pollution through metropolitan, rural, and
16 statewide transportation planning processes identified in this
17 chapter; and

18 (2) encourage the continued improvement and evolution
19 of the metropolitan, rural, and statewide transportation planning
20 processes by planning organizations and public transit operators as
21 guided by the planning factors identified in state and federal law.

22 Sec. 201.983. UNIFIED TRANSPORTATION PROGRAM. (a) The
23 department shall develop a unified transportation program that
24 covers a period of 10 years to guide the development of and
25 authorize construction of transportation projects. The program
26 must:

27 (1) estimate funding levels for each year; and

1 (2) list all projects and programs that the department
2 intends to develop or begin construction of during the program
3 period.

4 (b) The commission by rule shall:

5 (1) specify the criteria for selecting projects to be
6 included in the program as provided in Section 201.994;

7 (2) define program funding categories, including
8 categories for safety, bridge, maintenance, and mobility; and

9 (3) define each phase of a major transportation
10 project, including the planning, design, and construction phases.

11 (c) The department shall publish the entire unified
12 transportation program and summary documents highlighting project
13 benchmarks, priorities, and forecasts in appropriate media and on
14 the department's Internet website.

15 (d) In developing the rules required by this section, the
16 commission shall cooperate with local transportation entities.

17 Sec. 201.984. ANNUAL UPDATE TO UNIFIED TRANSPORTATION
18 PROGRAM. (a) The department shall annually update the unified
19 transportation program.

20 (b) The department shall collaborate with local
21 transportation entities to develop each annual update to the
22 unified transportation program.

23 Sec. 201.985. PLANNING ORGANIZATION 10-YEAR PLAN. (a)
24 Each planning organization shall develop a 10-year transportation
25 plan that is consistent with the criteria and definitions adopted
26 by the commission under Section 201.983.

27 (b) The first four years of the plan shall be developed so as

1 to comply with the transportation improvement plan requirements of
2 federal law.

3 (c) In developing the statewide transportation improvement
4 plan in accordance with federal law, the department shall:

5 (1) compile the metropolitan planning organizations'
6 project selections; and

7 (2) collaborate with the rural planning
8 organizations.

9 (d) The department shall develop the statewide
10 transportation improvement plan in accordance with federal law.

11 Sec. 201.986. PROJECT PRIORITIZATION BY PLANNING
12 ORGANIZATIONS. (a) Each metropolitan planning organization shall,
13 for the area in its boundaries, develop a prioritized list of
14 transportation projects that is consistent with the criteria
15 established by the commission under Section 201.994. Projects that
16 are not considered by the department and the planning organization
17 to be of an appropriate scale for individual identification in a
18 given program year may be grouped by function, geographic area, or
19 work type.

20 (b) For an area not located in the boundaries of a planning
21 organization, the applicable department district shall:

22 (1) develop a prioritized list of transportation
23 projects with input from municipal and county officials and
24 officials of local transportation entities; and

25 (2) submit the transportation projects to the
26 commission for final approval.

27 Sec. 201.987. CASH FLOW FORECAST. (a) On September 1 of

1 each odd-numbered year, the department's chief financial officer
2 shall issue a cash flow forecast for each method and category of
3 funding that covers a period of not less than the 10 years following
4 the date the forecast is issued.

5 (b) The forecast must identify all sources of funding
6 available for transportation projects, including bond proceeds.

7 (c) The first two years of the forecast must be based on the
8 appropriation of funds in the General Appropriations Act for the
9 department for that biennium.

10 (d) The department shall update the forecast more
11 frequently as needed if significant changes in the department's
12 funding occur.

13 Sec. 201.988. ALLOCATION OF ESTIMATED FUNDING. (a) The
14 commission shall use the cash flow forecast under Section 201.987
15 to allocate funding to the planning organizations in accordance
16 with Section 201.995.

17 (b) In this subchapter, unless the context clearly
18 indicates otherwise, "funds" or "funding" means the estimates of
19 federal and state money reasonably expected to be available for
20 expenditure on transportation projects during the relevant period.

21 Sec. 201.989. PROCESS FOR DEVELOPING PLANS AND PROGRAMS.
22 The process for developing the plans and programs under this
23 subchapter must:

24 (1) provide for consideration of all modes of
25 transportation;

26 (2) be continuing, cooperative, and comprehensive to
27 the extent appropriate, based on the complexity of the

1 transportation problems to be addressed; and

2 (3) give consideration to statewide connectivity of
3 transportation services and infrastructure.

4 Sec. 201.990. PARTICIPATION IN PLAN DEVELOPMENT. (a) In
5 developing a plan under this subchapter, a planning organization
6 shall seek the opinions and assistance of the appropriate
7 transportation officials.

8 (b) As appropriate, the department and a metropolitan
9 planning organization may enter into a memorandum of understanding
10 relating to the planning of transportation services.

11 (c) The department shall review the plans of each planning
12 organization to ensure compliance with the requirements of 23
13 U.S.C. Section 135, and provide assistance to a planning
14 organization to correct deficiencies.

15 Sec. 201.991. PLANS TO BE FINANCIALLY CONSTRAINED. A plan
16 under this subchapter must be financially constrained and identify
17 transportation projects and projects for any other mode of
18 transportation not included in Section 201.981(4).

19 Sec. 201.992. PLAN ADJUSTMENTS. The commission shall adopt
20 rules to allow a planning organization to move projects forward or
21 delay projects if there are additional or less funds available than
22 identified in the cash flow forecast under Section 201.987.
23 Adjustments to the plan may not be made more than semiannually,
24 unless there are substantial increases or decreases in available
25 funding.

26 Sec. 201.993. EVALUATION COMPONENT OF PLAN. A plan under
27 this subchapter must include a component, published annually, that

1 describes the evaluation of transportation improvements based on
2 performance measures, such as indices that measure delay reductions
3 or travel time improvements. The planning organization shall
4 consider the performance measures in selecting transportation
5 improvements.

6 Sec. 201.994. PROJECT SELECTION. (a) The commission by
7 rule shall establish criteria for selection by the department and
8 each planning organization of projects to be included in the
9 statewide transportation plan. The criteria must be based on the
10 commission's transportation goals for the state and measurable
11 targets for each goal.

12 (b) The department shall collaborate with planning
13 organizations in the development of the criteria for selection of
14 projects.

15 (c) The commission shall determine and approve the final
16 selection of projects to be included in the statewide
17 transportation plan.

18 (d) The commission shall consider the prioritized list of
19 transportation projects developed by metropolitan planning
20 organizations operating in areas that are transportation
21 management areas, as defined by 23 U.S.C. Section 134(k), for
22 projects funded as congestion mitigation and air quality
23 improvement projects, and metropolitan mobility or rehabilitation
24 projects, unless the commission determines that a particular
25 project's inclusion on or omission from the project list conflicts
26 with or is inconsistent with federal law or a rule adopted under
27 Subsection (a).

1 (e) The statewide transportation program and budget must
2 include:

3 (1) the official cash flow forecast under Section
4 201.987; and

5 (2) each region's estimated allocation of funds.

6 Sec. 201.995. TRANSPORTATION ALLOCATION FUNDING FORMULA.

7 (a) The commission shall adopt rules that create funding formulas
8 for transportation projects. In developing the formulas, the
9 commission shall consider the input of planning organizations,
10 transportation officials, and county and municipal officials.

11 (b) The commission shall allocate to metropolitan planning
12 organizations operating in areas that are transportation
13 management areas, as defined by 23 U.S.C. Section 134(k), the
14 following categories of funds:

15 (1) metropolitan area corridor projects;

16 (2) metropolitan mobility and rehabilitation
17 projects;

18 (3) congestion mitigation and air quality improvement
19 projects in non-attainment areas; and

20 (4) a percentage of transportation enhancements
21 project funding as determined by formula for projects recommended
22 by the metropolitan planning organizations under rules adopted by
23 the commission.

24 (c) The commission shall allocate to metropolitan planning
25 organizations that are not transportation management areas, as
26 defined by 23 U.S.C. Section 134(k), the following categories of
27 funds:

1 (1) urban area corridor projects; and

2 (2) a percentage of transportation enhancements
3 project funding as determined by formula for projects recommended
4 by the metropolitan planning organizations under rules adopted by
5 the commission.

6 (d) The funds allocated under Subsections (b) and (c) shall
7 be allocated by a formula to each metropolitan planning
8 organization that takes into consideration performance measures
9 and includes at least the following criteria:

10 (1) lane miles;

11 (2) level of congestion;

12 (3) percentage of population below federal poverty
13 level;

14 (4) census population;

15 (5) safety;

16 (6) total vehicle miles traveled; and

17 (7) truck vehicle miles traveled.

18 (e) The commission shall provide funding estimates to the
19 planning organizations for the project costs of all transportation
20 projects. The commission shall adopt appropriate formulas for the
21 different types of transportation projects, including funding for
22 statewide connectivity projects. The commission shall adopt rules
23 for all transportation formulas.

24 Sec. 201.996. LIMITATION ON COMMISSION ALLOCATION OF FUNDS.

25 (a) The commission or the department may not require that a toll
26 project be included in a regional transportation plan as a
27 condition for the allocation of funds for the construction of

1 projects in the region.

2 (b) The commission or the department may not:

3 (1) revise the formula as provided in the department's
4 project development program, or its successor document, in a manner
5 that results in a decrease of a department district's allocation
6 because of:

7 (A) the failure of a region to include toll
8 projects in a regional transportation plan; or

9 (B) participation by a political subdivision in
10 the funding of a transportation project in the region, including
11 the use of money collected in a transportation reinvestment zone
12 under Section 222.106 or 222.107; or

13 (2) take any other action that would reduce funding
14 allocated to a department district because of the failure of a
15 region to include toll projects in a regional transportation plan.

16 Sec. 201.997. ORGANIZATION OF STATEWIDE TRANSPORTATION
17 PROGRAM AND BUDGET. (a) The statewide transportation program and
18 budget shall be organized first by region, then by mode of
19 transportation, followed by the year of the project.

20 (b) The summary tables of the statewide transportation
21 program and budget shall summarize the statewide project cost by
22 mode and then by year and shall be made available online in
23 accordance with Section 201.807.

24 Sec. 201.998. USE OF ALLOCATED FUNDS. The funds allocated
25 to a planning organization under Section 201.988 may be used to:

26 (1) pay project costs, provide toll equity, or make
27 payments under a pass-through toll agreement, for transportation

1 projects selected by the planning organization;

2 (2) pay debt service; or

3 (3) fund a planning organization's operations under
4 Section 201.999.

5 Sec. 201.999. USE OF ALLOCATED FUNDS FOR OPERATING COSTS OF
6 PLANNING ORGANIZATION. (a) A metropolitan planning organization
7 operating in a transportation management area as defined by 23
8 U.S.C. Section 134(k) may use the allocated funds to pay for the
9 operations costs of the planning organization.

10 (b) A metropolitan planning organization operating in an
11 area that is not a transportation management area may use the
12 allocated funds to pay for the operations costs of the planning
13 organization.

14 Sec. 201.1000. SURPLUS REVENUE AND CONTRACT PAYMENTS NOT
15 ALLOCATED BY FORMULA. (a) Revenue from Sections 228.005,
16 228.0055, and 228.006 shall be allocated in accordance with
17 Subchapter A, Chapter 228.

18 (b) Funds associated with toll projects under Chapter 228
19 are not considered revenue allocated by a formula under Section
20 201.995.

21 Sec. 201.1001. ENCUMBRANCE OF ALLOCATED FUNDS. (a) The
22 allocation of funds shall be encumbered in an amount equal to the
23 engineer's estimate of the project cost and reduced by the actual
24 project cost at the time payments associated with the project are
25 paid.

26 (b) If a planning organization elects to use bond proceeds
27 to advance a project, the allocation of funds shall be encumbered by

1 the annual cost of debt service and reduced when debt service
2 payments are paid.

3 Sec. 201.1002. STATEWIDE CONNECTIVITY PLAN AND PROJECTS.

4 (a) The department shall work with planning organizations to
5 develop a statewide connectivity plan.

6 (b) The department by rule shall:

7 (1) establish criteria for designating a project as a
8 statewide connectivity project; and

9 (2) develop benchmarks for evaluating the progress of
10 a statewide connectivity project and timelines for implementation
11 and construction of a statewide connectivity project.

12 (c) The department annually shall update the list of
13 projects that are designated as statewide connectivity projects.

14 (d) The commission shall adopt the statewide connectivity
15 plan.

16 Sec. 201.1003. DEPARTMENT FOUR-YEAR BUSINESS WORK PLAN.

17 (a) Each department district shall develop a consistently
18 formatted work plan for the following four years that is based on
19 the project development program and contains all projects and
20 project categories that the district intends to implement during
21 that period. Not later than August 31 of each odd-numbered year, the
22 department shall finalize a project plan for the period that begins
23 on September 1 of that year and ends on August 31 of the following
24 odd-numbered year.

25 (b) The work plan must contain for each project and project
26 category:

27 (1) a project schedule with funding for each phase of

1 development;

2 (2) a right-of-way acquisition plan;

3 (3) a letting plan; and

4 (4) a summary of the progress on the project and
5 project category.

6 (c) The department shall use the work plan to:

7 (1) monitor the performance of the district; and

8 (2) evaluate the performance of district employees.

9 (d) The department shall consolidate the districts' work
10 plans into a statewide work plan and publish it in appropriate media
11 and on the department's Internet website.

12 Sec. 201.1004. PERFORMANCE MEASURES FOR WORK PLAN. (a) The
13 department shall develop a set of performance measures for the plan
14 under Section 201.1003 intended to measure:

15 (1) the execution of the work program;

16 (2) the preservation of the system investment;

17 (3) the addition of new capacity to the system;

18 (4) safety initiatives; and

19 (5) use of minority, disadvantaged, and small
20 businesses.

21 (b) At a minimum, the performance measures adopted under
22 Subsection (a) must include:

23 (1) the peak hour travel congestion in the eight
24 largest metropolitan areas in contrast with previous state fiscal
25 years;

26 (2) the percentage of projects for which environmental
27 clearance is obtained on or before the planned implementation

- 1 timelines;
2 (3) the percentage of projects for which right-of-way
3 acquisition is completed on or before the planned implementation
4 timelines;
5 (4) the percentage of parcels acquired through
6 negotiation;
7 (5) the average time between selection and execution
8 of a contract for engineering services;
9 (6) the total amount spent for right-of-way as a
10 percentage of the original estimated amount;
11 (7) the percentage of highway improvement contracts
12 executed on or before the planned implementation timelines for
13 letting;
14 (8) the percentage of construction contracts executed
15 on or before the planned letting date;
16 (9) the total amount spent for construction contracts
17 as a percentage of the final design estimated amount;
18 (10) for all highway improvement contracts completed
19 during the state fiscal year, the percentage completed within 20
20 percent of the original contract time;
21 (11) construction contract adjustments as a
22 percentage of original contract price;
23 (12) for all highway improvement contracts completed
24 during the state fiscal year, the percentage completed within 10
25 percent of the original contract price;
26 (13) for all highway improvement contracts completed
27 during the state fiscal year, the percentage of the total contract

1 adjustments as a percentage of the total original contract price;
2 (14) of the federal funds subject to forfeiture at the
3 end of the state fiscal year, the percentage that was committed by
4 the department;

5 (15) the amounts of cash receipts and disbursements in
6 contrast with the forecasted amounts;

7 (16) the amount obligated to be spent in connection
8 with contracts or participation in contracts with minority,
9 disadvantaged, and small business enterprises as a percentage of
10 the amount spent on all contracts;

11 (17) the percentage of lane miles on the state highway
12 system that have a pavement condition rating of excellent or good;

13 (18) the number of lane miles on the state highway
14 system that were resurfaced in contrast with the number planned;
15 and

16 (19) the number of vehicle miles traveled in contrast
17 with previous state fiscal years.

18 (c) The department shall consult with the Transportation
19 Legislative Oversight Committee in developing the performance
20 measures under Subsection (a). This subsection expires August 31,
21 2013.

22 Sec. 201.1005. PERFORMANCE REVIEW. Not later than December
23 1 of each odd-numbered year, the commission shall review the
24 performance of the department's activities described in Section
25 201.1003 and make the review available to the public. The review
26 must include a report on the level of achievement of each
27 performance measure listed in Section 201.1004(a), statewide and by

1 department district, and a status report on each major
2 transportation project under development.

3 SECTION 2.06. (a) The Texas Transportation Commission
4 shall adopt the rules required by this article as soon as
5 practicable but not later than March 1, 2010.

6 (b) Each planning organization, as defined by Section
7 201.981, Transportation Code, as added by this article, shall
8 develop its first 10-year transportation plan in accordance with
9 Section 201.985, Transportation Code, as added by this article, not
10 later than March 1, 2011.

11 (c) The Texas Department of Transportation shall develop
12 the programs and plans required under Subchapter P, Chapter 201,
13 Transportation Code, as added by this article, as soon as
14 practicable but not later than December 1, 2010.

15 SECTION 2.07. (a) Subchapter D, Chapter 472,
16 Transportation Code, is amended by adding Sections 472.0311 through
17 472.0313, 472.0316, 472.0332, 472.035 through 472.041, and 472.043
18 through 472.046 to read as follows:

19 Sec. 472.0311. PURPOSE. (a) The metropolitan
20 transportation planning process described by this subchapter is
21 intended to:

22 (1) encourage and promote the safe and efficient
23 management, operation, and development of surface transportation
24 systems to serve the mobility needs of people and freight;

25 (2) foster economic growth and development in and
26 through urbanized areas of this state; and

27 (3) minimize transportation-related fuel consumption,

1 air pollution, and greenhouse gas emissions.

2 (b) To accomplish the objectives under Subsection (a),
3 metropolitan planning organizations shall develop, in cooperation
4 with this state and public transit operators, transportation plans
5 and programs for metropolitan areas in this state.

6 (c) The plans and programs for each metropolitan area must
7 provide for the development and integrated management and operation
8 of transportation systems and facilities, including pedestrian
9 walkways and bicycle transportation facilities that will function
10 as an intermodal transportation system for the metropolitan area.

11 (d) The process for developing plans and programs under this
12 subchapter shall provide for consideration of all modes of
13 transportation and be continuing, cooperative, and comprehensive,
14 to the degree appropriate, based on the complexity of the
15 transportation issues to be addressed.

16 (e) To ensure that the process is integrated with the
17 statewide planning process, metropolitan planning organizations
18 shall develop plans and programs that identify transportation
19 facilities that should function as an integrated metropolitan
20 transportation system and give emphasis to facilities that serve
21 important national, state, and regional transportation functions.

22 Sec. 472.0312. DESIGNATION AND BOUNDARIES. (a) The
23 governor shall designate, in accordance with 23 U.S.C. Section 134,
24 a metropolitan planning organization for each urbanized area of
25 this state having a population of more than 50,000.

26 (b) A metropolitan planning organization must be designated
27 or redesignated in accordance with, and its boundaries determined

1 by, 23 U.S.C. Section 134.

2 (c) Each designated metropolitan planning organization
3 must be fully operational not later than the 180th day after the
4 date of its designation.

5 Sec. 472.0313. ORGANIZATION. A metropolitan planning
6 organization is a governmental entity. The policy board is subject
7 to Chapter 551, Government Code.

8 Sec. 472.0316. REPRESENTATION OF TRANSPORTATION-RELATED
9 ENTITIES. (a) In metropolitan areas in which authorities or other
10 agencies have been or may be created by law to perform
11 transportation functions and are performing transportation
12 functions, the authorities or other agencies may be provided voting
13 membership on the policy board.

14 (b) In all other metropolitan planning organizations in
15 which transportation authorities or agencies are to be represented
16 by elected officials from a municipality or county, the
17 organization shall establish a process by which the collective
18 interests of such authorities or other agencies are expressed and
19 conveyed.

20 Sec. 472.0332. DUTIES. In addition to the requirements of
21 federal law, a metropolitan planning organization shall perform the
22 duties required by state law and those delegated by the commission
23 under Subchapter H, Chapter 201.

24 Sec. 472.035. POWERS, DUTIES, AND RESPONSIBILITIES. (a)
25 The powers, duties, and responsibilities of a metropolitan planning
26 organization:

27 (1) are those specified in this subchapter or

1 incorporated in an interlocal agreement entered into to implement
2 this subchapter; and

3 (2) are to provide regional transportation
4 forecasting and planning, set regional priorities, and make project
5 selection decisions as provided by federal law and the commission.

6 (b) Each metropolitan planning organization shall perform
7 all acts required by applicable federal or state law or rules that
8 are necessary to qualify for federal aid.

9 (c) A metropolitan planning organization may not manage or
10 implement individual projects, including procurement or management
11 of the project design and construction process.

12 Sec. 472.036. PLANNING. (a) To the extent permitted by
13 state or federal law, a metropolitan planning organization shall:

14 (1) be involved in the planning and programming of
15 transportation facilities, including airports, intermunicipal and
16 high-speed rail lines, seaports, and intermodal facilities; and

17 (2) in cooperation with the department, develop:

18 (A) a long-range transportation plan as required
19 by Section 201.622;

20 (B) an annually updated transportation
21 improvement program as required by Section 472.043; and

22 (C) an annual unified planning work program as
23 required by Section 472.044.

24 (b) In developing the long-range transportation plan and
25 the transportation improvement program under Subsection (a), each
26 metropolitan planning organization shall consider projects and
27 strategies that will:

1 (1) support the economic vitality of the metropolitan
2 area, especially by enabling global competitiveness, productivity,
3 and efficiency;

4 (2) increase the safety and security of the
5 transportation system for motorized and nonmotorized users;

6 (3) increase the accessibility and mobility options
7 available to people and for freight;

8 (4) protect and enhance the environment, promote
9 energy conservation, and improve quality of life;

10 (5) enhance the integration and connectivity of the
11 transportation system, across and between modes, for people and
12 freight;

13 (6) promote efficient system management and
14 operation; and

15 (7) emphasize the preservation of the existing
16 transportation system.

17 (c) To provide recommendations to the department and local
18 governmental entities regarding transportation plans and programs,
19 each metropolitan planning organization shall:

20 (1) prepare a congestion management system for the
21 metropolitan area and cooperate with the department in the
22 development of any other transportation management system required
23 by state or federal law;

24 (2) assist the department in mapping transportation
25 planning boundaries required by state or federal law;

26 (3) assist the department in performing its duties
27 relating to access management, functional classification of roads,

1 and data collection;

2 (4) execute all agreements or certifications
3 necessary to comply with applicable state or federal law;

4 (5) represent all the jurisdictional areas in the
5 metropolitan area in the formulation of a transportation plan or
6 program required by this subchapter; and

7 (6) perform all other duties required by state or
8 federal law.

9 Sec. 472.037. TECHNICAL ADVISORY COMMITTEE. (a) Each
10 metropolitan planning organization shall appoint a technical
11 advisory committee whose members serve at the pleasure of the
12 metropolitan planning organization.

13 (b) The membership of the technical advisory committee must
14 include, if possible:

15 (1) planners;

16 (2) engineers;

17 (3) a representative of each political subdivision or
18 agency or department of a political subdivision that provides
19 transportation services, including, as applicable:

20 (A) a port authority, navigation district, or
21 public transit authority; or

22 (B) a county or municipal airport or transit
23 department;

24 (4) the superintendent of each school district in the
25 jurisdiction of the metropolitan planning organization or a person
26 designated by the superintendent; and

27 (5) other appropriate representatives of affected

1 local governments.

2 Sec. 472.038. SAFE ACCESS TO SCHOOLS. (a) In addition to
3 any other duty assigned to it by the metropolitan planning
4 organization or by state or federal law, the technical advisory
5 committee is responsible for considering safe access to schools in
6 its review of transportation project priorities, long-range
7 transportation plans, and transportation improvement programs and
8 shall advise the metropolitan planning organization on those
9 issues.

10 (b) The technical advisory committee shall coordinate its
11 actions with local school boards and other local programs and
12 organizations in the metropolitan area that participate in school
13 safety activities, including locally established community traffic
14 safety teams.

15 (c) A school board must provide the appropriate
16 metropolitan planning organization with information concerning
17 future school sites and the coordination of transportation
18 services.

19 Sec. 472.039. EMPLOYEES. (a) Each metropolitan planning
20 organization shall employ:

21 (1) an executive or staff director who reports
22 directly to the organization's policy board for all matters
23 regarding the administration and operation of the metropolitan
24 planning organization; and

25 (2) any additional personnel the policy board
26 considers necessary.

27 (b) The executive or staff director and additional

1 personnel may be employed by the metropolitan planning organization
2 or by another governmental entity, including a county,
3 municipality, or regional planning organization that has a staff
4 services agreement with the metropolitan planning organization.

5 (c) A metropolitan planning organization may enter into a
6 contract with a local or state agency, private planning firm,
7 private engineering firm, or other public or private entity to
8 accomplish the metropolitan planning organization's transportation
9 planning and programming duties and administrative functions.

10 (d) A metropolitan planning organization, for the purpose
11 of influencing legislation, may not engage the services of a person
12 who is required to register with the Texas Ethics Commission under
13 Chapter 305, Government Code.

14 Sec. 472.040. TRAINING. (a) To enhance its members'
15 knowledge, effectiveness, and participation in the transportation
16 planning process, a metropolitan planning organization shall
17 provide training opportunities and funds for the organization's
18 members.

19 (b) Training of its policy board members may be conducted by
20 the metropolitan planning organization or through statewide or
21 federal training programs and initiatives that are specifically
22 designed to meet the needs of metropolitan planning organization
23 policy board members.

24 Sec. 472.041. COORDINATION WITH OTHER ENTITIES. A
25 metropolitan planning organization may join with any other
26 metropolitan planning organization or an individual political
27 subdivision to:

1 (1) coordinate activities; or

2 (2) achieve any federal or state transportation
3 planning or development goal or purpose consistent with federal or
4 state law.

5 Sec. 472.043. TRANSPORTATION IMPROVEMENT PROGRAM. (a)

6 Each metropolitan planning organization shall develop annually a
7 list of project priorities and a transportation improvement
8 program. The prevailing principles to be considered by the
9 metropolitan planning organization when developing a list are:

10 (1) preserving the existing transportation
11 infrastructure;

12 (2) enhancing the economic competitiveness of this
13 state; and

14 (3) improving travel choices to ensure mobility.

15 (b) The transportation improvement program may be used to
16 initiate federally aided transportation facilities and
17 improvements and other transportation facilities and improvements,
18 including transit, rail, aviation, and port facilities.

19 (c) The transportation improvement program must be
20 consistent, to the maximum extent feasible, with comprehensive
21 plans of the political subdivisions the boundaries of which are in
22 the metropolitan area served by the metropolitan planning
23 organization.

24 Sec. 472.044. UNIFIED PLANNING WORK PROGRAM. (a) Each
25 metropolitan planning organization shall develop, in cooperation
26 with the department and public transit operators, a unified
27 planning work program that lists all planning tasks to be

1 undertaken during the program year.

2 (b) The unified planning work program must provide a
3 complete description of each planning task and an estimated budget
4 for that task and must comply with applicable state and federal law.

5 Sec. 472.045. APPLICATION OF FEDERAL LAW. (a) On
6 notification by an agency of the federal government that a
7 provision of this subchapter conflicts with a federal law or
8 regulation, the federal law or regulation takes precedence to the
9 extent of the conflict until the conflict is resolved.

10 (b) The department or a metropolitan planning organization
11 may take any action necessary to comply with federal laws and
12 regulations or to continue to remain eligible to receive federal
13 funds.

14 Sec. 472.046. PUBLICATION OF INFORMATION ON INTERNET
15 WEBSITE. A metropolitan planning organization shall publish
16 financial information on its Internet website, including
17 information regarding:

- 18 (1) budgeted annual revenues and expenditures;
19 (2) actual annual revenues and expenditures; and
20 (3) staffing levels.

21 (b) A technical advisory committee of a metropolitan
22 planning organization is not required to comply with Section
23 472.037, Transportation Code, as added by this section, before
24 January 1, 2010.

25 SECTION 2.08. Section 472.032, Transportation Code, is
26 amended to read as follows:

27 Sec. 472.032. VOTING PROXIES BY POLICY BOARD MEMBERS

1 PROHIBITED. (a) A policy board may not allow its members to vote by
2 proxy. A policy board may allow for the appointment of alternate
3 members, if defined by its bylaws, to serve in the absence of the
4 primary members [~~provide in its bylaws for appointment of voting~~
5 ~~proxies by its members~~].

6 (b) [~~A proxy appointed under Subsection (a):~~

7 [~~(1) acts on behalf of and under the supervision of the~~
8 ~~policy board member who appointed the proxy;~~

9 [~~(2) must be appointed in writing; and~~

10 [~~(3) is authorized to vote for the policy board member~~
11 ~~who appointed the proxy to the extent the member has given the proxy~~
12 ~~the member's voting power.~~

13 [~~(c)~~] A legislative member of a policy board may not be
14 counted as absent at a meeting of the policy board during a
15 legislative session.

16 [~~(d) A legislative member of a policy board may only appoint~~
17 ~~a proxy under Subsection (a) who is:~~

18 [~~(1) the legislative member's employee or staff~~
19 ~~member;~~

20 [~~(2) a person related to the member within the second~~
21 ~~degree by consanguinity, as determined under Subchapter B, Chapter~~
22 ~~573, Government Code, who is not required to register as a lobbyist~~
23 ~~under Chapter 305, Government Code;~~

24 [~~(3) another legislative member of the policy board;~~
25 ~~or~~

26 [~~(4) a locally elected official.~~]

27 SECTION 2.09. Section 364.004(c), Transportation Code, is

1 repealed.

2 ARTICLE 3. PUBLIC INVOLVEMENT AND COMPLAINTS

3 SECTION 3.01. (a) Section 201.801, Transportation Code, is
4 amended to read as follows:

5 Sec. 201.801. [~~INFORMATION ABOUT DEPARTMENT,~~] COMPLAINTS.

6 (a) The department shall maintain a system to promptly and
7 efficiently act on complaints filed with the department. The
8 department shall maintain information about the parties to and the
9 subject matter of a complaint and a summary of the results of the
10 review or investigation of the complaint and the disposition of the
11 complaint.

12 (b) The department shall make information available
13 describing its procedures for complaint investigation and
14 resolution [~~prepare information of public interest describing the~~
15 ~~functions of the department and the department's procedures by~~
16 ~~which a complaint is filed with the department and resolved by the~~
17 ~~department. The department shall make the information available to~~
18 ~~the public and appropriate state agencies].~~

19 [~~(b) The commission by rule shall establish methods by which~~
20 ~~consumers and service recipients are notified of the department's~~
21 ~~name, mailing address, and telephone number for directing~~
22 ~~complaints to the department. The commission may provide for that~~
23 ~~notification.~~

24 [~~(1) on each registration form, application, or~~
25 ~~written contract for services of an individual or entity regulated~~
26 ~~by the department,~~

27 [~~(2) on a sign prominently displayed in the place of~~

1 ~~business of each individual or entity regulated by the department,~~
2 ~~or~~

3 ~~[(3) in a bill for service provided by an individual or~~
4 ~~entity regulated by the department.]~~

5 (c) ~~[The department shall:~~

6 ~~[(1) keep an information file about each written~~
7 ~~complaint filed with the department that the department has the~~
8 ~~authority to resolve; and~~

9 ~~[(2) provide the person who filed the complaint, and~~
10 ~~each person or entity that is the subject of the complaint,~~
11 ~~information about the department's policies and procedures~~
12 ~~relating to complaint investigation and resolution.~~

13 ~~[(d)] The department~~~~[, at least quarterly and until final~~
14 ~~disposition of a written complaint that is filed with the~~
15 ~~department and that the department has the authority to resolve,~~
16 shall periodically notify the parties to the complaint of its
17 status until final disposition ~~[unless the notice would jeopardize~~
18 ~~an undercover investigation].~~

19 (d) The commission shall adopt rules applicable to each
20 division and district to establish a process to act on complaints
21 filed with the department ~~[(e) With regard to each complaint filed~~
22 ~~with the department, the department shall keep the following~~
23 ~~information:~~

24 ~~[(1) the date the complaint is filed,~~

25 ~~[(2) the name of the person filing the complaint,~~

26 ~~[(3) the subject matter of the complaint,~~

27 ~~[(4) a record of each person contacted in relation to~~

1 ~~the complaint;~~

2 ~~[(5) a summary of the results of the review or~~
3 ~~investigation of the complaint; and~~

4 ~~[(6) if the department takes no action on the~~
5 ~~complaint, an explanation of the reasons that no action was taken].~~

6 (e) The department shall develop a standard form for
7 submitting a complaint and make the form available on its Internet
8 website. The department shall establish a method to submit
9 complaints electronically.

10 (f) The department shall develop a method for analyzing the
11 sources and types of complaints and violations and establish
12 categories for the complaints and violations. The department shall
13 use the analysis to focus its information and education efforts on
14 specific problem areas identified through the analysis.

15 (g) The department shall:

16 (1) compile:

17 (A) detailed statistics and analyze trends on
18 complaint information, including:

19 (i) the nature of the complaints;

20 (ii) their disposition; and

21 (iii) the length of time to resolve
22 complaints; and

23 (B) complaint information on a district and a
24 divisional basis; and

25 (2) report the information on a monthly basis to the
26 division directors and office directors and on a quarterly basis to
27 the commission.

1 (b) The Texas Transportation Commission shall adopt rules
2 under Section 201.801, Transportation Code, as amended by this
3 section not later than March 1, 2010.

4 SECTION 3.02. Subchapter J, Chapter 201, Transportation
5 Code, is amended by adding Section 201.812 to read as follows:

6 Sec. 201.812. PUBLIC INVOLVEMENT POLICY. (a) The
7 department shall develop and implement a policy for public
8 involvement that guides and encourages public involvement with the
9 department. The policy must:

10 (1) provide for the use of public involvement
11 techniques that target different groups and individuals;

12 (2) encourage continuous contact between the
13 department and persons outside the department throughout the
14 transportation decision-making process;

15 (3) require the department to make efforts toward:

16 (A) clearly tying public involvement to
17 decisions made by the department; and

18 (B) providing clear information to the public
19 about specific outcomes of public input; and

20 (4) apply to all public input with the department,
21 including input:

22 (A) on statewide transportation policy-making;

23 (B) in connection with the environmental process
24 relating to specific projects; and

25 (C) into the department's rulemaking procedures.

26 (b) The department shall document the ratio of positive
27 public input to negative public input regarding all environmental

1 impact statements as expressed by the public through the
2 department's public involvement process. The department shall:

3 (1) present this information to the commission in an
4 open meeting; and

5 (2) report this information on the department's
6 Internet website in a timely manner.

7 ARTICLE 4. CONTRACTING FUNCTIONS

8 SECTION 4.01. Section 223.002, Transportation Code, is
9 amended to read as follows:

10 Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. [~~(a)~~] The
11 department shall give [~~publish~~] notice to interested persons
12 regarding [~~of~~] the time and place at which bids on a contract will
13 be opened and the contract awarded. The department by rule shall
14 determine the most effective method for providing the notice
15 required by this section.

16 [~~(b) The notice must be published in a newspaper published~~
17 ~~in the county in which the improvement is to be made once a week for~~
18 ~~at least two weeks before the time set for awarding the contract and~~
19 ~~in two other newspapers that the department may designate.~~

20 [~~(c) Instead of the notice required by Subsection (b), if~~
21 ~~the department estimates that the contract involves an amount less~~
22 ~~than \$300,000, notice may be published in two successive issues of a~~
23 ~~newspaper published in the county in which the improvement is to be~~
24 ~~made.~~

25 [~~(d) If a newspaper is not published in the county in which~~
26 ~~the improvement is to be made, notice shall be published in a~~
27 ~~newspaper published in the county.~~

1 ~~[(1) nearest the county seat of the county in which the~~
2 ~~improvement is to be made, and~~

3 ~~[(2) in which a newspaper is published.]~~

4 SECTION 4.02. Section 223.201, Transportation Code, is
5 amended by amending Subsections (a) and (g) and adding Subsection
6 (j) to read as follows:

7 (a) Subject to Section 223.202, the department may enter
8 into a comprehensive development agreement with a private entity to
9 design, develop, finance, construct, maintain, repair, operate,
10 extend, or expand a state highway [~~+~~

11 ~~[(1) toll project,~~

12 ~~[(2) facility or a combination of facilities on the~~
13 ~~Trans-Texas Corridor,~~

14 ~~[(3) state highway improvement project that includes~~
15 ~~both tolled and nontolled lanes and may include nontolled~~
16 ~~appurtenant facilities,~~

17 ~~[(4) state highway improvement project in which the~~
18 ~~private entity has an interest in the project, or~~

19 ~~[(5) state highway improvement project financed~~
20 ~~wholly or partly with the proceeds of private activity bonds, as~~
21 ~~defined by Section 141(a), Internal Revenue Code of 1986].~~

22 (g) The department may combine in a comprehensive
23 development agreement under this subchapter a state highway [~~toll~~
24 ~~project~~] and a rail facility as defined by Section 91.001.

25 (j) Notwithstanding any other law to the contrary:

26 (1) the department's authority to enter into a
27 comprehensive development agreement and any related facility

1 agreement, whether under this section or any other law, is limited
2 to a highway, road, or rail project that costs \$150 million or more,
3 and may not be considered to extend to projects involving public
4 utilities or any other facility that is not a highway, road, or rail
5 facility; and

6 (2) except in connection with any existing rights
7 granted to a private entity with respect to the State Highway 130
8 project, the department may not charge any fee or grant a private
9 entity the right to charge or collect any fee in connection with a
10 comprehensive development agreement or any related agreement under
11 former Chapter 227 or any successor law in connection with any
12 facility that is not a highway, road, or rail facility, including a
13 public utility facility.

14 SECTION 4.03. Section 223.203(e-2), Transportation Code,
15 is amended to read as follows:

16 (e-2) In this section, "design-build contract" means a
17 comprehensive development agreement that includes the design and
18 construction of a [~~turnpike~~] project, does not include the
19 financing of a [~~turnpike~~] project, and may include the acquisition,
20 maintenance, or operation of a [~~turnpike~~] project.

21 SECTION 4.04. Section 223.203(m), Transportation Code, is
22 amended to read as follows:

23 (m) The department may pay an unsuccessful private entity
24 that submits a responsive proposal in response to a request for
25 detailed proposals under Subsection (f) a stipulated amount in
26 exchange for the work product contained in that proposal. A
27 stipulated amount must be stated in the request for proposals and

1 may not exceed the lesser of one-half of one percent of the contract
2 amount or the value of any work product contained in the proposal
3 that can, as determined by the department, be used by the department
4 in the performance of its functions. The use by the department of
5 any design element contained in an unsuccessful proposal is subject
6 to the private entity's acceptance of the stipulated amount, is at
7 the sole risk and discretion of the department, and does not confer
8 liability on the recipient of the stipulated amount under this
9 section. After acceptance and payment of the stipulated amount:

10 (1) the department owns with the unsuccessful proposer
11 jointly the rights to, and may make use of any work product
12 contained in, the proposal, including the technologies,
13 techniques, methods, processes, ideas, and information contained
14 in the project design; and

15 (2) the use by the unsuccessful proposer of any
16 portion of the work product contained in the proposal is at the sole
17 risk of the unsuccessful proposer and does not confer liability on
18 the department.

19 SECTION 4.05. Section 223.208(e), Transportation Code, is
20 amended to read as follows:

21 (e) Notwithstanding anything in Section 201.112 or other
22 law to the contrary, and subject to compliance with the dispute
23 resolution procedures set out in the comprehensive development
24 agreement, an obligation of the commission or the department under
25 a comprehensive development agreement entered into under this
26 subchapter [~~or Section 227.023(c)~~] to make or secure payments to a
27 person because of the termination of the agreement, including the

1 purchase of the interest of a private participant or other investor
2 in a project, may be enforced by mandamus against the commission,
3 the department, and the comptroller in a district court of Travis
4 County, and the sovereign immunity of the state is waived for that
5 purpose. The district courts of Travis County shall have exclusive
6 jurisdiction and venue over and to determine and adjudicate all
7 issues necessary to adjudicate any action brought under this
8 subsection. The remedy provided by this subsection is in addition
9 to any legal and equitable remedies that may be available to a party
10 to a comprehensive development agreement. This subsection does not
11 apply to a design-build contract, as defined by Section
12 223.203(e-2), for a nontolled facility.

13 SECTION 4.06. (a) Subchapter E, Chapter 223,
14 Transportation Code, is amended by adding Section 223.211 to read
15 as follows:

16 Sec. 223.211. APPROVAL AND CERTIFICATION. A comprehensive
17 development agreement, including a facility agreement under a
18 comprehensive development agreement, under which a private entity
19 will operate a toll project or be entitled to receive revenue from
20 the project must be:

21 (1) reviewed by the attorney general for legal
22 sufficiency under Section 371.051, as added by Chapter 264 (S.B.
23 792), Acts of the 80th Legislature, Regular Session, 2007;

24 (2) reviewed by the comptroller for financial
25 viability and signed and certified by the comptroller if approved;
26 and

27 (3) signed by the chair of the commission.

1 (3) create a centralized process for making complaints
2 about a motor carrier that also allows a customer to inquire about a
3 carrier's complaint record; ~~and~~

4 (4) require a motor carrier transporting household
5 goods to list a place of business with a street address in this
6 state and the carrier's registration number issued under this
7 article in any print advertising published in this state; and

8 (5) require a motor carrier transporting household
9 goods to submit to the department, at the time of the original motor
10 carrier registration and at the renewal of the registration,
11 documentation on whether the motor carrier:

12 (A) regularly requests and obtains criminal
13 history record information on its employees under Chapter 145,
14 Civil Practice and Remedies Code; and

15 (B) uses the criminal history record information
16 to exclude from employment persons who have committed a serious
17 criminal offense.

18 (c) The department shall make available to the public on the
19 department's Internet website the information received under
20 Subsection (b)(5) to allow members of the public to make an informed
21 choice when selecting a motor carrier to transport household goods.

22 (h) Subject to Subsection (i), the department may order a
23 motor carrier that transports household goods to pay a refund to a
24 customer as provided in an agreement resulting from an informal
25 settlement instead of or in addition to imposing an administrative
26 penalty under this chapter.

27 (i) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement may not exceed the
2 amount the customer paid to the motor carrier for a service or the
3 amount the customer paid for an item damaged by the motor carrier,
4 without requiring an estimation of the actual cost of the damage.
5 The department may not require payment of other damages or estimate
6 harm in a refund order.

7 (b) The change in law made by Sections 643.153(h) and (i),
8 Transportation Code, as added by this section, applies only to an
9 agreement to transport household goods entered into on or after the
10 effective date of this Act. An agreement to transport household
11 goods entered into before the effective date of this Act is governed
12 by the law in effect immediately before that date, and that law is
13 continued in effect for that purpose.

14 SECTION 5.02. (a) Section 643.251(b), Transportation Code,
15 is amended to read as follows:

16 (b) Except as provided by this section, the amount of an
17 administrative penalty may not exceed \$5,000. If it is found that
18 the motor carrier knowingly committed the violation, the penalty
19 may not exceed \$15,000. [~~If it is found that the motor carrier~~
20 ~~knowingly committed multiple violations, the aggregate penalty for~~
21 ~~the multiple violations may not exceed \$30,000.] Each day a
22 violation continues or occurs is a separate violation for purposes
23 of imposing a penalty.~~

24 (b) The change in law made by this section to Section
25 643.251, Transportation Code, applies only to a violation committed
26 by a motor carrier on or after the effective date of this Act. For
27 purposes of this subsection, a violation was committed before the

1 effective date of this Act if any element of the violation was
2 committed before that date. A violation committed by a motor
3 carrier before the effective date of this Act is covered by the law
4 in effect on the date the violation was committed, and the former
5 law is continued in effect for that purpose.

6 SECTION 5.03. Subchapter F, Chapter 643, Transportation
7 Code, is amended by adding Sections 643.257 and 643.258 to read as
8 follows:

9 Sec. 643.257. SUMMARY SUSPENSION. (a) The board may
10 summarily suspend the registration of a motor carrier registered
11 under this chapter if the motor carrier's failure to comply with
12 this chapter or a rule adopted under this chapter is determined by
13 the board to constitute a continuing and imminent threat to the
14 public safety and welfare.

15 (b) To initiate a proceeding to take action under Subsection
16 (a), the board must serve notice on the motor carrier. The notice
17 must:

18 (1) state the grounds for summary suspension;
19 (2) be personally served on the motor carrier or sent
20 to the motor carrier by certified or registered mail, return
21 receipt requested, to the motor carrier's mailing address as it
22 appears in the department's records; and

23 (3) inform the motor carrier of the right to a hearing
24 on the suspension.

25 (c) The suspension is effective on the date notice is
26 personally served or received by mail. The motor carrier is
27 entitled to appeal the suspension in the manner provided by Section

1 643.2525 for the appeal of an order of the board.

2 Sec. 643.258. EMERGENCY CEASE AND DESIST ORDER. (a) If it
3 appears to the board that a motor carrier who is not registered to
4 transport household goods for compensation under Section 643.051 is
5 violating this chapter, a rule adopted under this chapter, or
6 another state statute or rule relating to the transportation of
7 household goods and the board determines that the unauthorized
8 activity constitutes a clear, imminent, or continuing threat to the
9 public health and safety, the board may:

10 (1) issue an emergency cease and desist order
11 prohibiting the motor carrier from engaging in the activity; and

12 (2) report the activity to a local law enforcement
13 agency or the attorney general for prosecution.

14 (b) An order issued under Subsection (a) must:

15 (1) be delivered on issuance to the motor carrier
16 affected by the order by personal delivery or registered or
17 certified mail, return receipt requested, to the motor carrier's
18 last known address;

19 (2) state the acts or practices alleged to be an
20 unauthorized activity and require the motor carrier immediately to
21 cease and desist from the unauthorized activity; and

22 (3) contain a notice that a request for hearing may be
23 filed under this section.

24 (c) A motor carrier against whom an emergency cease and
25 desist order is directed may request a hearing before the 11th day
26 after the date it is served on the motor carrier. If the motor
27 carrier does not request a hearing in that time, the order is final

1 and nonappealable as to that motor carrier. A request for a
2 hearing must:

3 (1) be in writing and directed to the board; and

4 (2) state the grounds for the request to set aside or
5 modify the order.

6 (d) On receiving a request for a hearing, the board shall
7 serve notice of the time and place of the hearing by personal
8 delivery or registered or certified mail, return receipt
9 requested. The hearing must be held not later than the 10th day
10 after the date the board receives the request for a hearing unless
11 the parties agree to a later hearing date. A hearing under this
12 subsection is subject to Chapter 2001, Government Code.

13 (e) After the hearing, the board shall affirm, modify, or
14 set aside wholly or partly the emergency cease and desist order. An
15 order affirming or modifying the emergency cease and desist order
16 is immediately final for purposes of enforcement and appeal.

17 (f) An order under this section continues in effect unless
18 the order is stayed by the board. The board may impose any
19 condition before granting a stay of the order.

20 (g) The board may release to the public a final cease and
21 desist order issued under this section or information regarding the
22 existence of the order if the board determines that the release
23 would enhance the effective enforcement of the order or will serve
24 the public interest.

25 (h) A violation of an order issued under this section
26 constitutes additional grounds for imposing an administrative
27 penalty under this chapter.

1 SECTION 5.04. Section 2301.654, Occupations Code, is
2 amended to read as follows:

3 Sec. 2301.654. PROBATION. If a suspension of a license is
4 probated, the board may:

5 (1) require the license holder to report regularly to
6 the board on matters that are the basis of the probation; ~~[or]~~

7 (2) limit activities to those prescribed by the board;
8 or

9 (3) require the license holder to obtain specialized
10 training so that the license holder attains a degree of skill
11 satisfactory to the board in those areas that are the basis of the
12 probation.

13 SECTION 5.05. The heading to Section 2301.801, Occupations
14 Code, is amended to read as follows:

15 Sec. 2301.801. ADMINISTRATIVE ~~[CIVIL]~~ PENALTY.

16 SECTION 5.06. Section 2301.801, Occupations Code, is
17 amended by amending Subsections (a) and (c) and adding Subsections
18 (d), (e), (f), and (g) to read as follows:

19 (a) If, after a proceeding under this chapter and board
20 rules, the board determines that a person is violating or has
21 violated this chapter, a rule adopted or order issued under this
22 chapter, or Section 503.038(a), Transportation Code, the board may
23 impose an administrative ~~[a-civil]~~ penalty. The amount of the
24 penalty may not exceed \$10,000 for each violation. Each act of
25 violation and each day a violation continues is a separate
26 violation.

27 (c) The board by rule shall adopt a schedule of

1 administrative penalties based on the criteria in Subsection (b) to
2 ensure that the amount of a penalty imposed under this section is
3 appropriate to the violation [~~Notwithstanding any other law to~~
4 ~~the contrary, a civil penalty recovered under this chapter shall be~~
5 ~~deposited in the state treasury to the credit of the state highway~~
6 ~~fund~~].

7 (d) The enforcement of an administrative penalty ordered
8 under this section may be stayed during the time the order is under
9 judicial review if the person pays the penalty to the clerk of the
10 court or files a supersedeas bond with the court in the amount of
11 the penalty. A person who cannot afford to pay the penalty or file
12 the bond may stay the enforcement by filing an affidavit in the
13 manner required by the Texas Rules of Civil Procedure for a party
14 who cannot afford to file security for costs, subject to the right
15 of the board to contest the affidavit as provided by those rules.

16 (e) The attorney general may sue to collect an
17 administrative penalty assessed under this section. The attorney
18 general may recover on behalf of the state the reasonable expenses
19 incurred in obtaining the penalty, including investigation and
20 court costs, reasonable attorney's fees, witness fees, and other
21 expenses.

22 (f) An administrative penalty collected under this section
23 shall be deposited to the credit of the general revenue fund.

24 (g) A proceeding to impose an administrative penalty under
25 this section is a contested case hearing under Chapter 2001,
26 Government Code.

27 SECTION 5.07. Subchapter Q, Chapter 2301, Occupations Code,

1 is amended by adding Section 2301.808 to read as follows:

2 Sec. 2301.808. REFUND. (a) Subject to Subsection (b), the
3 board may order a motor vehicle dealer to pay a refund to a consumer
4 as provided in an agreement resulting from an informal settlement
5 instead of or in addition to imposing an administrative penalty
6 under this chapter.

7 (b) The amount of a refund ordered as provided in an
8 agreement resulting from an informal settlement may not exceed the
9 amount the consumer paid to the motor vehicle dealer. The board may
10 not require payment of other damages or estimate harm in a refund
11 order.

12 SECTION 5.08. Subchapter H, Chapter 2302, Occupations Code,
13 is amended by adding Section 2302.352 to read as follows:

14 Sec. 2302.352. ADMINISTRATIVE PENALTY. (a) The board may
15 impose an administrative penalty on a salvage vehicle dealer
16 licensed under this chapter who violates this chapter or a rule or
17 order adopted under this chapter.

18 (b) The amount of an administrative penalty imposed under
19 this section may not exceed \$5,000. Each day a violation continues
20 or occurs is a separate violation for the purpose of imposing a
21 penalty. The amount of the penalty shall be based on:

22 (1) the seriousness of the violation, including the
23 nature, circumstances, extent, and gravity of the violation;

24 (2) the economic harm to property or the environment
25 caused by the violation;

26 (3) the history of previous violations;

27 (4) the amount necessary to deter a future violation;

1 (5) the threat to the public safety and welfare;

2 (6) efforts to correct the violation; and

3 (7) any other matter that justice may require.

4 (c) The board by rule shall adopt a schedule of
5 administrative penalties based on the criteria listed in Subsection
6 (b) for violations subject to an administrative penalty under this
7 section to ensure that the amount of a penalty imposed is
8 appropriate to the violation.

9 (d) The enforcement of an administrative penalty may be
10 stayed during the time the order is under judicial review if the
11 person pays the penalty to the clerk of the court or files a
12 supersedeas bond with the court in the amount of the penalty. A
13 person who cannot afford to pay the penalty or file the bond may
14 stay the enforcement by filing an affidavit in the manner required
15 by the Texas Rules of Civil Procedure for a party who cannot afford
16 to file security for costs, subject to the right of the board to
17 contest the affidavit as provided by those rules.

18 (e) The attorney general may sue to collect an
19 administrative penalty imposed under this section. In the suit the
20 attorney general may recover, on behalf of the state, the
21 reasonable expenses incurred in obtaining the penalty, including
22 investigation and court costs, reasonable attorney's fees, witness
23 fees, and other expenses.

24 (f) An administrative penalty collected under this section
25 shall be deposited in the general revenue fund.

26 (g) A proceeding to impose an administrative penalty under
27 this section is a contested case under Chapter 2001, Government

1 Code.

2 SECTION 5.09. The change in law made by Section 2301.808,
3 Occupations Code, as added by this article, applies only to a motor
4 vehicle purchased or leased on or after the effective date of this
5 Act. A motor vehicle purchased or leased before the effective date
6 of this Act is governed by the law in effect immediately before that
7 date, and that law is continued in effect for that purpose.

8 ARTICLE 6. REGULATION OF OUTDOOR ADVERTISING

9 SECTION 6.01. Section 391.004, Transportation Code, is
10 amended to read as follows:

11 Sec. 391.004. TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT.
12 The Texas highway beautification fund account is an account in the
13 general revenue fund. Money the commission receives under this
14 chapter shall be deposited to the credit of the Texas highway
15 beautification fund account. The commission shall use money in the
16 Texas highway beautification fund account to administer this
17 chapter and Chapter 394.

18 SECTION 6.02. (a) Subchapter A, Chapter 391,
19 Transportation Code, is amended by adding Section 391.006 to read
20 as follows:

21 Sec. 391.006. COMPLAINTS; RECORDS. (a) The department by
22 rule shall establish procedures for accepting and resolving written
23 complaints related to outdoor advertising under this chapter. The
24 rules must include:

25 (1) a process to make information available describing
26 its procedures for complaint investigation and resolution,
27 including making information about the procedures available on the

1 department's Internet website;

2 (2) a simple form for filing complaints with the
3 department;

4 (3) a system to prioritize complaints so that the most
5 serious complaints receive attention before less serious
6 complaints; and

7 (4) a procedure for compiling and reporting detailed
8 annual statistics about complaints.

9 (b) The department shall provide on the department's
10 Internet website information about the department's policies and
11 procedures relating to complaint investigation and resolution. The
12 department shall also provide this information to any person
13 requesting a written copy.

14 (c) The department shall keep for at least 10 years an
15 information file about each written complaint filed with the
16 department that the department has authority to resolve. The
17 department shall keep the following information for each complaint
18 for the purpose of enforcing this chapter:

19 (1) the date the complaint is filed;

20 (2) the name of the person filing the complaint;

21 (3) the subject matter of the complaint;

22 (4) each person contacted in relation to the
23 complaint;

24 (5) a summary of the results of the review or
25 investigation of the complaint; and

26 (6) if the department does not take action on the
27 complaint, an explanation of the reasons that action was not taken.

1 (d) If a written complaint is filed with the department that
2 the department has authority to resolve, the department, at least
3 quarterly and until final disposition of the complaint, shall
4 notify the parties to the complaint of the status of the complaint
5 unless the notice would jeopardize an ongoing department
6 investigation.

7 (b) The Texas Transportation Commission shall adopt rules
8 under Section 391.006, Transportation Code, as added by this
9 section, not later than September 1, 2010.

10 SECTION 6.03. Section 391.035(c), Transportation Code, is
11 amended to read as follows:

12 (c) A penalty collected under this section shall be
13 deposited to the credit of the Texas highway beautification [state
14 highway] fund account if collected by the attorney general and to
15 the credit of the county road and bridge fund of the county in which
16 the violation occurred if collected by a district or county
17 attorney.

18 SECTION 6.04. Subchapter B, Chapter 391, Transportation
19 Code, is amended by adding Section 391.0355 to read as follows:

20 Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a
21 suit to collect a civil penalty, the commission, after notice and an
22 opportunity for a hearing before the commission, may impose an
23 administrative penalty against a person who violates this chapter
24 or a rule adopted by the commission under this chapter. Each day a
25 violation continues is a separate violation.

26 (b) The amount of the administrative penalty may not exceed
27 the maximum amount of a civil penalty under Section 391.035.

1 (c) A proceeding under this section is a contested case
2 under Chapter 2001, Government Code.

3 (d) Judicial review of an appeal of an administrative
4 penalty imposed under this section is under the substantial
5 evidence rule.

6 (e) An administrative penalty collected under this section
7 shall be deposited to the credit of the Texas highway
8 beautification fund account.

9 SECTION 6.05. Section 391.063, Transportation Code, is
10 amended to read as follows:

11 Sec. 391.063. LICENSE FEE. The commission may set the
12 amount of a license fee according to a scale graduated by the number
13 of units of outdoor advertising and number of off-premise signs
14 under Chapter 394 owned by a license applicant.

15 SECTION 6.06. Section 391.064, Transportation Code, is
16 amended by adding Subsection (c) to read as follows:

17 (c) A person is not required to file with the commission a
18 surety bond for outdoor advertising under this chapter if the
19 person files with the commission a surety bond for an off-premise
20 sign under Chapter 394.

21 SECTION 6.07. Section 391.065(b), Transportation Code, is
22 amended to read as follows:

23 (b) For the efficient management and administration of this
24 chapter and to reduce the number of employees required to enforce
25 this chapter, the commission shall adopt rules for issuing
26 standardized forms that are for submission by license holders and
27 applicants and that provide for an accurate showing of the number,

1 location, or other information required by the commission for each
2 license holder's or applicant's outdoor advertising or off-premise
3 signs under Chapter 394.

4 SECTION 6.08. Section 391.066, Transportation Code, is
5 amended by adding Subsections (d) and (e) to read as follows:

6 (d) The commission may deny the renewal of a license
7 holder's license if the license holder has not complied with the
8 permit requirements of this chapter or Chapter 394.

9 (e) The commission by rule shall adopt procedures for the
10 suspension, revocation, or denial of a renewal of a license under
11 this section, or the assessment of an administrative penalty under
12 Section 391.0355. The procedures must ensure that the enforcement
13 action is appropriate for the violation for which it is taken. The
14 rules adopting the procedures must require the commission to
15 consider:

16 (1) the seriousness of the violation, including the
17 nature, circumstances, extent, and gravity of the violation;

18 (2) the economic harm to property or the environment
19 caused by the violation;

20 (3) the history of previous violations;

21 (4) for an administrative penalty, the amount
22 necessary to deter future violations;

23 (5) the threat to the public safety and welfare posed
24 by the violation;

25 (6) efforts to correct the violation; and

26 (7) any other matter that justice may require.

27 SECTION 6.09. Subchapter C, Chapter 391, Transportation

1 Code, is amended by adding Section 391.0661 to read as follows:

2 Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to
3 authorizing a person to erect or maintain outdoor advertising, a
4 license issued under this chapter authorizes a person to erect or
5 maintain an off-premise sign under Chapter 394.

6 SECTION 6.10. Section 391.254(c), Transportation Code, is
7 amended to read as follows:

8 (c) A civil penalty collected by the attorney general under
9 this section shall be deposited to the credit of the Texas highway
10 beautification [~~state highway~~] fund account.

11 SECTION 6.11. Section 394.005, Transportation Code, is
12 amended to read as follows:

13 Sec. 394.005. DISPOSITION OF FEES. Money the commission
14 receives [~~A registration fee collected~~] under this chapter [~~Section~~
15 ~~394.048 by the commission~~] shall be deposited to the credit of the
16 Texas highway beautification [~~state highway~~] fund account.

17 SECTION 6.12. (a) Subchapter A, Chapter 394,
18 Transportation Code, is amended by adding Section 394.006 to read
19 as follows:

20 Sec. 394.006. COMPLAINTS; RECORDS. (a) The department by
21 rule shall establish procedures for accepting and resolving written
22 complaints related to signs under this chapter. The rules must
23 include:

24 (1) a process to make information available describing
25 its procedures for complaint investigation and resolution,
26 including making information about the procedures available on the
27 department's Internet website;

1 (2) a simple form for filing complaints with the
2 department;

3 (3) a system to prioritize complaints so that the most
4 serious complaints receive attention before less serious
5 complaints; and

6 (4) a procedure for compiling and reporting detailed
7 annual statistics about complaints.

8 (b) The department shall provide on the department's
9 Internet website information about the department's policies and
10 procedures relating to complaint investigation and resolution. The
11 department shall also provide this information to any person
12 requesting a written copy.

13 (c) The department shall keep for at least 10 years an
14 information file about each written complaint filed with the
15 department that the department has authority to resolve. The
16 department shall keep the following information for each complaint
17 for the purpose of enforcing this chapter:

18 (1) the date the complaint is filed;

19 (2) the name of the person filing the complaint;

20 (3) the subject matter of the complaint;

21 (4) each person contacted in relation to the
22 complaint;

23 (5) a summary of the results of the review or
24 investigation of the complaint; and

25 (6) if the department does not take action on the
26 complaint, an explanation of the reasons that action was not taken.

27 (d) If a written complaint is filed with the department that

1 the department has authority to resolve, the department, at least
2 quarterly and until final disposition of the complaint, shall
3 notify the parties to the complaint of the status of the complaint
4 unless the notice would jeopardize an ongoing department
5 investigation.

6 (b) The Texas Transportation Commission shall adopt rules
7 under Section 394.006, Transportation Code, as added by this
8 section, not later than September 1, 2010.

9 SECTION 6.13. The heading to Subchapter B, Chapter 394,
10 Transportation Code, is amended to read as follows:

11 SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

12 SECTION 6.14. (a) Subchapter B, Chapter 394, Transportation
13 Code, is amended by adding Sections 394.0201, 394.0202, 394.0203,
14 394.0204, 394.0205, 394.0206, 394.0207, 394.027, 394.028, and
15 394.029 to read as follows:

16 Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE;
17 OFFENSE. (a) A person commits an offense if the person wilfully
18 erects or maintains an off-premise sign on a rural road without a
19 license under this subchapter.

20 (b) An offense under this section is a misdemeanor
21 punishable by a fine of not less than \$500 or more than \$1,000. Each
22 day of the proscribed conduct is a separate offense.

23 (c) A person is not required to obtain a license to erect or
24 maintain an on-premise sign.

25 Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The
26 commission shall issue a license to a person who:

27 (1) files with the commission a completed application

1 form within the time specified by the commission;

2 (2) pays the appropriate license fee; and

3 (3) files with the commission a surety bond.

4 (b) A license may be issued for one year or longer.

5 (c) At least 30 days before the date on which a person's
6 license expires, the commission shall notify the person of the
7 impending expiration. The notice must be in writing and sent to the
8 person's last known address according to the records of the
9 commission.

10 Sec. 394.0203. LICENSE FEE. The commission may set the
11 amount of a license fee according to a scale graduated by the number
12 of off-premise signs and units of outdoor advertising under Chapter
13 391 owned by a license applicant.

14 Sec. 394.0204. SURETY BOND. (a) The surety bond required
15 of an applicant for a license under Section 394.0202 must be:

16 (1) in the amount of \$2,500 for each county in the
17 state in which the person erects or maintains an off-premise sign;
18 and

19 (2) payable to the commission for reimbursement for
20 removal costs of an off-premise sign that the license holder
21 unlawfully erects or maintains.

22 (b) A person may not be required to provide more than
23 \$10,000 in surety bonds.

24 Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
25 rules to implement Sections 394.0201(a), 394.0202, 394.0203,
26 394.0204, and 394.0206.

27 (b) For the efficient management and administration of this

1 chapter and to reduce the number of employees required to enforce
2 this chapter, the commission shall adopt rules for issuing
3 standardized forms that are for submission by license holders and
4 applicants and that provide for an accurate showing of the number,
5 location, or other information required by the commission for each
6 license holder's or applicant's off-premise signs or outdoor
7 advertising under Chapter 391.

8 (c) The commission may not adopt a rule under this chapter
9 that restricts competitive bidding or advertising by the holder of
10 a license issued under this chapter other than a rule to prohibit
11 false, misleading, or deceptive practices. The limitation provided
12 by this section applies only to rules relating to the occupation of
13 outdoor advertiser and does not affect the commission's power to
14 regulate the orderly and effective display of an off-premise sign
15 under this chapter. A rule to prohibit false, misleading, or
16 deceptive practices may not:

17 (1) restrict the use of:
18 (A) any legal medium for an advertisement;
19 (B) the license holder's advertisement under a
20 trade name; or
21 (C) the license holder's personal appearance or
22 voice in an advertisement, if the license holder is an individual;
23 or

24 (2) relate to the size or duration of an advertisement
25 by the license holder.

26 Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

27 (a) The commission may revoke or suspend a license issued under

1 this subchapter or place on probation a license holder whose
2 license is suspended if the license holder violates this chapter or
3 a rule adopted under this chapter. If the suspension of the license
4 is probated, the department may require the license holder to
5 report regularly to the commission on any matter that is the basis
6 of the probation.

7 (b) The judicial appeal of the revocation or suspension of a
8 license must be initiated not later than the 15th day after the date
9 of the commission's action.

10 (c) The commission may adopt rules for the reissuance of a
11 revoked or suspended license and may set fees for the reissuance.

12 (d) The commission may deny the renewal of a license
13 holder's existing license if the license holder has not complied
14 with the permit requirements of this chapter or Chapter 391.

15 Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to
16 authorizing a person to erect or maintain an off-premise sign, a
17 license issued under this chapter authorizes a person to erect or
18 maintain outdoor advertising under Chapter 391.

19 Sec. 394.027. FEE AMOUNTS. The license and permit fees
20 required by this subchapter may not exceed an amount reasonably
21 necessary to cover the administrative costs incurred to enforce
22 this chapter.

23 Sec. 394.028. EXCEPTIONS FOR CERTAIN NONPROFIT
24 ORGANIZATIONS. (a) The combined license and permit fees under this
25 subchapter may not exceed \$10 for an off-premise sign erected and
26 maintained by a nonprofit organization in a municipality or a
27 municipality's extraterritorial jurisdiction if the sign relates

1 to or promotes only the municipality or a political subdivision
2 whose jurisdiction is wholly or partly concurrent with the
3 municipality.

4 (b) The nonprofit organization is not required to file a
5 bond as provided by Section 394.0202(a)(3).

6 Sec. 394.029. DENIAL OF PERMIT; APPEAL. The commission may
7 create a process by which an applicant may appeal a denial of a
8 permit under this subchapter.

9 (b) The change in law made by Section 394.0201,
10 Transportation Code, as added by this section, applies only to an
11 off-premise sign erected or for which the permit expires on or after
12 the effective date of this Act. An off-premise sign for which a
13 permit is issued before the effective date of this Act is covered by
14 the law in effect when the permit was issued, and the former law is
15 continued in effect for that purpose.

16 SECTION 6.15. Section 394.050, Transportation Code, is
17 amended to read as follows:

18 Sec. 394.050. [~~BOARD OF~~] VARIANCE. The executive director
19 or a person designated by the executive director [~~commission shall~~
20 ~~provide for a board of variance that~~], in an appropriate case and
21 subject to an appropriate condition or safeguard, may make a
22 special exception to this chapter regarding a permit for an
23 off-premise outdoor sign on a rural road.

24 SECTION 6.16. Section 394.081(c), Transportation Code, is
25 amended to read as follows:

26 (c) A civil penalty collected under this section shall be
27 deposited to the credit of the Texas highway beautification [~~state~~

1 ~~highway~~] fund account if collected by the attorney general and to
2 the credit of the county road and bridge fund if collected by a
3 district or county attorney.

4 SECTION 6.17. Sections 394.082(a), (d), and (e),
5 Transportation Code, are amended to read as follows:

6 (a) In lieu of a suit to collect a civil penalty, the
7 commission, after notice and an opportunity for a hearing before
8 the commission, may impose an administrative penalty against a
9 person who [~~intentionally~~] violates this chapter or a rule adopted
10 by the commission under this chapter. Each day a violation
11 continues is a separate violation.

12 (d) Judicial review of an appeal of an administrative
13 penalty imposed under this section is under the substantial
14 evidence rule [~~by trial de novo~~].

15 (e) An administrative penalty collected under this section
16 shall be deposited to the credit of the Texas highway
17 beautification [~~state highway~~] fund account.

18 ARTICLE 7. GREEN RIBBON PROJECT

19 SECTION 7.01. Subchapter I, Chapter 201, Transportation
20 Code, is amended by adding Section 201.708 to read as follows:

21 Sec. 201.708. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a)
22 For each contract for a highway project, including a tolled highway
23 project, that is located in an area designated by the United States
24 Environmental Protection Agency as a nonattainment or
25 near-nonattainment area under Section 107(d) of the federal Clean
26 Air Act (42 U.S.C. Section 7407), the department shall allocate to
27 the district or districts in which the project is to be located

1 one-half of one percent of the total amount to be spent under the
2 contract for construction, maintenance, and improvement of the
3 project to be used for landscaping improvements for the project or
4 other projects in the district or districts.

5 (b) Landscaping improvements may include:

6 (1) planting of indigenous or adapted trees and other
7 plants that are suitable for the climate in the area; and

8 (2) preparing the soil and installing irrigation
9 systems for the growth of trees and plants.

10 ARTICLE 8. REPEAL OF THE TRANS-TEXAS CORRIDOR

11 SECTION 8.01. Section 11.11(j), Tax Code, is amended to
12 read as follows:

13 (j) For purposes of this section, any portion of a facility
14 owned by the Texas Department of Transportation that is [~~part of the~~
15 ~~Trans-Texas Corridor, is~~] a rail facility or system[~~7~~] or is a
16 highway in the state highway system[~~7~~] and that is licensed or
17 leased to a private entity by that department under Chapter 91 or[~~7~~]
18 223, [~~or 227,~~] Transportation Code, is public property used for a
19 public purpose if the rail facility or system, highway, or facility
20 is operated by the private entity to provide transportation or
21 utility services. Any part of a facility, rail facility or system,
22 or state highway that is licensed or leased to a private entity for
23 a commercial purpose is not exempt from taxation.

24 SECTION 8.02. Section 25.06(c), Tax Code, is amended to
25 read as follows:

26 (c) This section does not apply to:

27 (1) any portion of a facility owned by the Texas

1 Department of Transportation that is [~~part of the Trans-Texas~~
2 ~~Corridor, is~~] a rail facility or system[~~7~~] or is a highway in the
3 state highway system and that is licensed or leased to a private
4 entity by that department under Chapter 91[~~7, 227, 7~~] or 361,
5 Transportation Code; or

6 (2) a leasehold or other possessory interest granted
7 by the Texas Department of Transportation in a facility owned by
8 that department that is [~~part of the Trans-Texas Corridor, is~~] a
9 rail facility or system[~~7~~] or is a highway in the state highway
10 system.

11 SECTION 8.03. Section 25.07(c), Tax Code, is amended to
12 read as follows:

13 (c) Subsection (a) does not apply to:

14 (1) any portion of a facility owned by the Texas
15 Department of Transportation that is [~~part of the Trans-Texas~~
16 ~~Corridor, is~~] a rail facility or system[~~7~~] or is a highway in the
17 state highway system and that is licensed or leased to a private
18 entity by that department under Chapter 91[~~7, 227, 7~~] or 361,
19 Transportation Code; or

20 (2) a leasehold or other possessory interest granted
21 by the Texas Department of Transportation in a facility owned by
22 that department that is [~~part of the Trans-Texas Corridor, is~~] a
23 rail facility or system[~~7~~] or is a highway in the state highway
24 system.

25 SECTION 8.04. Sections 201.616(a) and (b), Transportation
26 Code, are amended to read as follows:

27 (a) Not later than December 1 of each year, the department

1 shall submit a report to the legislature that details:

2 (1) the expenditures made by the department in the
3 preceding state fiscal year in connection with:

4 (A) the unified transportation program of the
5 department;

6 (B) turnpike projects and toll roads of the
7 department; and

8 (C) [~~the Trans-Texas Corridor,~~

9 [~~(D)~~] rail facilities described in Chapter 91;

10 [~~and~~

11 [~~(E) non-highway facilities on the Trans-Texas
12 Corridor if those expenditures are subject to Section 227.062(c),~~]

13 (2) the amount of bonds or other public securities
14 issued for transportation projects; and

15 (3) the direction of money by the department to a
16 regional mobility authority in this state.

17 (b) The report must break down information under Subsection
18 (a)(1)(A) by program category and department district. The report
19 must break down information under Subsections (a)(1)(B) and[~~7~~]
20 (C)[~~7~~, (D), and (E)] and Subsection (a)(3) by department district.
21 The report must break down information under Subsection (a)(2) by
22 department district and type of project.

23 SECTION 8.05. Section 202.112(a), Transportation Code, is
24 amended to read as follows:

25 (a) The commission may purchase an option to acquire
26 property for possible use in or in connection with a transportation
27 facility[~~7~~, including a facility as defined by Section 227.001,]

1 before a final decision has been made as to whether the
2 transportation facility will be located on that property.

3 SECTION 8.06. Section 222.003(e), Transportation Code, is
4 amended to read as follows:

5 (e) The proceeds of bonds and other public securities issued
6 under this section may not be used for any purpose other than any
7 costs related to the bonds and other public securities and the
8 purposes for which revenues are dedicated under Section 7-a,
9 Article VIII, Texas Constitution. [~~The proceeds of bonds and other
10 public securities issued under this section may not be used for the
11 construction of a state highway or other facility on the
12 Trans-Texas Corridor. For purposes of this section, the
13 "Trans-Texas Corridor" means the statewide system of multimodal
14 facilities under the jurisdiction of the department that is
15 designated by the commission, notwithstanding the name given to
16 that corridor.~~]

17 SECTION 8.07. Section 223.206(d), Transportation Code, is
18 amended to read as follows:

19 (d) The department may not enter into a comprehensive
20 development agreement with a private entity under this subchapter
21 [~~or Section 227.023~~] that provides for the lease, license, or other
22 use of rights-of-way or related property by the private entity for
23 the purpose of constructing, operating, or maintaining an ancillary
24 facility that is used for commercial purposes.

25 SECTION 8.08. Sections 223.208(c) and (f), Transportation
26 Code, are amended to read as follows:

27 (c) The department may enter into a comprehensive

1 development agreement under this subchapter [~~or under Section~~
2 ~~227.023(e)~~] with a private participant only if the project is
3 identified in the department's unified transportation program or is
4 located on a transportation corridor identified in the statewide
5 transportation plan.

6 (f) A comprehensive development agreement entered into
7 under this subchapter [~~or Section 227.023(e)~~] and any obligations
8 incurred, issued, or owed under the agreement does not constitute a
9 state security under Chapter 1231, Government Code.

10 SECTION 8.09. Section 372.001, Transportation Code, as
11 redesignated by S.B. 1969 and H.B. 3139, Acts of the 81st
12 Legislature, Regular Session, 2009, is amended to read as follows:

13 Sec. 372.001. DEFINITIONS. In this chapter:

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

16 (A) is a part of the state highway system; or

17 (B) is subject to the jurisdiction of the
18 department.

19 (2) "Toll project entity" means an entity authorized
20 by law to acquire, design, construct, finance, operate, and
21 maintain a toll project, including:

22 (A) the department under Chapter [~~227 or~~] 228;

23 (B) a regional tollway authority under Chapter
24 366;

25 (C) a regional mobility authority under Chapter
26 370; or

27 (D) a county under Chapter 284.

1 SECTION 8.10. Section 371.001(2), Transportation Code, is
2 amended to read as follows:

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

6 (A) the department [~~, including under Chapter~~
7 ~~227~~];

8 (B) a regional tollway authority under Chapter
9 366;

10 (C) a regional mobility authority under Chapter
11 370; or

12 (D) a county under Chapter 284.

13 SECTION 8.11. Section 545.353, Transportation Code, is
14 amended by adding Subsection (h-2) to read as follows:

15 (h-2) Notwithstanding Section 545.352(b) and Subsection (d)
16 of this section, the commission may establish a speed limit of 85
17 miles per hour on a part of the state highway system if:

18 (1) as a result of an engineering and traffic
19 investigation the commission determines that 85 miles per hour is a
20 reasonable and safe speed for that part of the highway system; and

21 (2) that part of the highway system is designed for
22 travel at a speed of 85 miles per hour or more.

23 SECTION 8.12. Subchapter A, Chapter 621, Transportation
24 Code, is amended by adding Section 621.008 to read as follows:

25 Sec. 621.008. COMMISSION'S AUTHORITY TO SET VEHICLE SIZE
26 AND WEIGHT LIMITS. (a) The commission may authorize the operation
27 of a vehicle that exceeds the height, length, or gross weight

1 limitations of this chapter on a segment of a highway in the state
2 highway system if supported by an engineering and traffic study
3 that includes an analysis of the structural capacity of bridges and
4 pavements, current and projected traffic patterns and volume, and
5 potential effects on public safety.

6 (b) This section does not authorize the operation of a
7 vehicle that exceeds a maximum axle weight authorized by this
8 chapter or by Chapter 622 or 623.

9 SECTION 8.13. The following provisions of the
10 Transportation Code are repealed:

- 11 (1) Section 201.618(e);
- 12 (2) Chapter 227;
- 13 (3) Section 284.0032;
- 14 (4) Section 366.305;
- 15 (5) Section 370.316; and
- 16 (6) Section 545.3531.

17 ARTICLE 9. MOTOR CARRIER OVERSIZE AND
18 OVERWEIGHT PERMITS

19 SECTION 9.01. Subchapter D, Chapter 623, Transportation
20 Code, is amended by adding Section 623.0711 to read as follows:

21 Sec. 623.0711. PERMITS AUTHORIZED BY COMMISSION ORDER. (a)
22 The commission by order may authorize the department to issue a
23 permit to a motor carrier, as defined by Section 643.001, to
24 transport multiple loads of the same commodity over a state highway
25 if all of the loads are traveling from and to the same general
26 locations.

27 (b) The commission may not authorize the issuance of a

1 permit that would violate federal regulations on size and weight
2 requirements or authorize the issuance of a permit for equipment
3 that could reasonably be dismantled for transportation as separate
4 loads.

5 (c) To be eligible for a permit under this section, the
6 department must determine that the state will benefit from the
7 issuance of this type of expedited permitting process.

8 (d) Before the commission may adopt an order under this
9 section, the department must complete a route and engineering study
10 that considers:

11 (1) the estimated number of loads to be transported by
12 the motor carrier under the permit;

13 (2) the size and weight of the commodity;

14 (3) available routes that can accommodate the size and
15 weight of the vehicle and load to be transported;

16 (4) the potential roadway damage caused by repeated
17 use of the road by the permitted vehicle;

18 (5) any disruption caused by the movement of the
19 permitted vehicle; and

20 (6) safety to the traveling public.

21 (e) The commission may impose on the motor carrier any
22 condition regarding routing, time of travel, axle weight, and
23 escort vehicles necessary to ensure safe operation and minimal
24 damage to the roadway.

25 (f) A permit issued under this section may provide multiple
26 routes to reach the destination to minimize damage to the roadways.

27 (g) The commission shall require the motor carrier to file a

1 bond in an amount set by the commission, payable to the department
2 and conditioned on the motor carrier paying to the department any
3 damage that is sustained to a state highway because of the operation
4 of a vehicle under a permit issued under this section.

5 (h) The fee for a permit under this section may not exceed
6 \$7,000.

7 (i) The director of the department or a person designated by
8 the director may suspend a permit issued under this section or alter
9 a designated route because of:

10 (1) a change in pavement conditions;

11 (2) a change in traffic conditions;

12 (3) a geometric change in roadway configuration;

13 (4) construction or maintenance activity; or

14 (5) emergency or incident management.

15 (j) Permits issued under this section are subject to the
16 administrative sanctions of Subchapter N.

17 (k) In this section, "commission" means the Texas
18 Transportation Commission.

19 SECTION 9.02. Section 623.071, Transportation Code, is
20 amended by adding Subsection (h) to read as follows:

21 (h) On completion of a route and engineering study, a single
22 trip permit that exceeds the length established by Subsection (c)
23 may be issued by the department and used in conjunction with an
24 annual permit issued under Subsection (c) if the department
25 determines that the additional length can be transported safely.

26 ARTICLE 10. RAIL TRANSPORTATION DIVISION

27 SECTION 10.01. Section 91.001, Transportation Code, is

1 amended by adding Subdivision (3-a) to read as follows:

2 (3-a) "Division" means the rail transportation
3 division of the department.

4 SECTION 10.02. Subchapter A, Chapter 91, Transportation
5 Code, is amended by adding Section 91.0041 to read as follows:

6 Sec. 91.0041. DUTIES OF RAIL TRANSPORTATION DIVISION. In
7 addition to any other duty imposed on the division, the division
8 shall:

9 (1) assure that rail transportation is an integral
10 part of the department's transportation planning process;

11 (2) coordinate and oversee rail projects that are
12 financed with money in the Texas rail relocation and improvement
13 fund;

14 (3) develop and plan for improved passenger and
15 freight rail facilities and services in this state; and

16 (4) coordinate the efforts of the department, the
17 federal government, and private entities to continue the
18 development of rail transportation facilities and services in this
19 state.

20 ARTICLE 11. ELECTRONIC SIGNS

21 SECTION 11.01. Chapter 544, Transportation Code, is amended
22 by adding Section 544.013 to read as follows:

23 Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this
24 section, "changeable message sign" means a sign that conforms to
25 the manual and specifications adopted under Section 544.001. The
26 term includes a dynamic message sign.

27 (b) The Texas Department of Transportation shall actively

1 manage a system of changeable message signs located on highways
2 under the jurisdiction of that department to mitigate traffic
3 congestion by providing current information to the traveling
4 public, including information about traffic incidents, weather
5 conditions, road construction, and alternative routes.

6 ARTICLE 12. EFFECTIVE DATE

7 SECTION 12.01. This Act takes effect on the 91st day after
8 the last day of the legislative session.